

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. Boone Florence Walton Union
2. Conditional Use Permit Variance Appeal
3. Applicant's Name Shops at Worldwide Park, LLC
4. Description of Request: To allow four (4) 6' x 1'6" off premise sign cabinets on non-conforming entrance sign.
5. Name of Development The Shops at Southpark
6. Location of Development NE corner of KY 237 & Southpark Drive
7. Acreage Under Review
8. Lot Number and Name of Subdivision (if part of a subdivision) N/A
9. Owner of Property HAD, LLC
10. Address of Property Owner 211 Grandview Drive Phone No. (859) 431-6100
11. Proposed Use(s) on Site Entrance Sign
12. Total Square Footage of Existing and/or Proposed Buildings N/A
13. Current Zoning on Property
14. Deed Book 795 Page No. 193 Group No. 1991
15. Is the site subject to a zone change? Yes
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: Dan Dresher DAN DRISCHER

Property Owner's Signature: [Handwritten Signature]

**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 2-19-08 Fee Received \$71.00 RASS664
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
_____ Approved
3/12/08 Approved with Conditions (See #6)
_____ Denial (See #7)
6. Conditions of Approval: SEE BCROA Meeting MINUTES
AND CLKR
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: Shops at Worldwide Park, LLC

LOCATION: Northeast Corner of the KY 237/Southpark Drive Intersection, Boone County, Kentucky

ZONING: Commercial Two (C-2)

DATE: March 12, 2008

PROPOSAL

The applicant is requesting a Change in Non-Conforming Use so an entrance monument sign can be reconstructed with four off-premise sign cabinets. The subject property is located at the northeast corner of the KY 237/Southpark Drive intersection and is zoned Commercial Two (C-2).

The submitted Concept Development Plan (see attachments) shows that the entrance monument sign for "SouthPark" will be reconstructed once the proposed retail development (Shops at Worldwide Park) is constructed on the lot. The Change in Non-Conforming Use application is needed because the new entrance monument sign is shown with four sign areas that advertise existing and/or future businesses in the industrially zoned portion of Southpark Subdivision. Each of the four signs are 9 square feet (1'-6" x 6') in area.

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 274 of the Boone County Zoning Regulations states where a lawful structure exists at the effective date of adoption or amendment of this order that could not be built under the terms of this order by reason of restrictions on intensity or size or lot coverage or height or bulk or setback, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;
2. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved as otherwise provided in Kentucky Revised Statutes, Section 100.253(2).

Section 3413 of the Boone County Zoning Regulations states office and industrial parks located in a PF, O-1, O-2, I-1, I-2, O-1A, I-1A, EPD and R zones shall be permitted one (1) entrance sign for each entrance to such parks from a major thoroughfare for a total of two (2) signs. Such signs cannot exceed one-hundred fifty (150) square feet in area and ten (10) feet in height.

Section 3413 of the Boone County Zoning Regulations states that office and industrial establishments shall be permitted a density of one (1) on-premise monument sign per parcel of land (See Article 2, Section 250 regarding Board of Adjustment and Zoning Appeals authority regarding density). There shall be only one (1) monument sign for each parcel, regardless of the number of business establishments conducted in the building(s) and regardless of the number of road frontages. The maximum size for a monument sign for an office or industrial establishment shall not exceed one-half (½) square foot of area per lineal foot of road frontage along the street frontage where the monument sign is to be located with a maximum allowable size of one-hundred (100) square feet. The maximum height for a monument sign is ten (10) feet.

Section 3425 of the Boone County Zoning Regulations states that Board of Adjustment and Zoning Appeals may permit an off-premises sign as a conditional use in Industrial One (I-1) and Industrial Two (I-2) districts. However, Boone County Fiscal Court Ordinance 920.179, only allows off-premises signs in I-1 zones.

SITE CHARACTERISTICS

The 2.16 acre site has frontage on KY 237 and Southpark Drive and is currently undeveloped. A large entrance monument wall exists at the intersection which contains "SouthPark" text.

SURROUNDING LAND USES & ZONING

- North: Flick's Grocery Store and Top Shelf (C-2)
- South: United Dairy Farmers (C-2) and Lot 15, SouthPark (I-1)
- East: Sanctuary Place Apartments (UR-1)
- West: North Bend Road, Worldwide Boulevard, Park West International Subdivision (I-1 and C-4)

STAFF COMMENTS

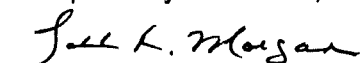
1. The Applicants have submitted a letter which explains why they have applied for a Change in Non-Conforming Use.
2. The existing entrance monument sign was approved by the Boone County Planning Commission in 1990. A Sign Permit should not have been issued for an industrial entrance sign because the subject property was not zoned industrial.
3. The existing entrance monument sign is legally non-conforming because it is located in a Commercial Two (C-2) zoning district. Industrial entrance monument signs are not permitted in this zoning district.

