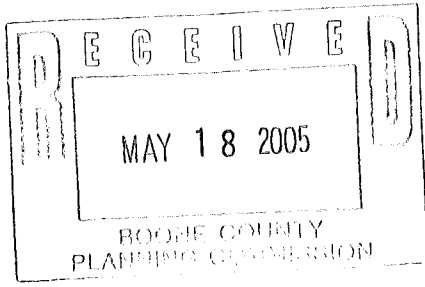


Reedy

05-BCBOA-011-A



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 Robert Benton

Phone Number 485-4680 Fax No. _____

Applicant's Address 010 Lexington Pk. #222 or 11393
Walton KY. 41094

City State Zip

4. Description of Request: Rebuilt Duplex in the place of a burned single family residence

5. Name of Development _____

6. Location of Development 11405 old Lexington Pk.

7. Acreage Under Review _____

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

9. Owner of Property Robert Benton

Phone Number of Owner 485-4680

10. Address of Property Owner _____

City State Zip

11. Proposed Use(s) on Site Rental Property - Duplex

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

13. Current Zoning on Property I1

14. Deed Book 213 571 Page No. 507 314 Group No. 2073

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? no

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: Robert Benton

Property Owner's Signature: Robert Benton Dennis Country

**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 5-18-05 Fee Received \$661.00 R#42450
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
6/8/05 **Approved**
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: NONE

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 - 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: Robert Benton

LOCATION: Between 11393 & 11431 Old Lexington Pike, Boone County, Kentucky

ZONING: Industrial One (I-1)

DATE: June 8, 2005

PROPOSAL

The applicant is requesting a Change in Non-Conforming Use so he can construct a duplex in place of a single-family residence that recently burned down. The subject property is located between 11393 and 11431 Old Lexington Pike and is zoned Industrial One (I-1).

The submitted floor plans (see attachments) show that each unit will contain one-bedroom and will be approximately 736 square feet in area. The building elevations show the building will be constructed of vinyl siding and a shingle roof and that each dwelling unit will have a separate entrance and covered front porch.

APPLICABLE REGULATIONS

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to act on applications for changes in non-conforming use.

Article 2, Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming lots, uses or structures 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 271 of the Boone County Zoning Regulations states that when an addition is proposed for a pre-existing structure that does not meet the current setback requirements, the addition may be located along the non-conforming building line established by the existing structure, but may not encroach into such non-conforming setback unless a variance is granted by the Board of Adjustment and Zoning Appeals.

Article 2, Section 272 of the Boone County Zoning Regulations states "where, at the time of the adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted."

KRS 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.
3. Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Article 11, Sections 1131 and 1133 of the Boone County Zoning Regulations do not list detached single-family residences or duplexes as principally permitted use or conditional uses in the Industrial One (I-1) zone.

SITE CHARACTERISTICS

The approximate one acre site is currently vacant. The parcel has a shared driveway with the adjoining property to the north and the rear yard adjoins the Norfolk-Southern railroad right-of way.

SURROUNDING LAND USES & ZONING

North: Mobile Home (I-1)

South: Single-Family Dwelling (I-1)

East: Old Lexington Pike, Single-Family Dwelling, and Farm (I-1)

West: Norfolk-Southern Railroad, Dixie Highway, and Richwood Park 75 (I-1)

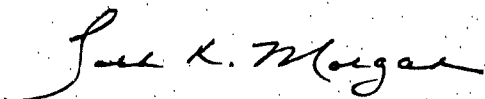
STAFF COMMENTS

1. The single-family dwelling which burned down was a non-conforming use because it was located in an Industrial One (I-1) zoning district. The single-family dwelling can be replaced administratively with zoning permit and building permit approvals.
2. The single-family dwelling which burned down had a non-conforming front yard setback. The Boone County G.I.S. system shows the structure was approximately 27 feet from the front property line, while the front yard setback requirement in the Industrial One (I-1) zoning district is 50 feet. Staff would like to point out that a variance will need to be issued if the duplex is proposed closer than 27 feet from the front property line.
3. Staff has provided a copy of the 2025 Future Land Use Map from the 2000 Boone County Comprehensive Plan. This map shows that the general area is forecasted for "industrial", "business park", and "commercial" uses.
4. Staff is concerned that the request for a duplex will extend the scope of the non-conforming use because it will increase the number of dwelling units on the property.

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.

