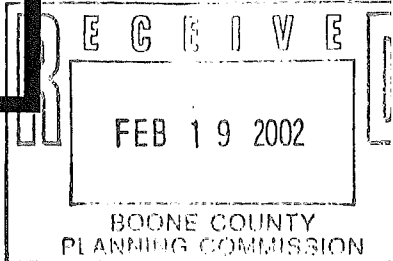


APPLICATION FORM

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 [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) \_\_\_\_\_ Conditional Use Permit \_\_\_\_\_ Variance \_\_\_\_\_ Appeal \_\_\_\_\_
Change in Non-Conforming Use [checked]
3. Applicant's Name NELSON K PORTER
Phone Number 586-6823-5264 Fax No. 586-6823
Applicant's Address 3325 SUNDRIAN BLVD
Burlington, KY 40101
City State Zip
4. Description of Request: Change in Non-Conforming Use to eliminate ONE PERCEPTE SIGN and add square footage to existing pole sign
5. Name of Development Folsom Baseballs
6. Location of Development 2901 WASHINGTON SE.
Burlington, KY
7. Acreage Under Review
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property NELSON AND MARY J PORTER
Phone Number of Owner 586-6823 10.
Address of Property Owner 3325 SUNDRIAN BLVD
City State KY ZIP 40101
11. Proposed Use(s) on Site
12. Total Square Footage of Existing and/or Proposed Buildings
13. Current Zoning on Property SR-2/SC
14. Deed Book 591 Page No. 20 Group No. 2030
15. Is the site subject to a zone change?
If yes, give date of approval
16. Have you submitted a Site Plan with this request?
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: Nelson K Porter
Property Owner's Signature: Nelson K Porter

**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 2-19-02 Fee Received \$ 306.00 R# 30405
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
3-13-02 **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  
(859) 334-2196 - Phone  
(859) 334-2264 - Fax  
plancom@boonecountyky.org - E-mail**

**www.boonecountyky.org**

**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: Nelson K. Poston  
LOCATION: 2901 Washington Street, Boone County, Kentucky  
ZONING: Suburban Residential Two/Small Community Overlay (SR-2/SC)  
DATE: March 13, 2002

### Proposal

The Applicant is requesting a Change in Non-Conforming Use to allow the removal of a free-standing portable sign and the addition of a portable sign cabinet to a pole sign.

The property is currently occupied by Poston Brothers and The Robin's Nest and contains two signs in the front yard. The first sign is a portable sign which is approximately 8' tall and 48 square feet in area. The second sign is a pole sign, which is 15' 6" tall and 12 square in area. The Applicant is proposing the following changes to these signs:

1. Remove the free-standing portable sign from the ground and disassemble the base and arrow from the reader board;
2. Mount the 4' x 8' reader board on the non-conforming pole sign; and
3. Reduce the height of the non-conforming pole sign from 15' 6" to 8'.

### Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for changes in non-conforming uses.

Article 2, Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming uses or structure from being "enlarged or extended beyond the scope and area of its operation at the time it became a legal non-conforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of non-conforming uses or structures."

Article 2, Section 273 of the Boone County Zoning Regulations states that the "Board shall not permit such a change from one non-conforming use to another unless the new non-conforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing nonconforming use.

The Board shall not allow any changed non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original nonconforming use. In permitting such change in nonconforming use, the Board may

require appropriate conditions and safeguards in accord with other provisions of this order, such as the provision of landscaping and buffering, the improvement of parking areas, and restrictions on the hours of operation.

Article 2, Section 274 of the Boone County Zoning Regulations states that "where a lawful structure exists at the effective date of adoption or amendment of this order that could not be built under the terms of this order by reason of restrictions on intensity or size or lot coverage or height or bulk or setback, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;
2. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved as otherwise provided in Kentucky Revised Statutes, Section 100.253(2).

Article 34, Section 3408 of the Boone County Zoning Regulations states that portable signs (including portable signs mounted to poles, buildings, or other structures) are prohibited in all zoning districts.

Article 34, Section 3460 of the Boone County Zoning Regulations states that "the size of free standing signs in a Small Community Overlay District shall not exceed one half ( $\frac{1}{2}$ ) square foot for each lineal foot of road frontage. Free standing signs shall not exceed eight (8) feet in height above ground level and 32 square feet in size. All free standing signs shall be set in an appropriately landscaped area."