4. Staff has the following comments regarding the proposal:
 - A. The entrance monument sign could be reconstructed administratively if the off-premise signs were not part of the proposal;
 - B. The applicant has not explained what businesses or parcels would be advertising on the off-premise signs;
 - C. Each lot in an industrial park is eligible to have a monument sign which advertises the names of the building occupants. The monument sign can be up to 10' tall and 100 square feet in area. Building mounted signage can be permitted on a primary and two secondary facades;
 - D. Off-premise signs are only allowed in I-1 zoning districts in Unincorporated Boone County. Such signs are subject to Conditional Use Permit approval from the Board of Adjustment;
 - E. The Applicant will construct an architectural free-standing sign to advertise the tenants in the future retail center. The sign is proposed to be 30' tall and 196 square feet in area. The Boone County Zoning Regulations allow a free-standing sign to be up to 30' and 200 square feet in area in the C-2 zoning district; and
 - F. Staff is concerned that approval of the request could set a bad precedent.
5. The Board needs to analyze if the proposal increases the non-conformity. The Board can analyze if the non-conformity is becoming more or less objectionable.
6. Staff recommends that the Board should consider the following conditions if the request is approved:
 - A. Define which off-premise businesses or lots are eligible to advertise on the entrance monument sign;
 - B. Any off-site business that advertises on the entrance monument sign shall not be eligible to advertise on their "on-site" monument sign.
 - C. Reduce the height and square footage of the shopping center architectural free-standing sign from 30' tall and 200 square feet in area to 20 feet tall and 164 square feet in area.

