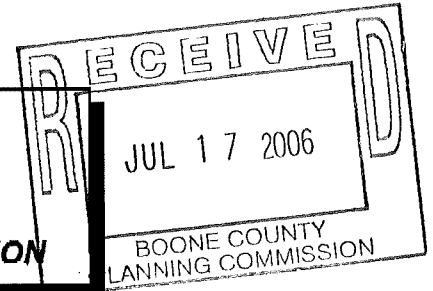


06-BCBOA-013-A

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)

- 1. (Check One) Boone _____ Florence _____ Walton _____ Union _____
- 2. (Check One) Conditional Use Permit _____ Variance _____ Appeal _____
Change in Non-Conforming Use _____
- 3. Applicant's Name Beckman Coulter Inc. (Mark Ruskin)
Phone Number 714-981-5869 Fax No. 714-773-8215
Applicant's Address 4300 No. Harbor Blvd.
Fullerton CA 92834-3100
City State Zip
- 4. Description of Request: APPLYING FOR USE OF THE BUILDING
FOR THE STORAGE AND DISTRIBUTION OF CHEMICALS
- 5. Name of Development: SKYPORT 275 BUSINESS PARK
- 6. Location of Development: 2295 PROGRESS DRIVE,
HEBRON, KY (BUILDING 6/SKYPORT 5)
- 7. Acreage Under Review 19.89 ACRES
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
LOTS, SKYPORT 275 BUSINESS PARK SUBDIVISION, SECTION 3
- 9. Owner of Property DUKE REALTY CORPORATION, JP MORGAN CHASE & GEN. MOTORS
Phone Number of Owner 513-956-4400
- 10. Address of Property Owner 4555 Lake Forest Dr., Ste. 400, Cincinnati, OH 45242
City State Zip
- 11. Proposed Use(s) on Site STORAGE AND DISTRIBUTION OF
CHEMICALS
- 12. Total Square Footage of Existing ~~and/or~~ Proposed Buildings 426,420
- 13. Current Zoning on Property I-1
- 14. Deed Book 790 Page No. 374 Group No. 2009
- 15. Is the site subject to a zone change? NONE
If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? YES, ATTACHED
- 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: Larry Tuberton

Property Owner's Signature: [Signature] 7/6/06

**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 7-17-06 Fee Received \$921.00 R# 50779
- 2. Is application complete? Yes No
- 3. Staff Reviewer _____
- 4. Scheduled Board Action Date _____
- 5. Board Action:
 - Approved
 - 8/9/06 Approved with Conditions (See #6)
 - Denial (See #7)
- 6. Conditions of Approval: SEE 8/9/06 B.C.B.O.A. MEETING MINUTES
- 7. Reasons for Denial: _____

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
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: Beckman Coulter, Inc.

LOCATION: 20.59 Acre Site Located Along the West Side of Progress Drive, Lot 5A, Section 3 of the Skyport 275 Business Park, Boone County, Kentucky

ZONING: Industrial One (I-1)

DATE: August 9, 2006

Proposal

The Applicant is requesting a Conditional Use Permit for the storage and distribution of chemicals at the above referenced location. Beckman Coulter is proposing to occupy the southern 246,000 square feet of a 426,420 square foot building located at 2295 Progress Drive for the purpose of a regional distribution center and warehouse for "chemical and non-chemical products and parts that are used in Beckman Coulter's biomedical testing instrument systems and clinical diagnostic equipment." A copy of Beckman Coulter's "Use and Description Statement" is attached to this Staff Report for your reference.

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to grant conditional use permits as specified by the zoning order.

Article 11, Section 1133 of the Boone County Zoning Regulations permits a business which proposes to "store and distribute chemicals" as a Conditional Use within the Industrial One (I-1) district.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit as stated in Sections 262 & 1133 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 not 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 not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
6. Will not 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 the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 11, Section 1133 of the Boone County Zoning Regulations allows the proposed uses and improvements in the I-1 zone as Conditional Uses provided:

- A) The activity is provided primarily in support of and obtains its trade from the employees of the district; or
- B) The activity is of integral relation to the purpose of the district; and
- C) The use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district; and
- D) Provided the arrangement of uses, buildings or structures is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

Relationship to the Comprehensive Plan

The 2005 Boone County Comprehensive Plan's "2030 Future Land Use Map" designates the site in question for the following three land use classifications:

Industrial (I): Manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses.

Commercial ©: Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc.

Developmentally Sensitive (DS): Areas that have an existing slope of twenty percent or greater for a height of 20 meters, or have unique soil or flooding characteristics which limit the ability of an area to support urban development, or contain significant wooded areas, creeks, wildlife habitat or other natural features that are important to a site's stability and visual character.

