

ORDINANCE NO. 07-20

AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY APPROVING THE ZONE CHANGE OF COMMERCIAL 627 LLC, C/O KURTIS KEENEY (MGR), FROM UC-2 MULTI-FAMILY TO UC-4 GENERAL COMMERCIAL AND AUTHORIZING THE CHANGE ON THE OFFICIAL ZONING MAP OF MADISON COUNTY, KENTUCKY.

WHEREAS, the hereinafter described land is located in Madison County, Kentucky and

WHEREAS, the Madison County Planning Commission held a public hearing on Tuesday, July 17, 2007, and heard and reviewed the following application for an amendment to the land use management map to change the land use from UC-2 Multi-Family Residential to UC04 General Commercial. In accordance with KRS 100.213, Commercial 627 LLC submitted the following findings of fact:

1. The proposed land use map amendment is in agreement with the adopted comprehensive plan for the following reasons:
 - a. The property is contiguous with existing UC-4 designations,
 - b. The proposed UC-4 designation has the potential to provide more jobs and assist in the economic growth in Madison County
 - c. This designation will provide commercial tracts in the second highest populated census tract referenced on Page 18 of the Comprehensive Plan,
 - d. The property lies in what is shown as a potential growth area on the map on Page 19 of the Comprehensive Plan.
2. The existing land use designation given to the property is inappropriate and the proposed is appropriate for the same reasons as above.
3. There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and which have substantially altered the basic character of such area based upon the following:
 - a. The recent development of Love's Country Store on Highway 627
 - b. The recent development of several subdivisions on Highway 627 which provides the need for commercial services.

WHEREAS, the Madison County Planning Commission recommended to the Madison County Fiscal Court that the classification of the property involved herein be approved the change from UC-2 Multi Family Residential to UC-4 General Commercial stating the following findings of fact in accordance with KRS 100.213:

1. It is in conformity with the comprehensive plan,
2. The property lies in the urban corridor,
3. The property is surrounded by other commercial property,
4. The property fronts on a major road,
5. The property has adequate fire flow.

NOW, THEREFORE BE IT ORDAINED AND ENACTED, by the Madison County Fiscal Court that the land use classification of the following described property be changed by this ordinance from UC-2 Multi Family Residential to UC-4 General Commercial.

SECTION I

A certain tract or parcel of land located on the Northwest side of the State Highway 627 approximately 1550 feet from the intersection of State Highway 627 and I-75 in Richmond, Madison County, Kentucky, and being bound by survey (Job #7862) performed under the direction of Charles E. Black, a licensed Land Surveyor in the State of Kentucky (LS #670) on 6/21/06 and more particularly described as follows:

Beginning at a found steel pin and cap (#1961) and common corner with Parwell Limited Partnership (DB 485 PG 32) and in the Northwest right of way line of State Highway 627. Thence, with the line of Parwell, N74°58'37"W 224.17' to a steel pin and cap set, S89°54'00"W 888.90' to a found steel pin and cap #1961 and common corner with the Ted Lake Heirs (DB 143 PG 403).

Thence, with the Ted Lake Heirs, N08°38'32"E 465.60 to a set steel pin and cap. Thence, continuing with Lake, N 75°59'41 "W 146.02' to a steel pin and cap. Thence, N00°21'10"W 159.63' to a set steel pin and cap in the line of Lake and common corner with Madison MHC, LLC. (DB 611, Pg. 794). Thence, with the line of Madison MHC, LLC., S85°01'06"E 1164.52' to a set steel pin and cap and common corner with other property of Madison MHC, LLC. Thence, still with Madison MHC, LLC. S08°22'08"W 208.60 to a set steel pin and cap. Thence, S84° 58'40"E 198.79' to a set steel pin and cap.

Thence, N 04°19'26"E 82.58' to a set steel pin and cap and common corner with Lora Fugate (DB 597 PG 268). Thence, with Fugate, S84° 09'28"E 283.29' to a set steel pin in the Northwest right of way of State Highway 627.

Thence, with said Highway, S38°11'32"W 85.21' to a steel pin and cap set. S40°11'28'W 75.13' to a set steel pin and cap, S42°12'15"W 104.04 to a set steel pin and cap. Thence, S44°11'19" W 136.49 to a set steel pin and cap. Thence, S45°53'36"W 38.30' to a set steel pin and cap by a Kentucky State right of way marker. Thence, N40°19'56"W 10.01' to a set steel pin and cap by a Kentucky State right of way marker. Thence, S46°53'37"W 94.50' to a set steel pin and cap. Thence, still with the right of way of State Highway 627, S49°33'51"W 89.46' to the point of beginning and containing 759,205 square feet or 17.429 acres.

SECTION II

That the Director of Planning and Development make the appropriate changes to the Official Zoning Map of Madison County, Kentucky.

SECTION III

That the County Clerk causes this ordinance to be published in accordance with the appropriate Kentucky Revised Statutes.

DATE OF FIRST READING: August 14, 2007

MOTION BY: Roger D. Barger

SECONDED BY: Harold K. Botner

VOTE: YES NO

JUDGE, KENT CLARK ✓
MAGISTRATE LARRY COMBS ✓
MAGISTRATE ROGER BARGER ✓
MAGISTRATE WILLIAM TUDOR ✓
MAGISTRATE HAROLD BOTNER, Jr. ✓

DATE OF SECOND READING: August 28, 2007

MOTION BY: Roger D. Barger

SECONDED BY: Harold K. Botner

VOTE: YES NO

JUDGE, KENT CLARK ✓
MAGISTRATE LARRY COMBS ✓
MAGISTRATE ROGER BARGER ✓
MAGISTRATE WILLIAM TUDOR ✓
MAGISTRATE HAROLD BOTNER, Jr. ✓

[Signature]
MADISON COUNTY JUDGE EXECUTIVE

Attest:

[Signature]
MADISON COUNTY CLERK

MINUTES
MADISON COUNTY PLANNING COMMISSION
July 17, 2007 BUSINESS SESSION

The Madison County Planning Commission Business Session July 17, 2007 was called to order by David Bohannon. The roll was called and noted as follows: present were Gary Hart, Chandler Combs, Paula Maionchi, David Bohannon.

David Bohannon – The first item of business is the approval of minutes of the June 19, 2007 meeting. Do we have any changes or corrections for those minutes? If not do we have a motion to approve?

Chandler Combs – so moved

Paula Maionchi – 2nd

David Bohannon – Madam Clerk, call the roll.

Gary Hart – yes

Chandler Combs – yes

Paula Maionchi – yes

David Bohannon – yes

David Bohannon – First item of business are 3 Land Use Change Requests. Let me give you a little background on how we handle these. These are what are commonly known as zone changes. I will ask the land owner or representative to present the case as to why they believe that the land use change should be granted. The Commissioners will then have an opportunity to ask any questions they might have and after that then we will ask any one in the audience who might either want to speak for the change or against the change to speak if you would like. If you do want to speak I would ask that you hold your hand up so that you can be recognized and come up to the microphone because we have to get this on record that is being recorded and we have to get it on the record. So the microphone won't pick you up back in the audience. After everyone has had their say the Commission will then need to vote to approve or disapprove the change. Our vote is just a recommendation. It is not the final vote. Our vote is passed on to the Fiscal Court and at the next Fiscal Court meeting they will take up the same zone change issue and either vote to accept what we recommended or to overcome what we recommended and make their own ruling. I wanted to give you that background so you would have some idea that anyone in the audience will have an opportunity to speak but the person who is asking for change always goes first.

David Bohannon - It looks like the first item is Land Use Change request for Michael Tipton, 3250 Old Irvine Road – RC7 Agriculture to RC4 Rural Corridor Commercial. Mr. Curry have the technical requirements when considering the change been met?

Duane Curry – I have receipts from where the certified mail was sent out to the adjoining property owners. I don't have the return receipt cards showing that any of them were received. But I do have the receipts showing that they were paid to be sent. I will just state for the record this, the applicants request states that the property is in rural corridor, which it is. It is currently zoned RC7. They are asking for it to be rezoned to RC4 and their justification for the request is that they are stating that it is in agreement with the adopted comprehensive plan for the following reasons. That the project area meets the site requires set forth in the land use regs. section 402.3. Commercial land uses and is adjacent to existing commercial uses and the intersection of major highway and important connector road, this corridor is more extensively developed in a mixture of commercial and residential uses. That is there justification for the request that they are presenting and Mr. Crabtree is here to represent the Client and expound on his justification.