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

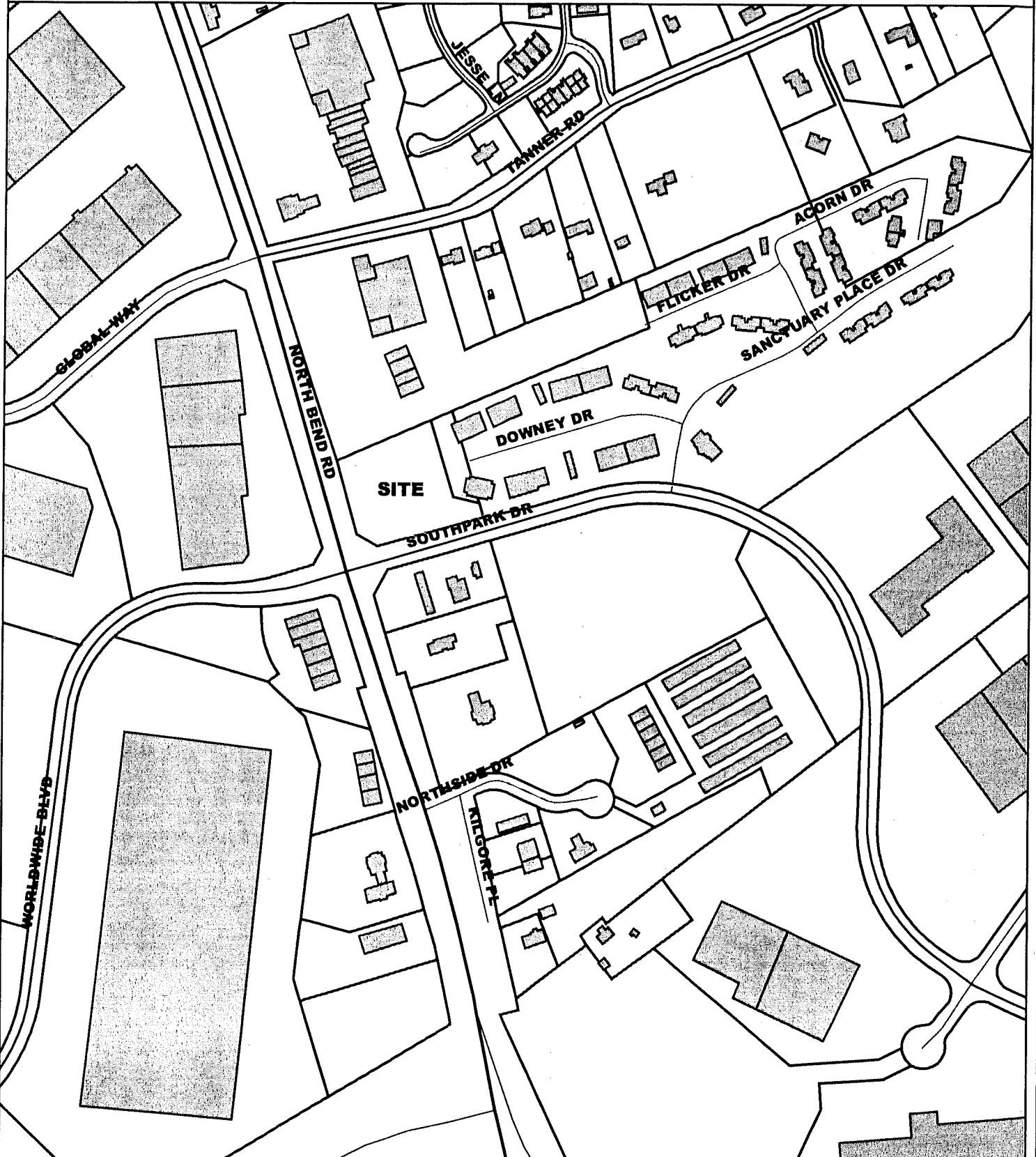
TKM/pr

Attachments

- *Site Vicinity Map
- *Letter From Applicant
- *Concept Plans
- *Aerial Map
- *Zoning Map
- *Application

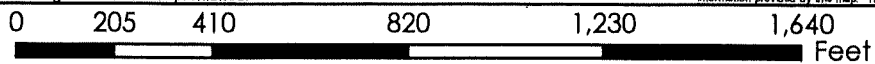
SITE VICINITY MAP

www.boonecountygis.com



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Boone County GIS - Putting Northern Kentucky on the Map



Real Estate Development, Management and Brokerage

Consulting work provided through Edgewood Realty, LLC, an affiliated company.

February 22, 2008

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

RE: Application for Non-Conforming Use
The Shops at Worldwide Park
North Bend Road and Southpark Drive

To Whom it May Concern:

I represent The Shops at Worldwide Park, who has submitted an application to the Boone County Board of Adjustment to allow signage in a manner that is a technical violation of the rules of Boone County. It has been recommended that we submit a letter of explanation together with the application for a non-conforming use so that the reason for our request is made clear.

The Shops at Worldwide Park was formed to develop approximately 2 acres of property at the North East corner of Southpark and North Bend Road. We are in discussions to bring some quality tenants to the corner, and we believe that the development will be an improvement to the vacant lot that exists now. Further, we hope that the Board will view our development as bringing services to this community that are currently lacking.

We have a problem in developing the property since we have been placed between the Seller (who will give no further extensions to sell the property) and the owner of a sign easement, who insists on obtaining a non-conforming use for his sign (the subject of this application). We are stuck between the refusal to give us more time to buy by the Seller and the demand of the sign owner to obtain the non-conforming use. If we are not able to resolve the issues between these parties by the end of March, we will be unable to develop the property.

There is currently a sign easement on property that we are in the process of purchasing. That sign easement is held by Thomas Schleper of Schleper Development. We have entered discussions with Mr. Schleper to decrease the size of his current sign wall, re-grade the area, and replace the existing wall with a much smaller one. The only

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7250 Beechmont Ave Cincinnati, OH 45230 pl 513.332.9966 tl 513.332.9965 www.selectstrat.com



Real Estate Development, Management and Brokerage

Consulting work provided through Edgewood Realty, LLC, an affiliated company.

issue remaining is his demand that we obtain permission from Boone County to erect certain signs on his easement that do not conform to the signage rules of Boone County.

The area that this property is surrounded by is mostly industrial. It is just off of the expressway between the airport and the Indiana border. The property is surrounded by mostly warehouses, with a small residential apartment complex directly behind. The non-conforming signage that is being requested would actually be a reduced presence compared to what currently exists.

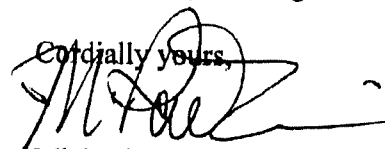
The current situation is that there is a relatively small sign (48 sf) that says "SouthPark" on an extremely large wall (560 sf. and 130+ feet long). Mr. Schleper has agreed to allow us to reduce the size of the wall so that our development is visible from the street. In exchange, he has requested that we obtain permission from Boone County to include four (4) box signs that are 1'6" tall by 6'0" long (9 sf). The change that is being requested would thus be from a 130'+ wall to a 40' wall, the Southpark sign would remain, and the new signage would only add another 36' sf.

In addition, the development will be a first class development with a pylon sign. The impact of 4 box signs is minimal compared to the United Dairy Farms signage; the new pylon sign that will be placed on the site; the pylon sign on the Flick's IGA; and the pylon sign on the Remke Market property. All of these are visible from the same corner, and the request for a non-conforming use affects 9' sf of signage in an area where 90' of brick wall has been removed.

Finally, we believe it significant that if this area was zoned industrial, instead of just being surrounded by industrial uses, the amount of signage permitted would be 100' sf. This plan only requests 88' sf of signage on a wall that is being reduced from 130' long to 40' long.