Respectfully submitted,



Todd K. Morgan, AICP
Planner, Zoning Services

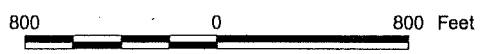
TKM/pr

Attachments

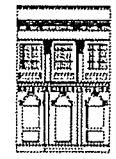
- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plans
- Exhibit C – Aerial Map #1 (General Area)
- Exhibit D – Aerial Map #2 (Close-up of Site)
- Exhibit E – Zoning Map
- Exhibit F – Future Land Use Map
- Exhibit G – Application



Robert Benton Site Vicinity Map

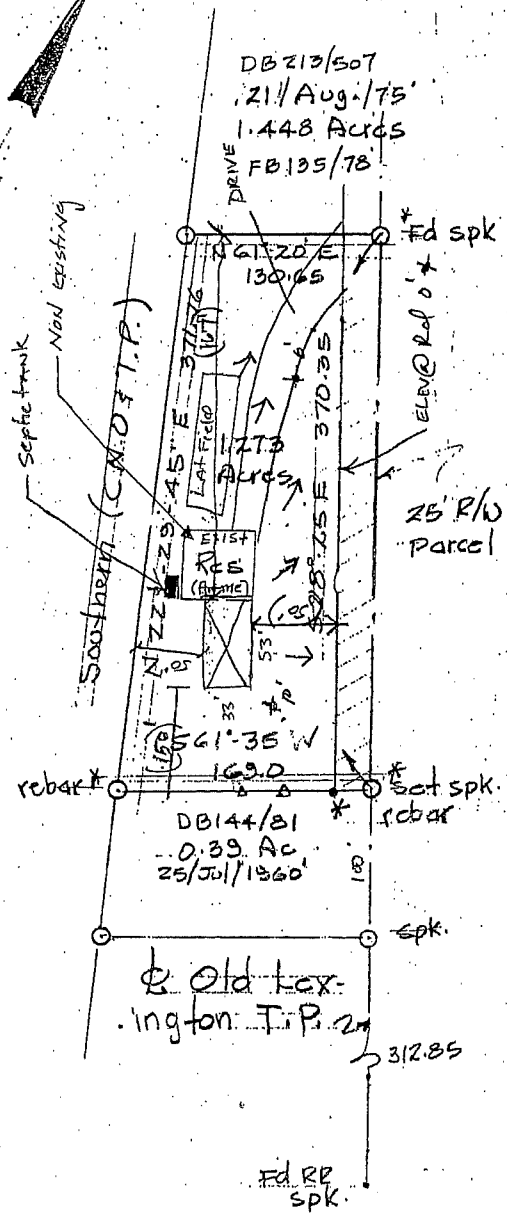
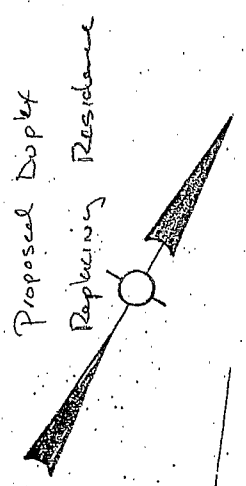
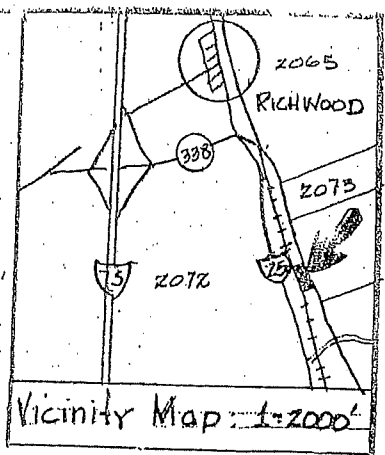


1 inch equals 800 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 31, 2005



Approved for recording the transfer of property only by the Boone Co. Planning Commission this ___ day of ___ 19__.

Chairman



I certify that this plat has been prepared by me or under my supervision in accordance with the Ky. Min. Surveying Standards and complies with all requirements of the Boone Co. Zoning & Subdivision Regulations and that dedicated areas including public ways or streets are currently owned by the property owner.

I certify that I have examined the records of the Boone County Clerk and find that this is the second conveyance made under the present ownership and the parent tract since 1966 or from the adoption of KRS 100.

The property shown hereon is all that which remains of the parent tract between a parcel created on the North side thereof in 1975 and a parcel created on the South side thereof in 1960 and lies between the East line of the Southern Railroad and Old Lexington Pk.