The following Goals & Objectives from the 2005 Boone County Comprehensive Plan apply to the application:

- A. "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas" (Business Activity, Goal).
- B. "Effective site placement, architectural design and landscape design for industrial uses shall enable a favorable relationship with adjoining uses. Industrial nuisances such as smoke, dust, noise and odor shall be kept at a minimum, and site development and enforcement shall be carefully coordinated with necessary approvals of other regulatory agencies" (Business Activity, Industrial Objectives).
- C. "Provisions shall be made for proper control of industrial uses, which have processes or make products that could be hazardous to human life and property. (Examples of such products are explosives and flammable or corrosive chemicals).__New and existing industrial uses shall comply with federal and state air and water pollution regulations" (Business Activity, Industrial Objectives).

Surrounding Land Uses & Zoning

- North: 2245 Progress Drive, Lot 6A of the Skyport 275 Business Park zoned I-1
- East: 2250 & 2350 Progress Drive zoned I-1
- South: 2365-2379 Progress Drive zoned I-1
- West: Properties within the Airpark East Subdivision owned by Ashley Hemmer, Paul Hemmer Associates and Airpark East Addendum LLC zoned Industrial One with and approved Concept Development Plan (I-1/CD)

Site Characteristics

The Major Site Plan for 2295 Progress Drive (Skyport Building 5) was approved on January 27, 2006. Lot 5A is a 20.59 acre site located on the west side of Progress Drive and is zoned Industrial One (I-1).

Staff Comments

1. The applicant has provided a "Use and Description Statement" (see attachments) which addresses the business operation.
2. Staff would like to reiterate that there will be on outside storage of chemicals, no large exterior tanks, and no bulk storage of chemicals at this facility.
3. Staff has asked representatives from the Hebron Fire Department and Boone County Building Inspection Department to attend this Board of Adjustment meeting. Mark Martin, Assistant Chief Building Official, has reviewed the material submitted to Staff and his e-mail response is attached to this report.
4. Staff recommends that the Board should analyze the following conditional use permit criteria before voting on the request:
 - A. the use "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"
 - B. the use "will not be hazardous to existing or future neighboring uses"
 - C. The use "will not 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"

Conclusion

KRS 100.237 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 Conditional Use Permit.

Respectfully submitted,


Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

MAL/pr

Attachments

- Exhibit A – Vicinity Map
- Exhibit B – Zoning Map
- Exhibit C – Future Land Use Map
- Exhibit D – Existing Topography
- Exhibit E – 2004 Aerial Photo
- Exhibit F – Site Layout
- Exhibit G – Concept Plan
- Exhibit H – E-mail from Mark Martin, Assistant Chief Building Official
- Exhibit I – Use and Description Statement
- Exhibit J – Application

