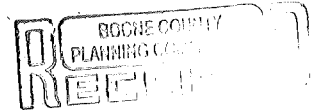


**BOARD OF ADJUSTMENT  
AND  
ZONING APPEALS ACTION  
BOONE COUNTY PLANNING COMMISSION**



JUL 17 2007

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 Riegler Engineering, LLC  
Phone Number 859 371-5500 Fax No. 859 371-5710  
Applicant's Address 19 Lendale Drive, Suite B  
Florence KY 41017  
City State Zip

4. Description of Request: see attached Exhibit "A"

5. Name of Development Anchor Storage

6. Location of Development U.S. 25 between Mickelson Drive and Weber Lane in unincorporated Boone County

7. Acreage Under Review 18.59 acres

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

9. Owner of Property Livingston Bonnie J. & William Rex, Revocable Trust

Address of Property Owner P.O. Box 594 Phone No. \_\_\_\_\_  
Webster City IO 50595  
City State Zip

11. Proposed Use(s) on Site Recreational Vehicle + Boat Storage

12. Total Square Footage of Existing and/or Proposed Buildings 158,000 ±

13. Current Zoning on Property I-2

14. Deed Book 923 Page No. 321 Group No. 2049B

15. Is the site subject to a zone change? \_\_\_\_\_

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: Paul M. Riegler

Property Owner's Signature: William Rex Livingston Trustee  
Bonnie J. Livingston Trustee  
(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 7-17-07 Fee Received \$ 2171.00 RA# 54135
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
\_\_\_\_\_  
9/12/07 **Approved**  
9/12/07 **Approved with Conditions** (See #6)  
9/12/07 **Denial** (See #7)
6. Conditions of Approval: SEE 9/12/07 B.C.B.O.A.  
MEETING MINUTES + C.L.U.R.
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](http://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: Riegler Engineering, LLC for Anchor Storage

LOCATION: Immediately southwest of the Dixie Highway/Mikkelsen Drive intersection, immediately south of 161, 185, 195, 203, 215 Mikkelsen Drive and 8450 Dixie Highway, and immediately north of 180, 189, 195, 201, 207, 213, 219, 227, 237 and 243 Weber Lane, Boone County, Kentucky

ZONING: Industrial Two (I-2)

DATE: August 8, 2007

### Proposal

The proposal consists of the following requests:

1. A Variance to reduce the front yard building setback requirement from 50' to 20'. The submitted Conceptual Site Plan shows that a 7,200 square foot (30' x 240') storage building will be located 20' from the Dixie Highway right-of-way line;
2. A Variance to reduce the side yard setback requirement from 100' to 20' for portions of the property which adjoin 8450 Dixie Highway. The Concept Development Plan shows that the rear of storage buildings 4A, 4B, and 5B are all located 20' from the adjoining property line; and
3. A Variance to reduce the landscaping buffer requirement from 50' wide (Buffer Yard D) to 20' wide (Buffer Yard B) for portions of the property which adjoin 8450 Dixie Highway.

### Applicable Regulations

Mini warehouses and recreational vehicle parking facilities are listed as principally permitted uses in the Industrial Two (I-2) zoning district.

Table 31.1 of the Boone County Zoning Regulations lists the front yard setback in an Industrial Two (I-2) zone as 50 feet.

Table 31.1 of the Boone County Zoning Regulations lists the rear yard setback in an Industrial Two (I-2) zone as 100 feet when the developing property adjoins a Suburban Residential One (SR-1) zoning district.

Section 3745 of the Boone County Zoning Regulations lists that Buffer Yard D is required along a property line when a developing Industrial Two (I-2) property adjoins a residential zoning district. Buffer Yard D is 50' wide and contains 15 evergreen trees and 4 large or medium trees per 100 linear feet.

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 applicant's requests as they relate to the criteria necessary for granting variances 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.

#### Surrounding Land Uses & Zoning

North: Mikkelsen Drive, Single-Family Residential Dwellings (SR-1 & I-2), and Building Contractor Business (I-2)

South: Weber Lane, Single-Family Residential Dwellings and Mobile Homes (I-2), Mobile Home Sales and Service (C-3)

East: Dixie Highway, Chambers and Grubbs Funeral Home (C-2 & C-3)

West: Givaudan (I-2)

### Site Characteristics

The approximate 18.6 acre site is currently undeveloped and has approximately 425' of road frontage on Dixie Highway, 700' of road frontage on Weber Lane, and 150' of road frontage on Mikkelsen Drive. The property has rolling topography which drains to an intermittent stream which is located in the central and southern portions of the site (see Concept Plan and Topographical Map). The central portion of the property has been grubbed and contains little to no vegetation, while the perimeter of the property contains areas that are heavily wooded with mature deciduous trees.

### Staff Comments

1. The submitted Conceptual Site Plan shows that the development will consist of a 1,089 square foot office and 15 storage buildings. The storage buildings range in size between 2,975 square feet and 15,750 square feet in area (sum total of all buildings is approximately 157,000 square feet). The 15 storage buildings contain 258 individual units which will be used to store recreational vehicles, boats, and campers, etc. The development's main access point is proposed on Dixie Highway. The County Engineer has indicated that the proposed curb cut on Mikkelsen Drive will be limited to an exit only and that the proposed curb cut on Weber Lane will be limited to use by emergency vehicles only.
2. The Zoning Administrator made a determination on May 1, 2007 that the zoning classification for 8450 Dixie Highway (Murray Property) was Suburban Residential One (SR-1) and not Industrial Two (I-2) as shown on the official zoning map (see attached letter). The zoning classification of this property is important because it affects the setbacks and buffering requirements of the proposed storage development.