David G. Walton
Ky. Reg. P.E. & L.S. 8/2/89

closure = 1:10,000

We hereby certify that the proposed street right-of-way will be offered to the Boone Co. Fiscal Court for public dedication.

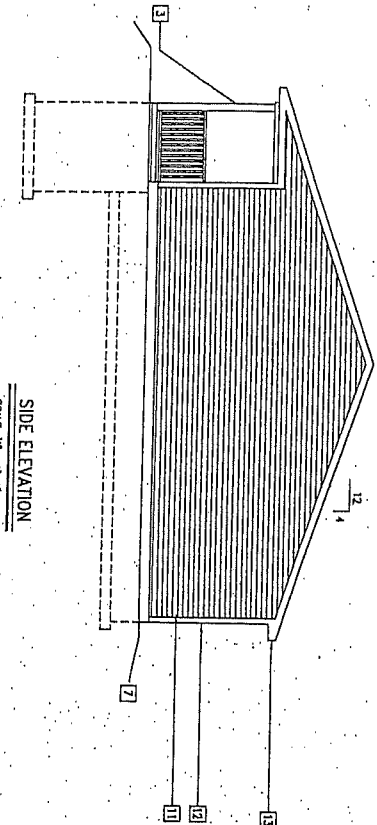
Robert Benton

Date: 8/22/89

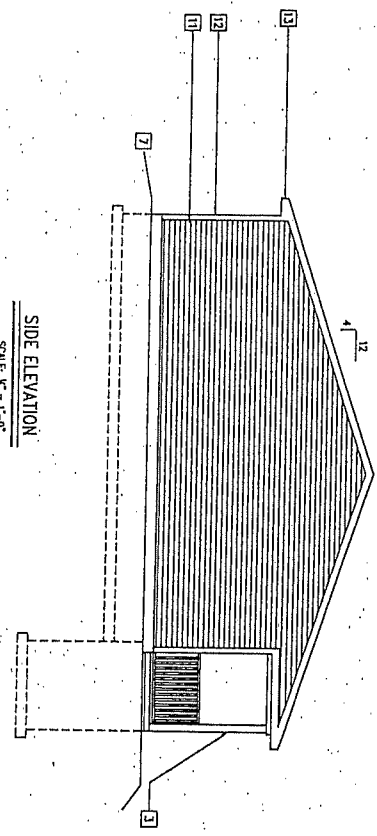


PLAT SURVEY 1.273 ACRE PARCEL W. SIDE S.D. LEXINGTON PIKE WALTON, BOONE CO. TO BE CONVEYED BY ROBERT & LUCILLE BENTON		
SCALE: 1" = 100'	APPROVED BY: FB 173/3 / FB 135/78	DRAWN BY
DATE: 8/17/89		REVISED
Part of DB 87/622, 212/216 Boone Co. Clerks Records at Burlington, Ky. Group 2073		
Walton & Walton - Civil Engineers - Surveyors Burlington, KY 41005 Phone 585-0217		DRAWING NUMBER

GENERAL NOTES



SIDE ELEVATION
SCALE: 1/4" = 1'-0"



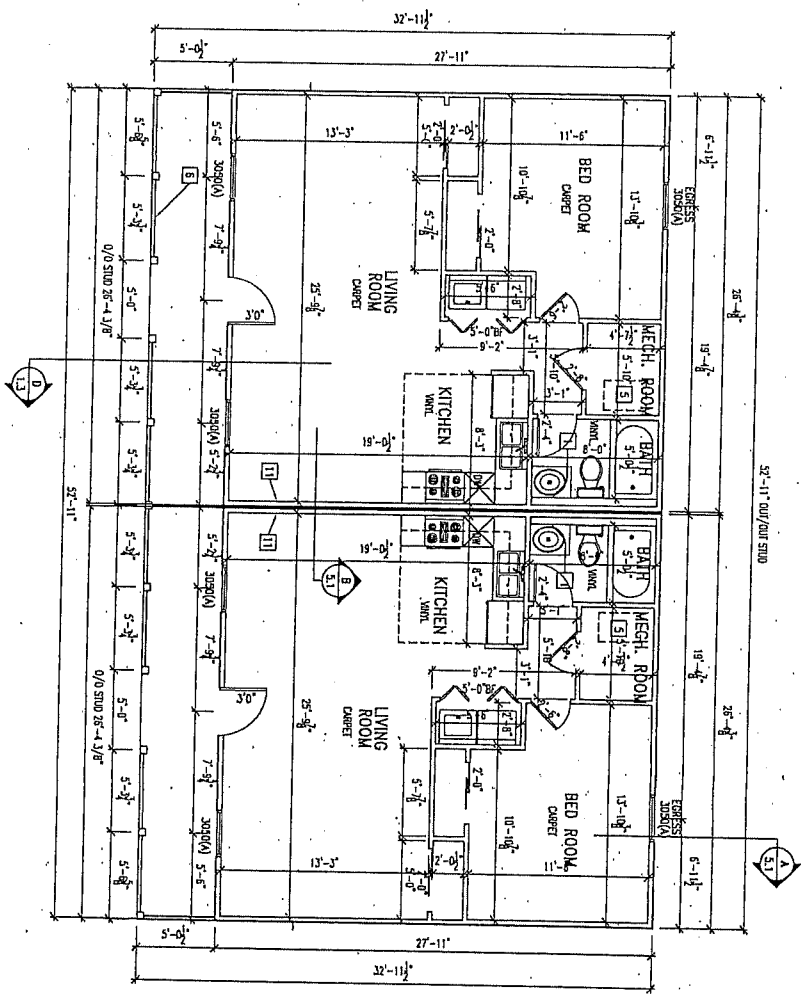
SIDE ELEVATION
SCALE: 1/4" = 1'-0"

