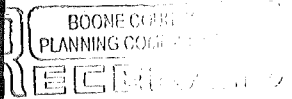


07-BCBOA-003-A

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



FEB 20 2007

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 _____
Change in Non-Conforming Use _____
3. Applicant's Name K. Hovnanian Homes
Phone Number 330-454-4048 Fax No. 330-580-9370
Applicant's Address 2000 10th St. NE

VARIANCE To Increase Square Footage From 200 FE2 to 280 FE2 CUP To Allow 70 FE2 ELECTRONIC Message Board

City Canton OH Zip 44705
4. Description of Request: Requesting use of single color LED electronic message center panel to display floor plans & house models
5. Name of Development K Hovnanian Homes
6. Location of Development Frogtown Rd. WATSON, Ky
7. Acreage Under Review IDENTIFICATION Pylon Sign
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property DMC HOLDINGS / Richard Christ
Phone Number of Owner 371-0700
10. Address of Property Owner 8800 BANKERS ST Florence Ky. 41042
City State Zip
11. Proposed Use(s) on Site ADVERTISING SIGN / Shopping Center Sign
12. Total Square Footage of Existing and/or Proposed Buildings 9,000 sq total
13. Current Zoning on Property Commercial (C-3/CD)
14. Deed Book 504 Page No. 175 Group No. 2064
15. Is the site subject to a zone change? NO
If yes, give date of approval N/A
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: Paul K. Kivell, Imagistix LLC

Property Owner's Signature: Debra Wembler, Vice President DMC Holdings

(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 2-20-07 Fee Received \$1,571.00 R# 52509
- 2. Is application complete? Yes No
- 3. Staff Reviewer _____
- 4. Scheduled Board Action Date _____
- 5. Board Action:
 - 3/14/07 Approved
 - 3/14/07 Approved with Conditions (See #6)
 - 3/14/07 Denial (See #7)
- 6. Conditions of Approval: SEE 3/14/07
BCBOA 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@boonecountky.org - E-mail
www.boonecountky.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.

BCPC:05/06

STAFF REPORT

APPLICANT: K. Hovnanian Homes

LOCATION: West side of Frogtown Road Connector and immediately to the east of 10730, 10734, 10738, and 10750 Callie Victoria Lane, Boone County, Kentucky

ZONING: Commercial Services (C-3)

DATE: March 14, 2007

Proposal:

The applicant has submitted the following applications:

- (1) A Variance to allow the area of an architectural free-standing sign to be increased from 200 square feet to 280 square feet.
- (2) A Conditional Use Permit to allow a 70 square foot (5' X 14') electronically changeable message board in the architectural free-standing sign.

Site History

In 2005, Boone County Fiscal Court approved a zone change from Mobile Home Park (MHP) and Suburban Residential One (SR-1) to Commercial Services (C-3) for a 7.5 acre area located on the west side of Frogtown Road Connector. The approved Concept Development Plan (see attachments) shows that a hotel and other C-3 principally permitted uses will develop on the site. The Conditions of approval prohibited several C-3 uses, including the sales of mobile home and other pre-fabricated buildings.

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 Variance 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.

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

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 not 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 the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 34, Section 3430 of the Boone County Zoning Regulations permits electronically changeable message boards as a Conditional Use in the Commercial Two (C-2) zoning district provided that the following requirements are met:

- a. Such message boards will be considered a part of a permitted sign, free-standing or building mounted; up to fifty percent (50)% of the permitted sign area can be used for an electronically changeable message board.
- b. All such message boards shall meet the minimum standards of the Kentucky Transportation Cabinet and any other controlling local, state, or federal agency.
- c. Electronically changeable message boards shall not be permitted at intervals of less than six-hundred sixty (660) feet, measured along the centerline of each interstate or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.
- d. Apparent motion of the visual message, caused by, but not limited to, the illusion of moving objects, moving patterns or boards of light, expanding contracting, or rotating shapes or other similar animation effects, shall be prohibited. Such restriction applies to "scrolling" or "running" messages.
- e. The message displayed on the board must be displayed for a minimum of five (5) second intervals. In no instance can a message, or part thereof, flash on the message board.

Relationship of the Request to the Comprehensive Plan

The 2005 Boone County Comprehensive Plan's "2030 Future Land Use Plan" designates the site in question for "Commercial" and "High Suburban Density Residential" uses. These designations are described as follows:

Commercial - "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

High Suburban Density Residential - "single-family and/or attached housing of up to 8 dwelling units per acre. This classification is typified by townhouse, condominium, and zero lot line development, and also pertains to existing mobile home parks."

The Future Land Use Development Guidelines (pages 140-142) found in the Land Use Element state that developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. 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. The objective is to avoid the confusion and/or distraction of motorists, and to avoid the potential negative impacts of signs on the visual appearance of a development or corridor" (Design, Signs, and Historic Preservation).