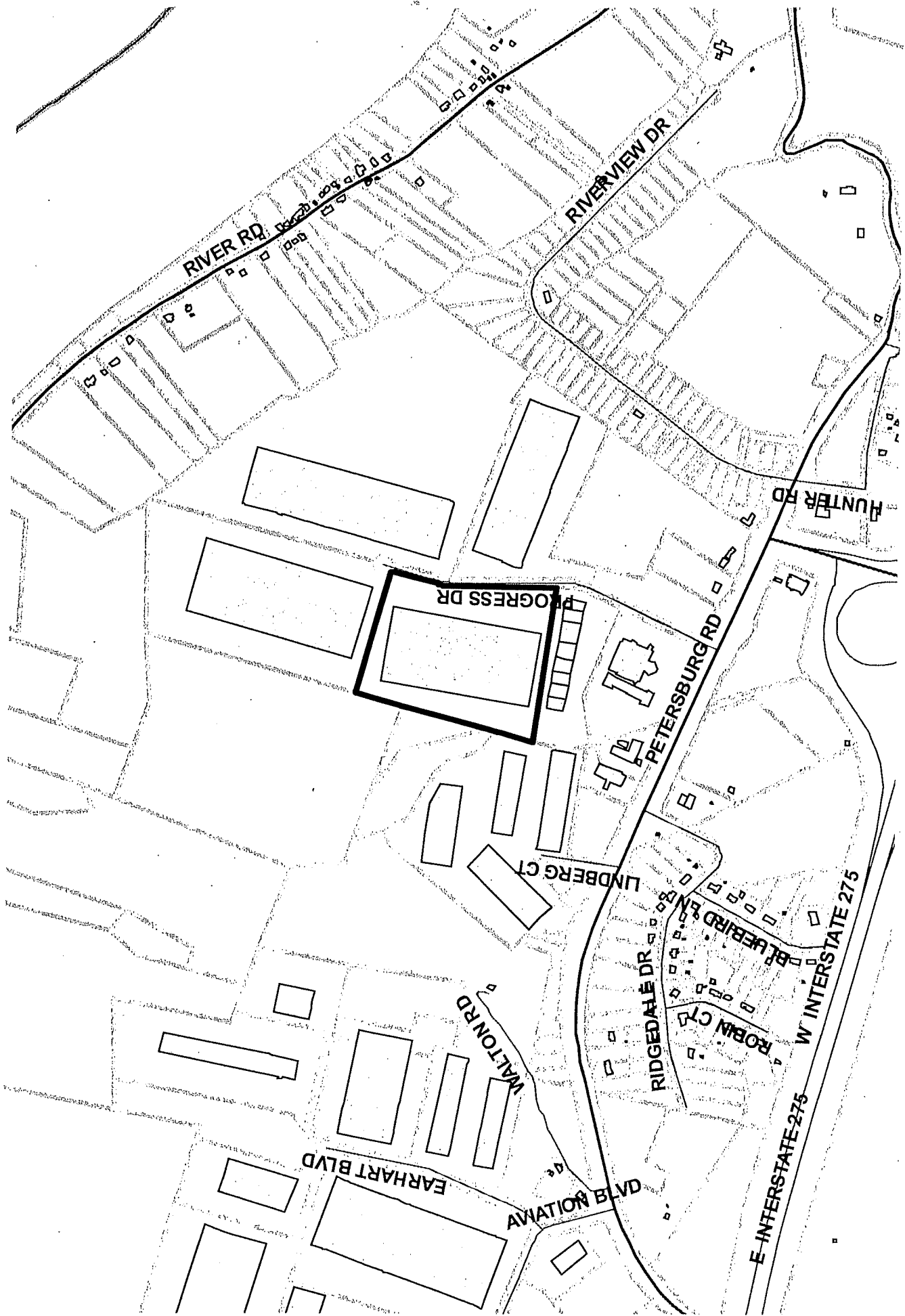


EXHIBIT A -- VICINITY MAP

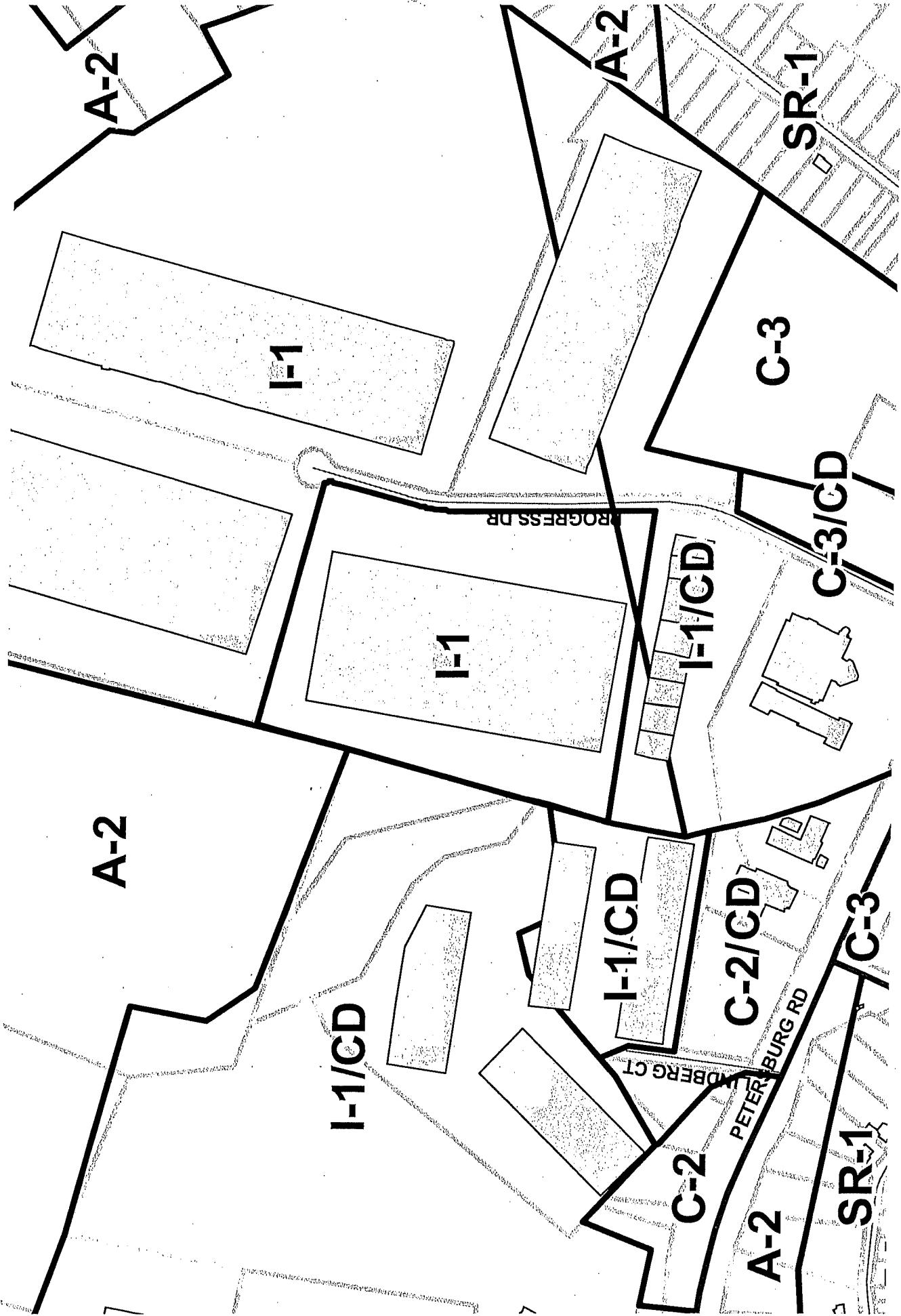