KEY NOTES

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REV. NO.	REV. DATE	REV. BY	REV. DESCRIPTION

SHEET NO.	HOUSE:	SHEET DESCRIPTION:	PHONE NO.:	(859) 282-7373	JOB ADDRESS:
A2	DOUBLE D APT.	SIDE ELEVATIONS	DRAWING DATE:		11405 OLD LEXINGTON PIKE
			CUSTOMER:		JOB #:



FIRST FLOOR FRAMING PLAN
SCALE: 1/8" = 1'-0"

ALL DIMENSIONS ARE 2x4 TO 2x4 UNLESS OTHERWISE NOTED

GENERAL NOTES

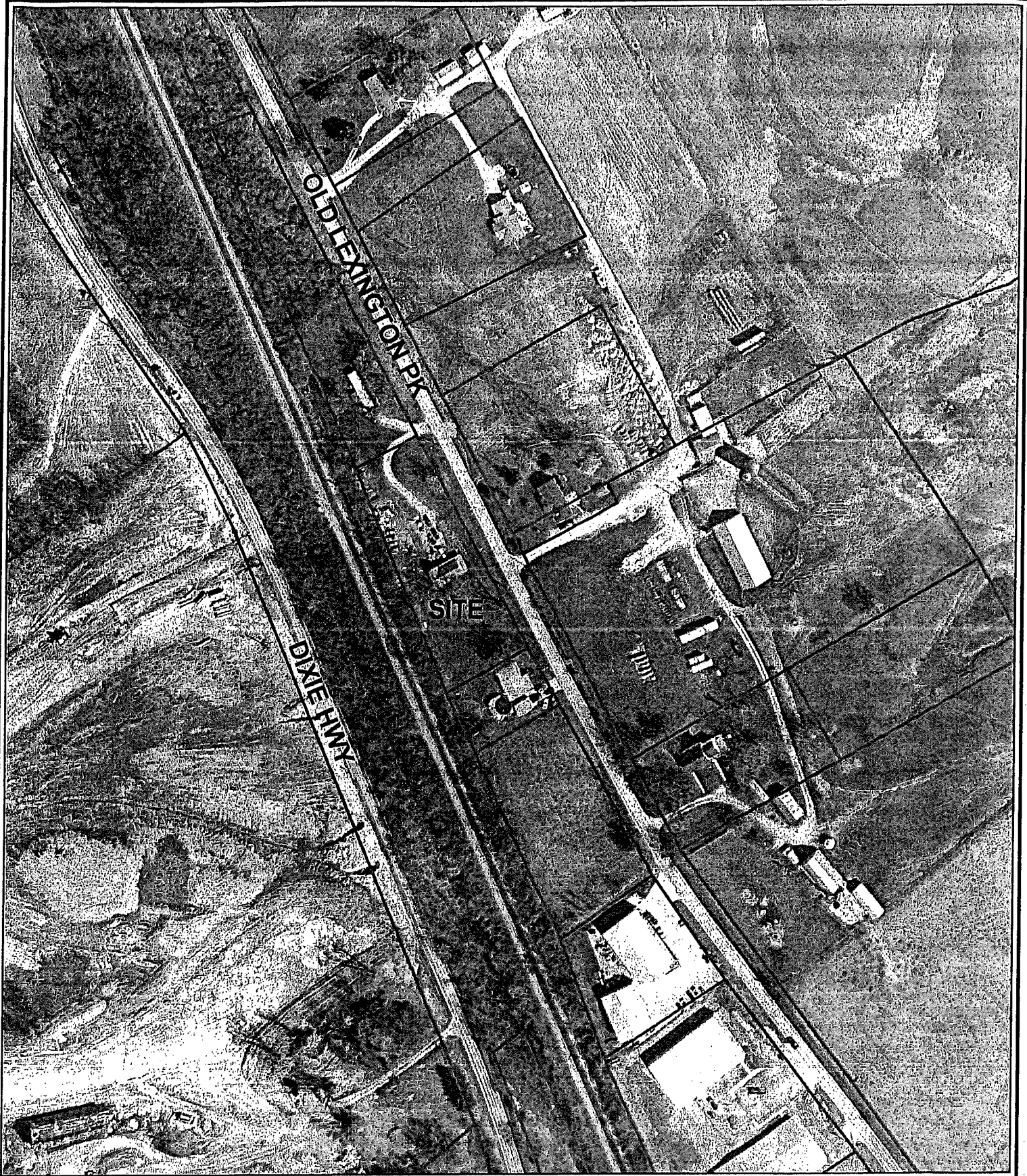
- 1 - FRAME ALL 1st FLOOR CEILING AT 8'-1" ABOVE SUIR FLOOR UNLESS OTHERWISE NOTED.
- 2 - FRAME ALL 1st FLOOR WINDOWS AT 6'-11 1/4" HIGH UNLESS OTHERWISE NOTED.