Surrounding Land Uses and Zoning

North: Future Commercial Lot (C-3)

South: Future Commercial Lot (C-3), and Richwood Villa Mobile Home Park (MHP)

East: Frogtown Road Connector, Interstate 71/75, Richwood Flea Market, Richwood Power Sports (C-2/PD)

West: Richwood Villa Mobile Home Park (MHP)

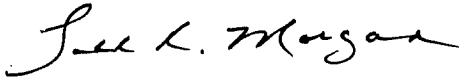
Staff Comments

1. Staff would like to point out that the 2005 zone change condition that prohibited mobile home or pre-fabricated building sales on the lot is not applicable because the proposed buildings will be stick built and are to be used as sales offices.
2. Staff is concerned about the Variance request because the architectural free-standing sign can be up to 200 square feet in area as a matter of right. Staff has not identified any hardships which warrant approval of the request. However, the Board did approve a similar request for Charleston Signature Homes in 2006. Charleston Signature Home's sign was approved at 26'-1.5" tall, 231 square feet in area, and with a 60 square foot electronic message board.
3. Staff recommends that the Board should analyze the "Design, Signs, and Historic Preservation" section of the Future Land Use Development Guidelines before making a decision on the Conditional Use Permit. This section calls out that motorists should not be confused and/or distracted by excessive signs. In addition, signs should not have a negative impact on the visual appearance of a corridor. The Board should consider the close proximity of the sign to Interstate 71/75 and Richwood Villa Mobile Home Park.
4. Section 3430 of the Boone County Zoning Regulations states that messages on an electronically changeable message board must be displayed for at least 5 seconds and cannot flash, scroll, or run. Staff would like the applicant to indicate that the proposed sign will meet this standard.
5. The Kentucky Transportation Cabinet will require an advertising device application to be submitted because the electronic sign will be visible from I-71/75.
6. The Concept Plan shows that the sign will be located in a sanitary sewer easement. Sanitation District No. 1 will need to sign off on this location at the time the sign permit is submitted for review.

Conclusion

K.R.S. 100.237 & 100.241 and Section 220 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the Conditional Use Permit and Variance requests.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

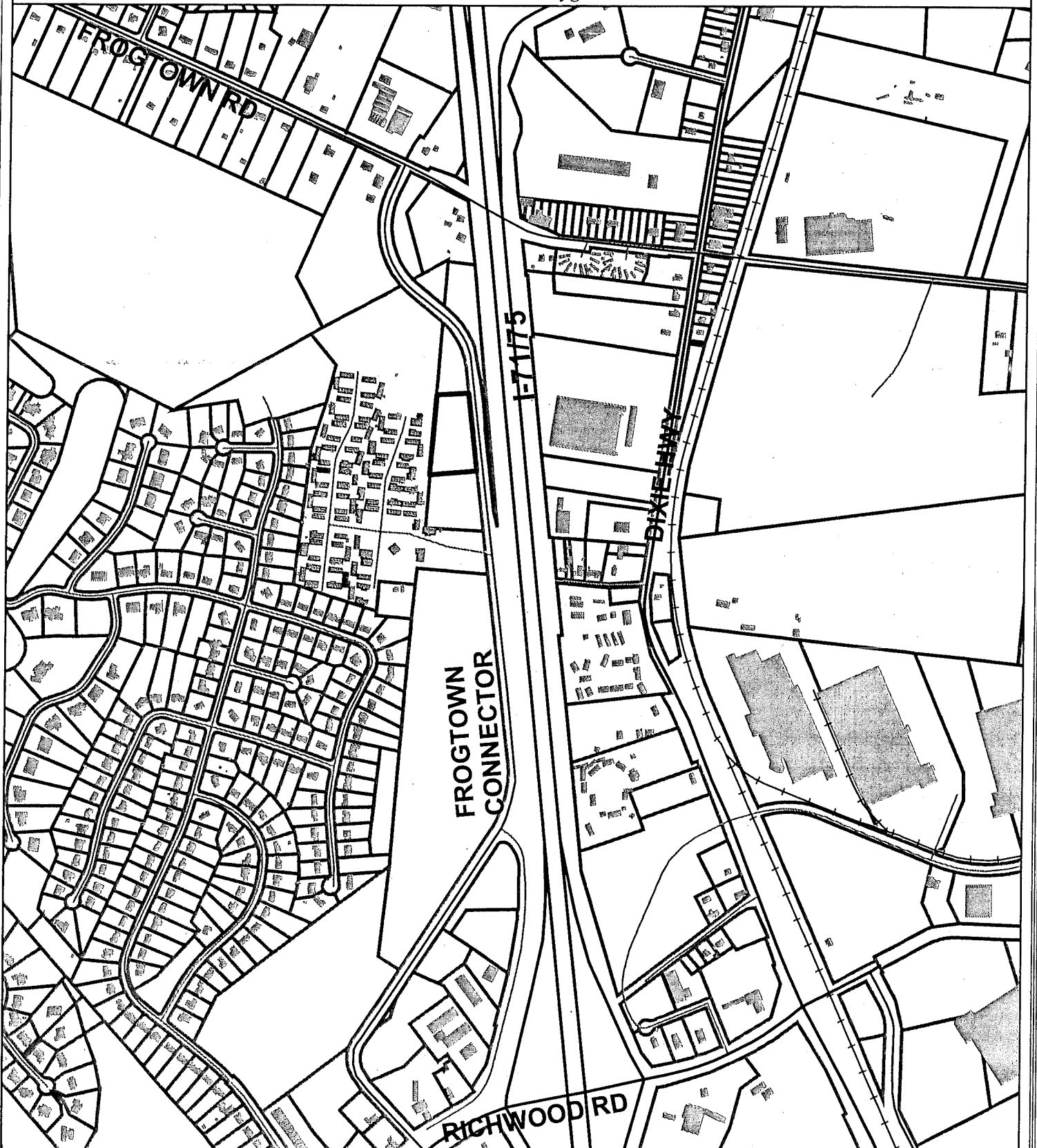
TKM/pr

Attachments

- *Site Vicinity Map
- *Concept Development Plan (Sign Location)
- *Concept Development Plan (Proposed Sign)
- *Aerial Map
- *Zoning Map
- *Future Land Use Map
- *Approved Electronic Message Boards
- *2005 Concept Development Plan
- *Application