The side yard setback requirement in an Industrial Two (I-2) zone increases from 20' to 100' when the developing property adjoins a residential zoning district. The buffer requirement increases from a 10' wide grass strip to 50' (Buffer Yard D) when the developing property adjoins a residential zone.

3. Staff talked with Carol Callan-Ramler, with the Kentucky Transportation Cabinet, regarding the request and its relationship to the US 25 widening project. Right-of-way acquisition for the Industrial Road to Mt. Zion Road section of the US 25 widening project will probably not occur until 2014 and construction is scheduled for 2016. The submitted Conceptual Site Plan shows that storage building 1 is located 20' from the current right-of-way line and 0' from the future right-of-way line. Ms. Callan-Ramler indicated that the proposed right-of-way line could change and that some of the storage buildings may need to be removed if the right-of-way moves further into the subject property. Ms. Callan-Ramler recommended that the applicant should match grades with the roadway project.

4. Staff would like the Applicant to address the following questions/issues:

*Handwritten:* This Answer

*Handwritten:* No.

A. Can the 65' wide driveway aisles be reduced so that the building setbacks and landscape buffers along the northern property line can be increased?

B. Has a site lighting plan been prepared?

*Handwritten:* No.

C. Will any recreation vehicles be stored outside the buildings?

D. A dump station and wash basin is shown along the Dixie Highway frontage. Staff has asked the applicant to bring pictures of a similar facility.

*Handwritten:* Yes.

E. Have the final grades of the site been determined? Staff would like to know what vegetation can be preserved around the perimeter of the property.

*Handwritten:* 25'-50'

F. What is the average length of a recreational vehicle? Have the curb cuts been designed so that the largest recreational vehicle will be able to stay in its lane when it exits the development?

G. Could the rear and sides of some of the storage building be constructed with masonry materials?

5. Staff is concerned about the design of the office building and storage buildings because the buildings are in close proximity to Dixie Highway and adjoining single-family residential dwellings. The rear facades of most units will face either Dixie Highway or adjoining residential properties. The renderings show that the 16' tall storage buildings will be constructed of metal siding and that there are no windows or doors on the side or rear facades (see attachments). Most of the storage buildings are shown with a length that exceeds 250 feet. At this time, no preliminary renderings were submitted for the proposed office building.

6. Staff recommends the following conditions if any of the Variances are approved:

A. Portions of the northern property line (Murray property to Beach property) and southern property line (Brock property to rear property line) which adjoins residential uses shall be screened with a 20' buffer. The plantings required in these buffers shall be 8 evergreen trees from Plant List D and 4 large trees, medium, or small trees from Plant Lists A, B, or C per 100 linear feet. Any existing trees retained in the buffers shall be credited towards the deciduous tree requirements.

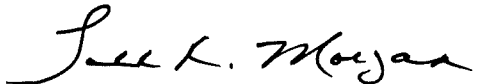
B. The property owner shall contact the Kentucky Transportation Cabinet to see if all or a portion of the Dixie Highway street frontage buffer can be planted in the existing and future right-of-way.

- No Permitted Lighting*
- C. All site lighting shall be directed downwards and inwards towards the subject site. A 0 foot candle reading shall be required along any property line which contain a residential use. The maximum height of light poles shall not exceed 15 feet in height.
  - D. The front (facing Dixie Highway) and side facades of the office building and storage building #1 shall be constructed with at least 50% brick, stone, or textured concrete block.  
  
The front and side facades of the office shall be required to have windows. The office building roof shall be constructed with asphalt shingles.
  - E. The proposed curb cuts shall be analyzed in more detail during Site Plan Review.
7. The Board needs to consider if 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.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the requested variances.