KEY NOTES

- 1 2x0 WALL WITH 2x6 FOR PLUMBING // DO NOT PENETRATE PLUMBING WALL
- 2
- 3 2x1-1/2x2x7" ATIC ACCESS PANEL, PLACE ACCESS WHERE AT LEAST 30" OF CLEAR SPACE IS PROVIDED WITHIN GROUND TRUSSES
- 4
- 5 HEADERS (2) 2x10 @ 8'-1" ABOVE FINISHED FLOOR TO TOP OF BEAM
- 6
- 7
- 8 FRAME PLAST HEADER AT 6'-11-1/2" ABOVE FINISHED FLOOR
- 9 HEADER (2) 2x10 @ HOLD BOTTOM AT 6'-11-1/2" ABOVE FINISHED FLOOR
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- 11 FINE WALL
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- 13 PROVIDE BLOCKING WITHIN TRUSS SPACE FOR WYCL. SOFTT CONNECTION
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REV. NO.	REV. DATE	REV. BY	REV. DESCRIPTION

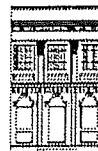
SHEET NO. A4	HOUSE DOUBLE D APT.	SHEET DESCRIPTION: FIRST FLOOR FRAMING PLAN	PHONE NO.:	JOB ADDRESS: 11405 OLD LEXINGTON PIKE
			DRAWING DATE:	
			CUSTOMER:	