EXHIBIT B - ZONING MAP

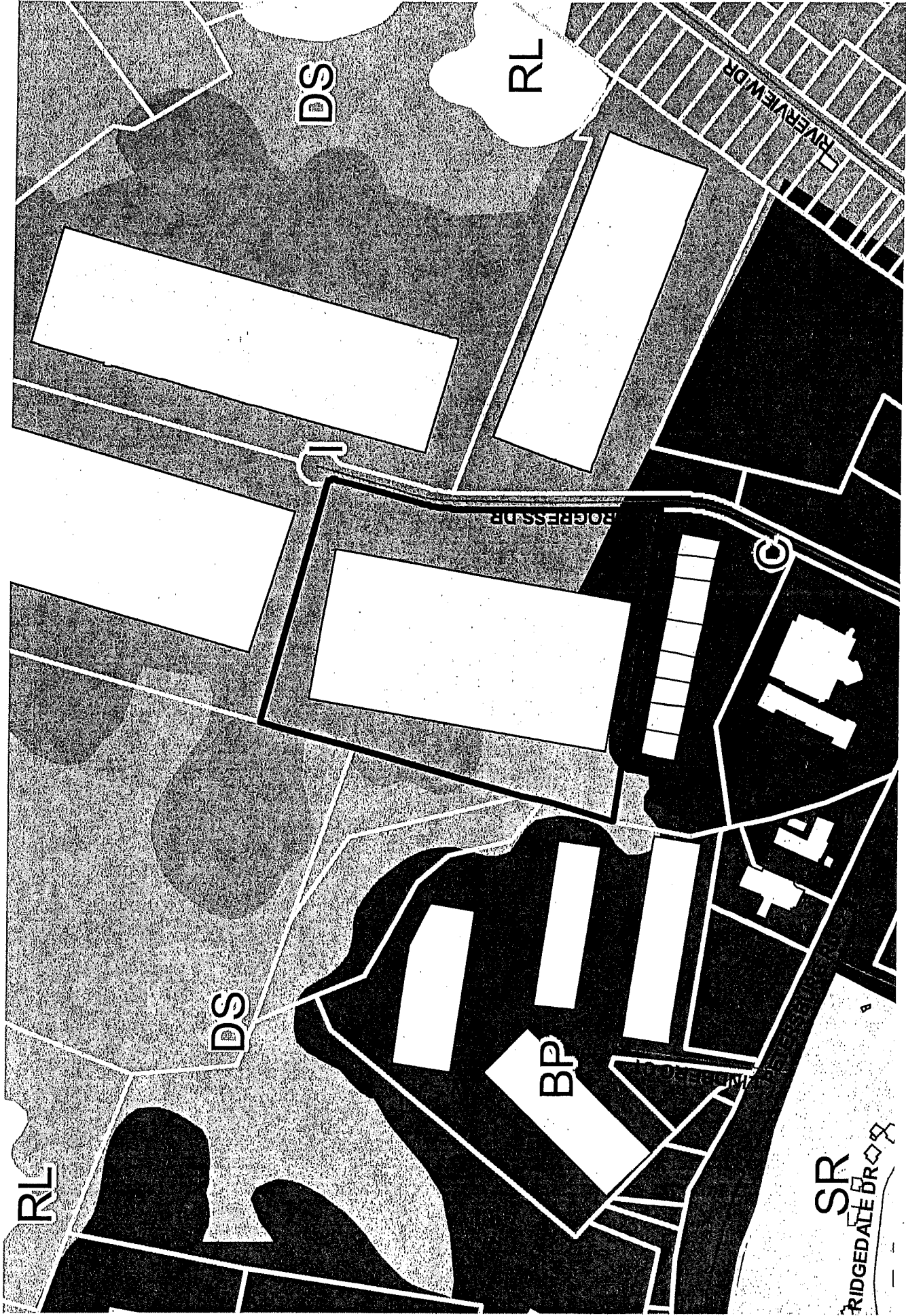