Ransome Crabtree – What you have before you is a 4.13 acre tract. It is off of Old Irvine Road. I think the intent of this tract is to be a garbage utility service. To actually maybe have a warehouse or even just store their trucks there. Not necessarily do anything else with the garbage but more or less have a maintenance garage and store the trucks there. We do have the bingo parlor which is adjacent to the property and I think there is an existing trucking company to the east of the property maybe on the Walters land. That would be the uses that are in the area. The major connector road I guess would be Hwy 374 Moberly Road as it continues through there and 52. If you all have any questions maybe I can answer them for you.

David Bohannon – Mr. Curry it looks like that trucking company or the junk yard or whatever is adjoining this, it looks like it is a nonconforming use. It is not zoned for commercial use.

Duane Curry – That is right. It is existing, non-conforming. This property here is the property that they are seeking the change on and this is the property that I think they do some tire salvage and a little bit of everything on this property there. The rest of this is residential. There is a residence here, a residence here. I've got some pictures here that I've taken. This is standing down close to the property looking back toward town on the right side of the road, the next picture looking back down toward the property they are seeking the zone change on. This is the farm directly across the road from this property in question. This is the house that I had pointed to that is just on one side of the property. This is the house directly across the street. This is the property they are seeking the zone change for and you can see in the background there is some trailers, tractors & trailers parked on that back side. That is the salvage company back there. This gives you a good overview. I took the first picture standing here looking back toward up toward the Fairgrounds which is located there. The brick house that you saw sits here and the white frame house with the black fence around it is across the street there and you have a residence here. And the rest of this is residential property on that side of the road there. We have also measured the road for Old 52 and it is approximately 18 feet in width.

David Bohannon – It looks like there are several requirements for a commercial property that aren't met. The road width is not wide enough, and I take it that sewer is not available in this area?

Duane Curry – Right. It is not extended out this far.

David Bohannon – So it is not on a major highway or at an intersection of highway and collector road.

Duane Curry – That is correct.

Paula Maionchi – I think the other concern is of course garbage trucking company today, restaurant tomorrow. Once it becomes RC4 it is RC4. You are very surrounded by agriculture land and residential land. There is no major highway intersection. I would not consider 18' of Old 52 and what is Moberly? 15-18'?

Duane Curry – It has been widened. Moberly is 20'.

Ransome Crabtree – It has been widened.

Paula Maionchi – But Old 52 where it really fronts on is certainly not a major road. I think it is just a little premature from a history of Madison County to be rezoning this into commercial property. I assume it will come some day but I think it is a little premature.

Duane Curry – I was looking at the land use regulation tables and in light of the use they are proposing to use for the property which would be to me, truck and heavy equipment service type facility. I think is what they have indicated at one time what they want to use it for. That really falls under the category of a UC5 for industrial and that would be a conditional use in a rural corridor. So that particular use is not even a permitted use in an industrial zone. It is in the urban corridor but not in the rural corridor.

Ransome Crabtree – Have we picked the wrong use?

David Bohannon – Well I think, I just don't think either one would work really. It is the wrong use #1 and #2 you have to have sewer for commercial. And you have to have a 20' road.

Ransome Crabtree – Is all the existing stuff out there, is it grandfathered in or...

David Bohannon – It is non-conforming, right. The bingo hall, the trucking, all the red is commercial.

Everything else is still agriculture. I agree a lot of this area is being used as commercial uses, but there is also still a lot of houses right on both sides of the property and there are no plans as far as I am aware of to put sewer out there in the near future. At some time, if sewer is on the way we would consider that but I don't think there are plans for that in that area. Is there Mr. Curry?

Duane Curry – No sir.

David Bohannon – I just don't think, maybe in 20 years it will be suitable once that road is fixed, widened and sewer is out there. But until then I don't think it is suitable for commercial. It would be my opinion.

Duane Curry – Looking at industrial uses, industrial uses according to section 402.3 it also states that industrial sites require higher level of public service in terms of water, sewage disposal, electric, gas and so forth. So what we have talked about so far is just the uses that is required for commercial. When you throw industrial uses in there then all of the impact become greater at that point. Because once you zone it industrial, you can't confine it to just a garbage trucking business. It opens the door for many other industrial uses.

Ransome Crabtree – Even on a conditional use? I mean, if we were to pull this tonight and maybe come back as a UC5 and maybe get the road widened. Sewer is probably not going to be an option, necessarily. I don't

know if we need sewer for a maintenance garage. We do have four acres that the land does lay well. We have room for septic. I'm just kind of throwing some stuff out.

Paula Maionchi – You are not in the urban corridor so you couldn't really be UC5 because you are in a rural corridor.

David Bohannon – You know, if it is not suitable for commercial then it is really not suited for industrial.

Ransome Crabtree – That is all I have.

David Bohannon – Is there anybody in the audience that would like to address either for or against? Yes sir.

Come up to the podium.

.....- I own the farm that where this is straight across from.

David Bohannon – What is your name sir?

Walter Steven Riley

David Bohannon – Do you live there on that farm?

Walter Riley – No I don't live there. I own the house right straight across from where he is wanting to put this thing. And I do own the farm. I've got all the agriculture out there and I'm trying to run an agriculture business and there is already too much congestion already out there with the Bingo place and Fairgrounds and the housing project and all that. There is already a lot of traffic out there. I have people call me all hours of the night that somebody has run through my fence and I have to get up and go fix fences and all this kind of stuff. I don't think I need a garbage thing right straight across from my house that I may be thinking about moving in myself.

David Bohannon – What is that address?

Walter Riley – 32 something or other. It is ...

David Bohannon – 3253?

Walter Riley – Yeah. I don't think I would want a garbage thing right straight across from where I would live and I don't know anybody else would neither. And there is also a creek that runs down through there. By them having something like that it may pollute the creek that runs down in between it and the brick house. There is a creek that runs down through there. And this farm has been in my family now for five generations and I'm not planning on doing anything else with it but farming. And I don't care anything about having anything else to deal with. I think there are too many things out there already. Trying to put something commercial in there is like you say, it may start out just a place to park trucks and don't know what it might be after that. I'm must not for that.

David Bohannon – Thank you. Is there anybody else? Yes sir. Come forward.

Greg Tipton – I live at the little box that says 3288 right on the other side of the property in question. We have lived there for 20 something years. We have lived in the neighborhood for 40 something years. Like they had mentioned before we have the place right directly behind our property that is attached to this property. That is on compliant. Since they put it in there is not drainage from our property as it is. So a lot of times when it rains our property is nothing but a swamp. If they put in another business on the other side of us we might as well just move out. Because there would be no living there. We would rather see that stay agricultural, residential. Whatever. The property I don't think should even be divided up enough to put more than 2 or 3 houses on. Because if you keep doing that it compacted the ground it is not draining. My parents are 80 and 74 years old. As it is right now it is hard for them to sit outside because of the insects and vermin coming from the business behind. If we have another business like that, well they couldn't sit outside at all. That is about all I have to say.

David Bohannon – All right. Thank you very much. Is there anyone else? Yes sir.

Aaron Hopper – I am the owner of Legacy Garden which is the company in question I guess here. Other than I'm concerned about the road width and we are willing to do work on if we had to. A lot of people seem to get a little edgy when garbage business is mentioned. I would just like to point that we have another sister company in London. We have improved our property down there. We just built a facility that has brick offices and garage with a waiting room, showers and locker rooms for our employees. We plan on being in this community for a long time. We plan on starting a recycling business in this community. We do not plan on using this facility that is in question for any type of transfer station or any place where waste will be moved or stored. All it is, is a place for a garage, a place to park our trucks. It will be a paved lot. Everything we have done so far with our other businesses has been first class. Anyplace we have been we have improved the

community and we have improved the land. I don't know what else I could address for that. And I understand the residents concern about having a business in there as well. It is just we have to go somewhere and we have to have a business.

David Bohannon – Thank you.

Duane Curry – Would you give me your name one more time?

Aaron Hopper

Paula Maionchi – Mr. Curry, do you have a map that shows the drainage of that creek that runs through there and the presence of any wetlands or karsts or sink holes?

Duane Curry – There is a topo map. This property is going to drain toward 52. I probably don't have enough good information on here to see much with.