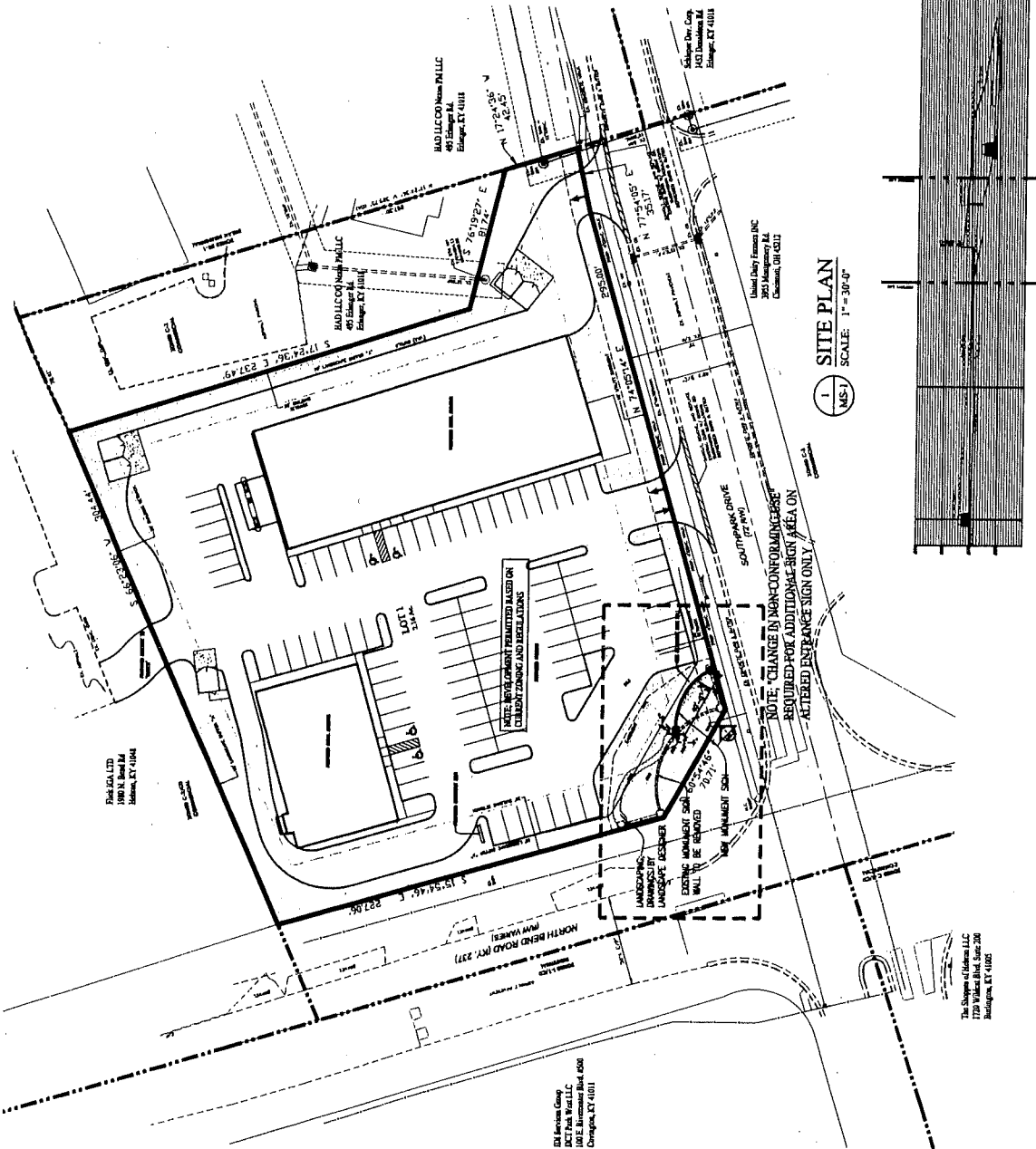
We ask that the Board consider the impact as actually being less visible in an area that is being greatly improved rather than a technical non-conforming use.

Thank you for your time, we appreciate all consideration you can give.

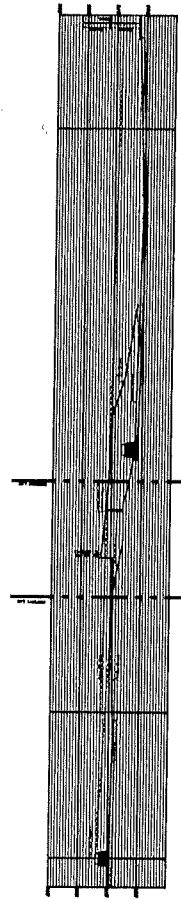
Cordially yours,

Michael Paolucci

Consulting work provided through Edgewood Realty, LLC, an affiliated company.

EXHIBIT D
RESOLUTION
F. 3. 19. 2008
BOONE COUNTY
PLANNING COMMISSION



1 SITE PLAN
 SCALE: 1" = 30'-0"



2 SITE LINE PROFILE
 SCALE: 1" = 20'-0"

Hebron Retail - Monument Sign

North Bend Rd. @ Southpark Dr.

