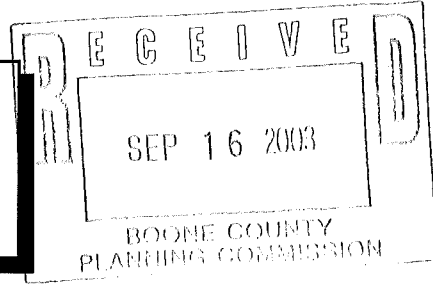


AIRPARK WEST

APPLICATION FORM

03-BCBOA-019-A

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 [x] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) Conditional Use Permit \_\_\_\_\_ Variance [x] Appeal \_\_\_\_\_ Change in Non-Conforming Use \_\_\_\_\_
3. Applicant's Name Paul Hemmer Companies
Phone Number 859-341-8300 Fax No. 859-341-6817
Applicant's Address 250 Grandview Drive
Fort Mitchell KY 41017
City State Zip
4. Description of Request: Variance on front yard setback from 50 feet to 15 feet for buildings
5. Name of Development Airpark West
6. Location of Development KY S.R. 237, Hebron, KY
7. Acreage Under Review Not applicable
8. Lot Number and Name of Subdivision (if part of a subdivision) Lot 4A (See attached)
9. Owner of Property Airpark West, LLC
Phone Number of Owner 859-341-8300
10. Address of Property Owner Fort Mitchell KY 41017
City State Zip
11. Proposed Use(s) on Site Office/Light Industrial
12. Total Square Footage of Existing and/or Proposed Buildings To be determined
13. Current Zoning on Property I-1
14. Deed Book 772 Page No. 668 Group No. 2007
15. Is the site subject to a zone change? No
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: [Signature]
Property Owner's Signature: [Signature]

(over)

**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 9-16-03 Fee Received \$ 795.00 R# 36600+36601
2. Is application complete?  Yes  No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
10/8/03 **Approved**  
**Approved with Conditions** (See #6)  
**Denial** (See #7)
6. Conditions of Approval: SEE 10/8/03 BCBOA MEETING MINUTES  
\_\_\_\_\_  
\_\_\_\_\_
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](http://www.boonecountyky.org) - Web Page**

**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: Paul Hemmer Construction Company

LOCATION: Future lot (4A) in Airpark West. The lot is located on the west side of KY 237 between Wright Blvd. & Langley Dr., Boone County, Kentucky

ZONING: Industrial One (I-1)

DATE: October 8, 2003

### Proposal

Paul Hemmer Construction Company is requesting a variance to allow a future office/warehouse building to encroach into the required 50 foot front yard setback. The property in question is located on the west side of KY 237, between Wright Boulevard and Langley Drive. The request is to reduce the front yard setback requirement of future lot 4A from 50 feet to 15 feet.

### Applicable Regulations

Article 2, Section 250 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 variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.
  - A. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  - B. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
  - C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

### Site History

Sept. 1998 – The subject tract is part of a Zoning Map Amendment. The request was to rezone an approximate 210 acre tract from Rural Suburban Estates (RSE), Suburban Residential One (SR-1), Suburban Residential Two (SR-2), Commercial Two/Planned Development (C-2/PD), and Industrial One/Planned Development (I-1/PD) to Industrial One (I-1) to allow office, manufacturing, warehousing, and distribution uses. The approval allows 22 buildings, totaling 2,631,000 square feet in area to be constructed in the zone change area.

### Site Characteristics

The future lot is approximately 1.5 acres in area and is located in Airpark West Subdivision. The proposed parcel will have access from Hargrave Drive. To date, neither the street or the lots fronting on Hargrave Drive have been final platted. The topography of the site ranges from 860 feet above sea level at Hargrave Drive to 840 feet above sea level at the rear property line. The rear property boundary is proposed to follow the path of an intermittent blue line stream. The lot is relatively free of vegetation near Hargrave Drive and heavily wooded in the middle and rear portions of the lot.