Paula Maionchi – I did notice on the aerial map the stream that he was talking about. I was wondering how big that stream is and where is it going and basically the whole wetland issue of that stream and storm water controls. If you have a large paved parking lot and you are heading toward that stream area you do have issues of gasoline, oil, brake fluid, the usual things one has with cars and trucks and any parking area.

Duane Curry – Right. Everything in this area is going to drain through this. There is a creek area going through here that is going to drain it over. Take it around across Speedwell and run down parallel to 52 there. That is a pretty good shot of the property and how it surrounds the property there.

Ransome Crabtree – I would like to add it is an existing drainage area and it does connect to a blue line. But that particular area is not a blue line stream.

Paula Maionchi – But it would be an area that connects to a blue line stream.

Ransome Crabtree – And any measures would be taken through detention and that kind of stuff.

Paula Maionchi – Do you have a pond on that piece of property also? So really the property is almost cut in half by what looks like a pond and a stream. So you almost have like two pieces of property.

Duane Curry – This heavy tree line coming down through the property and then across the back there.

David Bohannon – Yes sir. If you would like to say something you need to come back up to the microphone.

Greg Tipton - You were talking about that creek. A lot of that creek it comes from spring water. There is a spring that runs into that creek. I don't know where it goes beyond my place but it goes right through my place and a matter of fact my daddy use to own this piece of property that he is trying to commercialize at one time. And it went right through all that. It is spring fed. So the water is not polluted. So it is good water. I don't know how it will be if you put a lot of stuff around it.

David Bohannon – Thank you. Do you still want to say something sir?

Greg Tipton - Like I said earlier I grew up in the area. I've been all over that area on foot for many years. That stream actually goes down and it empties into Muddy Creek which eventually empties into the River. But it goes down and goes under the main highway there and then it cuts back and goes across Speedwell Road through the farm land there and it comes out down at Muddy Creek about where the falls are.

David Bohannon – Ok. Thank you very much. Any more questions or discussion from the Commissioners? If not a motion will be to approve or disapprove this zone change would be appropriate.

David Bohannon – I would move we disapprove the zone change because it is not in conformity with the adopted comprehensive plan because it is surrounded by agricultural property, the highway is not a sufficient width, it is not on a major highway or at an intersection, and sewer is not available and the proposed use of the property, although that is not really a factor in the zone change, is not appropriate either for RC4 or for an industrial use in this area.

Paula Maionchi – 2nd.

David Bohannon – There is a motion and a second. Any further discussion? If not call the roll Madam Clerk.

David Bohannon – yes

Gary Hart – yes

Paula Maionchi – yes

Chandler Combs – yes

David Bohannon – The recommendation to Fiscal Court will be that the zone change be denied.

David Bohannon – Next item is property at 132 Carr Lane. William Daugherty from UC7 Urban Corridor to Urban Corridor 4 Commercial. Is anybody here to ...yes sir if you would like to come up to the microphone and give us your name and address please sir?

Duane Curry – Mr. Bohannon if I may. I received a phone call this morning that one of the adjoining property owners was not notified by certified mail. And I am trying to flip through the record here and see. Do you recall Mr. Daugherty of sending a notice to a Richard Carr, the adjoining property owner?

William Daugherty – We sent one to Richard Igo Carr, to the truck stop, across the street and to the Simpson Lane Property. And I think a different name on that now Gladys Plummer piece of property and I think there was just three surrounding it.

Duane Curry – I see two Gladys Plummer on Simpson Lane and Kenny Yoder, 200 Carr Lane and then there was one to Ky Truck stop Services which was returned insufficient address, unable to forward. Those are the only three notices that I have in my file. Mrs. Tish Carr called me and said they did not receive notice as an adjoining property owner. And the only three owners that you show listed on your sheet are Kenny Carr Yoder, KY Truck stop Services and Gladys Plummer.

William Daugherty –notified. Do you have it up there Duane? ...view the property up there.

Duane Curry – I do.

William Daugherty – The ones that were notified are to the north, Richard Igo Carr, and to the west which borders the entire property is the Truck stop and close to the South and southwest is the Simpson property and now is another name in that, you just said what it was. I can't remember.

David Bohannon – I think what Mr. Curry is saying, he only has receipts for 3 of those property owners and not for Richard Igo Carr. According to the tax commissioner sheets here. Do you have any receipts or return cards where it shows who was served?

William Daugherty – No sir. All I have is that we did notify Kenny Carr Yoder and all that is on the PVA list at 200 Carr Lane, Richmond. We notified KY Truck stop Services LLC, Barbourville, that is to the west and the south and east is Gladys Plummer of 514 Simpson Lane. Those are the only three properties that are bounding this as a triangle piece, Mr. Chairman. There is only 3 properties surrounding. I don't know what happened or which one was not delivered?

David Bohannon – I'm looking at the tax commissioners cards here and it does show that Kenny Carr Yoder received a transfer of some of the property in October of '88. It doesn't show and I don't see any cards in here where Richard Igo Carr still owned any of the adjoining property. I can't tell or maybe we are missing a card.

William Daugherty – 1088 was apparently transferred from Richard Igo Carr to Kenny Carr Yoder and that is who we sent the notice too. He was notified. You have a receipt on it.

Duane Curry – Yeah. I've got a receipt for Kenny Carr Yoder.

William Daugherty – Well, that is the owner according to the PVA records that we have. 200 Carr Lane and it was transferred in 10 88. Richard Igo was 12 71.

David Bohannon – That is what these cards show. But I don't have any thing to go by other than these cards. There maybe one missing but the

William Daugherty – There have been three sent.

David Bohannon – We have a record of that. Yes sir.

William Daugherty – There are three sent. Here is the truck stop, these are the Simpsons or whatever there name is Plummer, this is Carr over here. There are only 3 to be sent. There are only 3 adjoining property owners. And I think you did receive all those didn't you.

David Bohannon – Yes. We have three. The issue is whether or not Ms. Yoder is the only other property owner, adjoining property owner or whether or not Richard Igo Carr also owns adjoining property.

Duane Curry – It is my understanding that Kenny Yoder owns the house back here in the back. But the farm that adjoins your property is actually owned by Richard Igo Carr, Tish Carr.

William Daugherty – I can't answer that. All I know is that we went to the PVA Office like we were suppose to do and got this record and it shows that what we found out, that it is owned by Kenny Carr Yoder. It was owned by Richard Igo Carr. Do we have the wrong piece or what?

Chuck Hardin – It looks like the tax card says house and basement on it.

David Bohannon – They may have given you the wrong information. It looks like that is the confusion. It looks like Ms. Yoder's house is some distance from this property and it came off a larger farm. And that the larger farm may still be owned by Mr. Carr that actually adjoins the property.

Duane Curry – Ms. Yoder owns 2 acres with the house that is all the way at the end of Carr Lane. It doesn't even adjoin this property here.

Paula Maionchi – And they access value on this of \$200,000 which, \$209,000 would seem to be more in keeping with 2 acres and a house than a farm that you just display.

Duane Curry – Right.

David Bohannon – It is a requirement before we can here these zone changes that notice be sent to all adjoining property owners. It looks like from this, that there is a mistake in the information that you have and I don't

know who made the mistake. But it looks like Kenny Yoder is not own adjoining property. It looks like Richard Igo Carr owns it. That is what it looks like from this information.

William Daugherty – All right. I came down here from Louisville. I would like for you to at least, can you hear my story tonight?

David Bohannon – Without notice to the property owners I don't think so. Because they have the right to be here and be heard if they want to be.

William Daugherty – I'm not asking for a decision. But I've driven down here at 6 o'clock at night and....

David Bohannon – Well we would have to have another hearing and you would either come back or they would just have their say without you here. Because we would have to afford them a hearing and I don't think the Commission would want to have two hearings on this matter.

William Daugherty – I was prepared for this and I asked in the letter if there was anything else that we needed to have here and I was assured by you I think that everything was in order.

Duane Curry – Sure. But I received a phone call this morning. I can't help that I just received notice myself.

William Daugherty – Let me ask you this.

David Bohannon – Yes sir.

William Daugherty – I'm asking for a change because the County Zoning Board made a mistake. This thing was a piece of industrial property. That is how it was used for years. And when you went to County wide zoning it was omitted erroneously omitted by whoever the agency or the person was and it fell into like everything else that I understand in the county. When you went to the zoning county wide zoning it fell into agriculture use.

