

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

AUG 21 2008

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 _____ Appeal _____
[X] Change in Non-Conforming Use
3. Applicant's Name Albert Baumgartner
Phone Number (859) 485-4745 Fax No. (859) 485-1575
Applicant's Address 13779 Walton Verona Road
Verona Kentucky 41092
City State Zip
4. Description of Request: Building Addition See Attached
5. Name of Development A.L. Baumgartner Construction, Inc.
6. Location of Development 13779 Walton Verona Road
Verona, Kentucky 41092
7. Acreage Under Review 96.54
8. Lot Number and Name of Subdivision (if part of a subdivision)
N/A
9. Owner of Property Albert Baumgartner
Address of Property Owner 13779 Walton Verona Road Phone No. (859) 485-4745
10. Verona Kentucky 41092
City State Zip
11. Proposed Use(s) on Site Metal Building Fabrication
12. Total Square Footage of Existing and/or Proposed Buildings 22425 Existing / 8500 Proposed
13. Current Zoning on Property RS & A2
14. Deed Book 773 Page No. 509 Group No. 2077B
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 See Attached
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: Albert Baumgartner

Property Owner's Signature: Albert Baumgartner

**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 8-21-07 Fee Received \$471⁰⁰ RA-54431
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 9/12/07 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: SEE 9/12/07 B.C.B.O.A.
MEETING MINUTES + CLR
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: Albert Baumgartner

LOCATION: 13779 Walton Verona Road, Boone County, Kentucky

ZONING: Rural Suburban (RS) & Agricultural Estate (A-2)

DATE: September 12, 2007

PROPOSAL

The applicant is requesting a Change in Non-Conforming Use so he can construct an 8,500 square foot addition onto the southwest facade of a metal fabrication shop. The existing metal fabrication shop is part of A. L. Baumgartner Construction business, which manufactures pre-engineered metal buildings. The addition will house a spray booth and farm equipment. The applicant's letter (see attachments) indicates that they are currently spraying metal beams with red oxide primer outside and would like to move this part of their operation under roof. The subject property is located at 13779 Walton Verona Road and is zoned Rural Suburban (RS) and Agricultural Estate (A-2).

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 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 non-conforming was adopted, nor shall the board permit a change from one (1) non-conforming use to another unless the new non-conforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain non-conforming use status, for enlargements or extensions, made or to be made, of the facilities of a non-conforming 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 non-conforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Article 2, Section 276 of the Boone County Zoning Regulations states that repairs and maintenance may be made on any non-conforming structure or portion of a structure containing a non-conforming use. Such work may include ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sections 621, 623, 921, and 923 of the Boone County Zoning Regulations do not list "fabrication of metal products" as principally permitted uses or conditional uses in the Agricultural Estate (A-2) or Rural Suburban (RS) zones.

SITE CHARACTERISTICS

The site fronts on Walton Verona Road and is approximately 97 acres in area. The parcel has one curb cut which provides access to two single-family residences, a tobacco barn, a farm machine shed, a metal fabrication shop, a maintenance shop, and a shop/office. The three buildings used in the business are not visible from Walton Verona Road due to the tree line along the right-of-way and changes in grade (see attached Topographical Map). The existing metal fabrication shop is setback approximately 350' from Walton Verona Road.

SURROUNDING LAND USES & ZONING

- North: 192 Acre Farm Fronting on Stephenson Mill Road (A-2) and 40 Acre Farm Fronting on Oak Creek Road (A-2)
- South: Walton Verona Road, Vest Lane, Single-Family Dwellings (RS & A-2)
- East: Single-Family Residence (RS) and Oak Creek Campground (R)
- West: 65 Acre Tract (RS & A-2)

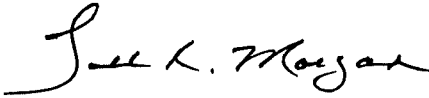
STAFF COMMENTS

1. The business is a non-conforming use because the property is zoned Agricultural Estate (A-2) and Rural Suburban (RS). Businesses which fabricate metal products are not principally permitted uses or conditional uses in these zoning districts.
2. The change in non-conforming use application can be viewed in the following fashions:
 - a. The proposed addition will enlarge the existing non-conforming use in terms of gross square footage, or
 - b. The proposed addition will not enlarge the scope of the non-conformity. The proposed addition will be no more objectionable than what already exists on site.
3. Staff would like to know when the business began to operate on the site.
4. Staff believes that the Change in Non-Conforming Use will be no more objectionable than what already exists on site. The buildings used in the business are not visible from Walton Verona Road and approval of the request will put an outdoor painting operation under roof.