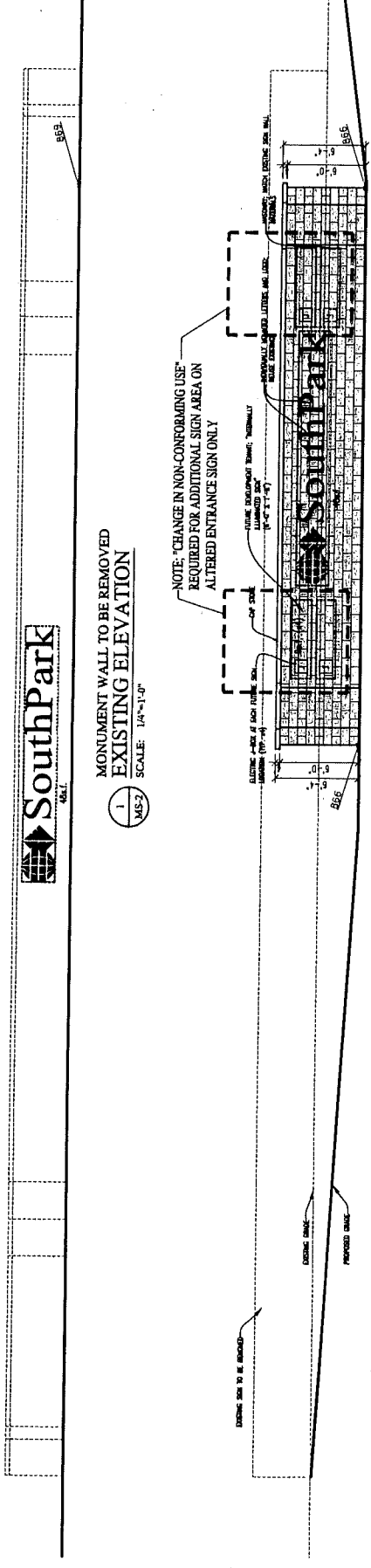
DATE: 2/19/08
MS-1

KA ARCHITECTURE, LLC
 1720 Woodloch Lane, Suite 208
 Lexington, KY 40502
 Tel: 618-455-5600
 Fax: 618-455-5000



SELECT STRATEGIES, LLC
 Real Estate Development, Management and Brokerage
 7250 BEECHMONT AVE.
 ANDERSON TOWNSHIP, OHIO 45230

FILE NAME: 07-0401_MonumentSign_ZoningSubmittalPackage_CD-11-08.dwg



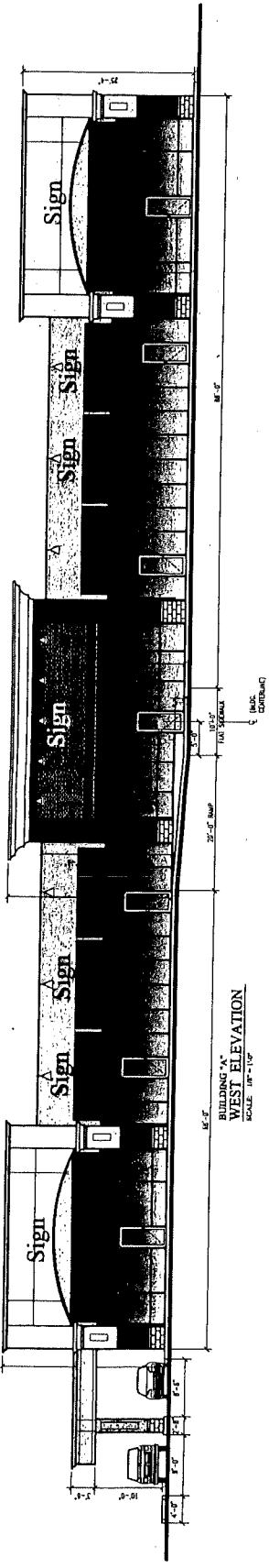
MONUMENT WALL TO BE REMOVED
EXISTING ELEVATION
1
MS-2
SCALE: 1/4"=1'-0"

MONUMENT WALL
PROPOSED ELEVATION
2
MS-2
SCALE: 1/4"=1'-0"

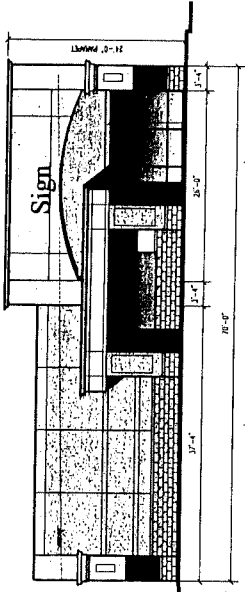
NOTE: "CHANGE IN NON-CONFORMING USE"
REQUIRED FOR ADDITIONAL SIGN AREA ON
ALTERED ENTRANCE SIGN ONLY.