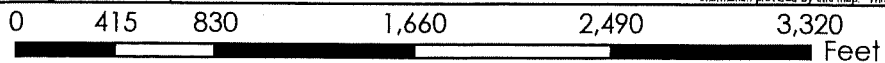
K HOVNANIAN HOMES

www.boonecountygis.com

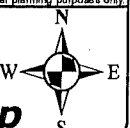


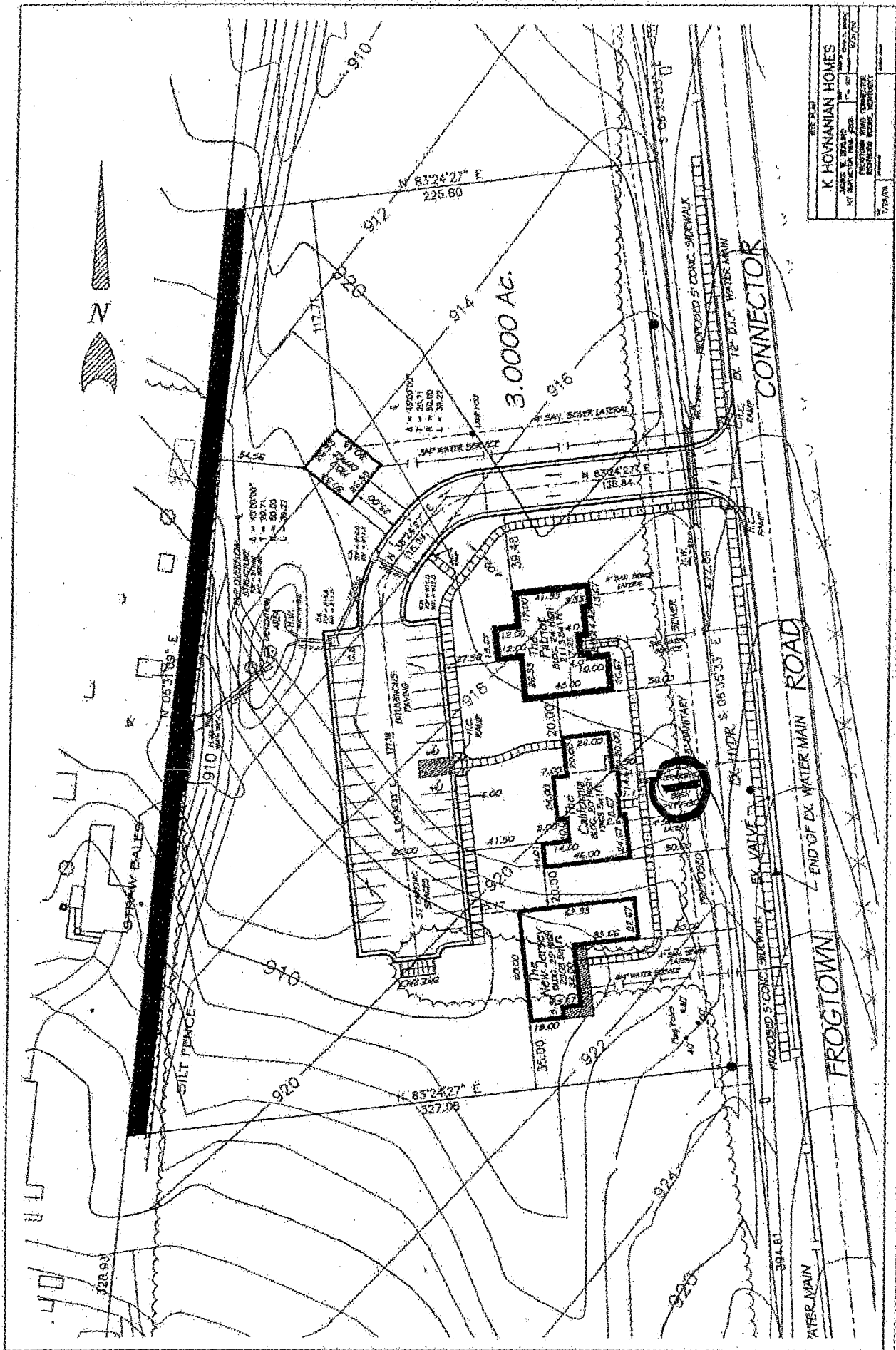
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Boone County GIS - Putting Northern Kentucky on the Map





K HOVANIAN HOMES	
JAMES S. HOVANIAN	10/1/2018
10' SURVEY FOR FULL 2008	10/1/2018
PROPOSED HOME CONNECTOR	10/1/2018
PROPOSED HOME CONNECTOR	10/1/2018
10/1/2018	10/1/2018

O = Sign location

Across from

Richwood, by Boone Co. Frogston Co.