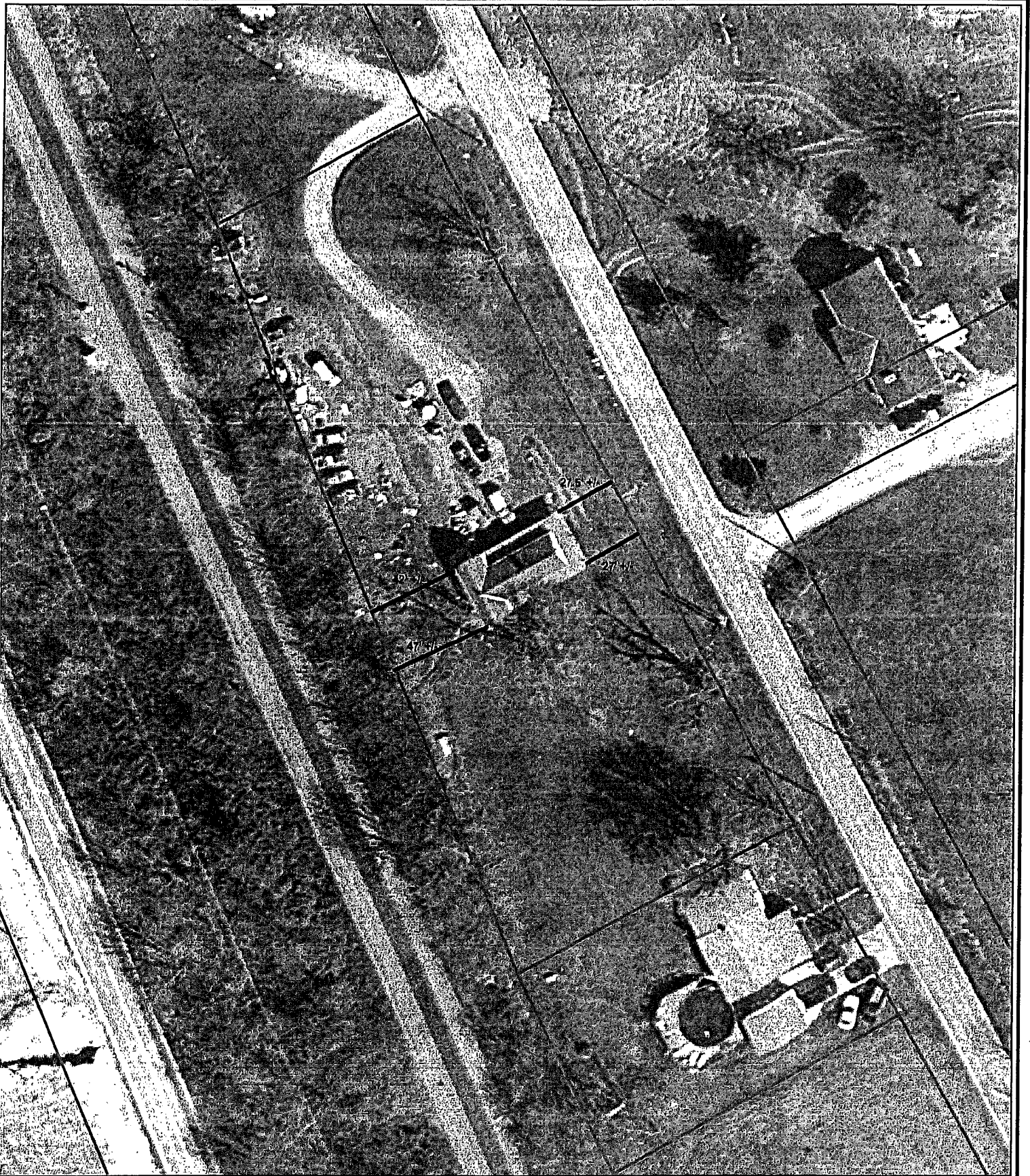


Robert Benton Aerial Map

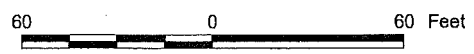
200 0 200 Feet

1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 31, 2005

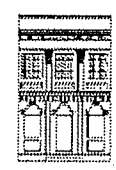


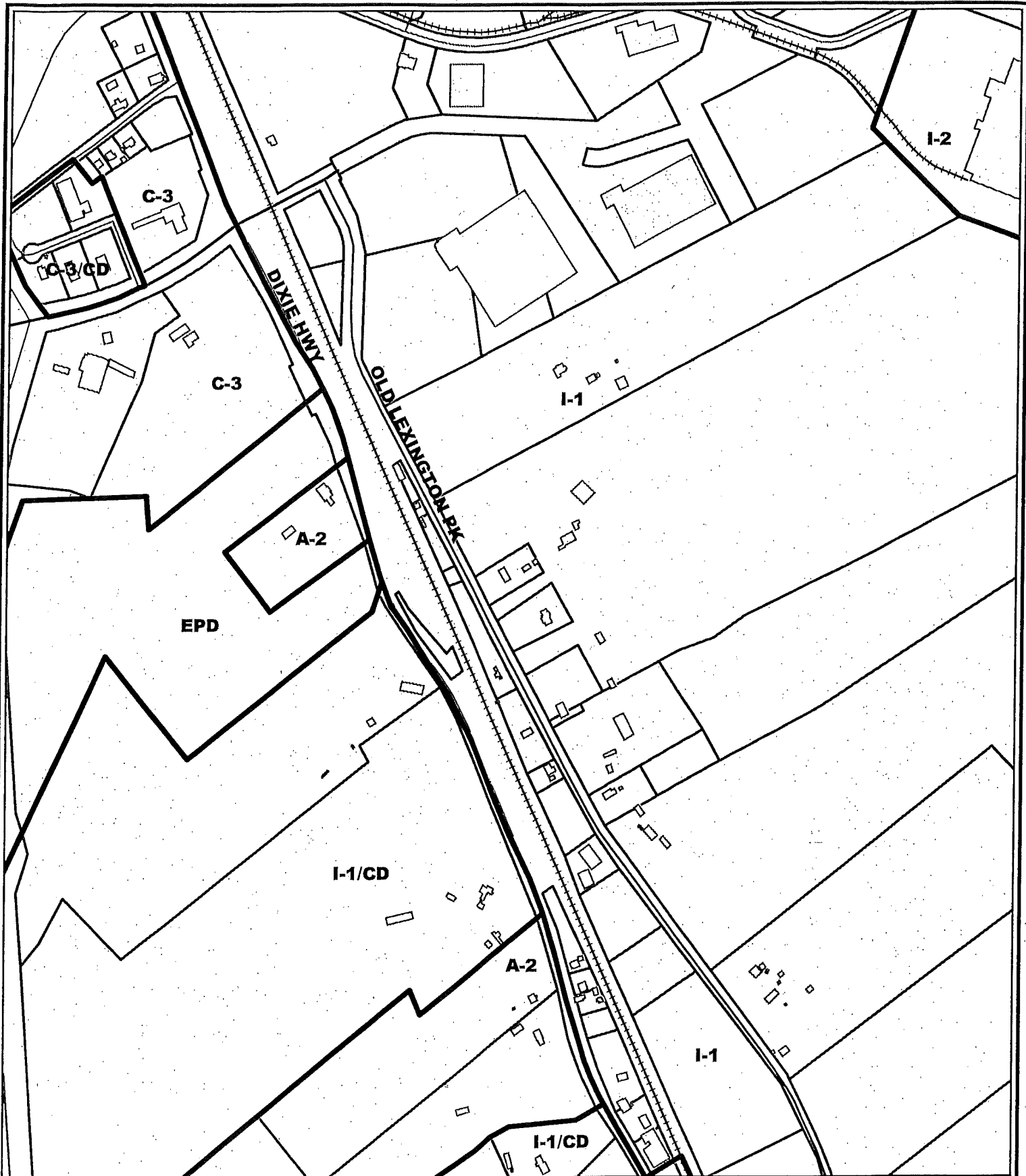


Robert Benton Aerial Map #2



1 inch equals 60 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 31, 2005

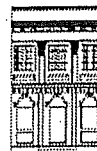


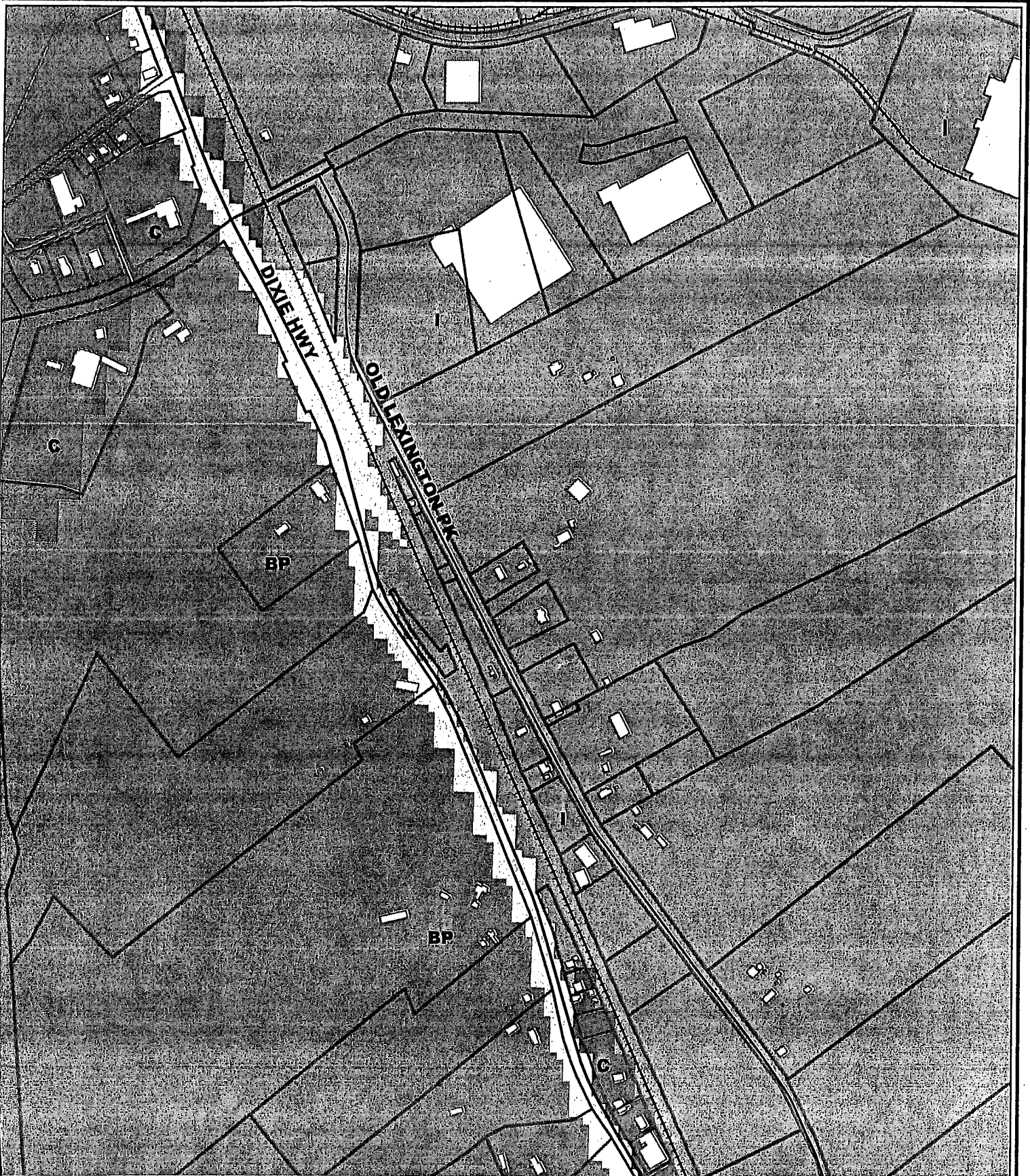


Robert Benton Zoning Map

600 0 600 Feet

1 inch equals 600 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 May 31, 2005





Robert Benton Future Land Use Map

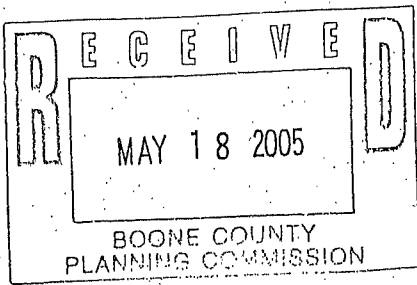
600 0 600 Feet



1 inch equals 600 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 31, 2005



Proby



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 _____ Florence _____ Walton _____ Union _____
- 2. (Check One)