EXHIBIT C -- FUTURE LAND USE MAP

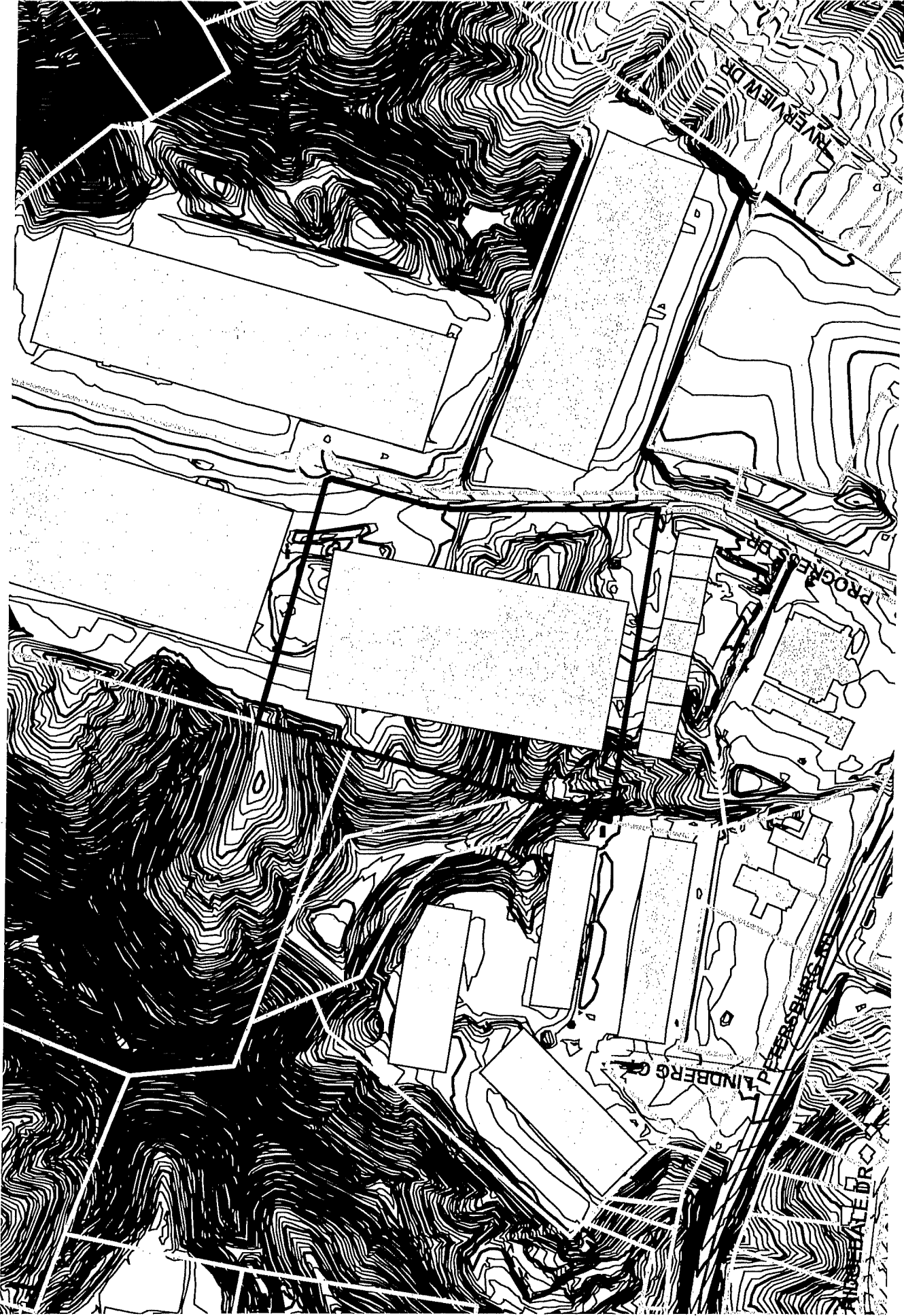


EXHIBIT D -- EXISTING TOPOGRAPHY

