

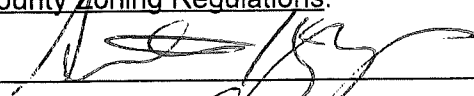
APPLICATION FORM

JUN 27 '11

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

- 1. (Check One)
 Boone _____ Florence _____ Walton _____ Union _____
- 2. (Check One)
 Conditional Use Permit _____ Variance _____ Appeal _____
_____ Change in Non-Conforming Use
- 3. Applicant's Name NORTON OUTDOOR ADVERTISING
Phone Number 513-631-4864 Fax No. 513-631-4676
Applicant's Address 5280 Kennedy AVE
Cinti OH 45213
City State Zip
- 4. Description of Request: SECTION 3425 OFF PREMISE SIGNS
AS A CONDITIONAL USE
- 5. Name of Development _____
- 6. Location of Development 10915 DIXIE HIGHWAY
- 7. Acreage Under Review 14.26
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property ~~Richard Bunker Comer Trust~~ Marcko Inc. 10. Dba Richwood
Flora
mkt.
Phone Number of Owner 371-5800
Address of Property Owner P.O. Box 153 FLORENCE KY 41022
City State Zip
- 11. Proposed Use(s) on Site ERECT STEEL MONO POLE BACK TO BACK
OFF PREMISE SIGN, WITH HOLOPHANE ILLUMINATION
- 12. Total Square Footage of Existing and/or Proposed Buildings 300 SQ' OFF PREMISE SIGN
- 13. Current Zoning on Property C-3
- 14. Deed Book 353 Page No. 84 Group No. 2064
- 15. Is the site subject to a zone change? NO
If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? YES
- 17. Have you submitted a list of adjoining property owners with this request? YES
- 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: 

Property Owner's Signature:  VP. Mike Stallings

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2

SECTION B (To be completed by the Boone County Planning Commission Staff)

- 1. Date Received 6-27-01 Fee Received \$714.00 R# 24711
- 2. Is application complete? / Yes / No /
- 3. Staff Reviewer _____
- 4. Scheduled Board Action Date _____
- 5. Board Action:
 - Approved**
 - Approved with Conditions (See #6)**
 - Denial (See #7)**
- 6. Conditions of Approval: _____

- 7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

STAFF REPORT

APPLICANT: Norton Outdoor Advertising
LOCATION: 10915 Dixie Highway, Boone County, Kentucky
ZONING: Commercial Services (C-3)
DATE: August 9, 2000

Proposal

The applicants are requesting a Conditional Use Permit to erect a steel monopole back-to-back off premise sign which is 40 feet tall and contains 300.12 square feet. The site contains 16.26 acres and is located at the Richwood Flea Market on 10915 Dixie Highway, Boone County, Kentucky. The current zoning is Commercial Services (C-3). The applicant submitted the following exhibits as part of the application:

- Exhibit A- Deed of the property.
- Exhibit B- Topographic map showing the location of the property.
- Exhibit C- Two pictures showing the location of the sign from different views travelling north and south bound on Dixie Highway.

Applicable Regulations

Article 34, Section 3425 of the Boone County Zoning Regulations allows off-premise signs as a conditional use in the C-3 district if the sign meets all of the following requirements:

1. The application for conditional use permits shall be accompanied by the following information:
 - a. All information required in Section 3405 of this Article;
 - b. Identification of all interstate highways or other thoroughfares from which the sign will be visible;
 - c. Number and nearest milepost on the interstate highway from which the sign will be visible;
 - d. The location of the proposed sign on a U.S. Geological Survey, 1:24,000 scale, topographic map and the location of all existing local information signs within one half mile of the proposed location;
 - e. A profile of the line through the center of the proposed sign at an angle of 0 to 75 degrees to the centerline of each thoroughfare from which the sign will be visible; and
 - f. A photograph not less than eight inches (8") by ten inches (10") in size, taken of the proposed location of the sign from each thoroughfare the sign will be visible. The proposed location of the sign shall be clearly marked on each photograph.