### Surrounding Land Uses and Zoning

North: Future Lot in Airpark West, Langley Drive, and Galerie Au Chocolat (I-1)

South: Future Lot in Airpark West, Wright Blvd., and Toyota (I-1)

East: Future Lots in Airpark West (I-1) and KY 237

West: Farmland/Future Lots in Airpark West (I-1)

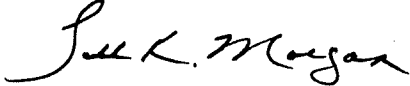
### Staff Comments

1. Staff believes that the grade change and presence of an intermittent blue pose a hardship in developing the lot. Staff's only concern is that the front yard setback is being reduced so drastically. Staff would like the applicant to explain if it is feasible to construct a smaller or reconfigured building on the site, which could better meet the 50' front yard setback requirement.
2. Staff has advised the applicant that Hargrave Drive and the future lots will need to be final platted before construction can occur. Lot 4B will need to be redesigned into a flag lot because the Concept Plan from the 1998 Zone Change did not allow individual lots to have curb cuts on KY 237.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the request for a front yard setback variance.

Respectfully submitted,

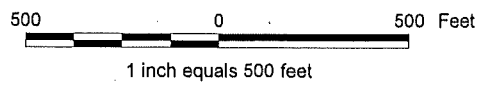
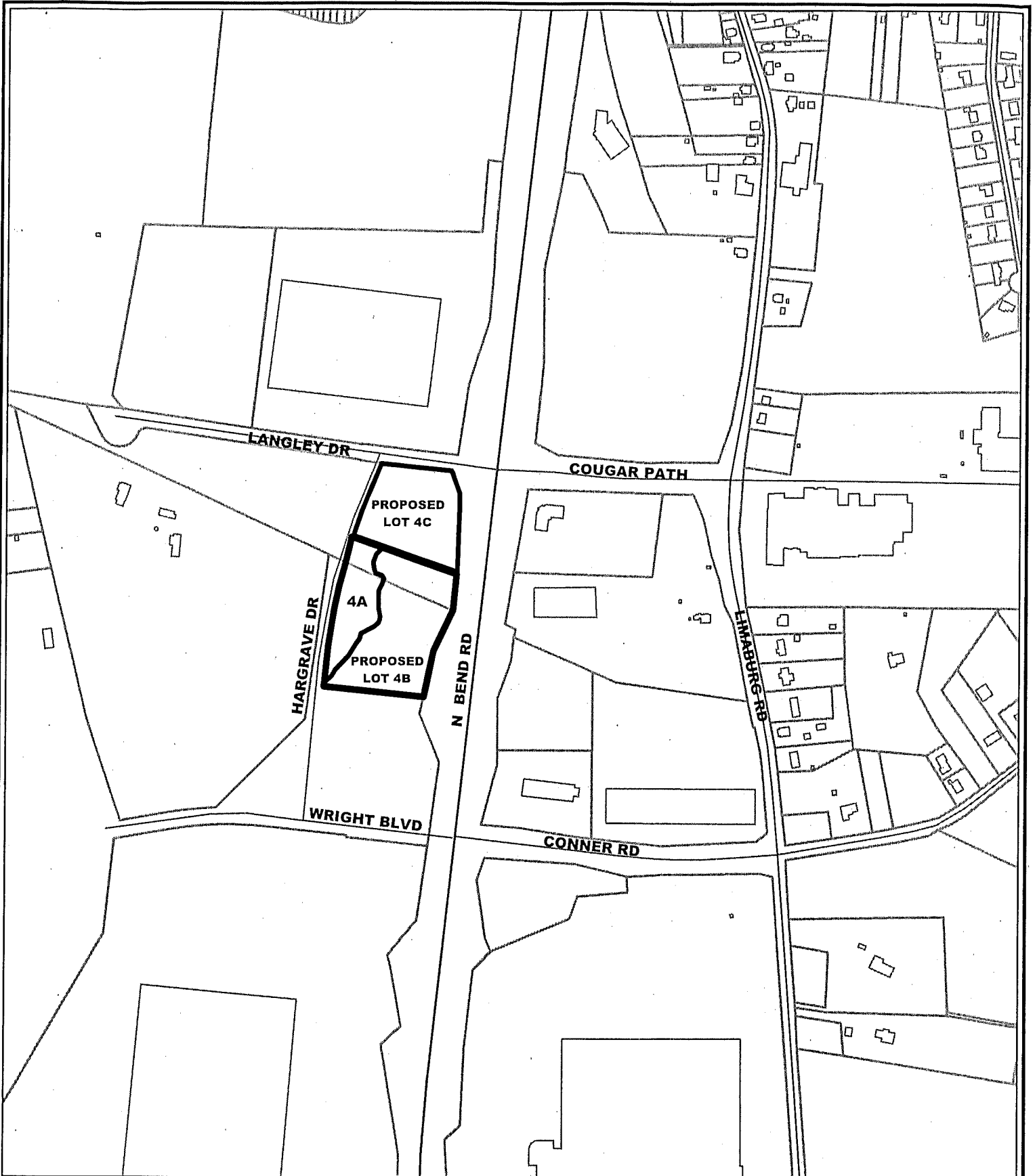