Respectfully submitted,



Todd K. Morgan, AICP  
Senior Planner, Zoning Services

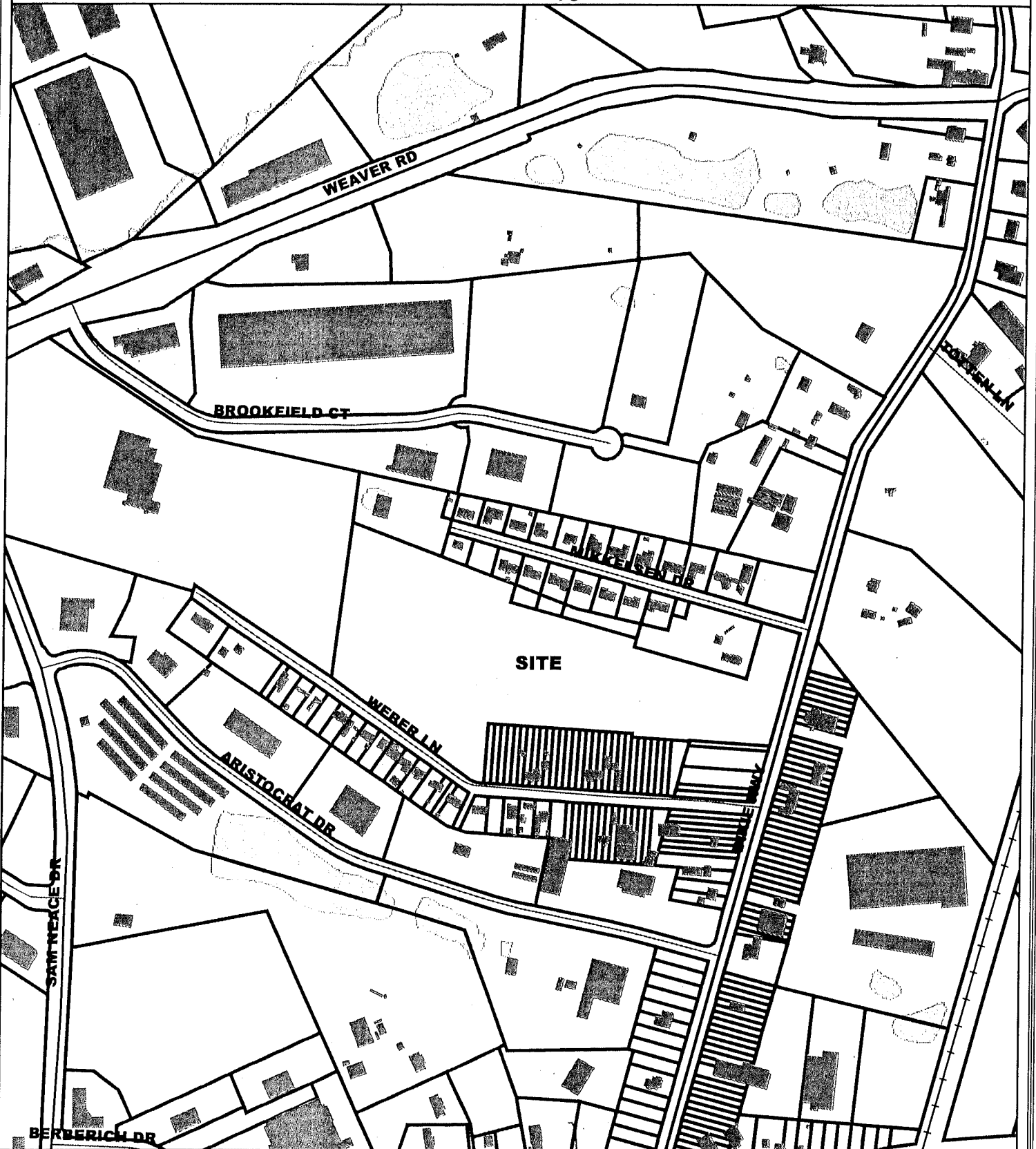
TKM/pr

Attachments

- \*Site Vicinity Map
- \*Concept Development Plan
- \*Storage Building Renderings
- \*Zoning Map
- \*Topographical Map
- \*Aerial Map
- \*May 1, 2007 letter to Kelly Brown
- \*Application

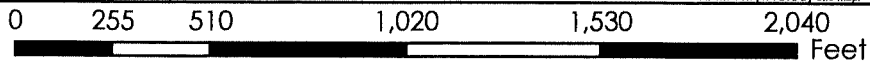
# SITE VICINITY MAP

www.boonecountygis.com



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1 inch equals 500 feet

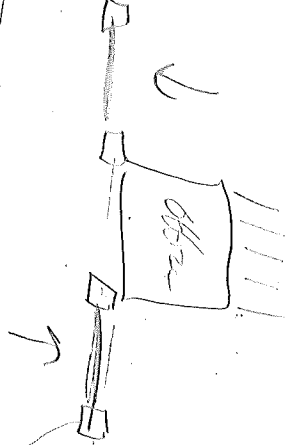
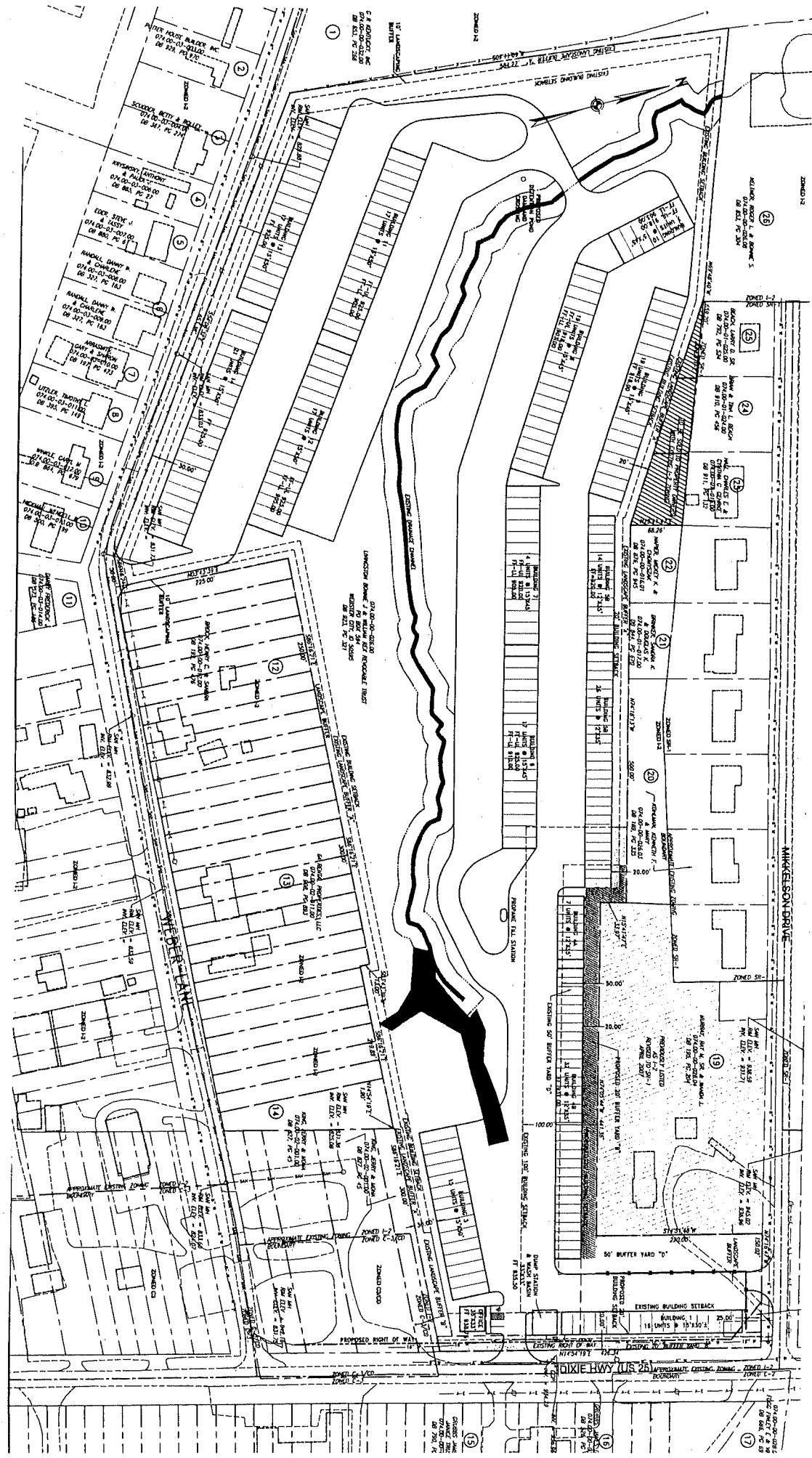