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
Senior Planner, Zoning Services

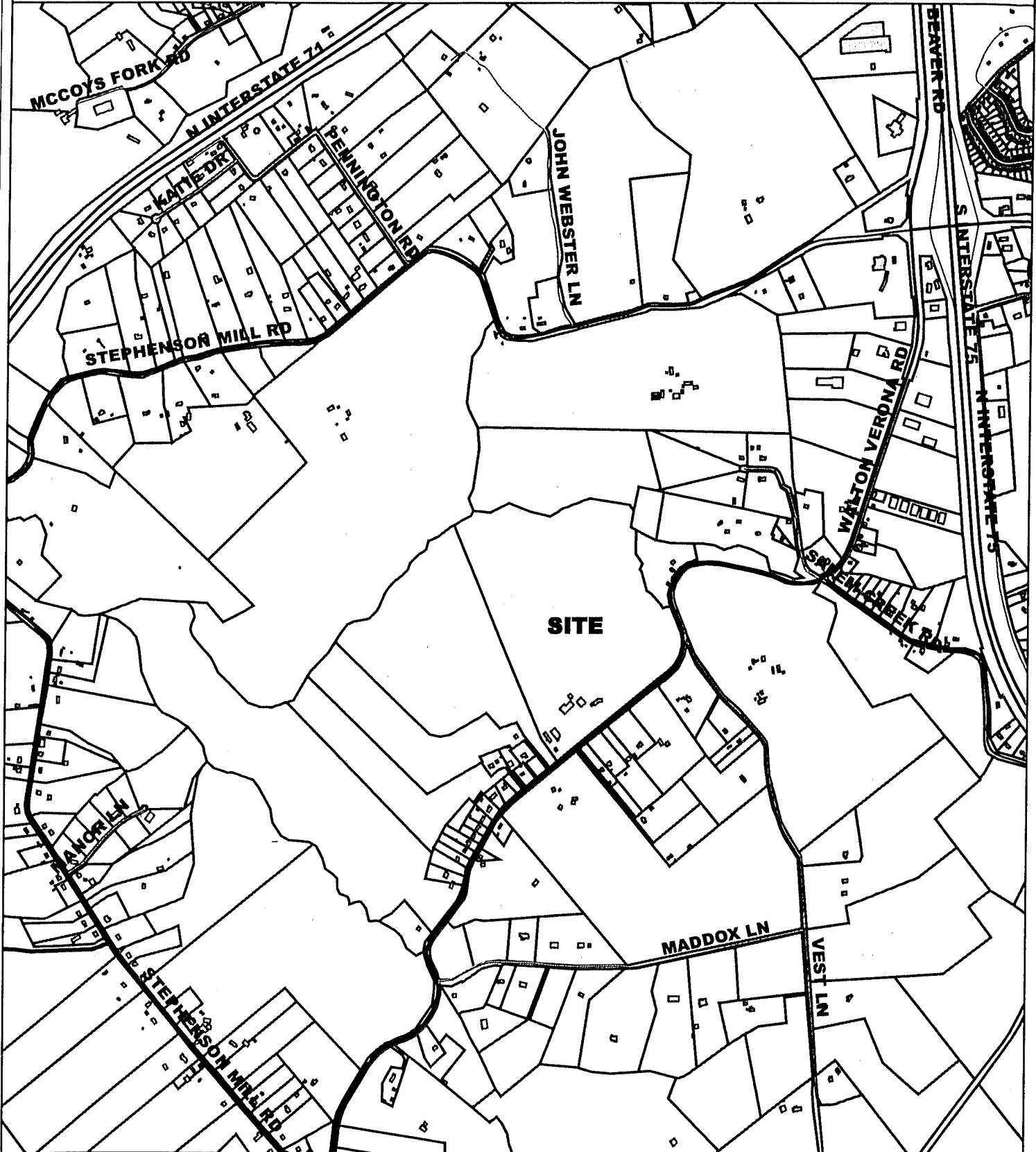
TKM/dw

Attachments

- *Site Vicinity Map
- *Letter From Applicant
- *Concept Plan (Overall Site)
- *Concept Plan
- *Aerial Map
- *Zoning Map
- *Topographical Map
- *Application

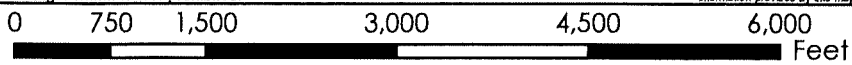
SITE VICINITY MAP

www.boonecountygis.com



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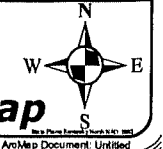


1 inch equals 1,500 feet



Boone County GIS - Putting Northern Kentucky on the Map

Map Created at 16:25:07 on 06/05/2007



Map Document: Untitled

We are a pre-existing non-conforming metal building fabrication shop which is located at 13779 Walton Verona Road, Verona, KY 41092. We manufacture pre-engineered metal buildings.