Todd K. Morgan, AICP  
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Letter From Applicant
- Exhibit C – Concept Plans
- Exhibit D – Aerial Map
- Exhibit E – Zoning Map
- Exhibit F – Topographical Map
- Exhibit G – Airpark West, Preliminary Plat
- Exhibit H – Application



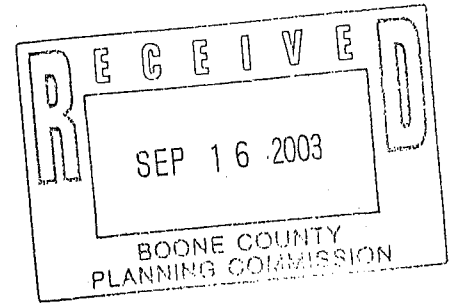
**PAUL HEMMER COMPANIES**  
**LOT 4A AIRPARK WEST**

Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 September 29, 2003



September 12, 2003

Todd K. Morgan, AICP  
Planner  
Boone County Planning Commission  
2995 Washington Street  
Burlington, KY 41005



Dear Todd:

Thank you very much for taking the time to meet with me the other day to discuss our variance request for Lot 4 at Airpark West. In follow up to our discussion, I am enclosing the following information for your review and consideration:

1. Application
2. Application fee in the amount of \$779.00. (This includes the \$8.00 fee for the adjacent three (3) three property owners).
3. Conceptual plan that will help to clarify why this request is being submitted.

Although Hargrave Drive has been constructed and is planned to ultimately become a dedicated road it is currently a private drive. We are requesting this variance in order to avoid any future issues which could potentially limit our ability to develop the property.

This variance is being requested for a number of reasons.

1. Because of a blue line stream which is located on the property, Paul Hemmer Companies is limited in regard to how it can develop the site. The stream has been designated by the U.S. Army Corps of Engineers as an intermittent blue line stream. As such, it must be avoided. As you will see from the attached site plan, Paul Hemmer Companies is requesting a variance of ~~15'~~ 15' for the building structure. This request is being made in order to set the proposed building in an area that will not disturb the stream.
2. Due to the isolated nature of the proposed site, the site will not impact the public's health, safety or welfare, nor will it alter the essential character of the general vicinity. In fact, by granting the variance this site will be able to be maintained in its more natural state, thus creating an aesthetically



*Your Building Partner*

pleasing lot that maintains the stream and natural setting as much as possible.

3. If Paul Hemmer Companies is required to conform to standard set backs, the site becomes unusable.

Todd, I hope this information is helpful to you as you begin your investigation. If you should have any comments or questions, please don't hesitate to contact me.