David Bohannon – Well it wouldn't necessarily be erroneous because even though it may have been used for something other than agriculture if it did not meet the requirements of the ordinance for commercial property then it would just be a non-conforming use. It wouldn't necessarily that is should have been zoned for what it was actually used for. For example, if the road is not wide enough or sewer is not available, if it doesn't meet the other requirements like this other gentlemen's property, even though it may have been used for industrial or commercial in the past, it is not necessarily an erroneous zoning. It may just be a non-conforming use and it should stay the way it is and you could use it if it was used at the time of zoning. Now if it wasn't in use at the time the zoning was enacted it might not even be a non-conforming use.

William Daugherty – Well it has had an asphalt plant there.

David Bohannon – Was it in operation when the zoning ordinances were adopted?

William Daugherty – Was it in operation? No sir. But it was there and we had other uses for it. We leased the land to the Mahan Construction from Columbus, Ohio who widened and built the Clay's Ferry Bridge. They were there for a couple of years. State offices were up there. I have pictures here of the plant that sat on it.

David Bohannon – Againwhat was being operated at the time the zoning laws were enacted. If it was vacant at that time then it may be properly zoned. It may be subject to be rezoned if it meets all the current criteria but it wouldn't be automatic. It would have to meet all current criteria for commercial property. Not just because....

William Daugherty – You know if it is zoned agriculture it has 6 inches of asphalt over most of it. What am I going to grow there? The ground is useless the way it is zoned.

David Bohannon – As I said we will have to take that up at the hearing. I'm just saying that it is not automatic that you would be entitled to a zone change. You would have to meet the current requirements for commercial

property. And it may or may not meet those commercial current requirements. I just don't know yet and we won't know until we have the hearing.

William Daugherty – Sir, if I can't get a change what should I do with it?

David Bohannon – Well you could bring it into compliance with current standards. Many people do that.

William Daugherty – For example? What?

David Bohannon – By widening the road, by installing larger water lines, whatever might be required to bring it into compliance. Again, we don't know what that might be or whether or not that is possible. But we just have to wait until we have a hearing to find out.

William Daugherty – Mr. Curry I am really disappointed. You know this story from day 1.

Duane Curry – I know. You and I have had numerous conversations.

William Daugherty – And I have a letter from you here stating that this was mistakenly zoned

Duane Curry – No. I didn't say it was mistakenly zoned.

William Daugherty – Whatever it says in your letter here. And we offered this whole thing when we had a buyer for it, now we have lost the buyer and may just give it to the Salvation Army. This is a piece of property I've owned since 1991 and we operated an asphalt plant there and it had equipment sitting on it. We leased it to another contractor for a couple of years. It is across the street from one of the largest truck stops I guess in this area. What else do we need to do?

David Bohannon – I don't know, you may very well be entitled to a zone change. Until we have the hearing and we here proof on it, evidence showing what you have told us and we consider whether or not it either is a non-conforming use or was improperly zoned or you are entitled to a zone change or not. We won't know. We just can't tell you tonight as we sit here what the situation will be until we hear the evidence. We can't promise you that we will give you the zone change but you may very well be entitled to it.

William Daugherty – I've been damaged by this. Is my next result, course of action, the Fiscal Court?

David Bohannon – Well maybe your next course of action would just be to consult a lawyer and find out what your next action should be.

William Daugherty – I guess that is it for the night.

Duane Curry – Would you like this put back on the agenda for the next month?

William Daugherty – Yes sir.

Duane Curry – It will be the third Tuesday of August and you will be required to renotify the adjoining property owners by certified mail. Change the zone change sign on there, change the hearing date and you will be required to put another notice in the newspaper. If you want it back on that agenda I will send you a letter out tomorrow telling you the deadlines for all those public notice requirements and

William Daugherty – An attorney has told me here in the county that you could ask for the zoning change because it was the county's zoning board's mistake to start with that it was overlooked.

David Bohannon – What we are trying to tell you Mr. Daugherty is there may have been a mistake made, there may not have been a mistake made, you may be entitled to a zone change, you may not be. We cannot tell you that tonight until we have a hearing. We will be glad to hear your zone change application but there is nothing we can do about it tonight and we have no idea as we sit here tonight what you are entitled to. We will be glad to hear it and find out.

William Daugherty – So the whole reason we can't hear it tonight is because of this one notice?

David Bohannon – Yes that is a requirement of state law that all property owners must be notified and we can not have a hearing if they are not.

William Daugherty – Can you change it, your zoning yourself?

David Bohannon – Excuse me?

William Daugherty – Can you apply for the zoning change?

Duane Curry – We can make a request to change the zoning map. Or you can make the request to have the land use changed on it and you can submit a request for all the fees to be waived because you feel like it was an error on the county's part. If the Planning Commission and the Fiscal Court agree that in fact your land use change was zoned improperly and that it was an error then certainly the fees were and are imposed on the zone change would be waived and the land use change would be approved. If the Planning Commission makes the recommendation to Fiscal Court that the land use change be approved and if Fiscal Court agrees with the Planning Commissions decision, certainly once the Planning Commission and the Fiscal Court make their final

decisions on it. If you don't agree with their decision or you feel ...by that then certainly you have the right to appeal their decision to Circuit Court. That is all spelled out in KRS 100 that governs this. Those are your rights and you probably would be advantageous for you to contact an attorney and see where you need to go. William Daugherty – Well I've done that. He tells me that the Zoning Board yourself, I can apply for the zoning change, you can apply for it.

David Bohannon – Mr. Daugherty, Mr. Daugherty that is true. But it still has to go through the same procedure. You still have to notify everybody, still have to have a hearing before this board and it still has to go to Fiscal Court. So that doesn't matter.

William Daugherty – Sir. If the County, the Zoning Board, if you are going to change it, then you can notify the people and put the notices up.

Duane Curry – But we are not seeking a zone change.

William Daugherty – Sir.

Duane Curry – We are not seeking to change the zone.

William Daugherty – Well, I'm asking you too. Since it was your error to start with.

Duane Curry – No. You

William Daugherty – You can do it. You say you won't do. That is what you are saying. You can do it.

Duane Curry – We are not going to do it. If you want to do it and you submit a written waiver requesting a waiver of the fees that is involved in it, then certainly you can do that and if the Planning Commission agrees that it was zoned improperly.....

William Daugherty – Answer me the question though, I know you are not going to do it but you can do it?

Duane Curry – KRS 100 is very specific about what we can and can not do. I would suggest you get your attorney. Let your attorney come down and speak with us. We will get our attorney if we need to and we will discuss what your options are. But the Planning Commission, we are not in the business of, or we are not in the habit of going out because you feel like your property is zoned improperly to pursue a zone change request for you. It is up to you to present the evidence and the findings of fact to justify any zone change request. As I have explained to you several times KRS 100 spells out that in order to request a zone change or land use map amendment one of three criteria has to be met. Either #1 you have to prove that it is in agreement with the Comprehensive Plan that has been adopted or #2 that major changes have taken place since the adoption of the comprehensive plan that were not anticipated or #3 that the zoning was zoned improper to begin with. That is what you presented as being your reason for requesting the change. Now it is up to you to present the evidence to prove that it was in fact zoned improperly. Once you present that, if you want to present a written waiver requesting the waiver of the fees based upon your fact that it was zoned improperly then certainly the Planning Commission can either uphold or deny that request for a waiver of the fees.

William Daugherty – What I would like to do is appear then or have a representative, if I can't be here to this Board on the 3rd of August.

Duane Curry – That is the 3rd Tuesday of August.

William Daugherty – The 3rd Tuesday of August.

Duane Curry – I will send you a notice of exactly the date.

William Daugherty – I will make sure that everyone is notified at that time.

Duane Curry – Right.

David Bohannon – That is what we need.

William Daugherty – Ok.

David Bohannon – And you need somebody to present the evidence as to what it has been used for.

William Daugherty – Sir because ...

(tape change)

David Bohannon -we've got to have proof that you are entitled to it. So somebody has to prove what the property was used for in the past and at the time of the zoning was enacted. And we will be glad to hear all that.

William Daugherty – I have a nice big picture here but I know you are tired of hearing me so I won't show it to you tonight.

David Bohannon – All right sir. Thank you very much.

William Daugherty – Thank you sir.