2. An off-premises sign, as a conditional use, shall conform, at minimum, to the following requirements:
 - a. No sign shall be larger than one thousand six hundred (1,600) square feet and no linear dimension shall exceed one hundred feet;
 - b. The maximum height of any sign shall not exceed fifty (50) feet;
 - c. All signs shall be located at least six hundred and sixty (660) feet from the right-of-way lines of any interstate highways and at least one hundred (100) feet from the right-of-way lines of any other thoroughfares;
 - d. Off-premise signs shall not be permitted at intervals of less than one thousand seven hundred sixty (1,760) feet, measured along the centerline of each interstate highway or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit stated in Section 262 of the Boone County Zoning Regulations:

Findings listed in Section 262:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's comprehensive plan, a specific corridor plan and/or the zoning order;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area;
3. Will be hazardous to existing or future neighboring uses;
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately such services;
5. Will create excessive additional requirements at public cost for public facilities and services and will be detrimental to the economic welfare of the community;
6. Will involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, dust, fumes, glare, or odors;
7. Will have vehicular approaches to property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

KRS 177.841 Billboard advertising prohibited –Exceptions. (1) Except as otherwise provided in KRS 177.830 to 177.890, the erection or maintenance of any advertising device upon or within 660 feet of the right-of-way of any interstate highway or federal-aid primary highway is prohibited. (2) The erection or maintenance of any advertising device located outside of an urban area and beyond 660 feet of the right-of-way which is legible and/or identifiable from the main traveled way of any interstate highway or federal-aid primary highway is prohibited with the exception of: (a) Directional and official signs and notices; (b) Signs advertising the sale or lease of property upon which they are located; or (c) Signs advertising activities conducted on the property on which they are located.

Surrounding Land Uses and Zoning

Most of the adjacent property is zoned Commercial Services (C-3). The proposed site for the sign is bordered by Clayton Mobile Home Sales (C-3) adjacent to a mobile home park (MHP) to the north, undeveloped property (I-1) to the east and I-75 to the west. A CG&E utility structure and TIME auto sales, both zoned C-3 are located to the south.

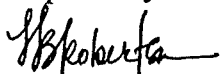
Staff Concerns/Comments

1. The drawing submitted by the applicant shows the distance between the sign and the I-75 right-of-way as approximately 550 feet or 110 feet less than six hundred and sixty (660) feet required in Section 3425 of the Boone County Zoning Ordinance or KRS 177.841 which also prohibits the erection or maintenance of any advertising device within 660 feet of an interstate highway.
2. In addition to Section 3425 of the Boone County Zoning Regulations and KRS 177.841, the current (1995) Boone County Comprehensive Plan Future Land Use Development Guidelines (page 211) states that, "The minimal use of signs is encouraged; signage should be adequate to identify a specific development, but should not be used as a means to compete for motorist attention." By its very nature, an off-premise billboard is specifically designed to notify motorists of a specific message, business or land use at another location and thus is competing "for motorist attention" without minimizing signage.

Conclusion

KRS 100.237 and Section 3425 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Conditional Use Permit to allow the construction of an off-premise sign in a C-3 district. However, the construction of an off-premise sign not only conflicts with the overall intent of the Boone County Comprehensive Plan as stated above but is also in direct violation of Section 3425 of the Boone County Zoning Regulations and KRS 177.841. Therefore, the staff makes a recommendation to deny the conditional use request for the construction of a 300 square foot off-premise sign at 10915 Dixie Highway.

Respectfully submitted,



Lara B. Robertson, AICP

Attachments

- Location Map
- Site Map
- Exhibit A- Deed of property
- Exhibit B- Topographic Map
- Exhibit C-Photographs of the proposed sign location.
- Exhibit D-Sign Specifications

Property Transfer Tax 3400.00
Jerry W. Rouse, Clerk DC BC

2067

BOOK 353 PAGE 84

DEED

RICHWOOD BURLEY CENTER, INC., a Kentucky corporation, acting by and through its president, Evelyn Mosley, having been duly authorized by the board of directors to so act,

for and in consideration of \$3,400,000.00, the receipt of \$2,468,541.73 of which is hereby acknowledged, and the balance of which in the amount of \$931,458.27 is evidenced by Grantee's assuming and agreeing to pay according to its terms and conditions the present principal balance and interest of a certain promissory note dated February 19, 1982, to R. W. Franks, K. G. Cummins, and Harold Vest, in the original principal amount of \$900,000.00, secured by a mortgage to the said holders of the promissory note on the portion of the property described below as Parcel Two, dated February 19, 1982, and recorded in Mortgage Book 308, Page 185, in the Office of the Clerk of Boone County, Kentucky, does hereby bargain, sell and convey to

MIARKO, INC., a Kentucky corporation, its successors and assigns forever the following described real property lying and being in Boone County, Kentucky, to wit:

GRANTEE MAILING ADDRESS: 3136 Brookwood Drive, Edgewood, Kentucky 41017

PRESENT STREET ADDRESS: 10915 Dixie Highway, Richmond, Ky.