Very truly yours,

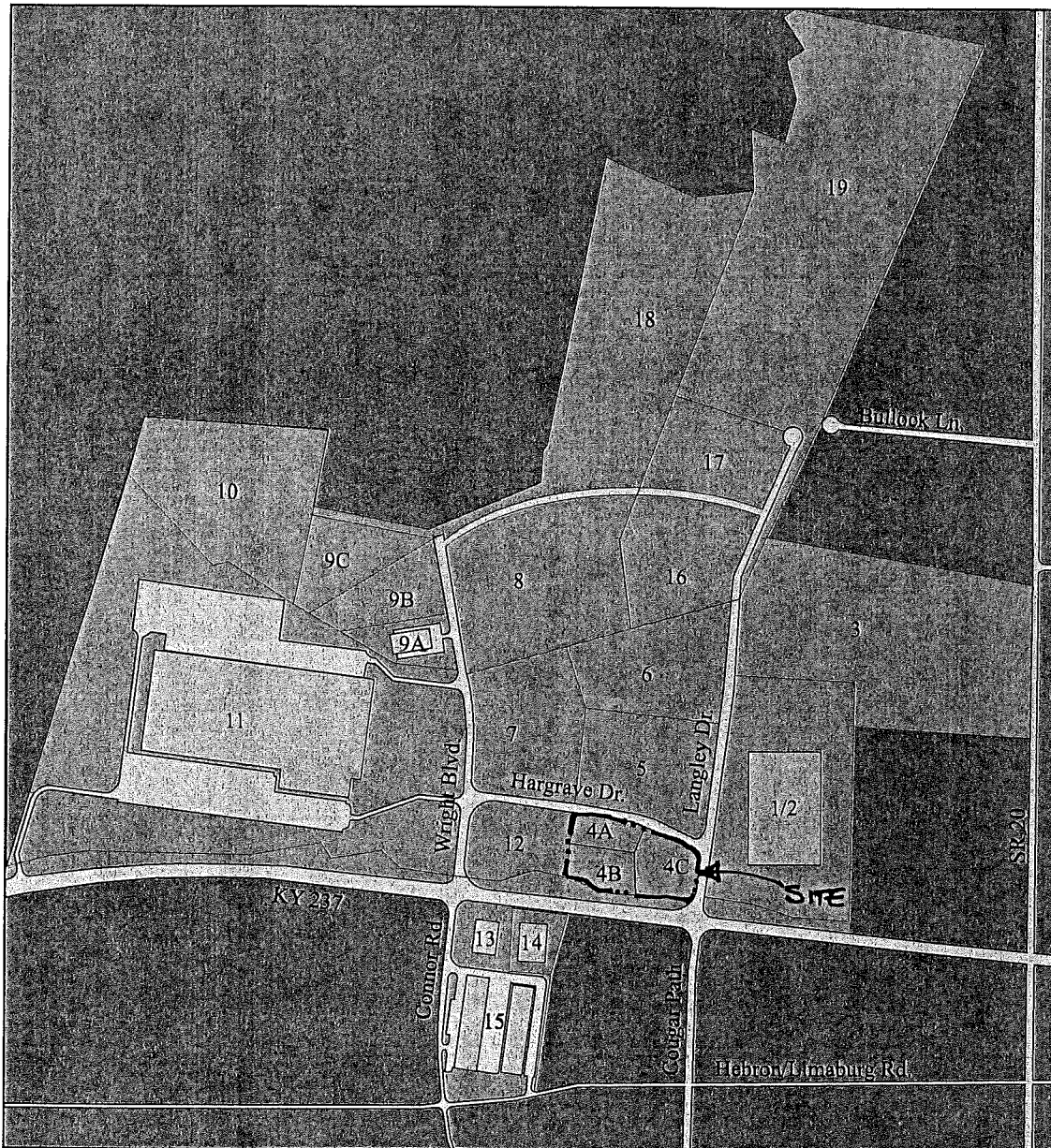
PAUL HEMMER COMPANIES

Jack Levermann  
Vice President

Real Estate & Development

GJL:klm





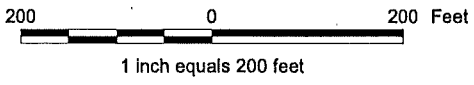
**Airpark West**

**Hebron, Kentucky**

	<u>Acres</u>		<u>Acres</u>
1/2. Galerie Au Chocolat	24.8	10. Available	19.8
3. ProLogis	31.4	11. Toyota Midwest Parts Center	86.3
4A. Available	1.34	12. Available	6.4
4B. Available	3.11	13. Kentucky Diagnostic Center	2.8
4C. Available	1.73	14. Airpark West Professional Center	3.0
5. Not Available	10.6	15. Airpark West Business Center	8.8
6. Not Available	11.1	16. Available	7.8
7. Not Available	11.7	17. Available	7.5
8. Available	19.7	18. Available	55.1
9A. Quality Casing	4.0	19. Available	30.6
9B. Available	4.4		
9C. Available	5.2		