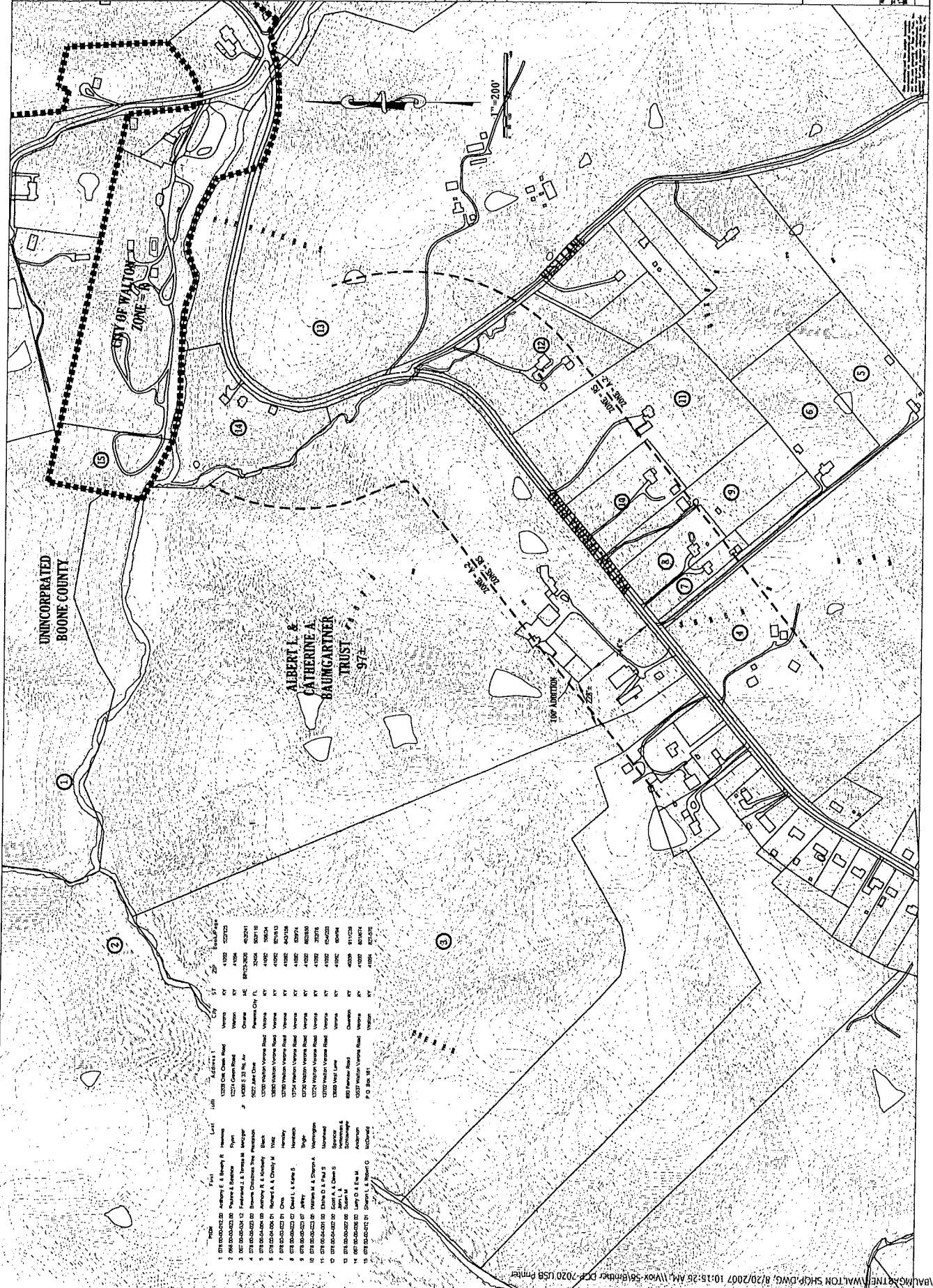
We are requesting a building addition of 8500 square foot to our existing metal fabrication shop. The addition will house a paint spray booth and farm equipment. We currently are spray painting red oxide primer outside. Some of the beams we fabricate are up to 65 feet long. We are not expanding our business but moving our existing spray painting operation under roof. This is better for our employees and the environment. The EPA has requested that we move our operations inside. The red oxide primer we use is considered non hazardous and contains no heavy metals. Our existing metal fabrication shop is not visible from Walton Verona Road and the addition will not be visible from Walton Verona Road.