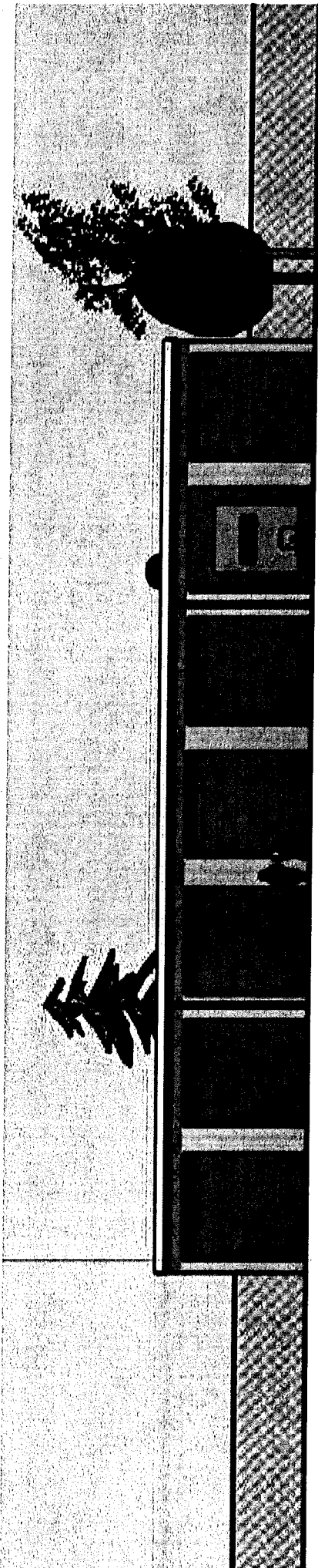
**Boone County GIS - Putting Northern Kentucky on the Map**



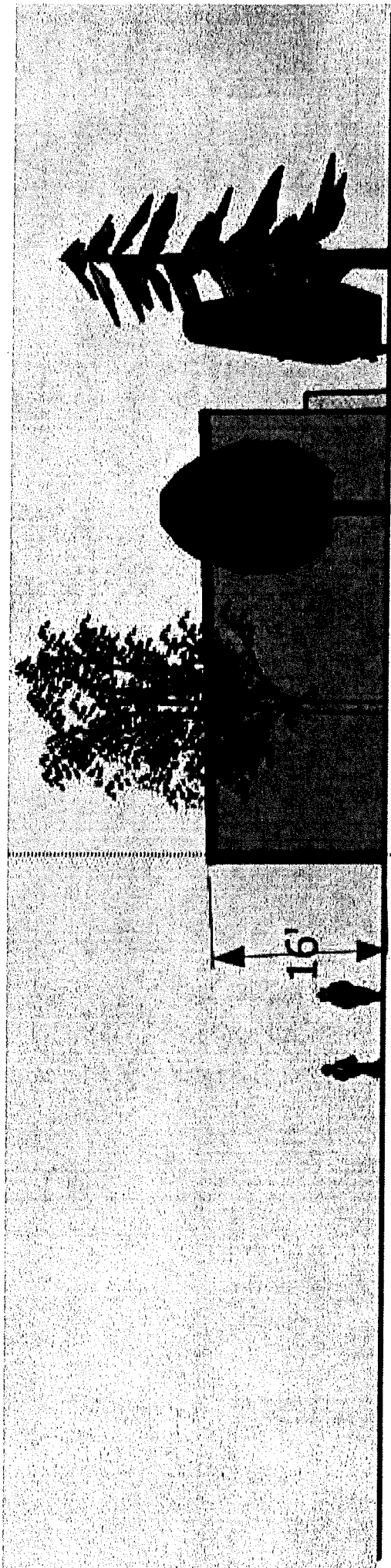
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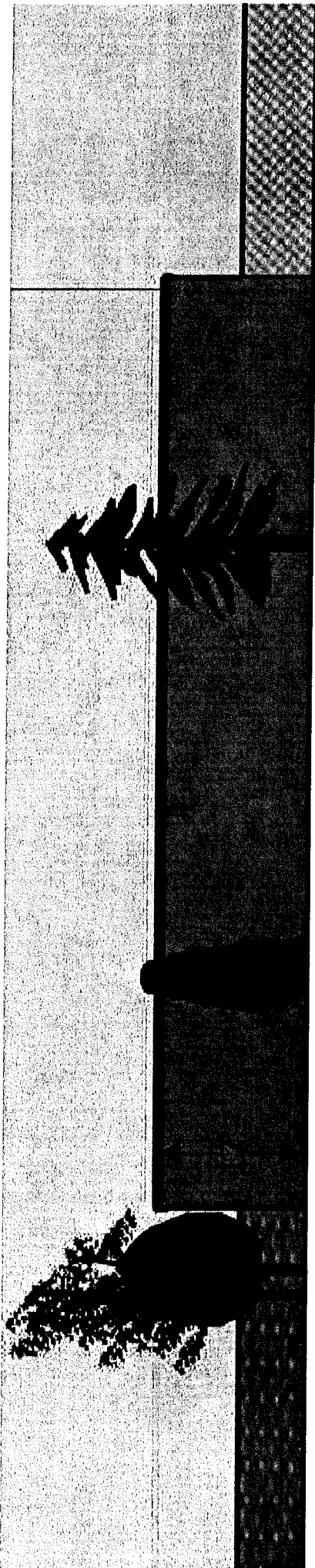
RW