#### Surrounding Land Uses and Zoning

North: Attorneys Office, Multi-Family Dwelling, and Kentucky Motors (SR-2/SC)

South: Poston Brothers (SR-2/SC)

East: Zany's Salon (SR-2/SC)

West: Attorneys Office (SR-2/SC)

#### Staff Comments

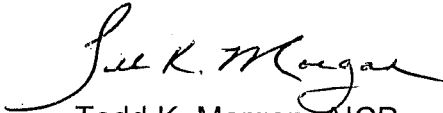
1. The Applicant has already disassembled the portable sign and mounted the reader board to the pole sign. The Applicant was not aware that he had to go through a change in non-conforming use hearing before making changes to the signs.

2. Staff believes that the proposal will make the site less non-conforming because the number of signs in the front yard would be reduced from two to one and the overall height of the pole sign will be reduced from 15' 6" tall to 8' tall.
3. Staff is concerned that the Applicant is proposing to reuse the portable reader board. Section 3408 of the zoning regulations prohibits these structures in all zoning districts. Staff believes that the proposal would better meet the intent of the regulations if the Applicant replaced this cabinet with a permanent sign structure.
4. Staff believes that the sign would also be more aesthetically pleasing if the 2' x 6' sign cabinet was replaced with a new 4' x 8' cabinet. The sign would have a homogeneous appearance if one cabinet or two identically sized cabinets were used.

#### Conclusion

KRS 100.253 and Section 220 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 change-in-non-conforming use. While Staff believes that granting the Change in Non-Conforming Use, as proposed, makes the site less non-conforming, Staff believes that some alterations to the proposal would make the sign more aesthetically pleasing.