INTERNALLY-ILLUMINATED
SIGN CABINETS w/ 2" RETAINERS
PAINTED BLACK

FLAT WHITE PLASTIC FACES
w/ PMS #343 VINYL GRAPHICS

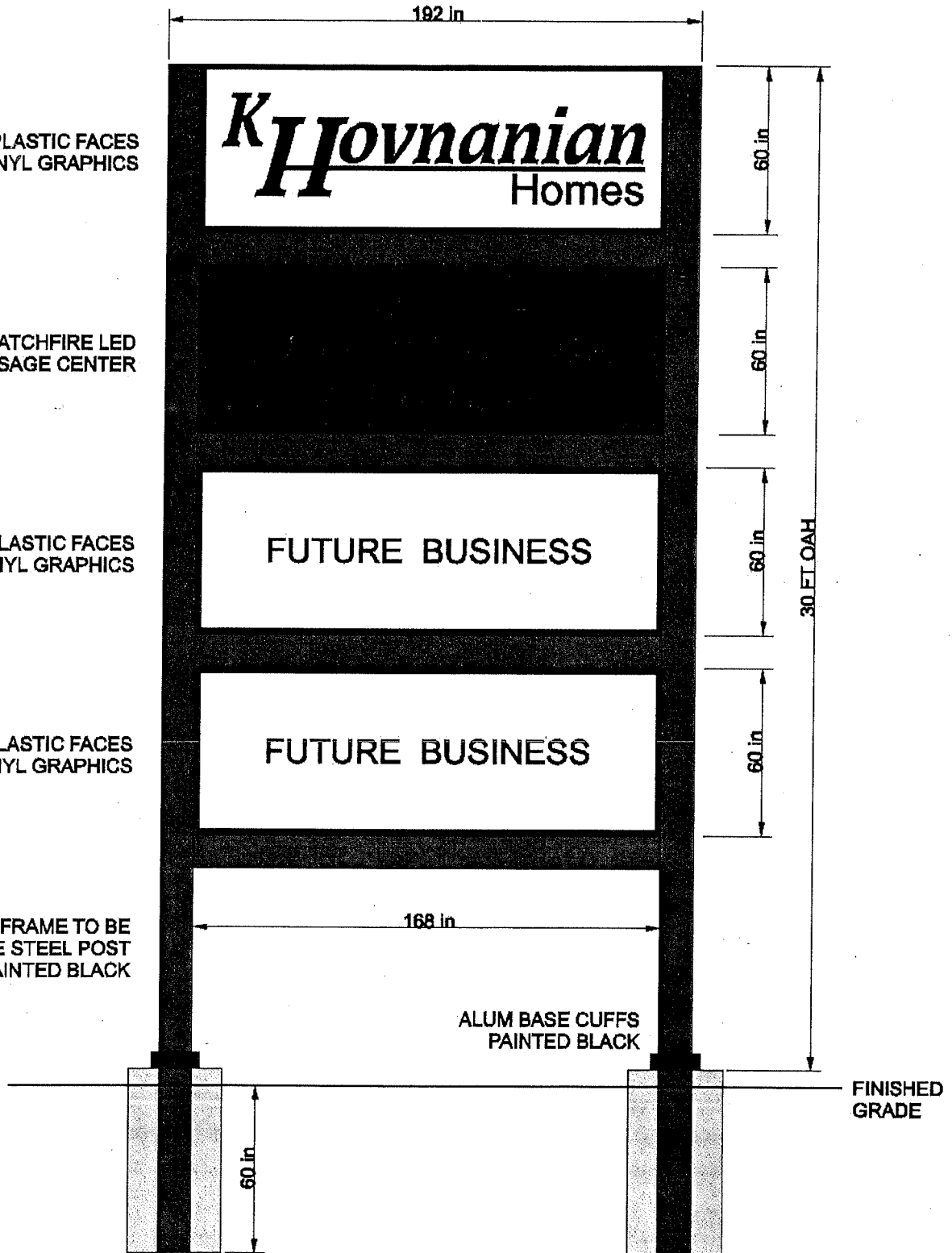
WATCHFIRE LED
MESSAGE CENTER

FLAT WHITE PLASTIC FACES
w/ PMS #343 VINYL GRAPHICS

FLAT WHITE PLASTIC FACES
w/ PMS #343 VINYL GRAPHICS

PYLON FRAME TO BE
12" SQUARE STEEL POST
PAINTED BLACK

ALUM BASE CUFFS
PAINTED BLACK



For: Hounanian Homes

Drawing# Hounanian pylon.FS

Date: 11-27-06

Location:

Designer: JG

Scale: nts

Customer Approval:

Price:

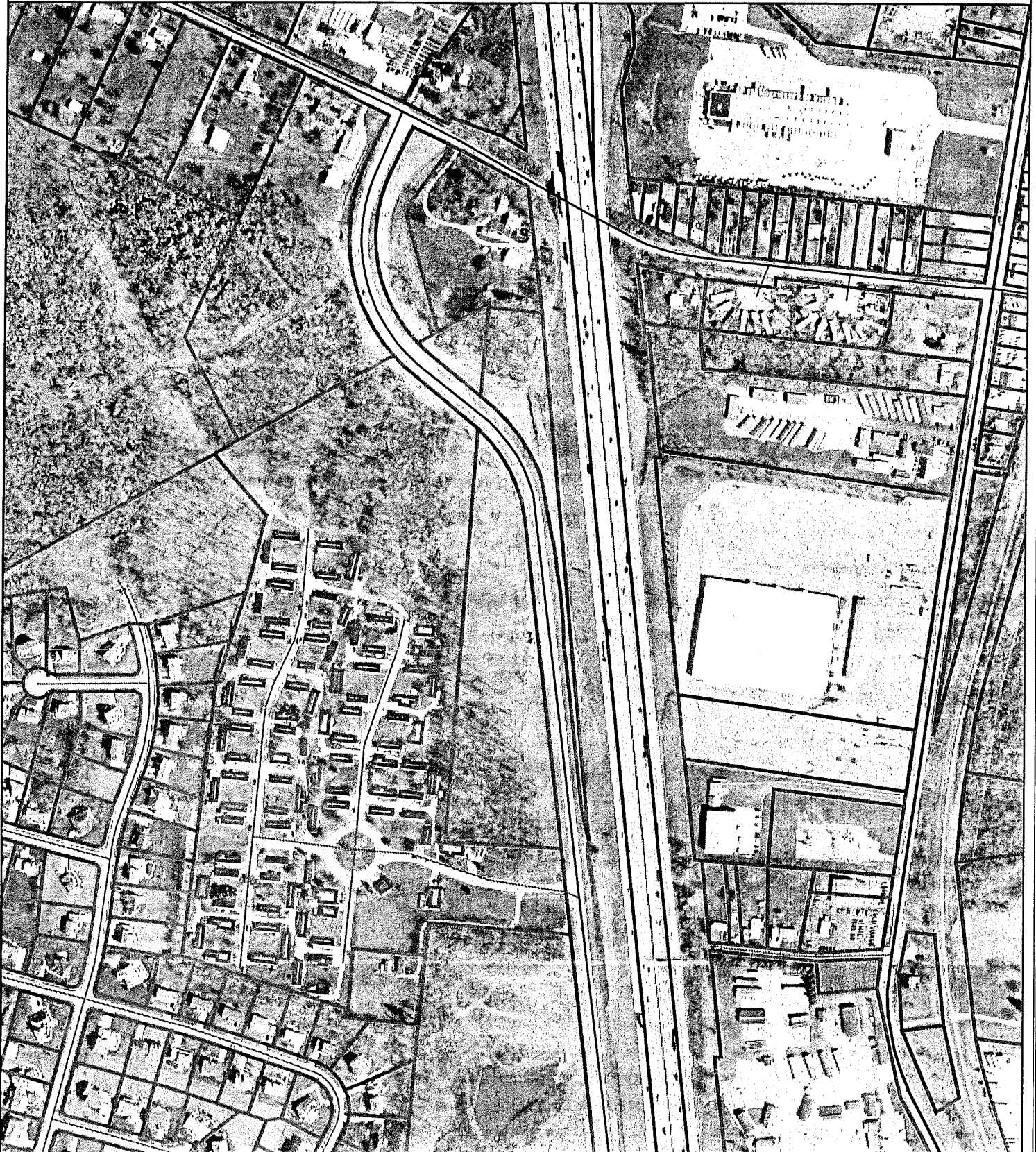
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537 N. Mayeville Rd. Mt. Sterling, KY 40358
859-498-6080

AERIAL MAP

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0 205 410 820 1,230 1,640 Feet