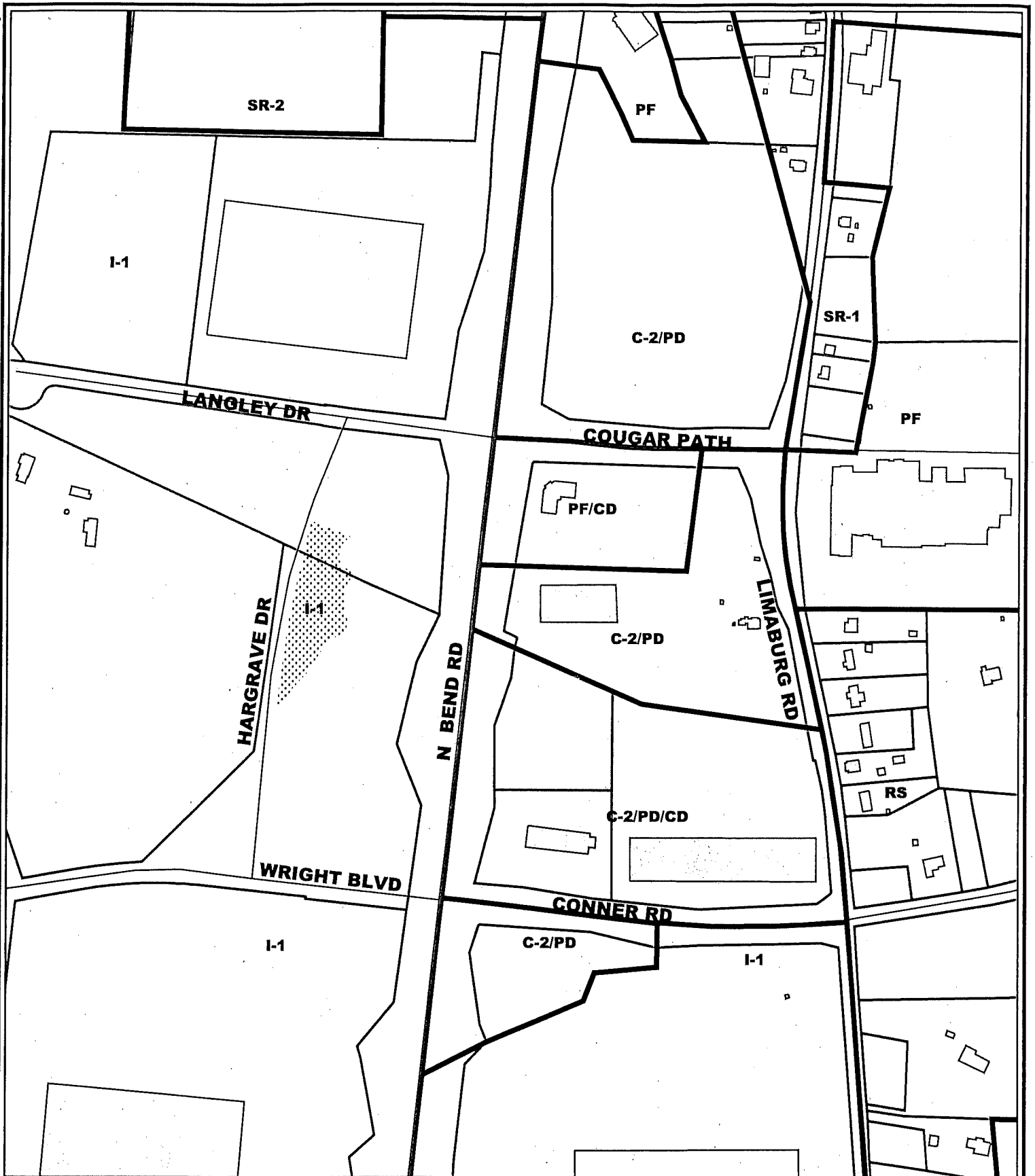


**PAUL HEMMER COMPANIES**  
**AERIAL MAP**



Produced by the  
Boone County Planning Commission  
GIS Services Division  
September 29, 2003