Respectfully submitted,

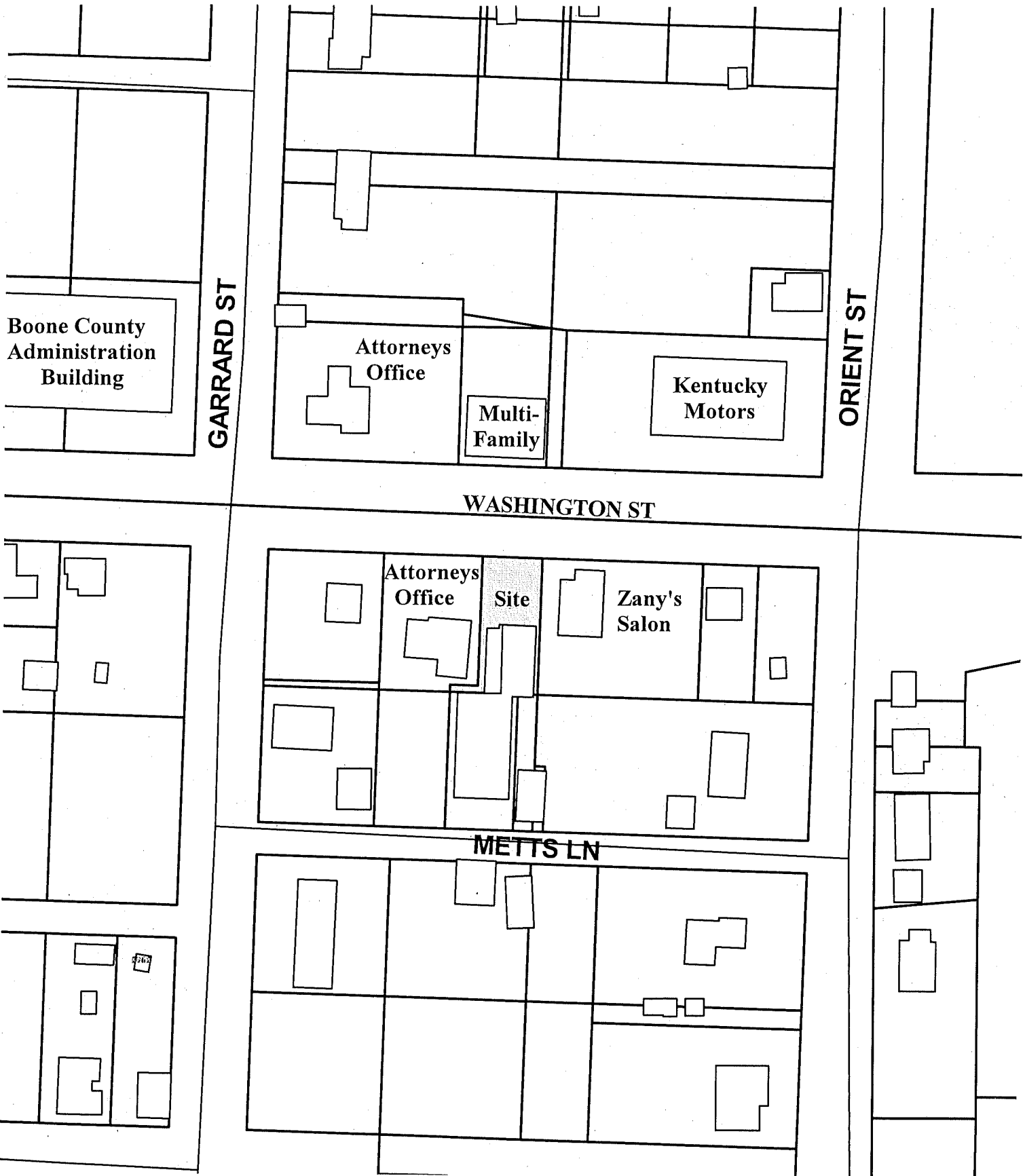


Todd K. Morgan, AICP  
Planner, Zoning Services

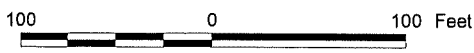
TKM/pr

#### Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Photo of Portable Sign
- Exhibit D – Zoning Map
- Exhibit E – Application



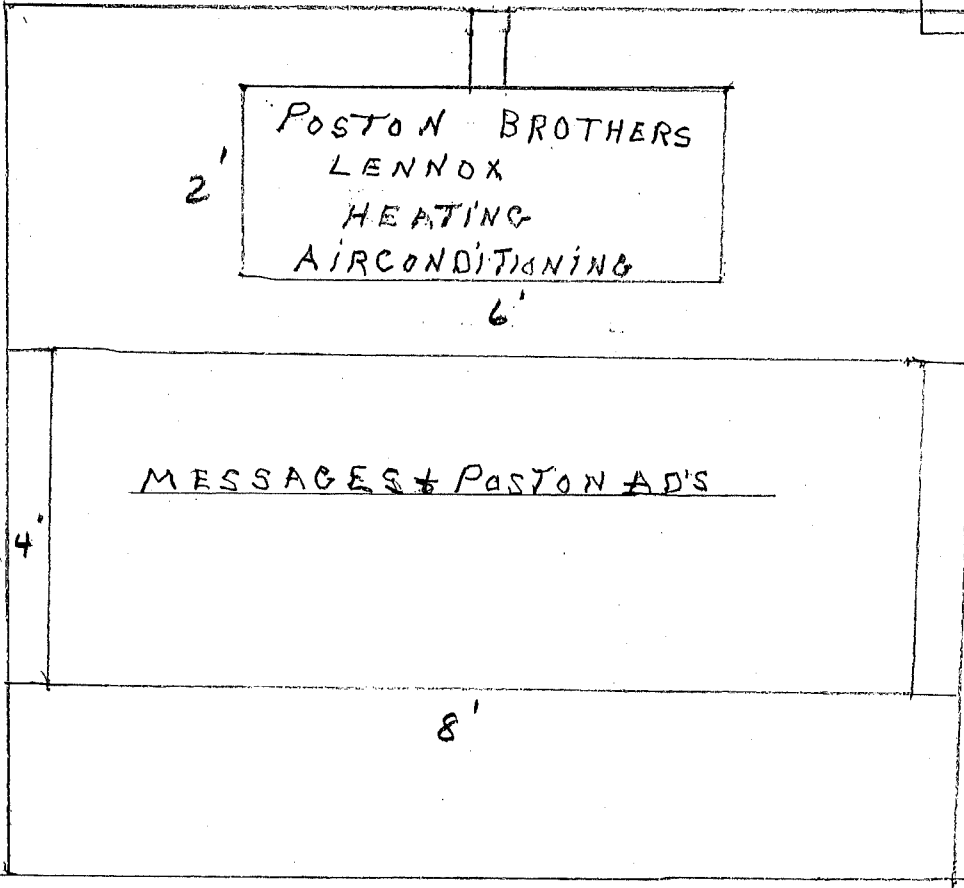
# Nelson K. Poston Site Vicinity Map



1 inch equals 100 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
February 26, 2002