1 inch equals 400 feet

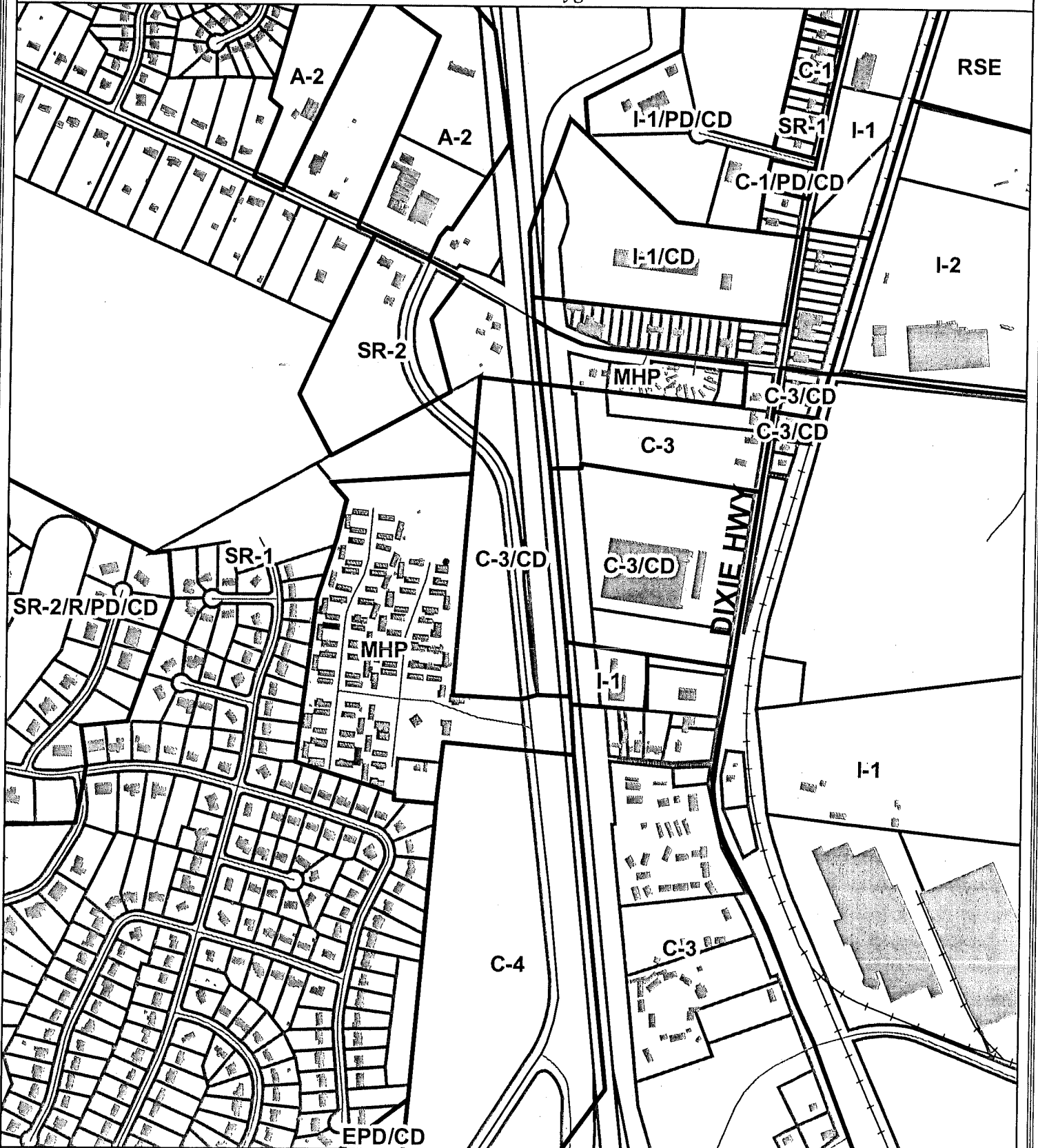


Boone County GIS - Putting Northern Kentucky on the Map



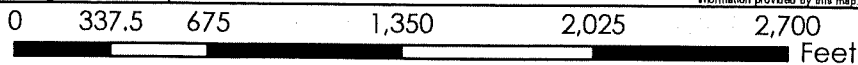
ZONING MAP

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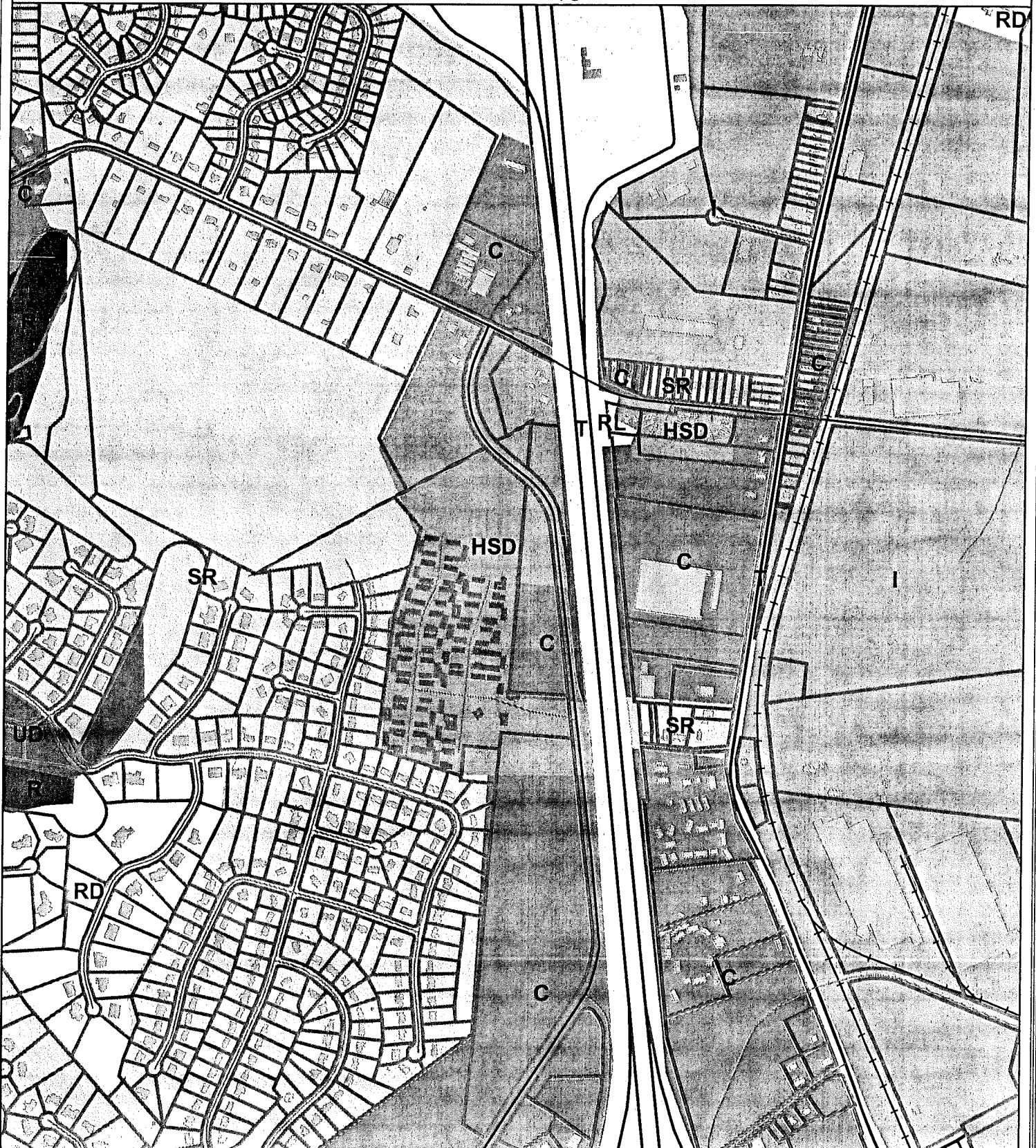


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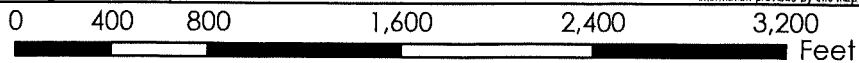
FUTURE LAND USE MAP