400 0 400 Feet

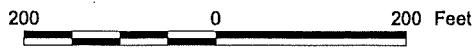
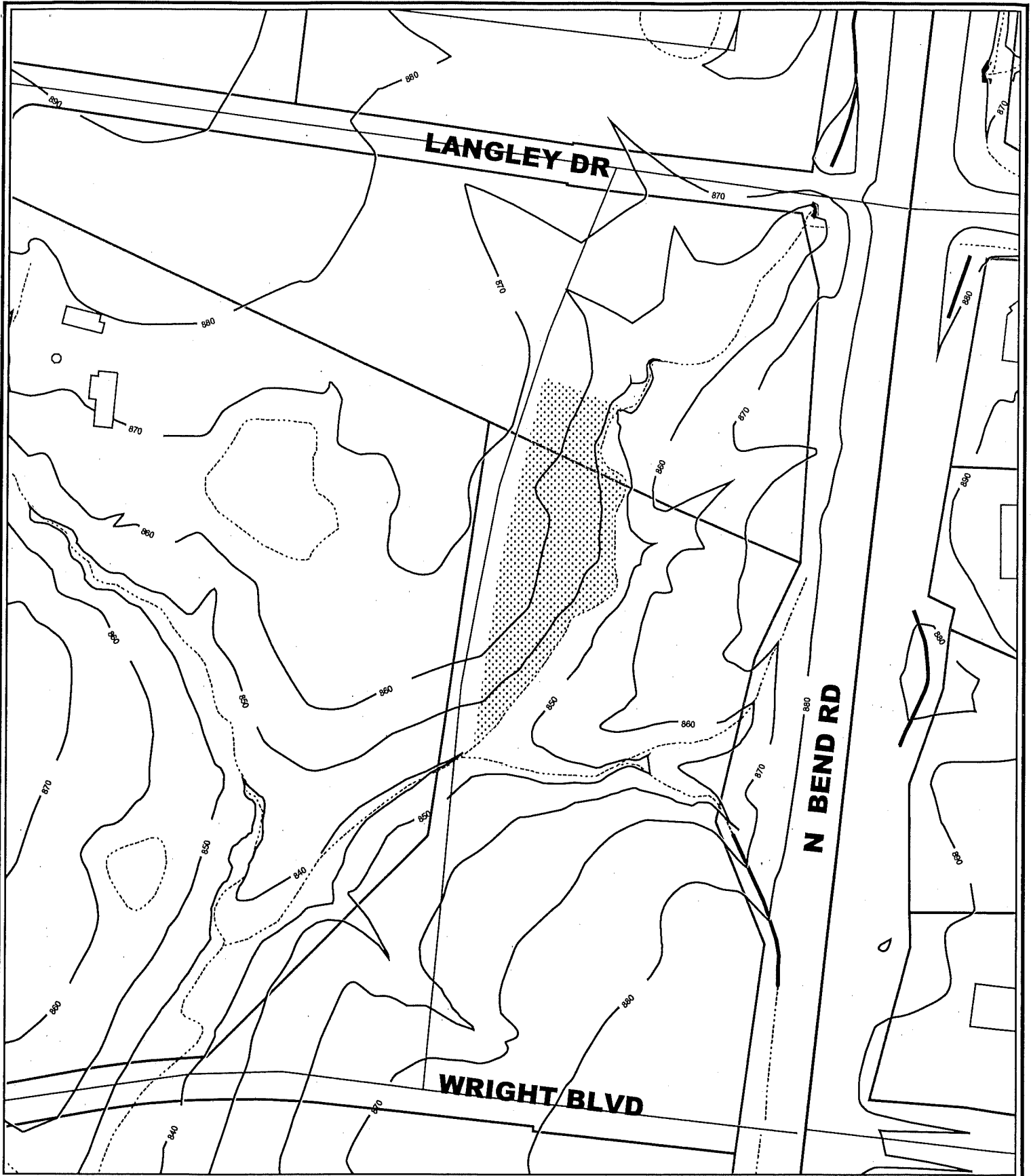