_____ Conditional Use Permit _____ Variance _____ Appeal _____
 Change in Non-Conforming Use
- 3. Applicant's Name Robert Benton
Phone Number 485-4680 Fax No. _____
Applicant's Address Old Lexington Pk.
Walton Ky. 41094
City State Zip
- 4. Description of Request: Rebuilt Duplex in the place
of a burned single family residence
- 5. Name of Development _____
- 6. Location of Development 11405 old Lexington Pk.
- 7. Acreage Under Review _____
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property Robert Benton
Phone Number of Owner 485-4680
- 10. Address of Property Owner _____
City State Zip
- 11. Proposed Use(s) on Site Rental Property
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property I1
- 14. Deed Book ~~571~~ 571 Page No. ~~314~~ 314 Group No. _____
- 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~~ no
- 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: Robert Benton

Property Owner's Signature: Robert Benton Dennis Country

COPY

CLUR #05-BCBOA-011-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Robert Benton
11393 Old Lexington Pike
Walton, KY 41094

2. ADDRESS OF PROPERTY

11405 Old Lexington Pike
Walton, KY 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. DEED BOOK 571.

PAGE NO. 314

GROUP NO. 2073

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)

X 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

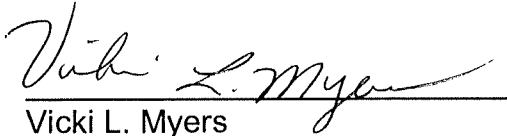
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

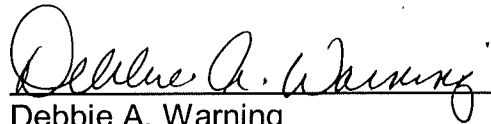
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 9 day of June, 2005.



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 Change in Non-Conforming Use approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of June 8, 2005 Certificate of Land Use Restriction (#05-BCBOA-011-A), for Robert Benton, 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 571

PAGE NO. 314

GROUP NO. 2073