www.boonecountygis.com



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1 inch equals 795 feet

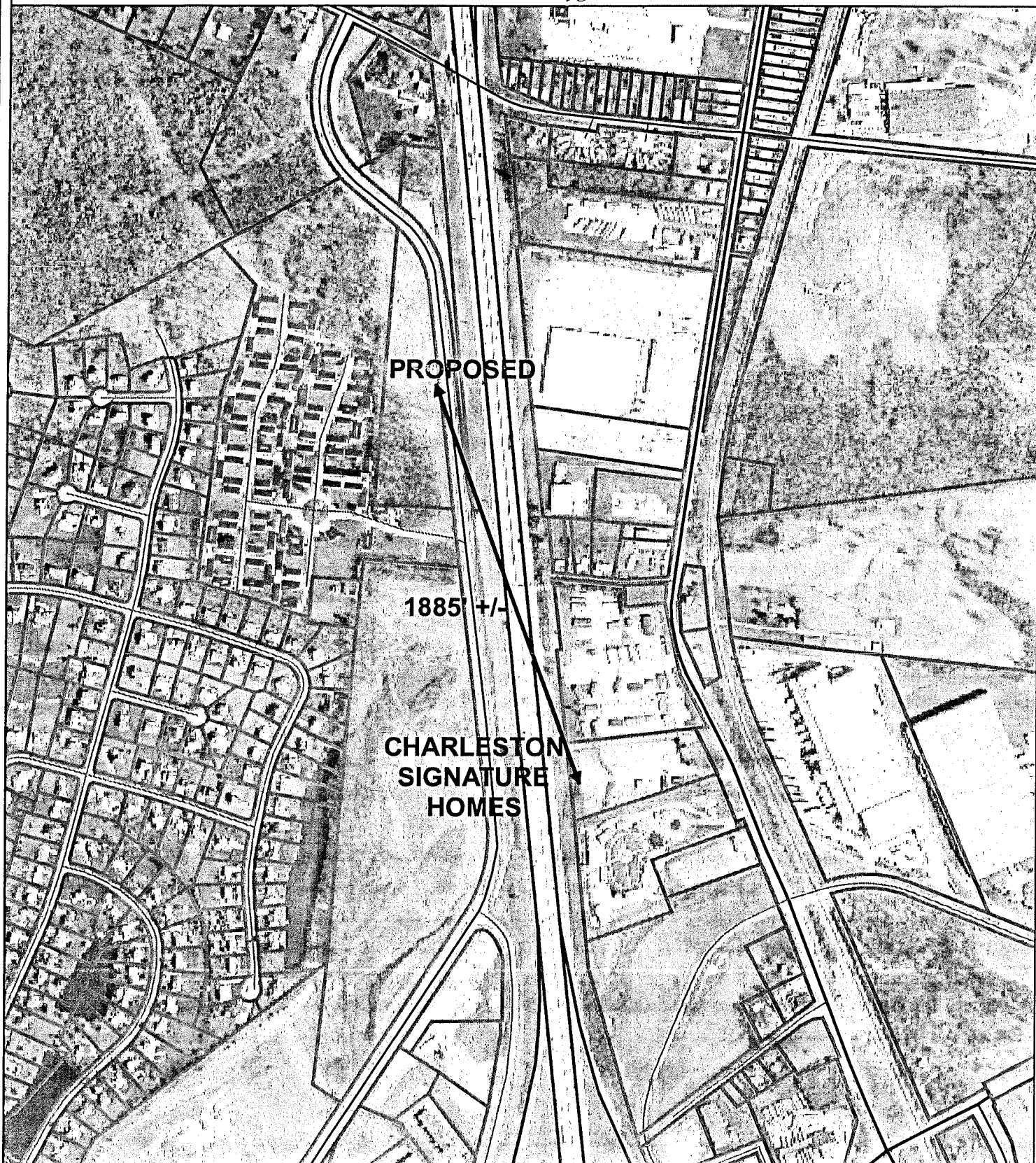


Boone County GIS - Putting Northern Kentucky on the Map



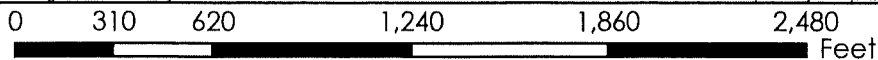
APPROVED ELECTRONIC MESSAGE BOARDS

www.boonecountygis.com



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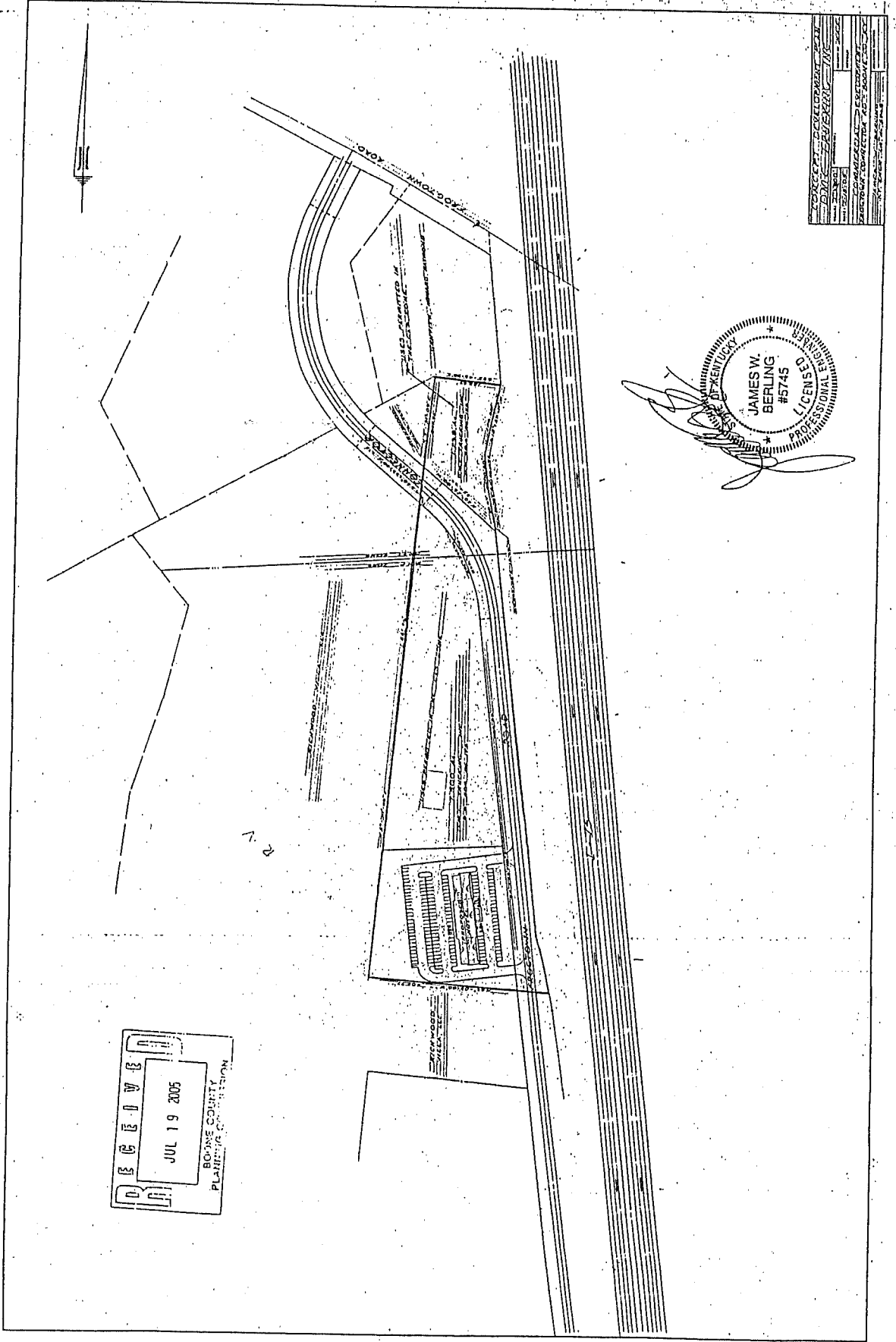
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1 inch equals 600 feet

Boone County GIS - Putting Northern Kentucky on the Map





PROJECT NO.	DATE
CLIENT	SCALE
DESIGNER	PROJECT LOCATION
CHECKER	PROJECT NO.
APPROVER	DATE

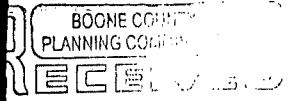
JAMES W. BERLING
 #5745
 PROFESSIONAL ENGINEER
 STATE OF KENTUCKY

2

RECEIVED
 JUL 19 2005
 BOONE COUNTY
 PLANNING COMMISSION

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)

FEB 20 2007
 MAD 0007

- (Check One)
 1. Boone _____ Florence _____ Walton _____ Union _____
 (Check One)
 2. Conditional Use Permit Variance _____ Appeal _____
 _____ Change in Non-Conforming Use _____
 3. Applicant's Name K. HOVNANIAN HOMES
 Phone Number 330-454-4048 Fax No. 330-580-2376
 Applicant's Address 2000 10th St. NE
CANTON OH 44705
 City State Zip
 4. Description of Request: Requesting use of single color LED electronic
message center panel to display floor plans & house models
 5. Name of Development K HOVNANIAN HOMES
 6. Location of Development Frogtown Rd.
WALTON, Ky
 7. Acreage Under Review IDENTIFICATION Pylon Sign
 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
 9. Owner of Property DMC HOLDINGS / Richard Christ
 Phone Number of Owner 371-0700
 10. Address of Property Owner 8800 BANKERS ST Florence Ky. 41042
 City State Zip
 11. Proposed Use(s) on Site ADVERTISING SIGN / Shopping Center Sign
 12. Total Square Footage of Existing and/or Proposed Buildings 9,000 # total