RECEIVED  
FEB 19 2002  
BOONE COUNTY  
PLANNING COMMISSION



2'  
POSTON BROTHERS  
LENNOX  
HEATING  
AIRCONDITIONING  
6'

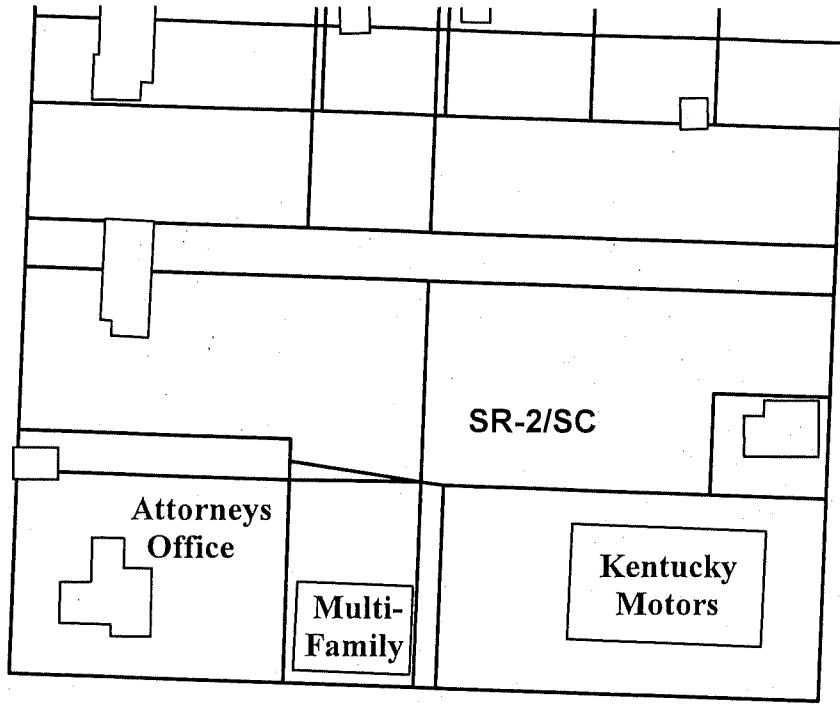
4'  
MESSAGES + POSTON AD'S  
8'

9'6"



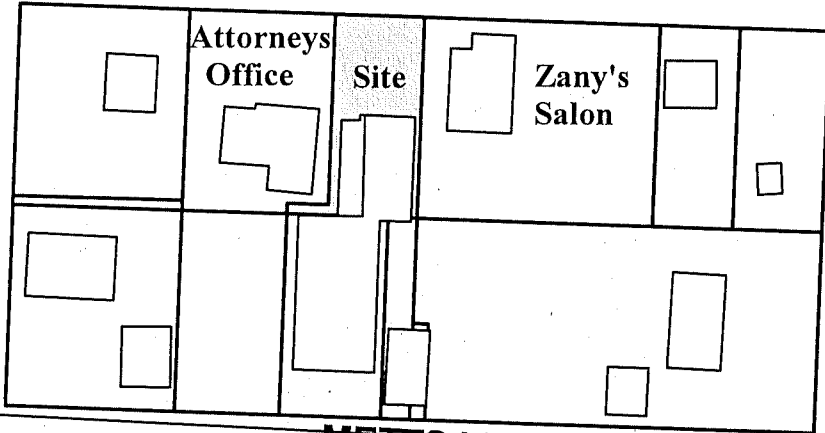
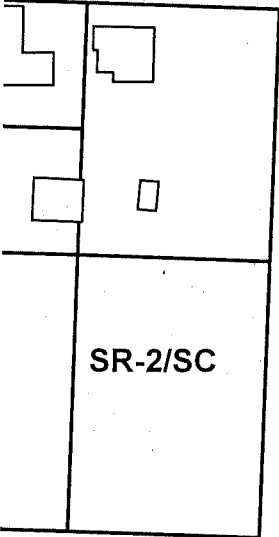
Boone County  
Administration  
Building