David Bohannon – Next on the agenda is a Land Use Request, Commercial 627 LLC, 1200 Boonesboro Road. Duane Curry – Again this land use request is property that is located actually at the 627 interchange exit 95. This is the property that is known as Adams Mobile Home Park as you will see here on the map. The portion that they rezoning you will recall back some time ago we looked at a minor plat where they separated this portion of Adams Mobile Home Park from the other section. This section here is still currently used as a mobile home park and just too kind of get your bearings. Property located approximately here is the property that we rezoned that was owned by Ronald Wood. We rezoned it to general commercial and have looked, have since at least made one pass at a development plan for duplex town homes on the back and commercial on the front. There request at this point: properties currently zoned UC2 and they are requesting it to be rezoned UC4 for general commercial and there justification for the request is that it is in agreement with the comprehensive plan and they have stated several reasons. I won't rob Mr. Black's thunder and I will let him run through those things. That is their justification for it that it is in agreement with the comprehensive plan.

David Bohannon – Have all the technical requirements been met?

Duane Curry – Yes sir. I have copies of all the return receipts.

David Bohannon – All right sir.

Mr. Black – I would like to pass these out first.....these are the correct area actually. We feel that we meet two out of or 2 ½ out of 3 of the criteria that need to be met. Only one criteria needs to be met but I think we have met two and possible three out of the three. One of the reasons given here. I will give you a moment to read that.

Duane Curry – Is that the same copy you provided with the application?

Mr. Black – I think it is.

Duane Curry – Ok. Yes. It is. Thank you.

David Bohannon – Ok Mr. Black. Would you like to proceed?

Mr. Black – We have six adjoining owners that we notified, I believe.

David Bohannon – Refresh my memory, have we done a minor plat on this property, dividing this up?

Duane Curry – Yes we did.

Mr. Black – Yes we did divide it. SSK has removed the mobile homes from this tract of land. Sewer is available, water is available. Most of the land drains from South to North and the proposed grading would follow that same pattern. We feel that the land use map amendment is in agreement with the comprehensive plan for those reasons stated in the document I gave you. We believe that the existing zoning classification is inappropriate at this point and time. Properties virtually surrounded by UC4 property. Then also there have been major changes of an economic and physical and social nature in the area involved which were not anticipated in the adopted comprehensive plan which has substantially altered the basic character of the area. And in that regard I would say that the construction of Luvs Country Store, McDonalds, BP and the rezoning of adjoining property UC4 pretty much places this property in a UC4 category in our opinion. I don't really have anything else to add to that. If there are any questions I will be glad to answer them.

Duane Curry – I've taken a few photos just for your sake of looking at it. This is on 627, I've just passed the Truckstop, looking toward the property. The property is located here where these trees are and beyond. This is looking back toward the Truckstop so you can get a proximity of how far it is from that interchange. There is the entrance into the property currently where you would go into the old mobile home park. And then the new side of the mobile home park looking back into the property that they are requesting the zone change on. Maybe one more map here or picture here that you can see the interstate right back beyond those trees. So that gives you an idea the property that we are looking at. And it is this property that sits there, the old portion of the mobile home park.

Paula Maionchi – Duane, remind me, what is the difference between UC4 and UC4.1?

Duane Curry – UC4.1 is the one that we are working on. That is the new planned commercial center zone that we are working on. The copy of the map that you've got shows 4.1 but that is not actually been adopted yet. It is zoned, all of this property adjacent to it is all zoned UC4 and we have zoned this property here UC4. The area back here is the Wayne Lakes farm and it is still zoned UC7. And UC2 is actually multifamily residential. It is my opinion that UC4 designation is in fact in agreement with the Comprehensive Plan and it fits in with

how we anticipated I know as a Planning Commission we've talked for years now about how we anticipate this area growing and it is more in line of how we anticipate this area to develop. Municipal sewer as we know they are installing the sewer, the North Madison Sanitation Plant, about a 14 million dollar plant. Sanitation district it is my understanding they own the sewage treatment facility that is existing at the back of this existing mobile home park. And that will be done away with as soon as the new sewage system comes on line. So the infrastructure is adequate. Fire flow is available. Municipal sewer is available. It is within the urban corridor and it is directly adjacent to the interstate and I feel like it is in agreement with the comprehensive plan.

David Bohannon – Any questions or comments from the Commissioners? If not is there anyone in the audience that would to speak to this zone change.

.... – I don't need to speak I was here prior with the out parcel on the minor plats. We appreciate my name is Kirt Keely and I am the managing partner.....

David Bohannon – Anyone else? If not we will entertain a motion to either approve or disapprove this proposed land use change.

Paula Maionchi – I would make a motion that we approve the land use change. It is in conformity with the comprehensive plan, it lies in the urban corridor, it is surrounded by other commercial property, it fronts on a major road, it has adequate fire flow and I think that is sufficient.

Gary Hart – 2nd

David Bohannon – We have a motion and a second. Any further discussion? Call the roll Madam Clerk.

David Bohannon – yes

Gary Hart – yes

Paula Maionchi – yes

Chandler Combs – yes

David Bohannon – The recommendation to the Fiscal Court will be to approve this zone change.

Mr. Black – Can I ask one question? A question has come up. My client is interested in whether or not a hotel would be permissible on this property?

Duane Curry – I did send a letter to your office stating that UC4 is our widest range of general commercial uses and motels would be a permitted use in that particular zone.

Mr. Black – I haven't seen that yet.

Paula Maionchi – Is there a height restriction, isn't it 40'?

Duane Curry – There is a height restriction in the general commercial. The current regs that are in place right now is 30'.

Mr. Black – Thank you very much.

David Bohannon – Yes sir. That concludes the public hearing part of this meeting if that is the last zone change. We will move on now to a minor plat for William Green at 246 Carvers Ferry Road.

Duane Curry – That item has been withdrawn from the agenda. After discussion at the Work Session we've sent notice that it just doesn't comply and they need to comply.

David Bohannon – Next then would be Final Plats – Berkley Hall, Old Hwy 25, Phase 1.

Duane Curry – Jim Carr is here. If you have questions for him. But this subdivision plat, we've received the letter of credit. All the infrastructure is in. Signatures are on the plat. Everything is in order with this particular subdivision. They have met the requirements. He is anxious to start selling lots.

David Bohannon – Any Commissioners have any questions? Comments? If not is there a motion to approve this final plat?

Chandler Combs – So moved.

David Bohannon – Is there a second?

Paula Maionchi – 2nd

David Bohannon – Madam clerk would you call the roll?

Chandler Combs – yes

Paula Maionchi – yes

Gary Hart – yes

David Bohannon – yes

Jim Carr – Thank you all.

David Bohannon – Next is Final Plat for Clark Place Subdivision, 1865 Big Hill Road. Mr. Curry?

Duane Curry – Clark Place, the items that were discussed at the last meeting. Curbs – I spoke with Mr. Clark earlier today and they finishing yesterday pouring some catch basins that were missing. There is a light at the entrance that exists now. It meets the requirements. The only thing that has not been put in place at this point is a sign at the entrance listing the name of the subdivision. The dollar amount for that construction of that sign was included in his letter of credit. And he intends to build a stone entrance sign into the subdivision there adjacent to the bridge. He felt like it would look better there and they just haven't had the time to get the guys in there to get that built. That is an item that is covered in the letter of credit and says it will be done probably in the next two or three weeks. Blacktop is in, water is in. Site evaluations, have those been completed?

~~Ransome Crabtree – I am not for sure about that. I was just looking down my signature list. It looks like we are missing~~

Duane Curry – The two things I had outstanding was signatures and site evaluations.

Ransome Crabtree – Health Department and Southern Madison Water looks like the only two we are missing. I've been meaning to talk about the site evaluations so I'm not for sure if those are approved and he has any documentation on that or not.

Duane Curry – I know he told me they were scheduled to do it but I didn't know that it ever got done. So if the Planning Commission saw fit it would...you would need to make a motion to approve it contingent upon site evaluations being done and shown on a plat and all the required signatures.

David Bohannon – Any other questions or comments from the Commissioners? If not do we have a motion to approve this final plat for Clark Place Subdivision?

Paula Maionchi – I would make a motion that we approve the final plat contingent on signatures from the Health Department and the erection of the signage and what was the other thing Duane...

Duane Curry – All the required signatures and site evaluations and the sign.

Paula Maionchi – Site evaluations by the Health Department.

David Bohannon – Do we have a second?

Gary Hart – 2nd.