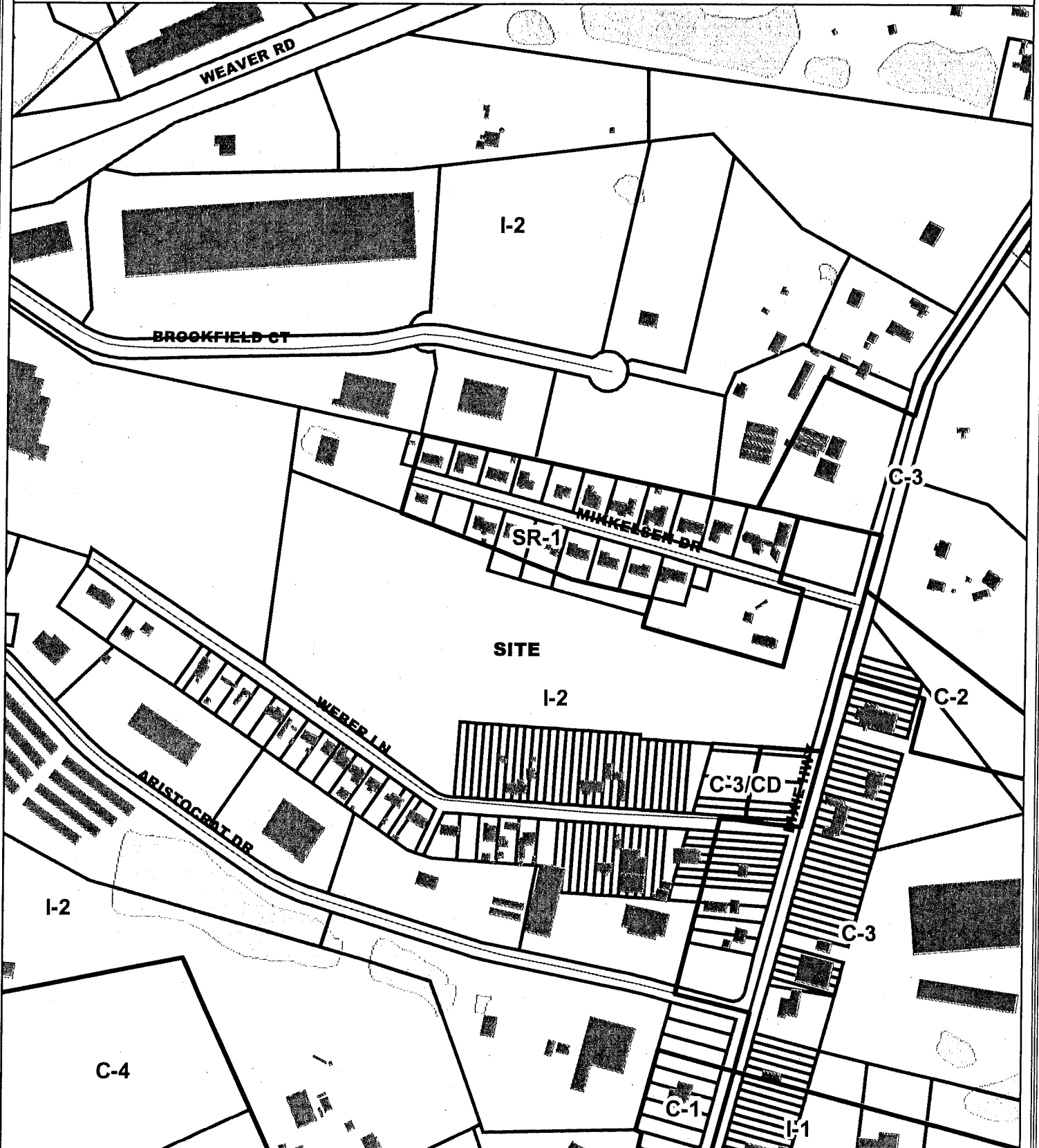






# ZONING MAP

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0 200 400 800 1,200 1,600 Feet