NOTES:
 DWG: ALBERT L. & CATHERINE A. BAUMGARTNER
 13725 WALTON-VERNON ROAD,
 BOONE COUNTY, KENTUCKY 41002
 85-773 44-588
 P.L. ADAMS

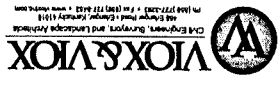
W
VOX & VOX
 Civil Engineers, Surveyors, and Landscape Architects
 1400 Empire Blvd., Evansville, Indiana 47618
 Tel: (812) 427-2200 • Fax: (812) 427-4442 • www.voxandvox.com

BAUMGARTNER PROPERTY
BOONE COUNTY, KENTUCKY
PLOT PLAN-BUILDING ADDITION

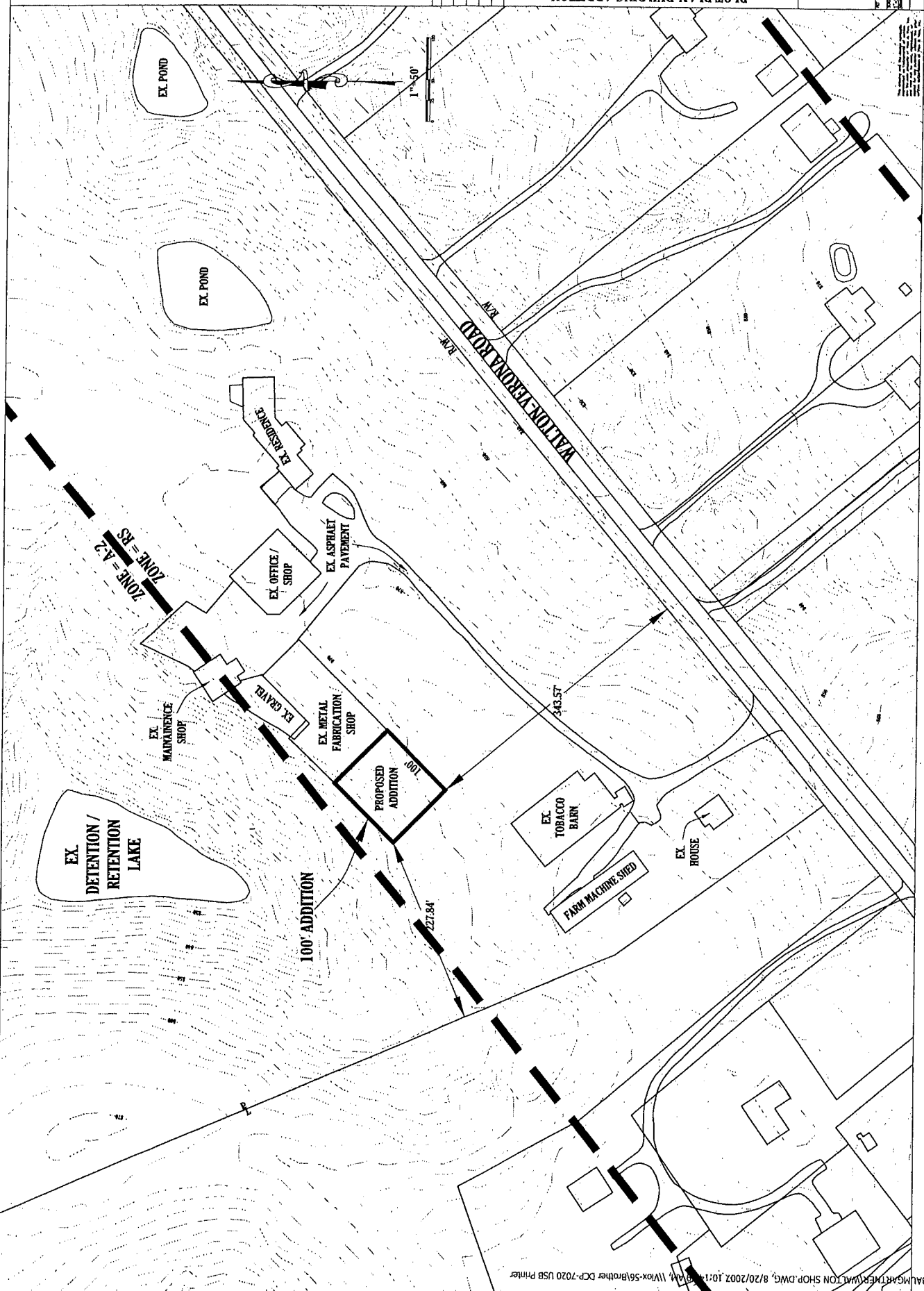
PAGE 1



Parcel	File #	Last	Address	City	State	APN
1	078-00-00-0210	Anthony E. & Beverly E. Ryan	13200 Oak Creek Road	Verona	VA	41004 020720
2	096-00-00-0210	Pauline E. Blinn	13271 Green Road	Verona	VA	41004 020720
3	087-00-00-0310	Federick J. & Terrie M. Metzger	14028 S. 231 N.W. Av	Chamblee	GA	89723-2626 0327011
4	078-00-00-0210	Brianne Christine Price	10222 Lake Drive	Panama City	FL	32044 0327116
5	078-00-00-0210	Anthony R. & Scherrly M. Black	13820 Madison Vernon Road	Verona	VA	41002 0308204
6	078-00-00-0210	David A. & Cheryl S. Hise	13820 Madison Vernon Road	Verona	VA	41002 0310113
7	078-00-00-0210	David L. & Karen S. Hise	13820 Madison Vernon Road	Verona	VA	41002 0412108
8	078-00-00-0210	JERRY	13271 Madison Vernon Road	Verona	VA	41002 0307174
9	078-00-00-0210	William M. & Charon A. Worthington	13271 Madison Vernon Road	Verona	VA	41002 0202000
10	078-00-00-0210	Elaine D. & Paul S. Worthington	13271 Madison Vernon Road	Verona	VA	41002 0202000
11	078-00-00-0210	Scott A. & Dawn S. Worthington	13271 Madison Vernon Road	Verona	VA	41002 0202000
12	078-00-00-0210	Scott A. & Dawn S. Worthington	13271 Madison Vernon Road	Verona	VA	41002 0202000
13	078-00-00-0210	Larry D. & E. Kim M. Worthington	13271 Madison Vernon Road	Verona	VA	41002 0202000
14	078-00-00-0210	Sharon L. & Scott G. Worthington	P.O. Box 191	Verona	VA	41004 0021200