SELECT STRATEGIES, LLC
Real Estate Development, Management and Brokerage
7250 BEECHMONT AVE.
ANDERSON TOWNSHIP, OHIO 45230

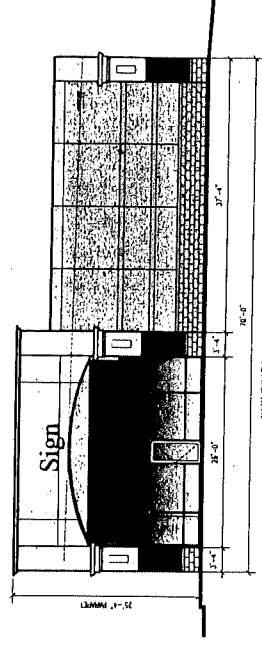
Hebron Retail - Monument Sign
North Bend Rd. @ Southpark Dr.



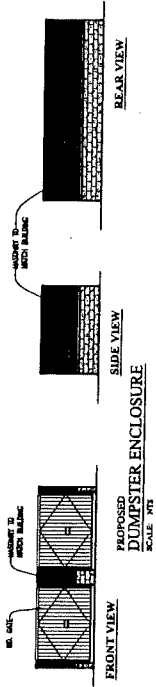
BUILDING "A"
WEST ELEVATION
SCALE: 1/8" = 1'-0"



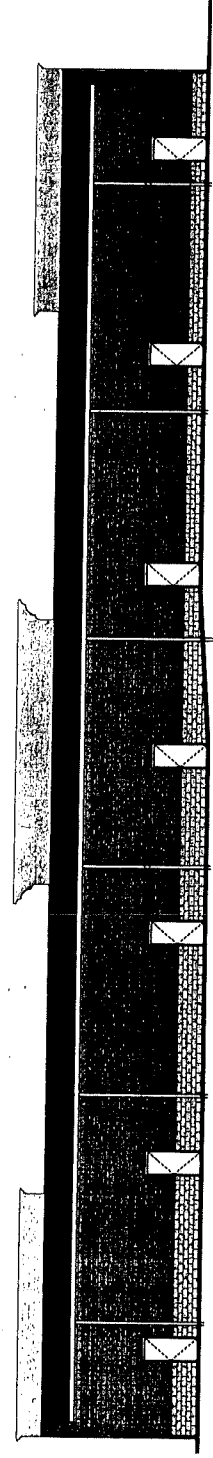
BUILDING "A"
NORTH ELEVATION
SCALE: 1/8" = 1'-0"



BUILDING "A"
SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



PROPOSED
DUMPSTER ENCLOSURE
SCALE: 1/8" = 1'-0"



BUILDING "C"
EAST ELEVATION
SCALE: 1/8" = 1'-0"



SELECT STRATEGIES, LLC
Real Estate Development, Management and Brokerage
7250 BEECHMONT AVE
ANDERSON TOWNSHIP, OHIO 45220