FOR LAND USE RESTRICTION SEE MISC. BK. 558 PG. 20

GROUP NO. 2064

PARCEL ONE: Located in the Commonwealth of Kentucky, County of Boone, about 0.5 mile north of Richwood, Kentucky, on the west side of U.S. 25 and being more particularly described as follows: Beginning at a steel pin in the westerly right-of-way line of U.S. 25, said steel pin also being the northeast corner of the Brinkman Oil Co. Property; thence with the westerly right-of-way line of U.S. 25 N. 7° 45' E. 186.73 feet to a steel pin; thence with a new line N. 82° 15' W. 723.72 feet to a steel pin in the easterly right-of-way line of I-75; thence with the easterly right-of-way line of I-75 S. 6° 37' E. 193.06 feet to a steel pin; thence with Brinkman Oil Company northerly line, S. 82° 17' E. 675.82 feet to the point of beginning and containing 3.002 acres.

PARCEL TWO: Located in the Commonwealth of Kentucky, County of Boone, about 0.5 mile north of Richwood, Kentucky, on the west side of U.S. 25 and being more particularly described as follows: Beginning at a steel pin in the westerly right-of-way line of U.S. 25, said steel pin being 186.73 feet north of the northeast corner of the Brinkman Oil Co. Property; thence with the westerly right-of-way line of U.S. 25 N 7° 45' E. 707.61 ft. to a steel pin at the southeast corner of the A-1 Mobile Home Property; thence with the A-1 Mobile Home southerly line N. 82° 02' W. 890.34 feet to a steel pin in the easterly right-of-way line of I-75; thence with the easterly right-of-way line of I-75 S. 6° 37' E. 21.96 feet to a steel corner post; thence with the right-of-way line of I-75, S. 83° 23' W. 15.00 feet to a steel corner post; thence with the right-of-way line of I-75, S. 6° 37' E. 708.11 feet to a steel pin; thence with a new line S. 82° 15' E. 723.72 feet to the point of beginning and containing 13.256 acres. SUBJECT to easements to the Union Light, Heat and Power Company as set out in Easement Book 8, page 333 and Misc. Book 25, page 214 of the Boone County Clerk's records at Burlington, Kentucky. SUBJECT to deeds to the Commonwealth of Kentucky, Department of Highways, as set out in Deed Book 4, page 483, Deed Book 4, page 485 and Deed Book 4, 487 of the Boone County Clerk's records at Burlington, Kentucky. Subject to unrecorded easements, and recorded easements which cannot be determined to affect the described real estate without an accurate survey, and easements, restrictions and stipulations of record and governmental laws and regulations affecting the property.

BEING the same property conveyed to Richwood Burley Center, Inc., by deed dated February 19, 1982, of record in Deed Book 291, Page 193, in the office of the Clerk of Boone County, Kentucky.

Together with all the privileges and appurtenances to the same belong.

To have and to hold the same to the said

MIARKO, INC., a Kentucky corporation,

its successors and assigns forever, with covenants of general warranty.

IN WITNESS WHEREOF, the said Evelyn Mosley, President of Richwood Burley Center, Inc., a Kentucky corporation, having been duly authorized by the board of directors to so act hereunto has set her hand on October 1, 1986.

RICHWOOD BURLEY CENTER, INC.

By Evelyn Mosley, Pres.
Evelyn Mosley, President

STATE OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me on October 1, 1986, by Evelyn Mobley, President of Richwood Burley Center, Inc., a Kentucky corporation, on behalf of the corporation.

David Buechler
NOTARY PUBLIC, State at Large, Ky.

Commission expires: 11/17/87

I certify that this instrument was prepared by:
David B. Buechler
BROWN, TODD & HEYBURN
1600 Citizens Plaza
Louisville, Kentucky 40202

David Buechler

STATE OF KENTUCKY)
) SS
COUNTY OF BOONE)

I, Jerry W. Rouse, Clerk of the County and State aforesaid, do certify that the foregoing instrument of writing from RICHWOOD BURLEY CENTER, INC. to MIARKO, INC. was this 1st day of October, 1986 produced to me certified as above and lodged for record at 10:34 o'clock A.m.