David Bohannon – Madam Clerk would you call roll?

Chandler Combs – yes

David Bohannon – yes

Paula Maionchi – yes

Gary Hart – yes

Ransome Crabtree – Thank you all.

David Bohannon - Mr. Curry do we have any other business?

Duane Curry – One short matter. I received a written request from Northern Chase Development requesting an extension of their preliminary plat for Shiloh Cove subdivision. It was approved July 25, 2006 through 2007 and they have requested that it be extended for a year. Typically we extend them for 6 months according to our regs. But they have requested that you extend it for a year.

David Bohannon – I would move that we extend it for 6 months. Is there a second?

Paula Maionchi – 2nd

David Bohannon – Any discussion?

Chandler Combs – Who is that Duane?

Duane Curry – This is a Kevin Payne's Northern Chase Development. Shiloh Point, this is the new development he is doing north of Shiloh Point called Shiloh Cove.

David Bohannon – Madam Clerk would you call the roll?

David Bohannon – yes

Paula Maionchi – yes

Chandler Combs – yes

Gary Hart – yes

David Bohannon – Anything else, Mr. Curry.

Duane Curry – That is all I have.

David Bohannon – A motion to adjourn would be in order.

Paula Maionchi – So moved.

David Bohannon – Madam Clerk?

Paula Maionchi – yes

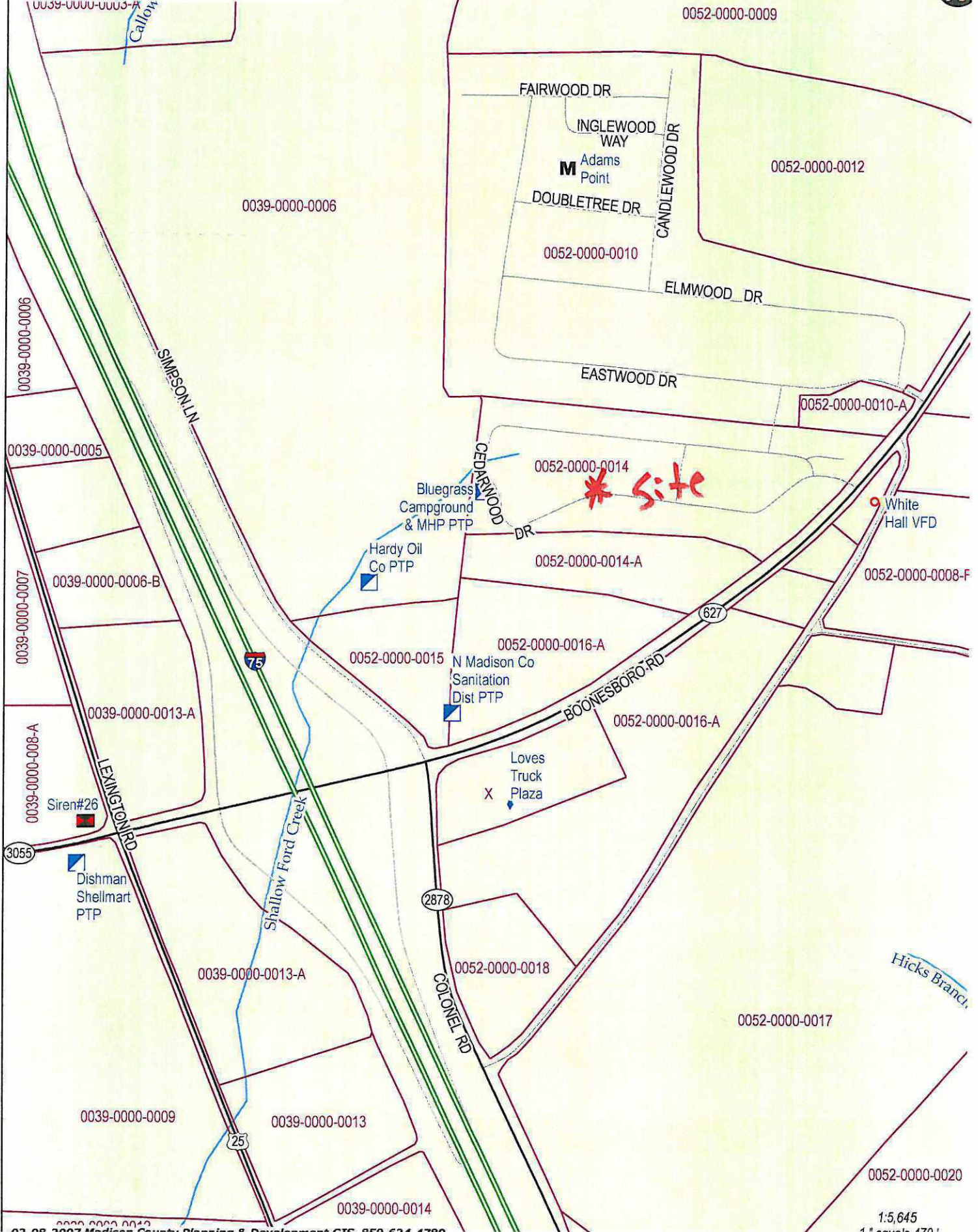
David Bohannon – yes

Chandler Combs – yes

Gary Hart – yes

Information submitted by Francette Durbin

Madison County, KY



0039-0000-0003-A
Callow

0052-0000-0009

0039-0000-0006

0052-0000-0012

FAIRWOOD DR

INGLEWOOD WAY

M Adams Point

DOUBLETREE DR

0052-0000-0010

CANDLEWOOD DR

ELMWOOD DR

EASTWOOD DR

0052-0000-0010-A

0052-0000-0014

* Site

Bluegrass Campground & MHP PTP

Hardy Oil Co PTP

0052-0000-0014-A

White Hall VFD

0052-0000-0008-F

0039-0000-0006

0039-0000-0005

0039-0000-0007

0039-0000-0006-B

0039-0000-0013-A

0039-0000-008-A

Siren#26

Dishman Shellmart PTP

0052-0000-0015

N Madison Co Sanitation Dist PTP

Loves Truck Plaza

0052-0000-0016-A

0052-0000-0016-A

3055

LEXINGTON RD

Shallow Ford Creek

0039-0000-0013-A

2878

0052-0000-0018

COLONEL RD

Hicks Branch

0052-0000-0017

0039-0000-0009

0039-0000-0013

25

0039-0000-0014

0052-0000-0020

1:5,645
1" equals 470'

LEGAL DESCRIPTION
ZONE CHANGE FOR
COMMERCIAL 627, LLC
TRACTS 1A, 1B, 1C, 1D AND 1E
DEED BOOK 612 PG 1

A certain tract of land located on the Northwest side of State Highway 627 approximately 1550 feet from the intersection of State Highway 627 and I-75 in Madison County, Kentucky, and being bound by survey (Job #7862) performed under the direction of Charles E. Black, a licensed Land Surveyor in the State of Kentucky (LS#670) on 6/21/2006 and more particularly described as follows:

Beginning at a found steel pin and cap (#1961) and common corner with Parwell Limited Partnership (DB 485 PG 32) and in the Northwest right of way line of State Highway 627, Thence, with the line of Parwell, N74°58'37"W 224.17' to a steel pin and cap set, S89°54'00"W 888.90' to a found steel pin and cap #1961 and common corner with the Ted Lake Heirs (DB 143 PG 403).

Thence, with the Ted Lake Heirs, N08°38'32"E 465.60' to a set steel pin and cap,

Thence, continuing with Lake, N 75°59'41"W 146.02' to a set steel pin and cap

Thence, N00°21'10"W 159.63' to a set steel pin and cap in the line of Lake and common corner with Madison MHC, LLC. (DB 611 Pg 794)

Thence, with the line of Madison MHC, LLC., S85°01'06"E 1164.52' to a set steel pin and cap and common corner with other property of Madison MHC, LLC.,

Thence, still with Madison MHC, LLC, S08°22'08"W 208.60' to a set steel pin and cap,

Thence, S84°58'40"E 198.79' to a set steel pin and cap,

Thence, N 04°19'26"E 82.58' to a set steel pin and cap and common corner with Lora Fugate (DB 597 PG 268)

Thence, with Fugate, S84°09'28"E 283.29' to a set steel pin in the Northwest right of way of State Highway 627,

Thence, with said highway, S38°11'32"W 85.21' to a steel pin and cap set,

S40°11'28"W 75.13' to a set steel pin and cap, S42°12'15"W 104.04' to a set steel pin and cap, Thence, S44°11'19"W 136.49' to a set steel pin and cap

Thence, S46°53'36"W 38.30' to a set steel pin and cap by a Kentucky State right of way marker,

Thence, N40°19'56"W 10.01' to a set steel pin and cap by a Kentucky State right of way marker,

Thence, S46°53'37"W 94.50' to a set steel pin and cap,

Thence, still with the right of way of State Highway 627, S49°33'51"W 89.46' to the point of beginning and containing 759,205 square feet or 17.429 acres.