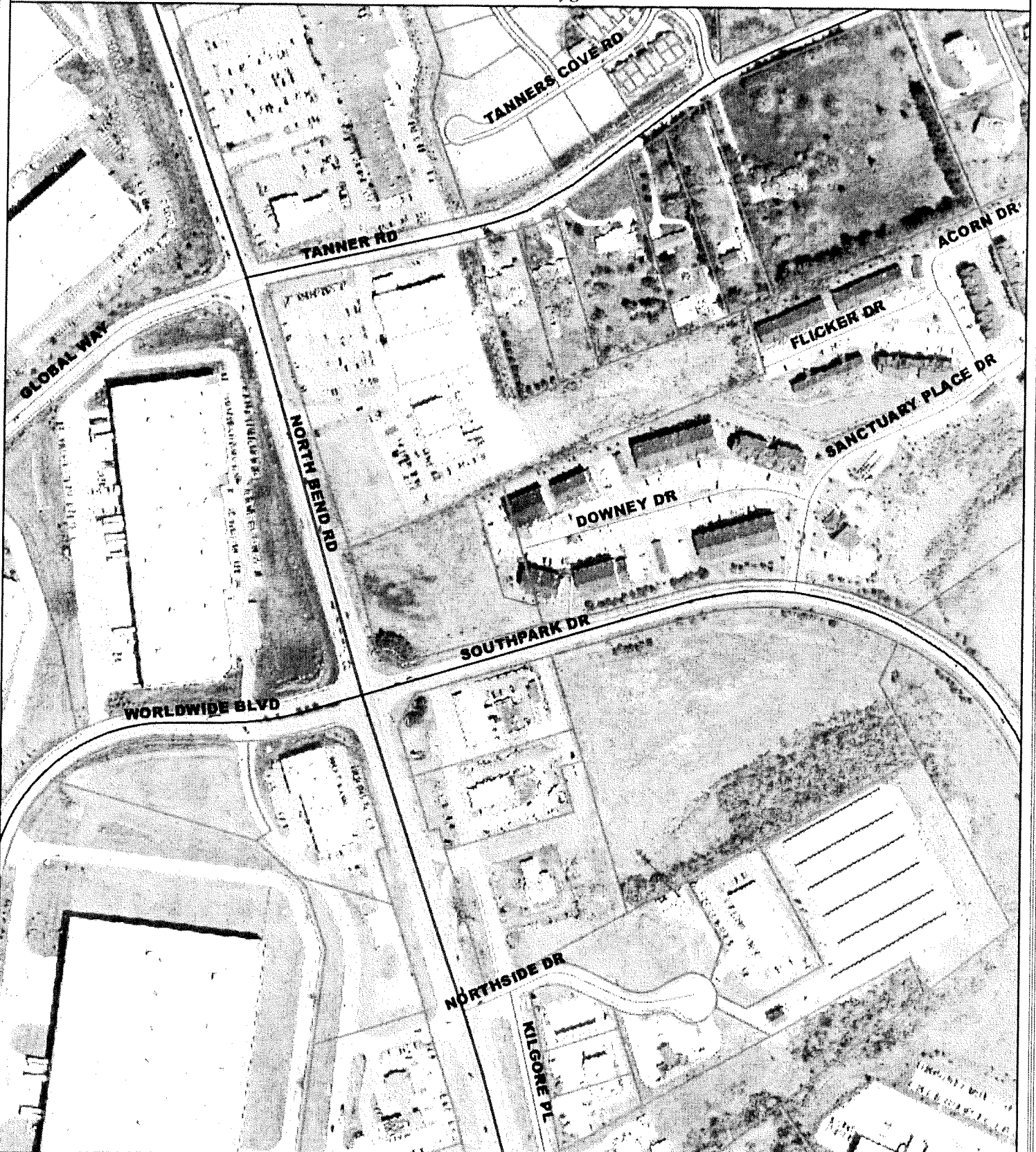
HEBRON RETAIL - MONUMENT SIGN

NORTH BEND ROAD @ SOUTHPARK DR.

DATE: 1/29/18
MS-3

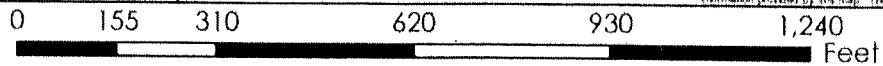
AERIAL MAP

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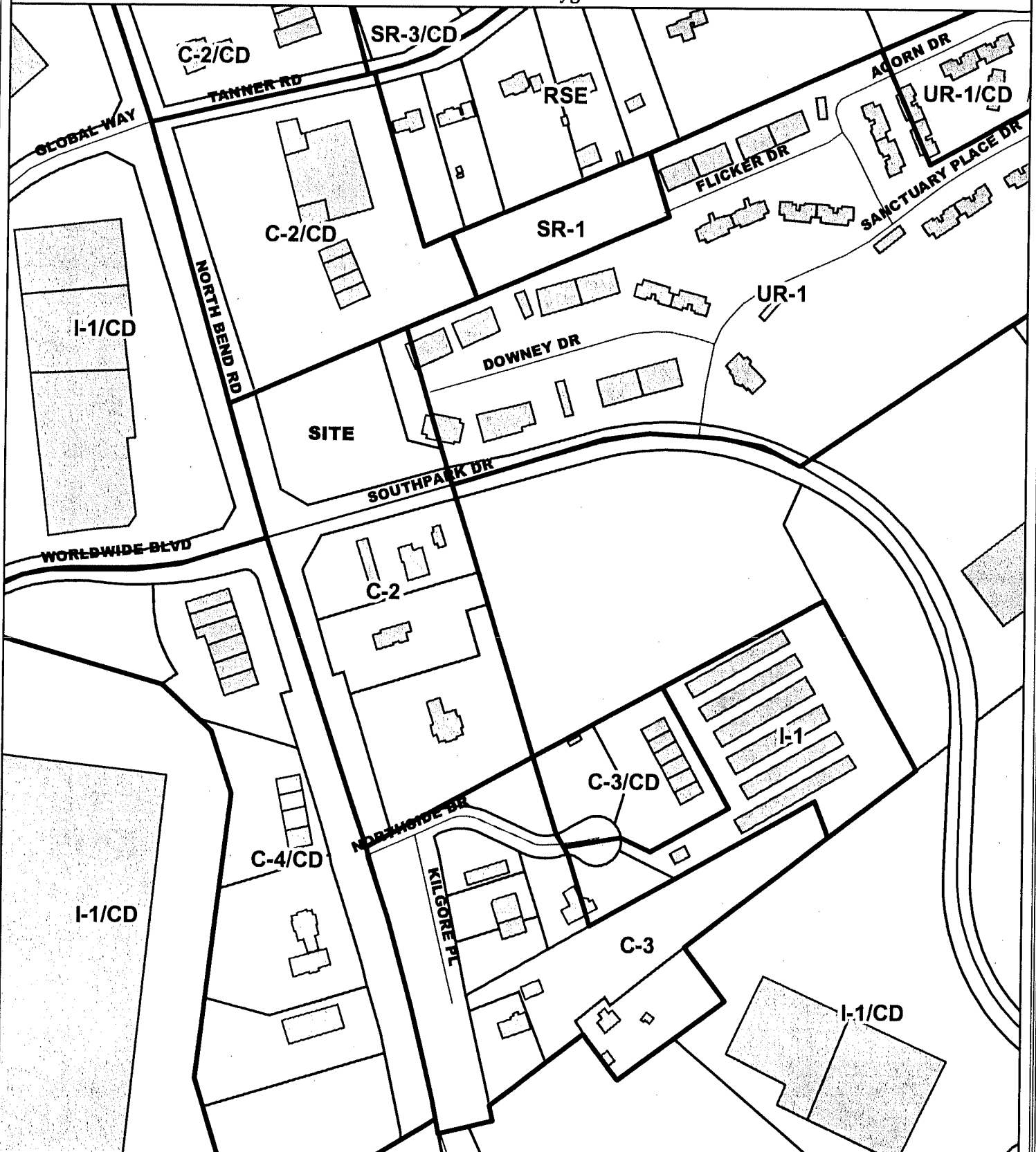
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Boone County GIS - Putting Northern Kentucky on the Map