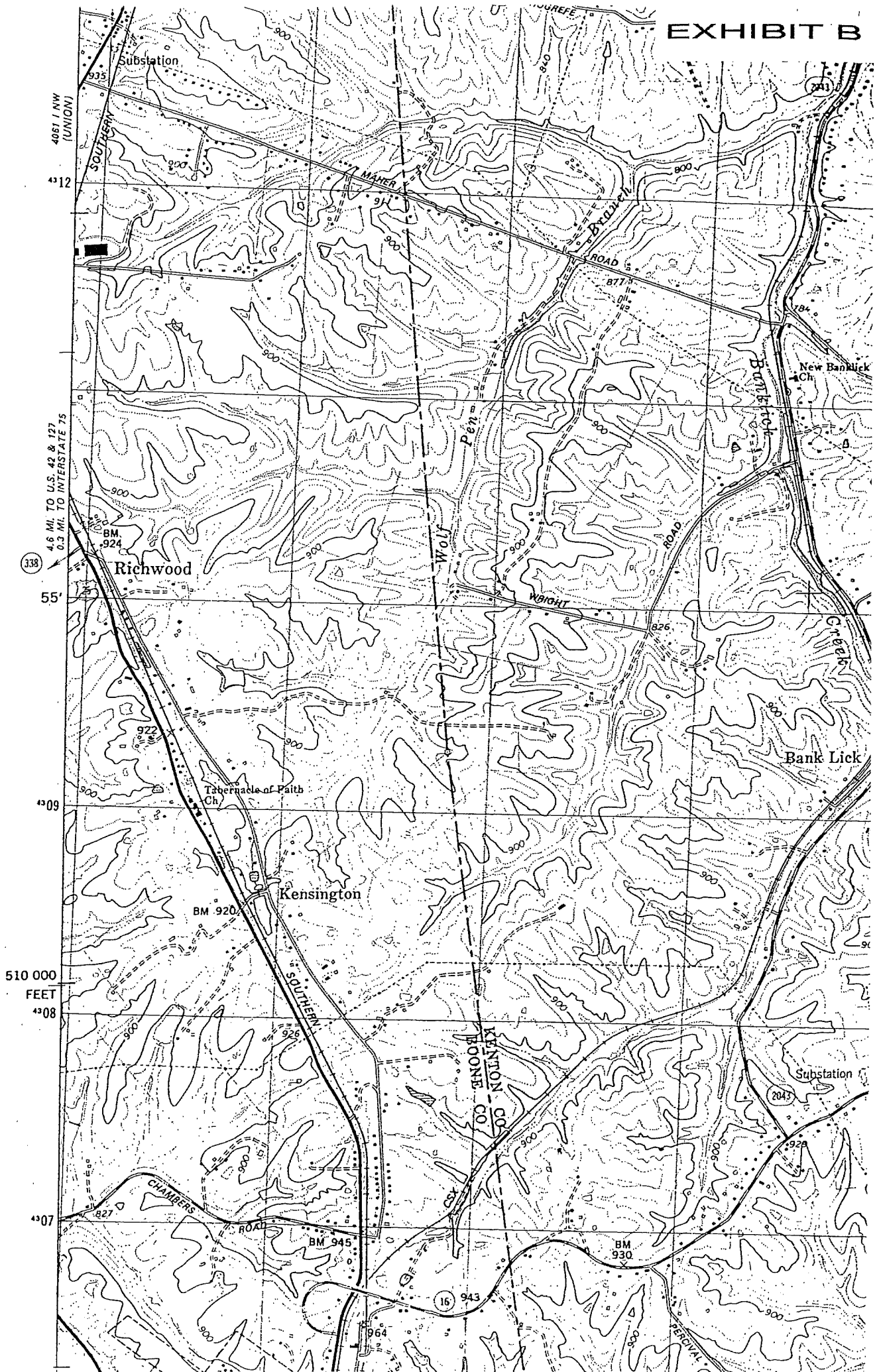
Given under my hand this 1st day of October, 1986.