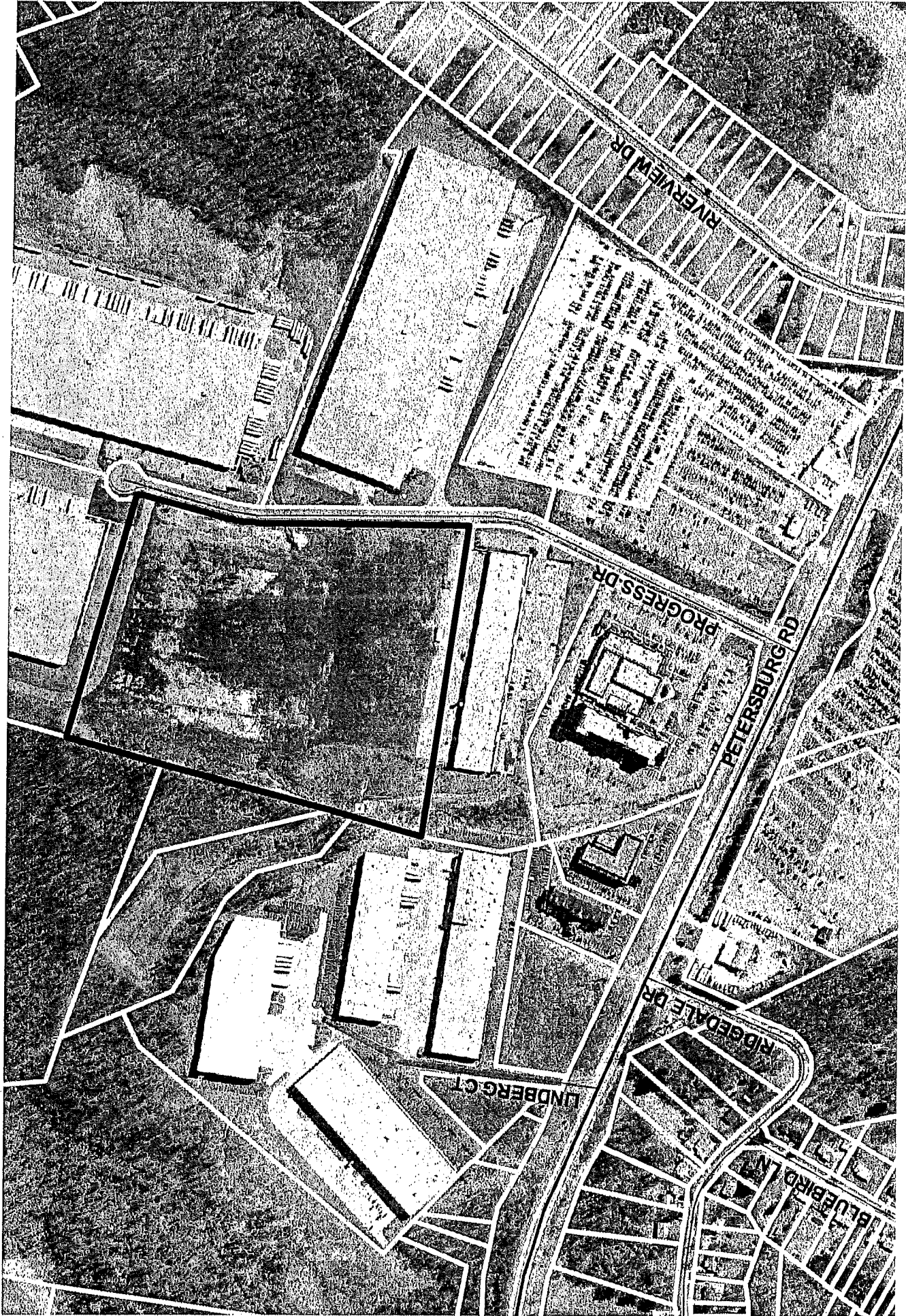
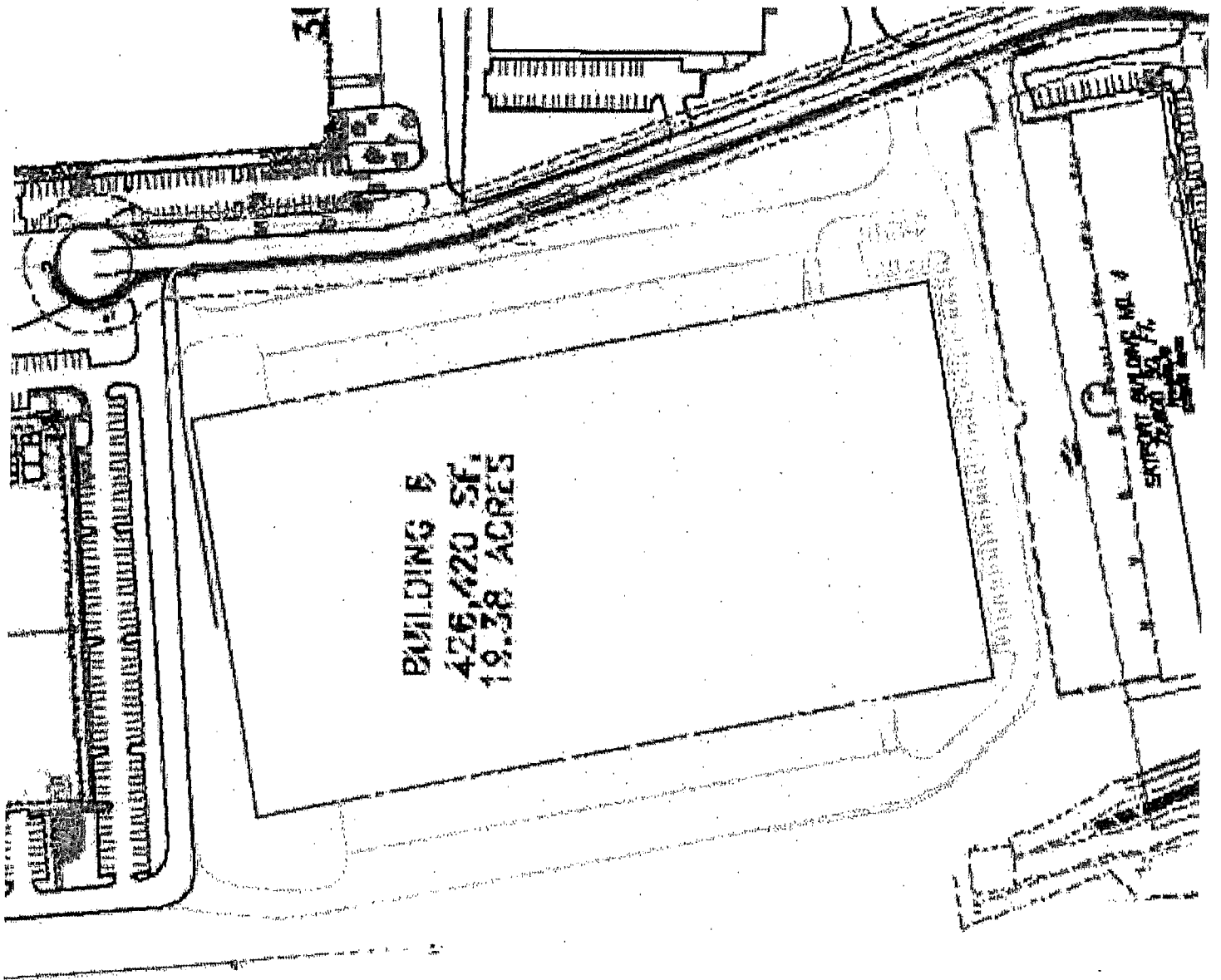