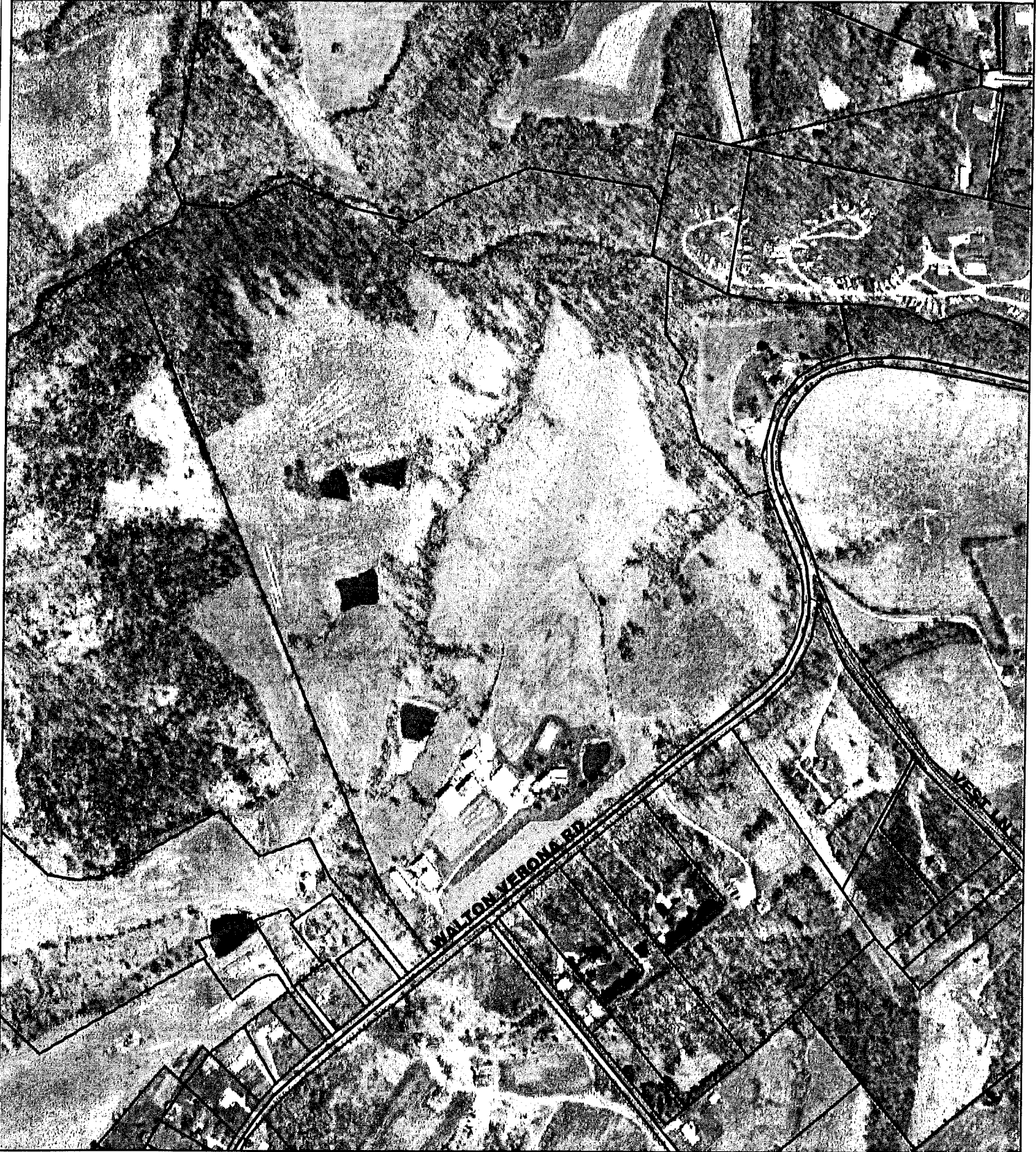


VIOX & VIOX
 BOONE COUNTY, KENTUCKY
 BAUMGARTNER PROPERTY
 PLOT PLAN-BUILDING ADDITION



AERIAL MAP

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0 255 510 1,020 1,530 2,040 Feet