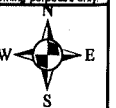
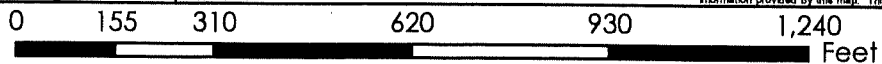
ZONING MAP

www.boonecountygis.com



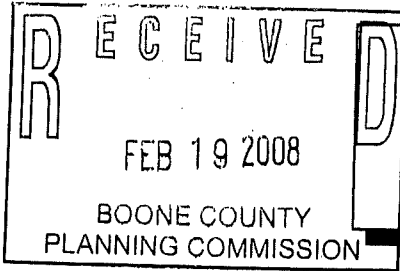
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APPLICATION FORM



BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

(Check One)

- 1. [x] Boone [] Florence [] Walton [] Union

(Check One)

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

- 3. Applicant's Name [] Shops at Worldwide Park, LLC
Phone Number [] (513) 332-9966 Fax No. [] (513) 332-9965
Applicant's Address [] 7250 Beechmont Avenue
[] Cincinnati Ohio 45230
City State Zip

- 4. Description of Request: [] To allow four (4) 6' x 1'6" off premise sign cabinets on non-conforming entrance sign.

- 5. Name of Development [] The Shops at Southpark

- 6. Location of Development [] NE corner of KY 237 & Southpark Drive

- 7. Acreage Under Review []

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

- 9. Owner of Property [] HAD, LLC

- Address of Property Owner [] 211 Grandview Drive Phone No. [] (859) 431-6100
[] Ft. Mitchell Kentucky 41017
City State Zip

- 11. Proposed Use(s) on Site [] Entrance Sign

- 12. Total Square Footage of Existing and/or Proposed Buildings [] N/A

- 13. Current Zoning on Property []

- 14. Deed Book [] 795 Page No. [] 193 Group No. [] 1991

- 15. Is the site subject to a zone change? [] Yes
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: [] Dan Drescher DAN DRESCHER

Property Owner's Signature: [] [Signature]

(over)

COPY

CLUR #08-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
HAD, LLC
211 Grandview Drive
Ft. Mitchell, KY 41017

2. ADDRESS OF PROPERTY
KY 237 & Southpark Drive
Hebron, KY 41048

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
The Shops at Southpark

4. DEED BOOK 795 PAGE NO. 193 GROUP NO. 2008

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

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 March 12, 2008 Certificate of Land Use Restriction (#08-BCBOA-006-A), for HAD, LLC, Property Owner(s).

The following conditions will apply:

- 1) The Shops at Worldwide Park sign shall be limited to 20 feet in height and 164 square feet in area.
- 2) The only businesses allowed to advertise on the SouthPark entrance sign are those located on the eight acre area to be developed behind UDF.

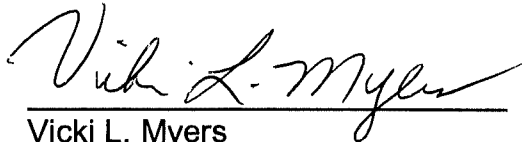
The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 795 PAGE NO. 193 GROUP NO. 2008

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

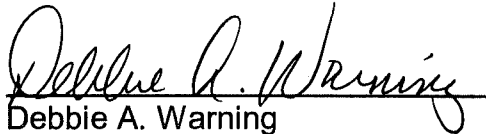
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 24 day of March, 2008.



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.)