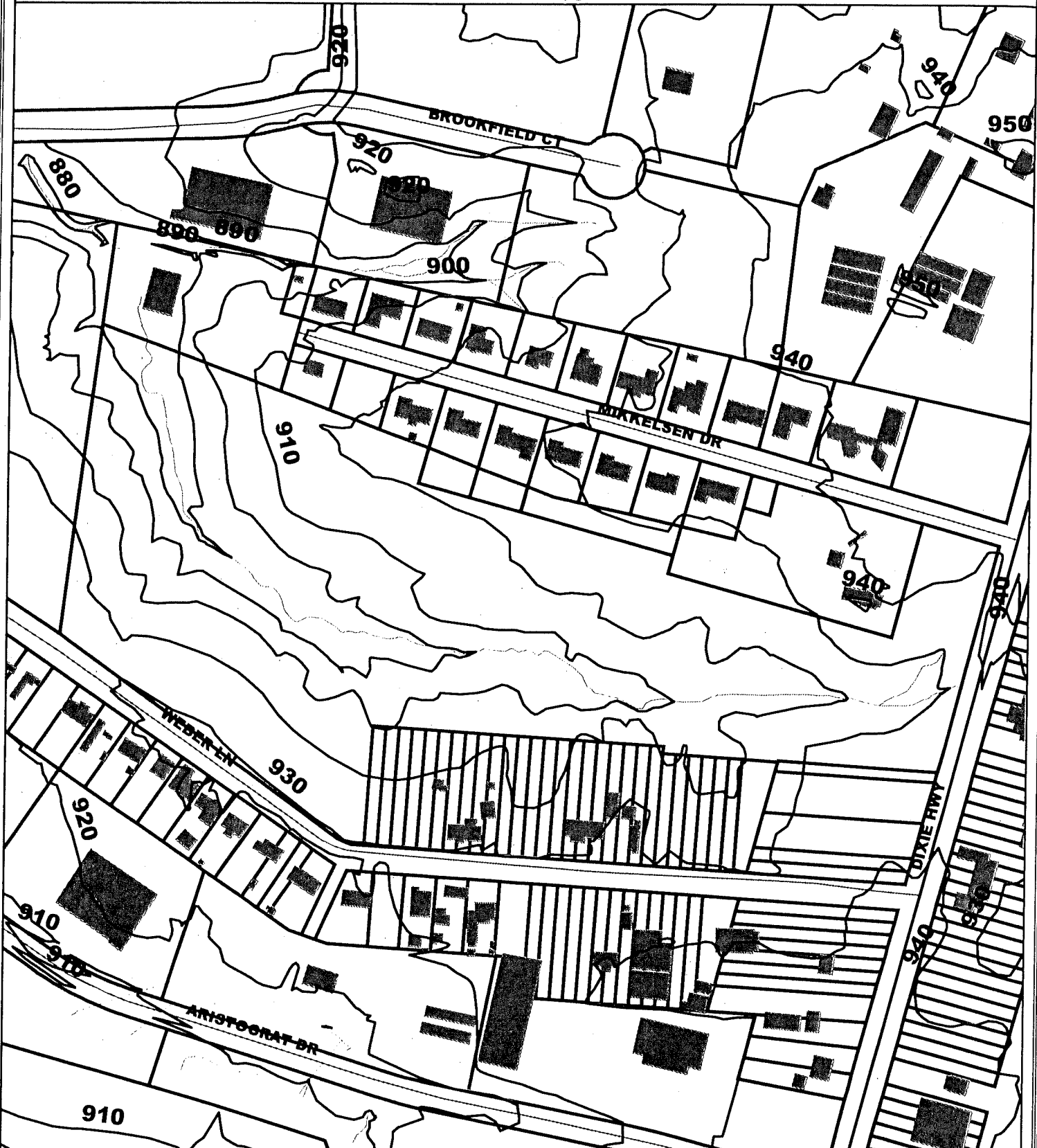
1 inch equals 400 feet

**Boone County GIS - Putting Northern Kentucky on the Map**



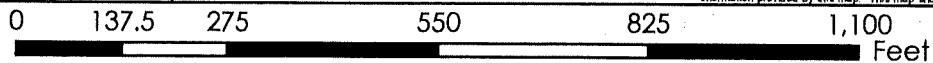
# TOPOGRAPHICAL MAP

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1 Inch equals 250 feet

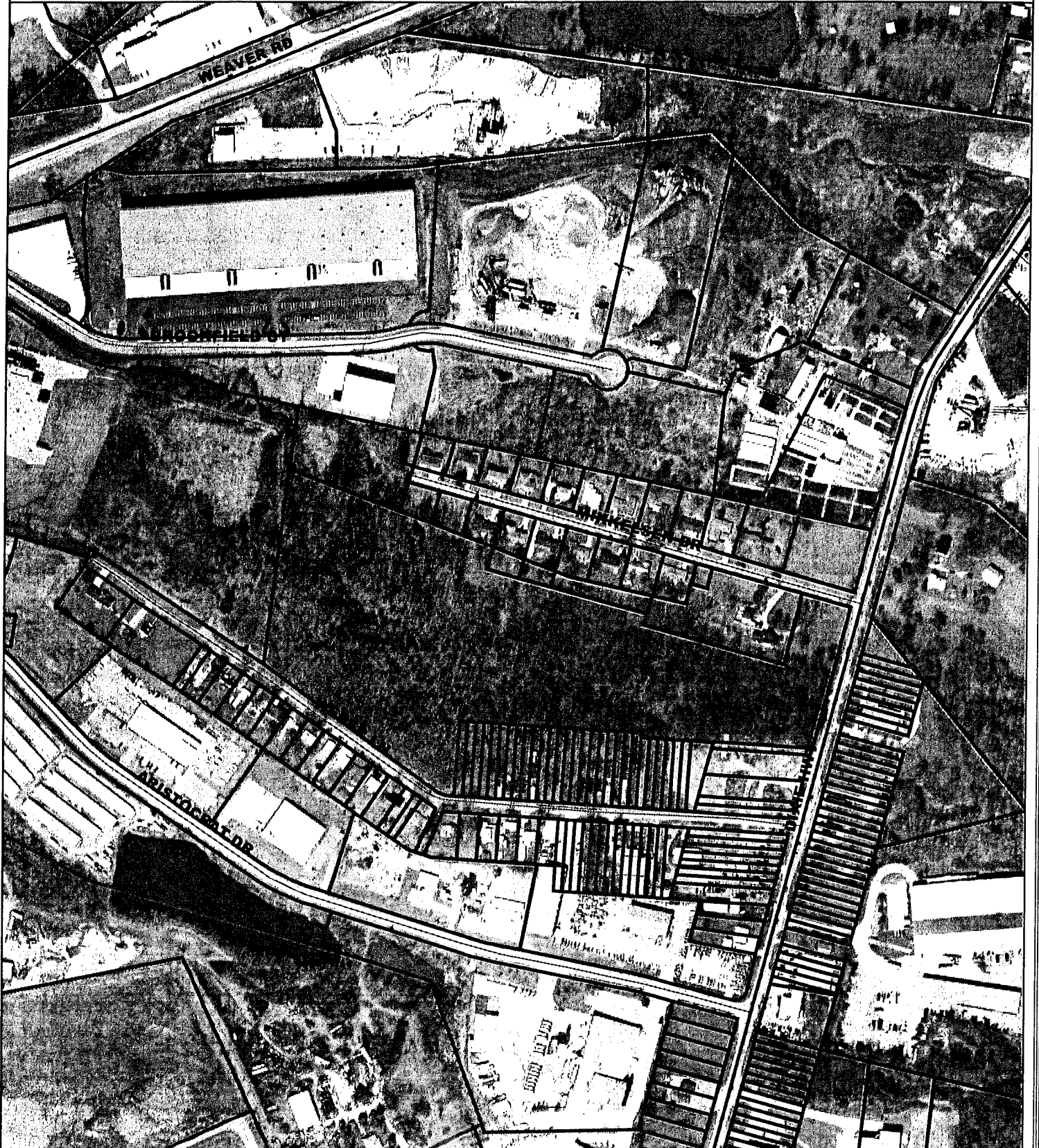


**Boone County GIS - Putting Northern Kentucky on the Map**



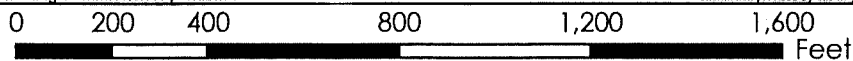
# AERIAL MAP

www.boonecountygis.com

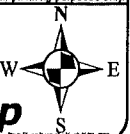


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**Boone County GIS - Putting Northern Kentucky on the Map**





# **BOONE COUNTY PLANNING COMMISSION**

[www.boonecountyky.org/pc](http://www.boonecountyky.org/pc)  
[www.boonecountygis.com](http://www.boonecountygis.com)

Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264  
[plancom@boonecountyky.org](mailto:plancom@boonecountyky.org)

May 1, 2007

Mr. Kelly J. Brown  
Attorney  
1037 Madison Avenue  
Covington, KY 41011

FAX: 431-4884

RE: Zoning for 8450 Dixie Highway, Boone County, Kentucky

Dear Mr. Brown:

To follow-up our prior discussions, this letter provides a resolution to the question of the adopted zoning for the property at 8450 Dixie Highway. In my letter dated 1/5/07 to Mr. Ray Murray, the zoning history of the property from 1987 as known and believed at the time is outlined and includes several reviews by the Planning Commission's staff in 2003. The conclusion was that I-2 was the adopted zoning for the property because the site had not been expressly identified in the public hearing record for the I-2 to SR-1 zone change in 1987 which included most of the properties along Mikkelsen Drive. This change was initiated by the Fiscal Court and the original proposal also included properties along Weber Lane. As stated in my previous letter, the individual properties