1 inch equals 500 feet



Boone County GIS - Putting Northern Kentucky on the Map

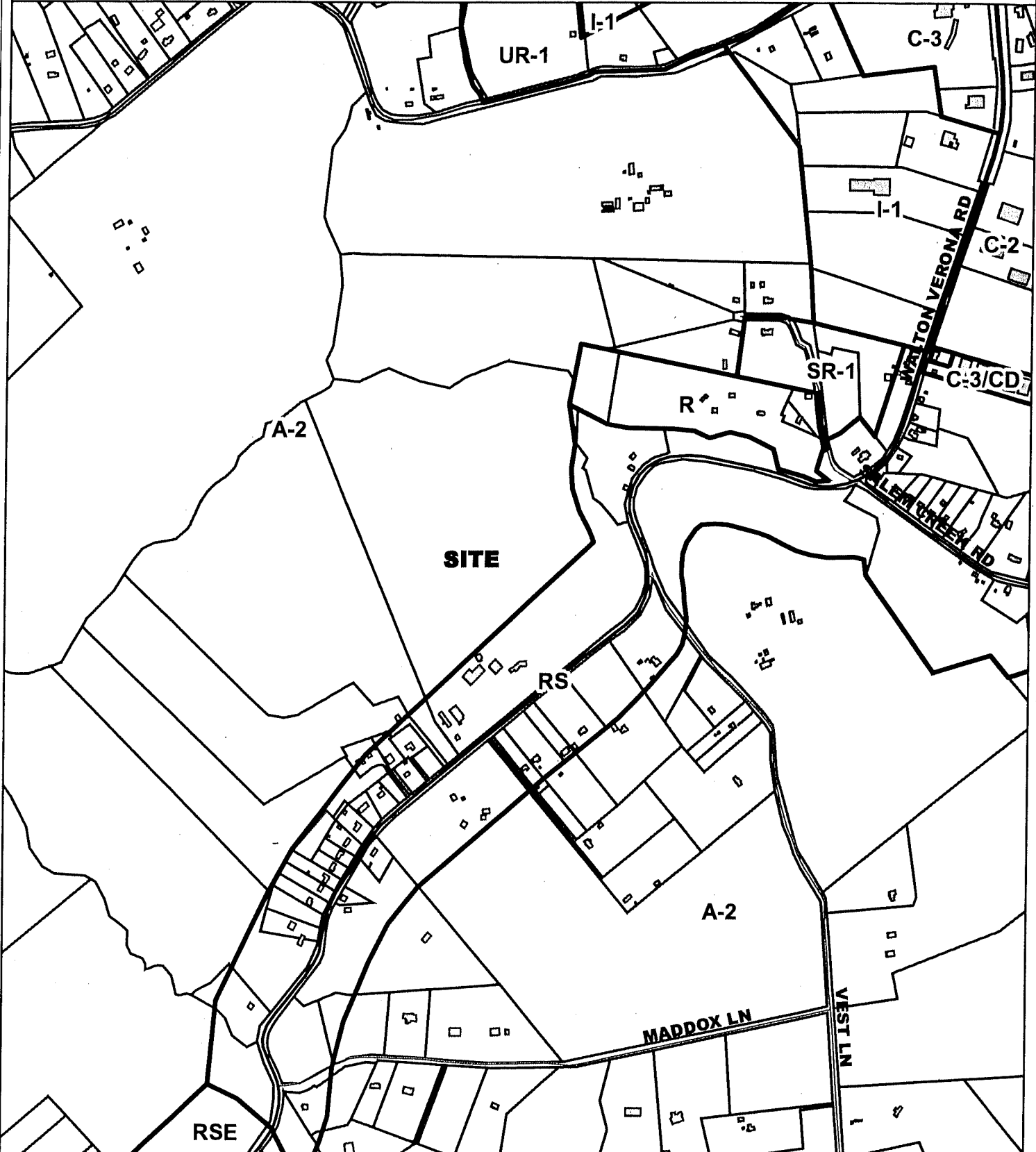


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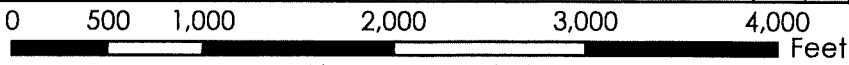
ZONING MAP