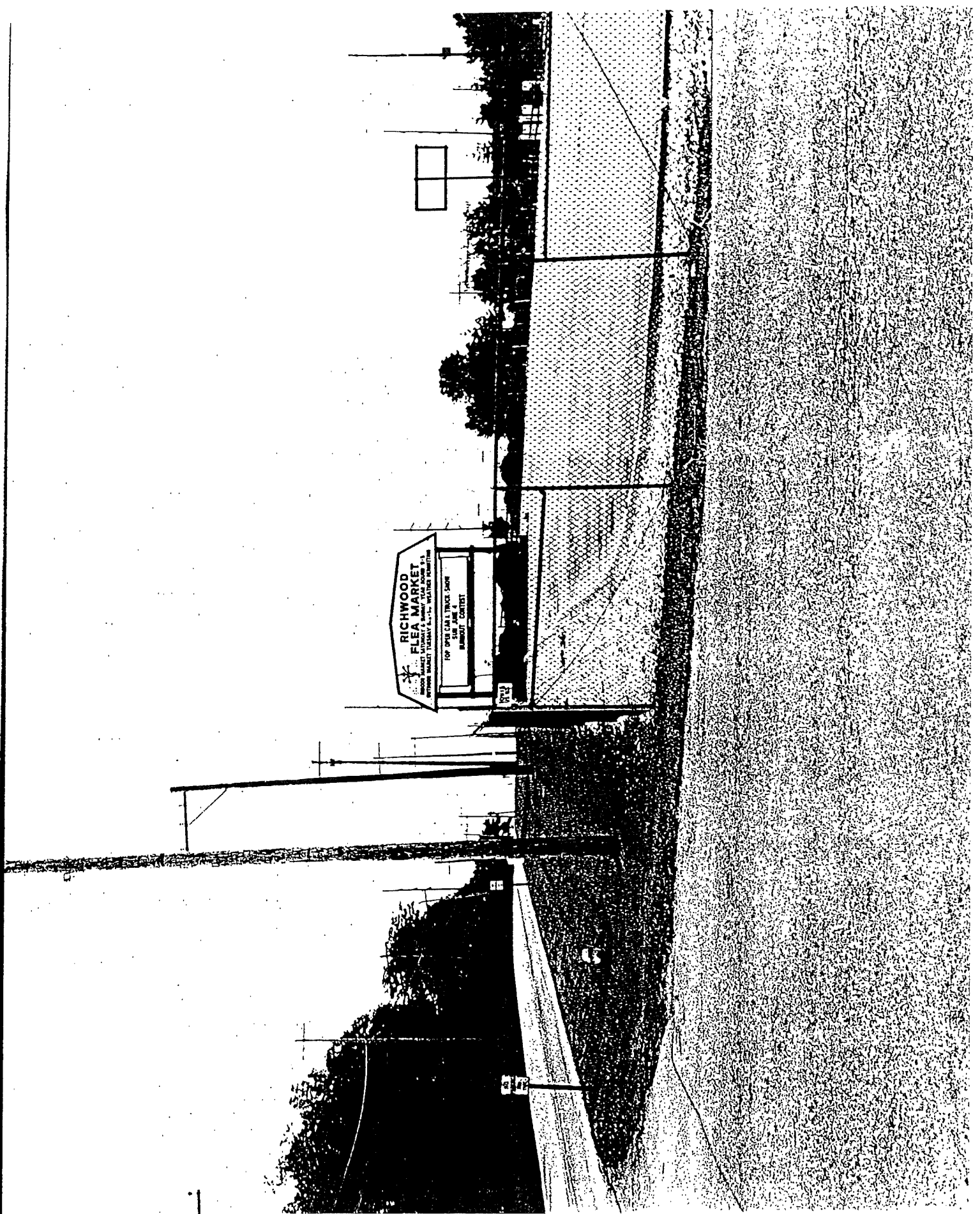
JERRY W. ROUSE, CLERK

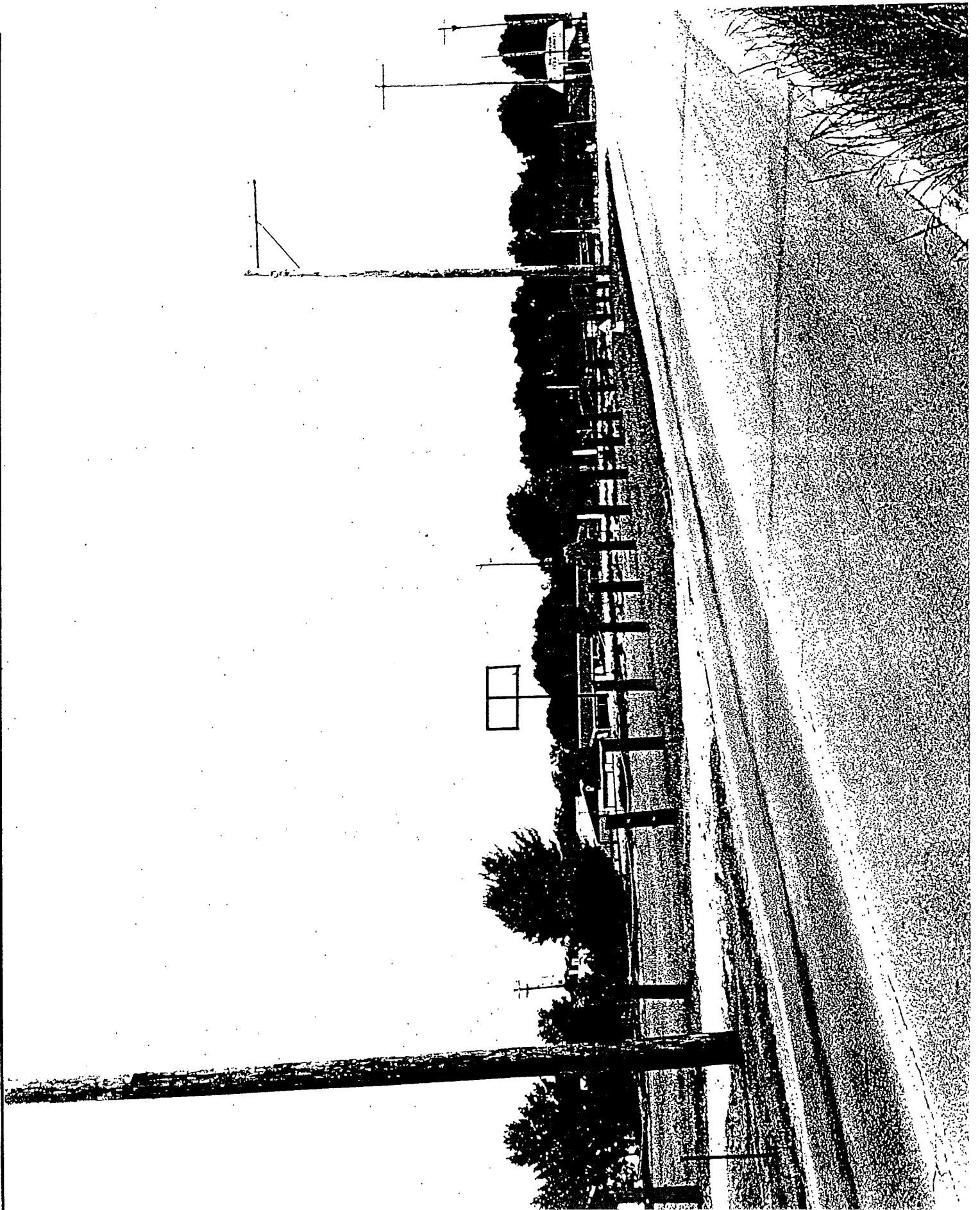