EXHIBIT E - 2004 AERIAL PHOTO

EXHIBIT F - SITE LAYOUT



Mitch Light

From: Mark Martin
Sent: Tuesday, August 01, 2006 5:51 PM
To: Todd Morgan
Cc: Mitch Light; Jim Key

Todd,

I have made a cursory review of the information provided to us by Beckman and Coulter regarding their proposed use of the structure at 2295 Progress Drive. Our department has no objection to the storage of flammable and corrosive materials at this facility. Of course all storage of such materials must be in complete compliance with the 2002 Kentucky Building Code (KBC) and International Fire Prevention Code as referenced in the 2002 KBC and subsequent adopted codes that may apply at the time of application for permit. Beckman and Coulter has already expressed in their Use and Description Statement that they agree to comply with the applicable codes governing storage of these chemicals.

The Use and Description Statement provided by Beckman and Coulter also indicates there will be storage of Polystyrene Coolers and plastic materials. Specifics regarding the quantities of polystyrene Coolers, and plastics and the method of storage will be required at the time the tenant is permitted. Alterations of the sprinkler system to higher densities or the inclusion of in rack suppression may be required. These are common concerns with any warehouse facility and will be addressed at the time of submittal for tenant finish.

Let me know if you have further questions and or concerns regarding this matter.

Mark E. Martin,
Assistant Chief Building Official

Boone County Building Department
2950 Washington Street
P.O. Box 960
Burlington, KY 41005
PH: (859) 334-2218
FAX: (859) 334-3137



BECKMAN COULTER, INC.
SKYPORT 5
(Building 6)
2295 Progress Drive
Hebron, Kentucky

USE AND DESCRIPTION STATEMENT

FOR

**BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
(Conditional Use Permit)**

BOONE COUNTY PLANNING COMMISSION

Building Location:

Building 6 (also known as "Skyport 5")
2295 Progress Drive
Hebron, Kentucky

Building Occupancy:

Beckman Coulter, Inc. intends to occupy approximately 246,000 square feet of this 426,420 square foot building for a regional distribution center and warehouse for Beckman Coulter products.

The intended occupied area will be at the southend of the building.

Specific Use:

Beckman Coulter products that will be stored and distributed from this building consist of the chemical and non-chemical products and parts that are used in Beckman Coulter's biomedical testing instrument systems and clinical diagnostic equipment.

The chemical products consist of hazardous and non-hazardous chemicals as some of the chemical products consist of varying percentages of chemicals that are classified as corrosive or flammable and combustible liquids.

All chemical products are packaged in containers ranging from several ounces to one-gallon. No larger chemical storage containers such as 5-gallon pails, 55-gallon drums, or intermediate bulk containers (portable tote tanks) will exist at this facility. Also, no inside or outside storage tanks will exist.

All chemical products classified as hazardous per the State of Kentucky Building and Fire Codes will be stored in hazardous storage rooms complying with the requirements of the building and fire codes and as approved by the code officials.

There will be no transfer of chemicals from one container to another, no blending of chemicals and no dispensing of chemicals at this facility. All chemicals will be received and shipped in sealed containers and will remain in sealed containers while in storage.

In the event of a leaking container, the Beckman Coulter, Inc. procedures for handling such containers will be implemented, which involves placing the leaking container in a plastic bag, repackaging the container in a box and then having a licensed hazardous waste contractor removed the container from the building for proper hazardous waste disposal.