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1 Inch equals 1,000 feet



Boone County GIS - Putting Northern Kentucky on the Map

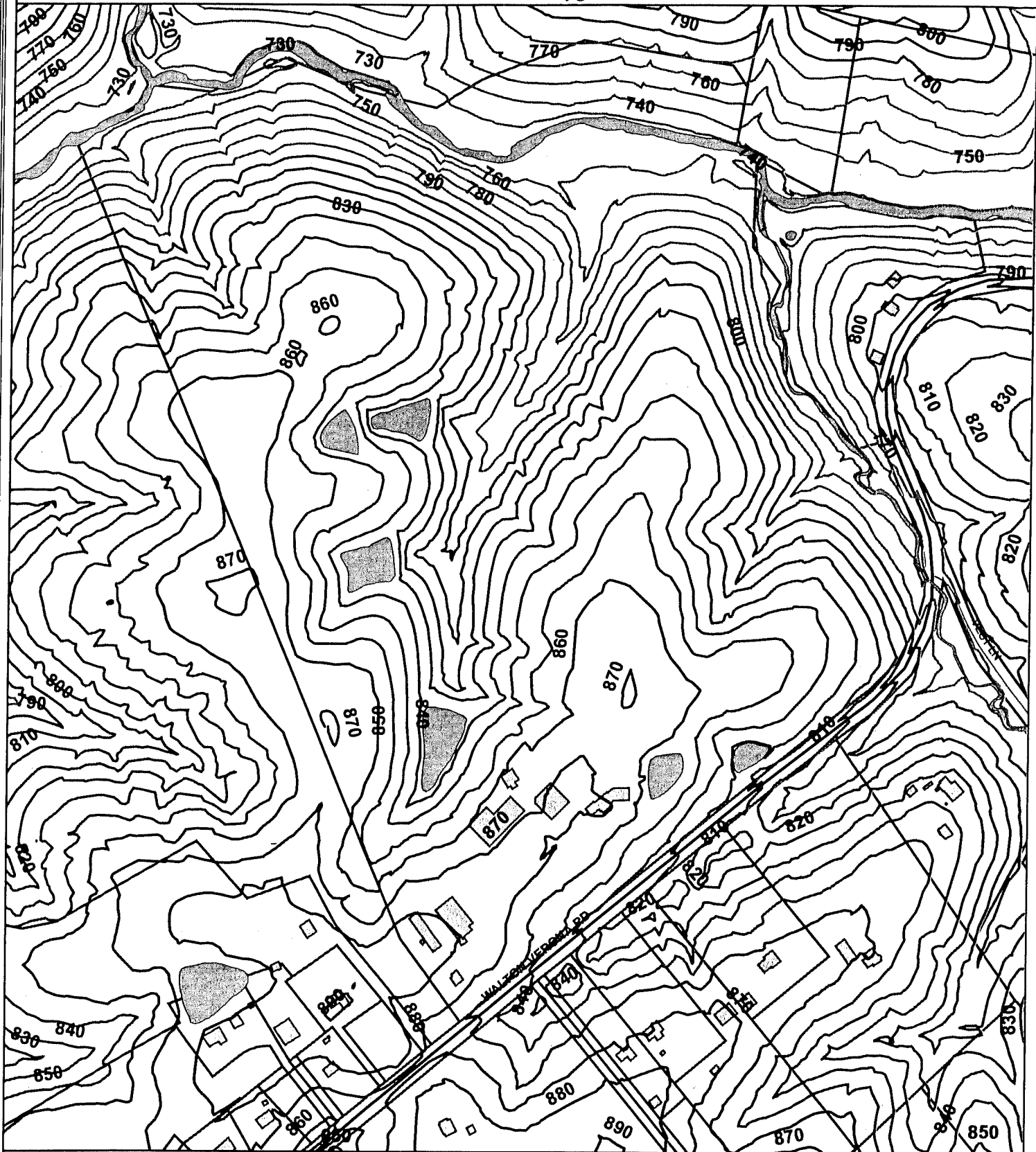


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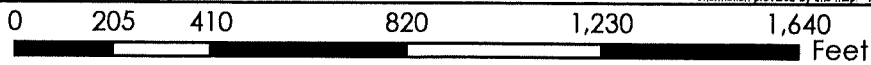
Topographical Map

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Boone County GIS - Putting Northern Kentucky on the Map



APPLICATION FORM

**BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION**

AUG 21 2007
SEP

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 Albert Baumgartner
Phone Number (859) 485-4745 Fax No. (859) 485-1575
Applicant's Address 13779 Walton Verona Road
Verona Kentucky 41092
City State Zip

4. Description of Request: Building Addition See Attached

5. Name of Development A.L. Baumgartner Construction, Inc.

6. Location of Development 13779 Walton Verona Road
Verona, Kentucky 41092

7. Acreage Under Review 96.54

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

9. Owner of Property Albert Baumgartner

10. Address of Property Owner 13779 Walton Verona Road Phone No. (859) 485-4745
Verona Kentucky 41092
City State Zip

11. Proposed Use(s) on Site Metal Building Fabrication

12. Total Square Footage of Existing and/or Proposed Buildings 22425 Existing / 8500 Proposed

13. Current Zoning on Property RS & A2