Madison County Planning & Development

Madison County
Public Engineer
200 West Kentucky
Covington, KY 40303

Madison County
Public Engineer
200 West Kentucky
Covington, KY 40303

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Public Engineer
200 West Kentucky
Covington, KY 40303

July 17, 2007

www.madisoncountyky.gov

Charles Black Consulting Engineers
Mr. Charles Black
131 Killarney Lane
Richmond, Kentucky 40475

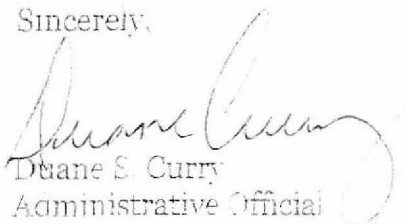
RE: County Land Use Classifications

Dear Mr. Black,

Per our conversation the Madison County Land Use Regulations have a designation as UC-4 General Commercial which is the County's most extensive commercial zoning classification. This UC-4 Classification does permit the property to be used as a motel as you have requested. Obviously there are developmental regulations that would apply for that type of use as well, however the use is permitted in a UC-4 Classification.

Should you have any questions or wish to discuss this further please feel free to call.
Thanks for your assistance in this matter!

Sincerely,


Duane E. Curry
Administrative Official



Madison County Planning & Development

Building Inspection:	321 N. Madison Ave.	GIS Mapping
Code Enforcement:	Suite B	Facilities Management
Land Use Regulation:	Richmond, KY 40475	911 A&E - Sing

www.madisoncountycy.us

Date: June 28, 2007

Dear Property Owner:

The Madison County Planning Commission would like to inform you of a land use change request by a property owner in your neighborhood. We will hold a public hearing on this matter in order to provide county residents with an opportunity to support or object to the requested change. All pertinent information is listed below. Should you need additional information, please contact the Administrative Official at the Madison County Planning & Development Office located at 321 N. Madison Avenue, Suite B (859) 624-4780.

Address of Property requested for Land Use Change:

Boonesborough Road / KY Hwy 627

Land Use Change Requested: From: UC-2 To: UC-4

Owner of Property requesting Land Use Change: Commercial 627, LLC c/o Kurtis Keeney (Mgr)

Property Owner's Address: 467 Erlanger Road, Erlanger, KY

Date of Public Hearing: July 17, 2007

Time and Location of Public Hearing: 6:00 PM July 17, 2007
Madison County Court House
Fiscal Court Room
101 W. Main Street
Richmond, Kentucky 40475

Sincerely,


Duane S. Curry
Administrative Official



Madison County Planning & Development

Building Inspection- Code Enforcement	321 N. Madison Ave. Suite E	GIS Mapping Floodplain Management
Land-Use Regulation	Richmond, KY 40475	911 Addressing

www.madisoncountytv.ky.us

TO: Kent Clari, Madison County Judge/Executive
Madison County Fiscal Court

DATE: June 26, 2007

RE: Planning Commission Recommendation
Commercial 627, LLC, Highway 627, Richmond, KY

As a result of a public hearing held on July 17, 2007 at 6:00 pm in the Fiscal Court Room, the Madison County Planning Commission heard and reviewed the following application for an amendment to the Land Use Management Map.

APPLICANT'S REQUEST

Commercial 627, LLC, Highway 627, Richmond, KY, proposed to change 17.429 acres +/- from its original classification of UC-2 (Multi-Family Residential) to UC-4 (General Commercial).

APPLICANT'S JUSTIFICATION FOR THE REQUEST

In accordance with KRS 100.213, Commercial 627 LLC submitted the following findings of fact:

1. The proposed land use map amendment is in agreement with the adopted comprehensive plan for the following reasons:
 - a. The property is contiguous with existing UC-4 designations.
 - b. The proposed UC-4 designation has the potential to provide more jobs and assist in the economic growth in Madison County
 - c. This designation will provide commercial tracts in the second highest populated census tract referenced on Page 18 of the Comprehensive Plan.
 - d. The property lies in what is shown as a potential growth area on the map on Page 19 of the Comprehensive Plan.
2. The existing land use designation given to the property is inappropriate and the proposed is appropriate for the same reasons as above.
3. There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and which have substantially altered the basic character of such area based upon the following:
 - a. The recent development of Love's Country Store on Highway 627
 - b. The recent development of several subdivisions on Highway 627 which provides the need for commercial services

PLANNING COMMISSION'S FINDINGS OF FACT

Upon hearing the testimony given by the applicant and his/her representatives, as well as findings presented in opposition to the requested change the Planning Commission made the following motion and findings of fact in accordance with KRS 100.213. excerpts taken from the minutes of the Public Hearing:

Paula Maionchi – I would make a motion that we approve the land use change. It is in conformity with the comprehensive plan, it lies in the urban corridor, it is surrounded by other commercial property, it fronts on a major road, it has adequate fire flow and I think that is sufficient.

Gary Hart – 2nd

PLANNING COMMISSION RECOMMENDATION

Motion was made by Paula Maionchi and seconded by Gary Hart to approve the land use change request stating the following findings of fact:

1. It is in conformity with the comprehensive plan.
2. The property lies in the urban corridor.
3. The property is surrounded by other commercial property.
4. The property fronts on a major road.
5. The property has adequate fire flow.

Motion carried by unanimous vote of the members present. Members absent were Robert Farmer and Wanda Pennington.

Therefore, the Madison County Planning Commission recommends the request for land use change be **Approved** :

Copies of the actual minutes from the public hearing are available upon request. Should you have any questions regarding this request, please call this office.

Sincerely,


Duane S. Curry
Administrative Official

ADC

ATTACHMENTS

Application for Land Use Map Amendment
Madison County, Kentucky

Date: 06/25/07		Application Number	
Property Owner's Name(s): COMMERCIAL 627 LLC. 1/4 KURTIS KEENEY (MNGR)			
Property Owner's Address: 467 ERLANGER RD.			
City/State: ERLANGER, KY			
Zip Code: 41018		Phone No. (859) 342-5111	
Address of Property Requesting Change: BOONEBOROUGH RD. / KY HWY 627			
Lot Number: 111		Subdivision Name: JCR SUB	
Existing Zoning: UCR		Requested Zoning: UC-4	
Surrounding Property Use/ Zoning Information			
Direction	Land Use	Zoning Classification	
East	COMMERCIAL/TIRE LEFT	UC-4	
West	AGRICULTURAL	UC-4	
North	MOBILE HOME PARK	UC-2	
South	COMMERCIAL	UC-4	
Urban Services Provided	Yes	No	Services Provided By
Sewage		X	
Garbage Disposal	X		ALLIED WASTE SERVICES
Water	X		MADISON COUNTY WATER
Police Protection	X		MADISON COUNTY SHERIFF
Fire Protection	X		WHITE HALL VOLUNTEER FIRE DEPT.
Gas	X		DELTA GAS
Electric	X		KENTUCKY UTILITIES
Storm Sewers		X	
Municipal Sewer	X		NORTHERN MADISON COUNTY SEWER DISTRICT
The following items are required to be provided by the applicant before the application can be considered for placement on the agenda:			
Item	Yes	No	Comments
Deed for the Property	X		Deed must reflect actual acreage to be re-zoned. PLAT
Vicinity Map	X		Map must accurately describe location.
List of Adjoining Property Owners Names/ Addresses	X		Names and Addresses must be complete and per PVA Records for accuracy.
Completed Application	X		Application must be completed entirely and signed by the owner or agent.
Application Fees Paid	X		Fees Must be Paid at time of making application.