1 inch equals 400 feet



**PAUL HEMMER COMPANIES**  
**ZONING MAP**

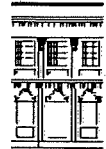
Produced by the  
Boone County Planning Commission  
GIS Services Division  
September 29, 2003

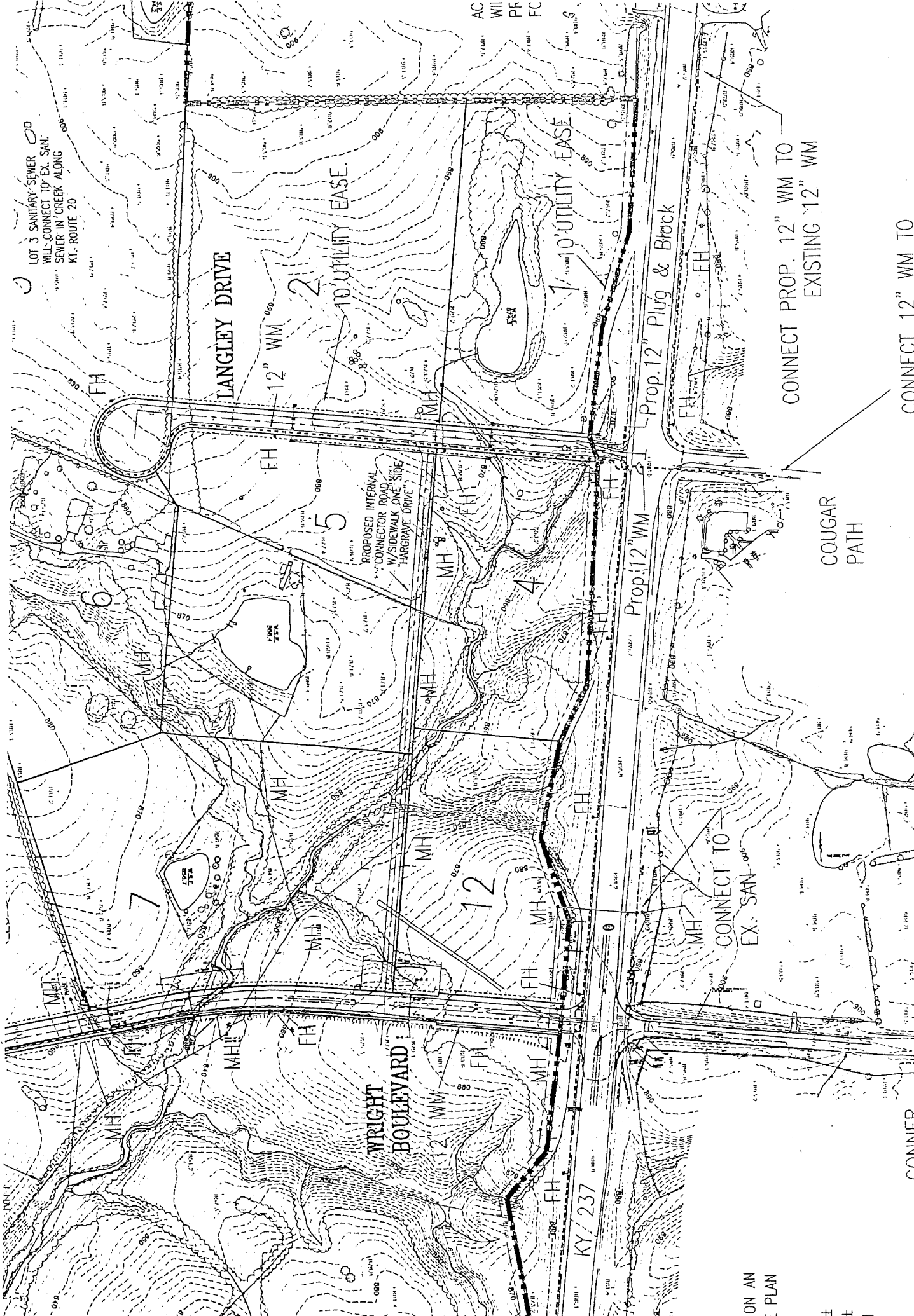


1 inch equals 200 feet

# PAUL HEMMER COMPANIES TOPOGRAPHICAL MAP

Produced by the  
Boone County Planning Commission  
GIS Services Division  
September 29, 2003





LOT 3 SANITARY SEWER WILL CONNECT TO EX. SAN. SEWER IN CREEK ALONG KY. ROUTE 20

LANGLEY DRIVE

10' UTILITY EASE.