 13. Current Zoning on Property Commercial (C-3/CD)
 14. Deed Book 504 Page No. 175 Group No. _____
 15. Is the site subject to a zone change? NO
 If yes, give date of approval N/A
 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: Patrick K. Kivell, Imaginix LLC

Property Owner's Signature: Debra Winkler, Vice President
DMC Holdings

(over)

COPY

CLUR #07-BCBOA-003-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
DMC Holdings / Richard Crist
8800 Bankers Street
Florence, KY 41042

2. ADDRESS OF PROPERTY
Frogtown Road
Walton, KY 41094
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
K. Hovnanian Homes

4. DEED BOOK 504 PAGE NO. 175 GROUP NO. 2064

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
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005



SIGNATURE OF COMPLETING OFFICIAL

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

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance and Conditional Use Permit approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of March 14, 2007 Certificate of Land Use Restriction (#07-BCBOA-003-A), for DMC Holdings / Richard Crist, Property Owner(s).

The following conditions will apply:

- 1) Pictures can be displayed on the message board.
- 2) Multiple colors are permissible.

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

DEED BOOK 504

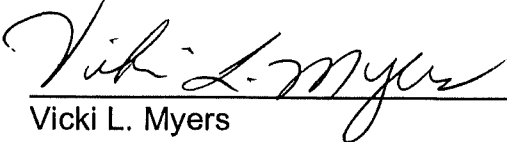
PAGE NO. 175

GROUP NO. 2064

COMMONWEALTH OF KENTUCKY

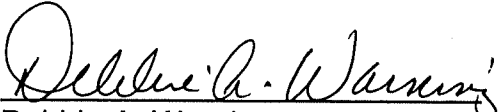
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd Morgan on behalf of the
Boone County Planning Commission this 27 day of March, 2007.


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
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005

NO TITLE EXAMINATION

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