included in this change were identified by lot number on the first page of the staff report that was presented at the public hearing, and shown on a map exhibit that was attached to the report. The property at 8450 Dixie Highway was not among the properties stated in the report, nor was it shown on the staff report map exhibit or mentioned in the public hearing minutes.

In our initial conversation the other week, you stated that several exhibits referenced in the ordinance for the zone change were not filed with the Fiscal Court Orders. As I mentioned in my return call, I reviewed the record further due to this issue and found what appeared to be a reference to Mr. Murray's property (which was subsequently confirmed) in the Planning Commission's Zone Change Committee Report in a revised boundary description of the SR-1 zone. This report is the result of the Committee's deliberations on the matter after the public hearing, and served as the recommendation to the Planning Commission. It was ultimately considered by the Fiscal Court in the adoption of this zone change and is referenced in the ordinance.

Mr. Kelly J. Brown  
May 1, 2007  
Page 2

Due to this issue, I enlisted the Planning Commission's legal counsel and other staff members to also review the record of the 1987 zone change, which is admittedly disjointed and cryptic. Based on this review, we have concluded that the Murray property at 8450 Dixie Highway was part of the 1987 zone change to SR-1 because the public notice was written in a general sense to have included the property and because the property was expressly included in a revised zoning boundary description in the Committee Report that was referenced in the ordinance. In short, we have concluded that the legislatively adopted zone for the property at 8450 Dixie Highway is Suburban Residential One (SR-1).