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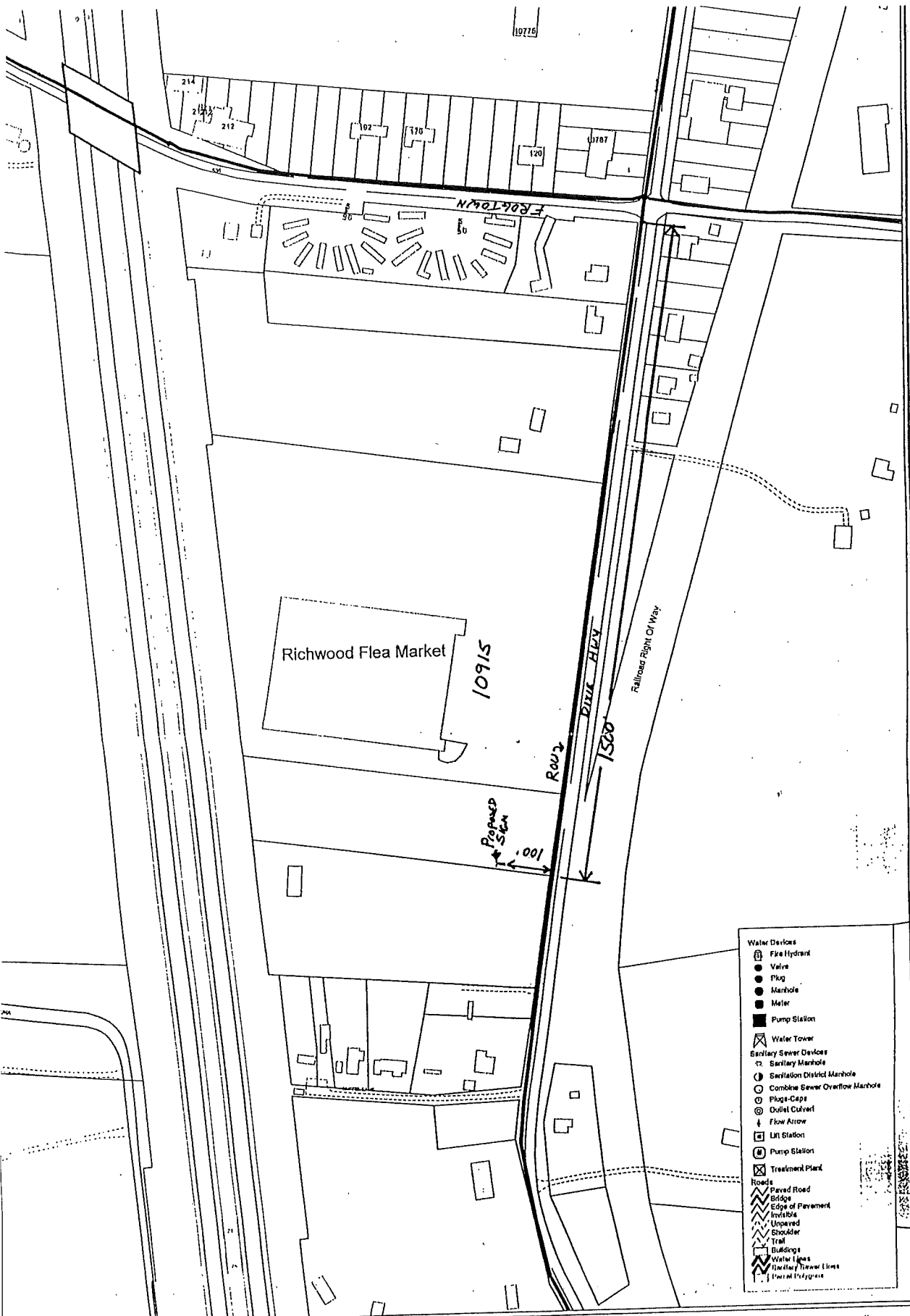
Let: m McKinney