GARRARD ST

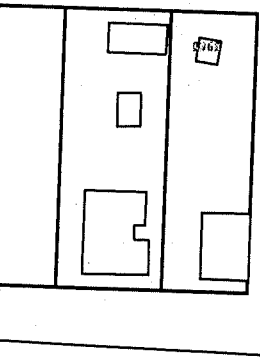


ORIENT ST

WASHINGTON ST



METTS LN



# Nelson K. Poston Zoning Map

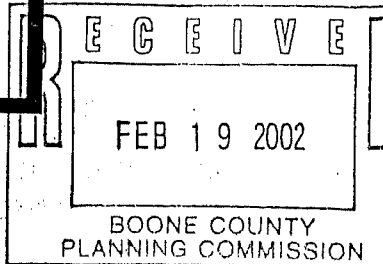
100 0 100 Feet

1 inch equals 100 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
February 26, 2002



APPLICATION FORM

BOARD OF ADJUSTMENT  
AND  
ZONING APPEALS ACTION  
BOONE COUNTY PLANNING COMMISSION



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

(Check One)  
1.  Boone \_\_\_\_\_ Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_

(Check One)  
2. \_\_\_\_\_ Conditional Use Permit \_\_\_\_\_ Variance \_\_\_\_\_ Appeal \_\_\_\_\_  
 Change in Non-Conforming Use

3. Applicant's Name NELSON K POSTON  
Phone Number 586-6825-5866456 Fax No. 586-0826  
Applicant's Address 3325 BURLINGTON PIKE  
BURLINGTON KY 41105  
City State Zip

4. Description of Request: Change in Non-Conforming Use to eliminate one portable sign and add square footage to existing pole sign

5. Name of Development POSTON BROTHERS

6. Location of Development 2901 WASHINGTON SE  
BURLINGTON, KY

7. Acreage Under Review \_\_\_\_\_

8. Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_

9. Owner of Property NELSON AND MARY J POSTON

Phone Number of Owner 586-6456 10. \_\_\_\_\_

Address of Property Owner 3325 BURLINGTON KY 41105  
City State Zip

11. Proposed Use(s) on Site \_\_\_\_\_

12. Total Square Footage of Existing and/or Proposed Buildings \_\_\_\_\_

13. Current Zoning on Property SR-2/SC

14. Deed Book 591 Page No. 20 Group No. 2030

15. Is the site subject to a zone change? \_\_\_\_\_

If yes, give date of approval \_\_\_\_\_

16. Have you submitted a Site Plan with this request? \_\_\_\_\_

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: Nelson K Poston

Property Owner's Signature: Nelson K Poston

COPY

CLUR #02-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Nelson and Mary J. Poston  
3325 Burlington Pike  
Burlington, KY 41005
2. ADDRESS OF PROPERTY  
2901 Washington St.  
Burlington, KY 41005
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Poston Brothers
4. DEED BOOK 591      PAGE NO. 20      GROUP NO. 2030
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment:  
From      To
- Conditional Use Permit
- Development Plan
- Conditional Zoning
- Subdivision Plat  
(Not Recorded)
- Other: Change in Non-Conforming Use
- 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

  
SIGNATURE OF COMPLETING OFFICIAL

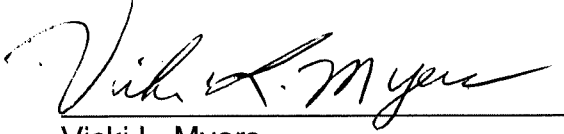
Todd K. Morgan, Planner, Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the

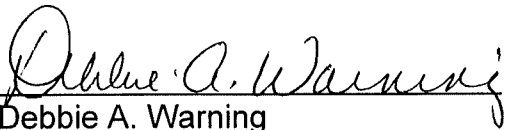
Boone County Planning Commission this 14 day of March, 2002.



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 Change in Non-Conforming Use approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of March 13, 2002 Certificate of Land Use Restriction (#02-BCBOA-006-A), for Nelson and Mary J. Poston, Property Owner(s).

The following conditions will apply:

No conditions.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 591

PAGE NO. 20

GROUP NO. 2030