Because this letter represents a decision by the Zoning Administrator, it may be appealed to the Boone County Board of Adjustment (BOA) by an aggrieved party within thirty (30) days. In order for an appeal to be granted, it must be demonstrated that the decision is in error. Also, your client previously mentioned that buffering from the adjoining I-2 property was of great concern to him. Although larger buffer yards and building setbacks are required between SR-1 and I-2 zones, the adjoining developer may still seek a dimensional variance from the Board of Adjustment in an attempt to lessen these requirements.

Sincerely,



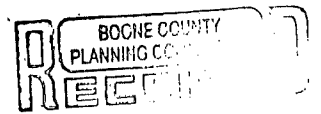
Kevin T. Wall, AICP CDT  
Zoning Administrator  
Boone County Fiscal Court

KTW/vlm

cc: Kevin Costello, Executive Director  
Jeff Earlywine, Boone County Administrator  
Todd Morgan, Senior Planner  
Bob Neace, Boone County Attorney  
Dan Riegler, Riegler Engineering; FAX: 371-5710  
Dale Wilson, BCPC Attorney

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



JUL 17 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 Riegler Engineering, LLC
Phone Number 859 371-5500 Fax No. 859 371-5710
Applicant's Address 19 Lendale Drive, Suite B
Florence KY 41017
City State Zip
4. Description of Request: see attached Exhibit "A"
5. Name of Development Anchor Storage
6. Location of Development U.S. 25 between Mickelson Drive and Weber Lane in unincorporated Boone County
7. Acreage Under Review 18.59 acres
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property Livingston Bonnie J. + William Rex, Revocable Trust
Address of Property Owner P.O. Box 594 Phone No.
Webster City IO 50595
City State Zip
11. Proposed Use(s) on Site Recreational Vehicle + Boat Storage
12. Total Square Footage of Existing and/or Proposed Buildings 158,000 +/-
13. Current Zoning on Property I-2
14. Deed Book 923 Page No. 321 Group No.
15. Is the site subject to a zone change?
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: [Signature]

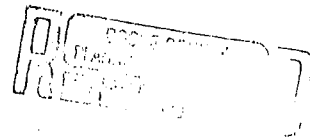
Property Owner's Signature: [Signatures]

(over)

Exhibit "A"  
Board of Adjustment Application  
Applicant: Riegler Engineering, LLC  
July 17, 2007

We hereby request the following variances:

1. Building setback variance from 50' to 20' along U.S. 25
2. Building setback variance from 100' to 20' along the portion of the subject parcel's northerly boundary line common with the property owned by MURRAY, RAY M. SR. & WANDA L.
3. Landscape buffer yard requirement variance from Buffer Yard "D" to Buffer Yard "B" along the aforementioned common boundary line with MURRAY, RAY M. SR. & WANDA L.



JUL 17 2007

COPY

CLUR #07-BCBOA-012-A

CERTIFICATE OF LAND USE RESTRICTION

- 1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Livingston Revocable Trust  
P.O. Box 594  
Webster City, IO 50595
  
- 2. ADDRESS OF PROPERTY  
U.S. 25  
Boone County, KY
- 3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Anchor Storage
  
- 4. DEED BOOK 923                      PAGE NO. 321                      GROUP NO. 2049B
  
- 5. TYPE OF RESTRICTION(S) (Check all that apply)  
 Zoning Map Amendment:                       Conditional Use Permit  
From  To  
 Development Plan                                       Conditional Zoning  
 Subdivision Plat                                       Other:  
(Not Recorded)  
 Variances (3)
  
- 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

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variances 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-012-A), for Livingston Revocable Trust Property Owner(s).

The following conditions will apply:

- 1) The approval is based on the revised concept plan that was submitted at the September 12, 2007 Boone County Board of Adjustment meeting.
- 2) The property owner shall contact the Kentucky Transportation Cabinet to see if all or a portion of the Dixie Highway street frontage buffer can be planted in the existing and future right-of-way.
- 3) All site lighting shall be directed downwards and inwards towards the subject site. A 0 foot candle reading shall be required along any property line which contains a residential use. The maximum height of the light poles shall not exceed 15 feet in height.
- 4) Portions of the northern property line (Murray property to Beach property) and southern property line (Brock property to rear property line) which adjoins residential uses shall be screened with a 20' buffer. The plantings required in these buffers shall be 8 evergreen trees from Plant List D and 4 large trees, medium, or small trees from Plant Lists A, B, or C per 100 linear feet. Any existing trees retained in the buffers shall be credited towards the deciduous tree requirements.

The approved Variances as well as the preceding conditions apply to the property described in:

DEED BOOK 923

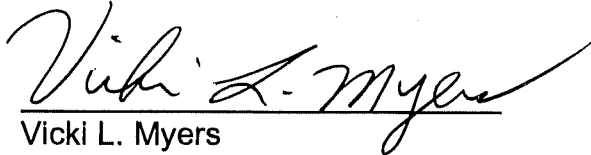
PAGE NO. 321

GROUP NO. 2049B

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

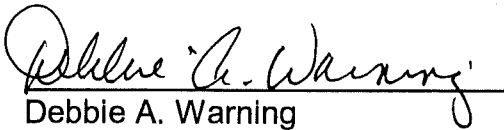
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 19 day of September, 2007.



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.)