EXHIBIT B

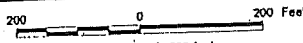








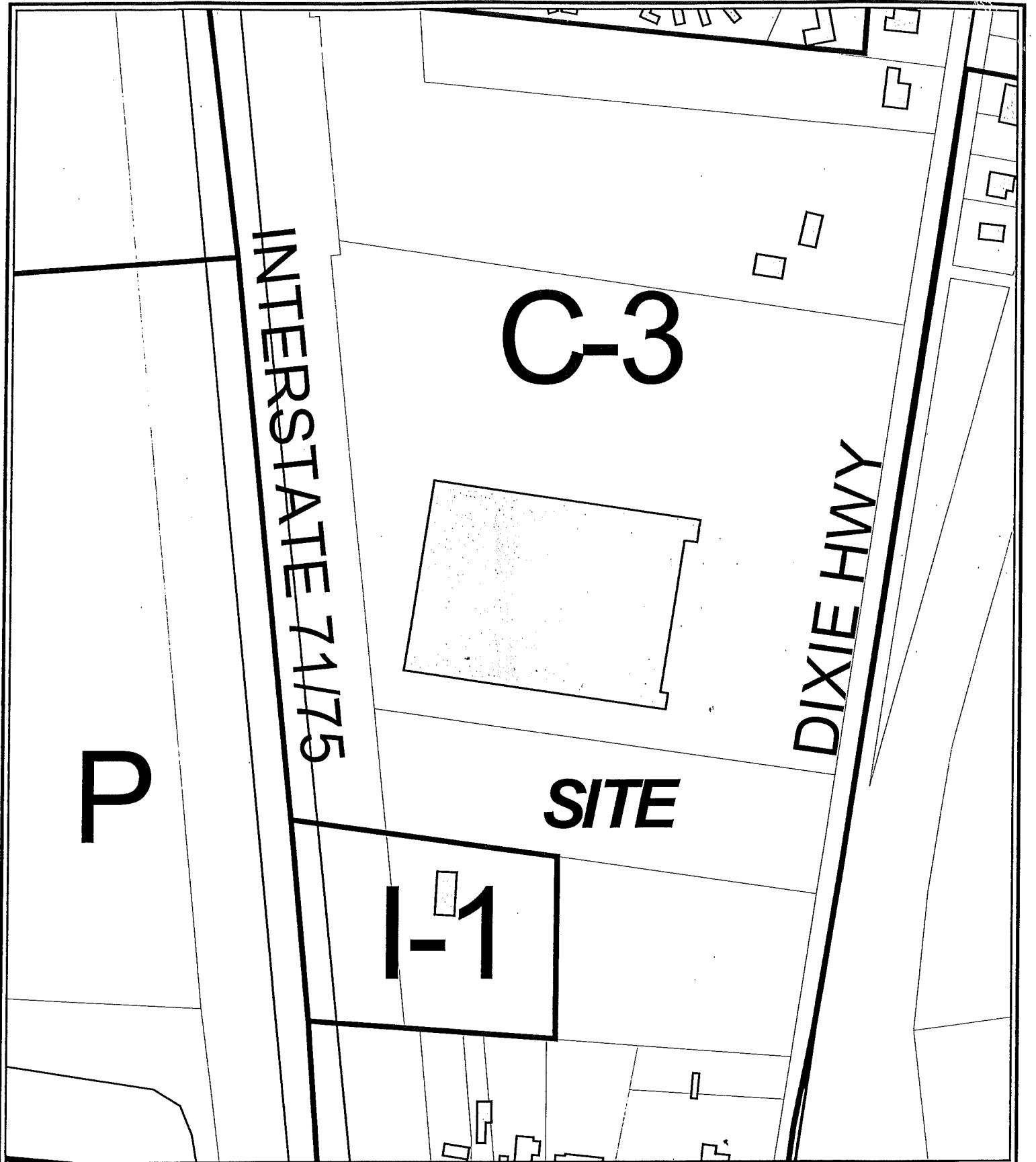
- Water Devices**
- Fire Hydrant
 - Valve
 - Plug
 - Manhole
 - Meter
 - Pump Station
- Water Tower**
- Water Tower
- Sanitary Sewer Devices**
- Sanitary Manhole
 - Sanitation District Manhole
 - Combine Sewer Overflow Manhole
 - Plugs-Caps
 - Ductile Culvert
 - Flow Arrow
- LRI Station**
- LRI Station
 - Pump Station
 - Treatment Plant
- Roads**
- Paved Road
 - Bridge
 - Edge of Pavement
 - Intestible
 - Unpaved
 - Shoulder
 - Trail
 - Buildings
 - Water Lines
 - Sanitary Sewer Lines
 - General Utility Lines