The non-chemical products consist of plastic (polypropylene) parts, such as tips, caps, trays, and cartridges that are associated with the operation of the testing instruments and diagnostic equipment.

Other non-chemical products that will be stored in the building will consist of packaging materials, which involve corrugated boxes, plastic bags, and polystyrene coolers.

Most of the products will be stored at ambient building temperature. However, there are some chemical products that require temperature-controlled storage, thus there will be rooms for air-conditioned, refrigerated, and freezer storage.

Products will be stored in palletized piles and in storage racks. It is expected that this facility will be arranged to eventually store (when all space is fully maximized) approximately 10,000 pallet loads of products and parts.

The building will also consist of typical offices for sales and operational staff.

Operations:

The distribution operations will operate on two (2) shifts from 6:00 AM to midnight, five (5) days per week. The office staff will operate a typical one shift, five (5) days per week operation. The expected total number of employees working at this facility will be approximately 100.

Incoming and outgoing shipments will be throughout the day and the operating times of the distribution center. The average number of incoming shipments will be eight (8) per day and the average number of outgoing shipments will range between 18 and 20 per day.

Shipments will be received and shipped via LTL carriers (less than truckload carriers), small parcel carriers, and common carriers, typically in trailers ranging in length from 20 feet to 48 feet.

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED JUL 17 2006 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 [checked] Variance _____ Appeal _____
3. Applicant's Name Beckman Coulter Inc. (MARK RUSKIN)
Phone Number 714-981-5869 Fax No. 714-773-8215
Applicant's Address 4300 No. Harbor Blvd. Fullerton CA 92834-3100

4. Description of Request: APPLYING FOR USE OF THE BUILDING

FOR THE STORAGE AND DISTRIBUTION OF CHEMICALS
5. Name of Development: SKYPORT 275 BUSINESS PARK

6. Location of Development: 2295 PROGRESS DRIVE, HEBRON, KY (BUILDING 6/SKYPORT 5)

7. Acreage Under Review: 19.89 ACRES

8. Lot Number and Name of Subdivision (if part of a subdivision): LOTS, SKYPORT 275 BUSINESS PARK SUBDIVISION, SECTION 3

9. Owner of Property: DUKE REALTY CORPORATION, JP MORGAN CHASE & CO. GEN. MOTORS
Phone Number of Owner: 513-956-4400

10. Address of Property Owner: 4555 Lake Forest Dr., Ste. 400, Cincinnati, OH 45242

11. Proposed Use(s) on Site: STORAGE AND DISTRIBUTION OF CHEMICALS

12. Total Square Footage of Existing and/or Proposed Buildings: 426,420

13. Current Zoning on Property: I-1

14. Deed Book: 790 Page No.: 374 Group No.:

15. Is the site subject to a zone change? NONE

16. Have you submitted a Site Plan with this request? YES, ATTACHED

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: Larry T. Nelson

Property Owner's Signature: [Signature] 7/6/06

**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 7-17-06 Fee Received \$921.00 R# 50779
- 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
Boone County Administration Building
 2950 Washington Street, Room 317
 P.O. Box 958
 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.

COPY

CLUR #06-BCBOA-013-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Duke Realty Corporation
4555 Lake Forest Dr., Ste. 400
Cincinnati, OH 45242

2. ADDRESS OF PROPERTY

2295 Progress Drive
Hebron, KY 41048

3. NAME OF SUBDIVISION OR
DEVELOPMENT (if applicable)

Skyport 275 Business Park

4. DEED BOOK 790

PAGE NO. 374

GROUP NO. 2009

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

Zoning Map Amendment:
From _____ To _____

Conditional Use Permit

Development Plan

Conditional Zoning

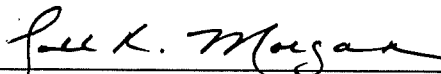
Subdivision Plat
(Not Recorded)

Other:

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



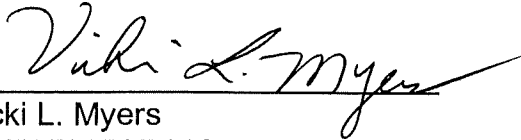
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

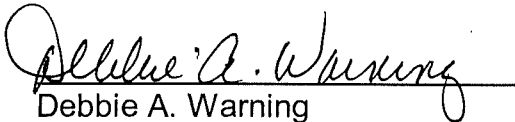
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 25 day of August, 2006.



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 Conditional Use Permit approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of August 9, 2006 Certificate of Land Use Restriction (#06-BCBOA-013-A), for Duke Realty Corporation, Property Owner(s).

The following conditions will apply:

- 1) There will be no outside storage of chemicals, no large exterior tanks, and no bulk storage of chemicals at this facility.

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

DEED BOOK 790 PAGE NO. 374 GROUP NO. 2009