14. Deed Book D773 Page No. 509 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 See Attached

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: Albert Baumgartner

Property Owner's Signature: Albert Baumgartner

COPY

CLUR #07-BCBOA-011-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Albert Baumgartner
13779 Walton Verona Road
Verona, KY 41092

2. ADDRESS OF PROPERTY

13779 Walton Verona Road
Verona, KY 41092

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

A.L. Baumgartner Construction, Inc.

4. DEED BOOK 773

PAGE NO. 509

GROUP NO. 2077B

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

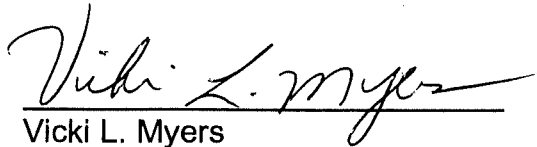
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

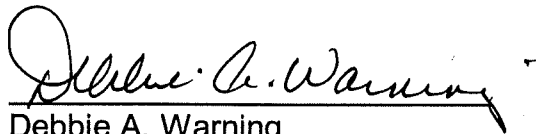
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 19 day of September, 2007.



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 Change in Non-Conforming Use approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of September 12, 2007 Certificate of Land Use Restriction (#07-BCBOA-011-A), for Albert Baumgartner, Property Owner(s).

The following conditions will apply:

- 1) All painting is to be done indoors; no painting is to be done outside.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 773 PAGE NO. 509 GROUP NO. 2077B