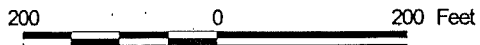
1 inch equals 200 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 June 2, 2000



Richwood Flea Market



10915 Dixie Hwy



1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
August 3, 2000



177.841 Billboard advertising prohibited -- Exceptions.

- (1) Except as otherwise provided in KRS 177.830 to 177.890, the erection or maintenance of any advertising device upon or within 660 feet of the right of way of any interstate highway or federal-aid primary highway is prohibited.
- (2) The erection or maintenance of any advertising device located outside of an urban area and beyond 660 feet of the right-of-way which is legible and/or identifiable from the main traveled way of any interstate highway or federal-aid primary highway is prohibited with the exception of:
 - (a) Directional and official signs and notices;
 - (b) Signs advertising the sale or lease of property upon which they are located; or
 - (c) Signs advertising activities conducted on the property on which they are located.

Effective: March 29, 1976

History: Created 1976 Ky. Acts ch. 80, sec. 3, effective March 29, 1976.

COPY

CLUR #00-BCBOA-026-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Miarko, Inc.
DBA Richwood Flea Market
P.O. Box 153
Florence, KY 41042

2. ADDRESS OF PROPERTY

10915 Dixie Highway
Walton, KY 41091

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. DEED BOOK 353

PAGE NO. 84

GROUP NO. 2064

5. TYPE OF RESTRICTION(S) (Check all that apply)

___ Zoning Map Amendment:
From ___ To ___

X Conditional Use Permit

___ Development Plan

___ Conditional Zoning

___ Subdivision Plat
(Not Recorded)

___ Other:

___ Variance

6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005

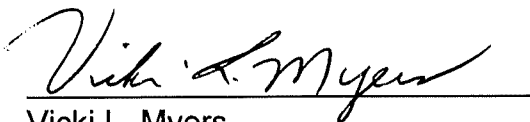
Todd Morgan
SIGNATURE OF COMPLETING OFFICIAL

Todd Morgan, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

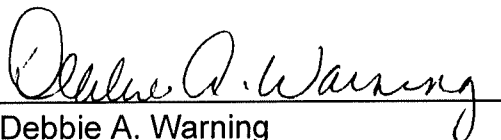
Subscribed, sworn to, and acknowledged before me by Todd Morgan on behalf of the
Boone County Planning Commission this 14 day of August, 2000.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of August 9, 2000 Certificate of Land Use Restriction (#00-BCBOA-026-A), for Miarko, Inc., DBA Richwood Flea Market, Property Owner(s).

The following conditions will apply:

No conditions.

The approved Conditional Use Permit as well as the preceding conditions apply to the property described in:

DEED BOOK 353

PAGE NO. 84

GROUP NO. 2064