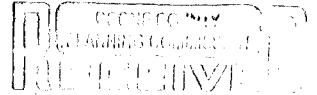


APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



JUN 15 2007

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

(Check One)

1. [X] Boone [ ] Florence [ ] Walton [ ] Union

(Check One)

2. [X] Conditional Use Permit [ ] Variance [ ] Appeal [ ] Change in Non-Conforming Use

3. Applicant's Name Wm. MICHAEL HARGIS / PAUL HEMMER DEV III

Phone Number 859-341-8300 EXT 1000 Fax No. 859-341-6817

Applicant's Address 250 GRANDVIEW DR.

Ft. MITCHELL KY 41017 City State Zip

4. Description of Request: CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A GAS STATION ON THE CORNER OF WRIGHT BLDG # 237

5. Name of Development AIRPARK WEST

6. Location of Development S.R. 237 HERRON KY

7. Acreage Under Review 1.5A ± OF

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

9. Owner of Property PAUL HEMMER DEV. III

Phone Number of Owner 859-341-8300

10. Address of Property Owner 250 GRANDVIEW KY Ft. MITCHELL, KY 41017

City State Zip

11. Proposed Use(s) on Site GAS STATION AND CONFERENCE STONE (5 ISLANDS) (3900 SF)

12. Total Square Footage of Existing and/or Proposed Buildings 3240 SF / 3900 SF

13. Current Zoning on Property I-2/CD

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: Mike Hargis

Property Owner's Signature: Mike Hargis / Paul Hemmer Dev. Co III

**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 6-15-07 Fee Received \$921.00 RA#53805  
2. Is application complete? Yes Yes          No           
3. Staff Reviewer T. Morgan / Scott Buckhout  
4. Scheduled Board Action Date 7/11/07  
5. Board Action:

         **Approved**  
✓ **Approved with Conditions** (See #6)  
         **Denial** (See #7)

6. Conditions of Approval:  
(1) East (K423) building elevation shall have windows as submitted at 7/11/07 meeting  
(2) Applicant shall retain existing vegetation near the intersection  
7. Reasons for Denial: 104 237 Wright Blvd as much as possible during construction and implement the material removal from the site with new landscaping.

**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](http://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.

## STAFF REPORT

APPLICANT: Michael Hargis (Paul Hemmer Dev. III)  
LOCATION: Northwest Corner of KY 237/Wright Blvd. Intersection, Boone County, KY  
ZONING: Industrial One (I-1)  
DATE: July 11, 2007

### PROPOSAL

The Applicant is requesting a Conditional Use Permit so they can construct a gasoline filling station with a permitted convenience store. The submitted Concept Plan shows a 3,936 square foot convenience store, 10 gasoline pumps, 1 kerosene pump, 23 parking spaces, and a shared access point on Wright Blvd. The plan shows that the 1.5 acre site will be subdivided from an approximate 8.68 acre parcel.

### 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 uses permits as specified by the zoning order.

Article 11, Section 1133 of the Boone County Zoning Regulations permits "gasoline filling stations and wash services" as a Conditional Use within the Industrial One (I-1) district.

Article 32, Section 3222 of the Boone County Zoning Regulations states that "access points on opposite sides of the arterial and collector roadways shall be located opposite each other."

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 (Findings for all Conditional Uses):

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 "gasoline stations and wash services" as Conditional Uses in the Industrial One (I-1) district provided that:

- 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;
- 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 Plan" designates the site in question for "Industrial" uses. This designation is defined as "manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses."

The following Goal from the 2005 Boone County Comprehensive Plan applies to the application:

- A. "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas" (Business Activity, Goal).

B. "Compact, efficient development patterns shall be encouraged for business districts (e.g. industrial, commercial and office) with appropriately sized and well maintained buffer spaces between the business use and other land usage." (Business Activity, Objective)

### SURROUNDING LAND USES & ZONING

- North: Hebron Animal Hospital, KY 237 (I-1)
- South: Toyota Headquarters, Wright Blvd. (I-1)
- East: Kentucky Diagnostic Center, KY 237 (I-1)
- West: Tenryu Headquarters, Hargrave Dr. (I-1)

### SITE CHARACTERISTICS

The 1.5 acre area is located at the intersection of KY 237 (North Bend Rd.) and Wright Blvd. and is zoned Industrial One (I-1). The property falls from 880 feet above sea level along KY-237 to approximately 870 feet above sea level near the proposed rear property line. In order to comply with a zone change condition, Hemmer Development Inc. installed berms and significant landscaping along the edge of the property. Water and sanitary sewer mains exist along KY-237 and Wright Blvd.

### STAFF COMMENTS

1. In order to construct the convenience store and gas station, the Applicant might remove some of the berms and landscaping along KY-237. During site plan review, the Applicant will need to submit a detailed plan with their berm and landscaping design.
2. The "right elevation" drawing shows a blank brick wall on the side of the convenience store facing KY-237. Staff is concerned that a blank wall might create an unattractive visual for drivers along KY-237. Staff recommends windows on both sides of the convenience store. Staff asked Applicant to provide revised elevation drawings at the Board of Adjustment meeting to address this issue.
3. The Applicant has informed Staff that the convenience store will not have a restaurant or inside seating.
4. Staff would like the Applicant to confirm that the site's proposed access point aligns with Toyota's access point across the street on Wright Blvd., as required in Article 32, Section 3222 of the Boone County Zoning Regulations.

5. The Applicant needs to explain the purpose of the rectangular brick wall on the "rear elevation" drawing.

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.

Respectfully submitted,

Todd K. Morgan, AICP  
Senior Planner, Zoning Services

Scott Buckhout  
Intern

TKM/pr

Attachments

Site Vicinity Map  
Proposed Concept Plan  
Proposed Elevation Drawings  
1998 Concept Plan  
1998 Committee Report  
1999 Letter to Kevin Wall  
Aerial Map  
Zoning Map  
Future Land Use Map  
Topographical Map  
Application

COPY

CLUR #07-BCBOA-010-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Paul Hemmer Development, III  
250 Grandview Drive  
Ft. Mitchell, KY 41017

2. ADDRESS OF PROPERTY

KY 237 & Wright Blvd.  
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:  
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

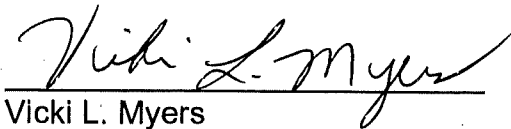
*Todd K. Morgan*  
SIGNATURE OF COMPLETING OFFICIAL

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 17 day of July, 2007.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2011

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.)

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 July 11, 2007 Certificate of Land Use Restriction (#07-BCBOA-010-A), for Paul Hemmer Development III, Property Owner(s).

The following conditions will apply:

- 1) As part of the site plan review, the applicant is required to submit a detailed plan of the berm and landscaping design.
- 2) Windows are to be located on the side of the building which faces KY 237, (see drawing presented at the 7/11/07 meeting).

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

DEED BOOK 772 PAGE NO. 668 GROUP NO. 2007