APPENDIX A

Application for Land Use Map Amendment
Madison County, Kentucky

In accordance with KRS100.213 before any map amendment is granted, the planning commission or legislative body or fiscal court must find that the map amendment is in agreement with the adopted comprehensive plan, or, in the absence of such a finding, that one (1) or more of the following apply and such finding shall be recorded in the minutes and records of the planning commission or fiscal court

(It is the applicant's responsibility to determine the finding of fact and state specific reasons to justify the requested change.)

a) The proposed land use map amendment is in agreement with the adopted comprehensive plan for the following reasons:

- SEE ATTACHMENT -

b) That the existing zoning classification give to the property is inappropriate and the proposed zoning classification is appropriate for the following reasons:

- SEE ATTACHMENT -

c) There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area based upon the following reasons:

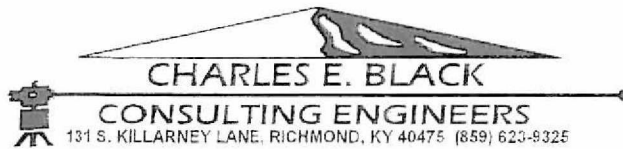
- SEE ATTACHMENT -

Please attach additional pages if more space is needed...

Applicant's signature: I do hereby certify that, to the best of my knowledge and belief, all application materials are herewith submitted and the information is true and correct. I further certify that I am the owner of this property, since (mo/year).

Date: 6/25/07

Owner's Signature:



In accordance with KRS100.213 the subject map amendment is in agreement with the following:

A.) The proposed land use map amendment is in agreement with the adopted comprehensive plan for the following reasons:

- The subject property proposed to be re-zoned UC-4 (General Commercial) is contiguous to existing UC-4 zone on the west, south, and east boundary of the said property.
- The proposed zone of UC-4 has the potential to provide more jobs, assist in the economic growth in Madison County, and help meet the needs of current and new Madison County residents.
- The proposed zone will provide commercial tracts in the second highest populated census tract according to the Census Tract Map of 2000 shown on page 18 of the Madison County Comprehensive Plan 2005.
- The subject property lies in what is shown as a potential growth area on the map on page 19 of the 2005 Comprehensive Plan.

B.) That the existing zoning classification give to the property is inappropriate and the proposed zoning classification is appropriate for the following reasons:

- -same as above-

C.) There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area based upon the following reasons:

- The recent development of Love's Country Store on the corner of KY Hwy 627 (Boonesborough Rd.) and Colonel Rd.
- The recent development of several subdivisions on KY Hwy 627 (Boonesborough Rd.) which provides a need for commercial facilities.

List of Adjoining Property Owner Names and Addresses
for the proposed Land Use Management Map Amendment
for Commercial 627, LLC.

-
- **Madison MHC, LLC.** 467 Erlanger Road, Erlanger, KY 41018
 - **Lora L. Fugate** 1409 Fox Quisenberry Road, Winchester, KY 40391
 - **Parwell Limited Partnership** 2327 Union City Road, Richmond, KY 40475
 - **Wayne Lake** 2391 Lexington Road, Richmond, KY 40475
 - **White Hall Volunteer Fire Dept.** 1295 Boonesborough Road, Richmond, KY 40475
 - **Robertson Family LLC.** 210 S. Estill Avenue, Richmond, KY 40475

Hardin

3

16.00
name

AFTER RECORDING, PLEASE RETURN TO:
ADAMS, STEPNER, WOLTERMANN & DUSING, P.L.L.C.
P.O. BOX 861
COVINGTON, KENTUCKY 41012

MADISON COUNTY
D612 Pg 1

DEED

KNOW ALL MEN BY THESE PRESENTS:

That INDIANAPOLIS-SSK, LLC, a Kentucky Limited Liability Company,

for and in consideration of -- \$2,200,000.00 -- and other good and valuable considerations to it paid by the Grantee herein, the receipt of which is hereby acknowledged, does bargain, sell and convey to:

COMMERCIAL 627, LLC, a Kentucky Limited Liability Company, its

successors and assigns forever, the following described real estate, in the County of Madison and Commonwealth of Kentucky, to-wit:

Tract 1A, Tract 1B, Tract 1C, Tract 1D and Tract 1E, as shown in Plat Book 23, Page 383, of the records of the Madison County Court Clerk's Office, reference to which is hereby made for a more particular description.

Being part of the same property conveyed to the Grantor herein by BLUE GRASS MOBILE HOME PARK, LLC, a Georgia Limited Liability Company, doing business in Kentucky as WHITE HALL HOUSING COMMUNITY LLC by Deed dated May 1, 2002 and recorded in Deed Book 542, Page 759 of the Madison County Clerk's records at Richmond, Kentucky.

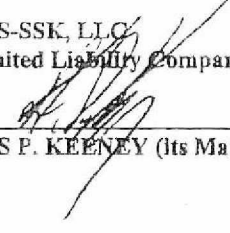
Together with all the PRIVILEGES AND APPURTENANCES to the same belonging. TO HAVE AND TO HOLD the same to the said

COMMERCIAL 627, LLC, a Kentucky Limited Liability Company, its

successors and assigns forever, the Grantor, its successors and/or assigns, HEREBY COVENANTING with the Grantee, its successors and/or assigns, that the TITLE so conveyed is CLEAR, FREE AND UNENCUMBERED and that it will WARRANT AND DEFEND the same against all legal claims whatsoever.

IN WITNESS WHEREOF, the said Grantor, INDIANAPOLIS-SSK, LLC, a Kentucky Limited Liability Company, by and through KURTIS P. KEENEY, its Manager, pursuant to authorizing Resolution, hereunto sets its hand, this _____ day of August, 2006

INDIANAPOLIS-SSK, LLC
A Kentucky Limited Liability Company

By: 
KURTIS P. KEENEY (its Manager)

STATE OF KENTUCKY
COUNTY OF KENTON

MADISON COUNTY
D612 PG 2

The foregoing instrument was acknowledged before me this 29 day of August, 2006, by INDIANAPOLIS-SSK, LLC, a Kentucky Limited Liability Company, by and through KURTIS P. KEENEY, its Manager.

Michael M. Smith
Notary Public
Comm. Expires: 3/8/08

CERTIFICATION

We, INDIANAPOLIS-SSK, LLC, a Kentucky Limited Liability Company, Grantor herein, by and through KURTIS P. KEENEY, its Manager, at the address of 467 Erlanger Road, Erlanger, Kentucky 41018 and COMMERCIAL 627, LLC, a Kentucky Limited Liability Company, Grantee herein, by and through KURTIS P. KEENEY, its Manager, at the address of 467 Erlanger Road, Erlanger, Kentucky 41018, do hereby certify, pursuant to KRS Chapter 382, that the above-stated consideration in the amount of \$2,200,000.00 is the true, correct and full consideration paid for the property herein conveyed. We further certify our understanding that falsification of the stated consideration or sale price of the property is a Class D felony, subject to one to five years imprisonment and fines up to \$10,000.00.

INDIANAPOLIS-SSK, LLC
A Kentucky Limited Liability Company (Grantor)

By: [Signature]
KURTIS P. KEENEY (its Manager)

COMMERCIAL 627, LLC
A Kentucky Limited Liability Company (Grantee)

By: [Signature]
KURTIS P. KEENEY (its Manager)

STATE OF KENTUCKY)
) SS
COUNTY OF KENTON)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, this 29 day of August, 2006 by INDIANAPOLIS-SSK, LLC, a Kentucky Limited Liability Company, by and through KURTIS P. KEENEY, its Manager.

Michael M. Smith
Notary Public
Comm. Expires: 3/8/08

STATE OF KENTUCKY)
) SS
COUNTY OF KENTON)

MADISON COUNTY
D612 PG 3

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, this 29 day of August, 2006 by
COMMERCIAL 627, LLC, a Kentucky Limited Liability Company, by and through KURTIS P. KEENEY, its Manager.

Michael M. Sketch
Notary Public
Comm. Expires: 3/8/08

This Instrument Prepared By:

Michael M. Sketch
MICHAEL M. SKETCH
ADAMS, STEPNER, WOLTERMANN
& DUSING, P.L.L.C.
40 West Pike Street
P.O. Box 861
Covington, Kentucky 41011
(859) 394-6200

DOCUMENT NO: 374903
RECORDED ON: AUGUST 31, 2006 12:27:59PM
TOTAL FEES: \$16.00
TRANSFER TAX: \$2200.00
COUNTY CLERK: WILLIAM E. BARBARD
COUNTY: MADISON COUNTY
DEPUTY CLERK: JESSICA H. CONNER