10' UTILITY EASE.

Prop. 12" Plug & Block

PROPOSED INTERNAL CONNECTOR ROAD W/ SIDEWALK ONE SIDE HARGRAVE DRIVE

Prop. 12" WM

WRIGHT BOULEVARD

CONNECT TO EX. SAN.

CONNECT PROP. 12" WM TO EXISTING 12" WM

CONNECT 12" WM TO

COUGAR PATH

CONNFR

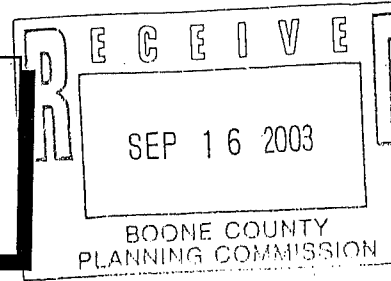
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AIRPARK WEST

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 Paul Hemmer Companies  
Phone Number 859-341-8300 Fax No. 859-341-6817  
Applicant's Address 250 Grandview Drive  
Fort Mitchell KY 41017  
City State Zip
- 4. Description of Request: Variance on front yard setback from 50 feet to 15 feet for buildings
- 5. Name of Development Airpark West
- 6. Location of Development KY S.R. 237, Hebron, KY
- 7. Acreage Under Review Not applicable
- 8. Lot Number and Name of Subdivision (if part of a subdivision)  
Lot 4A (See attached)
- 9. Owner of Property Airpark West, LLC  
Phone Number of Owner 859-341-8300
- 10. Address of Property Owner Fort Mitchell KY 41017  
City State Zip
- 11. Proposed Use(s) on Site Office/Light Industrial
- 12. Total Square Footage of Existing and/or Proposed Buildings To be determined
- 13. Current Zoning on Property I-1
- 14. Deed Book 772 Page No. 668 Group No. 2007
- 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: [Signature]  
Property Owner's Signature: [Signature]

(over)

COPY

CLUR #03-BCBOA-019-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Airpark West, LLC  
250 Grandview Drive  
Ft. Mitchell, KY 41017
  
2. ADDRESS OF PROPERTY  
KY 237  
Hebron, KY 41048
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Airpark West
  
4. DEED BOOK 772                      PAGE NO. 668                      GROUP NO. 2007
  
5. TYPE OF RESTRICTION(S) (Check all that apply)  
  
 Zoning Map Amendment:                       Conditional Use Permit  
    From  To  
  
 Development Plan                                       Conditional Zoning  
  
 Subdivision Plat                                       Other:  
    (Not Recorded)  
  
 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

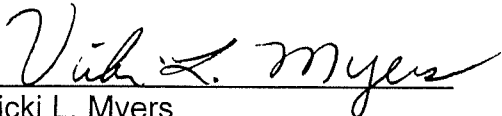
*Todd K. Morgan*  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

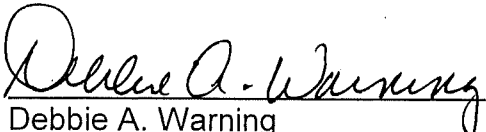
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 3 day of November, 2003.

  
Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2007

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 Variance approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of October 8, 2003 Certificate of Land Use Restriction (#03-BCBOA-019-A), for Airpark West, LLC, Property Owner(s).

The following conditions will apply:

- 1) Hargrave Drive and the future lots will need to be final platted before construction can occur. Lot 4B will need to be redesigned into a flag lot because the Concept Plan from the 1998 Zone Change did not allow individual lots to have curb cuts on KY 237.

The approved Variance as well as the preceding conditions apply to the property described in:

DEED BOOK 772

PAGE NO. 668

GROUP NO. 2007