

08-BCDA-020-A

RECEIVED
SEP 11 2008
BOONE COUNTY
PLANNING COMMISSION

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

RECEIVED
JUN - 5 2008
BOONE COUNTY
PLANNING COMMISSION

See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

- 1. (Check One) Boone _____ Florence _____ Walton _____ Union _____
- 2. (Check One) Conditional Use Permit Variance Appeal
_____ Change in Non-Conforming Use
- 3. Applicant's Name DETERS COMPANY DBA BLUE PANTRY
Phone Number 859-283-2770 Fax No. 859-525-4686
Applicant's Address 305 RICHWOOD RD + 1-71-75
WALTON KY 41094
City State Zip
- 4. Description of Request: DIGITAL PRICE SIGN
- 5. Name of Development BP GAS STATION
- 6. Location of Development 305 RICHWOOD RD
WALTON KY 41094
- 7. Acreage Under Review 3.017 AC KY 338
- 8. Lot Number and Name of Subdivision (if part of a subdivision) N/A
- 9. Owner of Property DETERS COMPANY
Address of Property Owner 7230 TURFWAY RD Phone No. 859-283-2770
FLORENCE KY 41042
City State Zip
- 10. Proposed Use(s) on Site NO CHANGE IN SITE USE OTHER THAN
REQUEST ON LINE 4
- 11. Total Square Footage of Existing and/or Proposed Buildings _____
- 12. Current Zoning on Property C-3
- 13. Deed Book 409 Page No. 97 Group No. 2071
- 14. Is the site subject to a zone change? _____
If yes, give date of approval _____
- 15. Have you submitted a Site Plan with this request? YES
- 16. Have you submitted a list of adjoining property owners with this request? _____
- 17. 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: [Signature]

Director of Operations

(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 9-11-08 Fee Received \$1,082.00 RA57386
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 10/8/08 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: SEE 10/8/08 Meeting Minutes
AND 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 - 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: Deters Company (Blue Pantry)
LOCATION: 305 Richwood Road, Boone County, Kentucky
ZONING: Commercial Services (C-3)
DATE: October 8, 2008

Proposal

The applicant has submitted a Conditional Use Permit to change the color of an electronically changeable fuel price panel on a free-standing sign from red to green. Although the Boone County Board of Adjustment approved a Conditional Use Permit to allow the sign on July 9, 2008, there was a condition imposed which limited the electronic copy color to red.

Pertinent Site History

- 5/9/90 - The Boone County Board of Adjustment approves Variances allows two free-standing signs to be constructed on the lot. The following signs are permitted:
 - Interstate Sign - 100' tall and 282 square feet in area.
 - BP Sign - 21' tall and 168 square feet in area.
- 2/13/91 - The Boone County Board of Adjustment approves a Variance allowing a third free-standing sign to be constructed on the lot. The proposed Wendy's sign is 21' tall and 100 square feet in area.
- 7/16/02 - The Boone County Planning Commission issues a sign permit to change sign faces on the BP sign. The BP sign is shown as 29' tall +/- and 144 square feet in area.
- 7/14/04 - The Boone County Board of Adjustment approves Variances allowing additional signage on three faces of the gasoline canopy. The permitted signage on the front fascia is increased from 62.07 square feet to 118.42 square feet. The permitted signage on the side fascias increased from 18.69 square feet to 37.18 square feet.
- 7/09/08 - The Boone County Board of Adjustment approved a Conditional Use Permit to allow the bottom 32 square feet the BP/Blue Pantry free-standing sign to be converted into a LED gas price display. The actual fuel display window was 12.35 square feet in area (2'-3 9/16" x 5'-4.5"). The following conditions were imposed on the approval:

1. The overall square footage of the sign shall be limited to 144 square feet in area.
2. The electronic copy can only advertise regular fuel prices.
3. The illegal lottery sign shall be removed.
4. The electronic copy color is limited to red.

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that one duty of the Board of Adjustment and Zoning Appeals is to review Conditional Use Permit applications.

The Board needs to evaluate the applicant's 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. The criteria are listed below:

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 3413 of the Boone County Zoning Regulations states that mixed use commercial subdivisions in C-3 zoning districts shall be permitted a density of one (1) on-premises, architectural free-standing for the purpose of identifying the name of the development, its major tenant(s), and its major access point.

Article 34, Section 3430 of the Boone County Zoning Regulations permits electronically changeable message boards as a Conditional Use in the Commercial Services (C-3) 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 as Commercial, which includes "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

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).

Site Characteristics

The approximate 3.04 acre site is located on the south side of Richwood Road and contains a Blue Pantry convenience store, Snappy Tomato Pizza restaurant, gasoline pumps and canopy, and a Wendy's restaurant. The development has three free-standing signs (see Site History).

Surrounding Land Uses and Zoning

Northeast: Richwood Rd., Bank of Kentucky, McDonald's, Gold Star/Penn Station (C-4)

Northwest: Undeveloped Lot (C-3)

Southeast: Huntington Bank and Best Self Storage (C-3)

West: Undeveloped Lot (C-3)

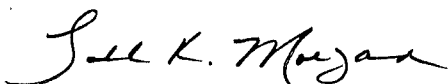
Staff Comments

1. 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 and that signs should not have a negative impact on the visual appearance of a corridor.
2. Since the July 9, 2008 Florence Board of Adjustment meeting, Staff learned that photocells could be provided in these type of signs. As a result, Staff has asked the applicant to check with his sign manufacturer to see if a photocell could be provided in the proposed sign.
3. If the application is approved, Staff recommends the following conditions:
 - A. Conditions 1, 2, and 3 from the 7/9/08 Boone County Board of Adjustment approval should be retained.
 - B. The electronic copy color shall be limited to one color. The color shall be red or green.
 - C. A photocell shall be provided in the sign and the fuel price shall dim as the sky gets darker.

Conclusion

K.R.S. 100.237 and Section 220 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/pr

Attachments

- *Aerial Map
- *Existing Sign & Proposal
- *Electronic Sign Specifications
- *Zoning Map
- *Future Land Use Map
- *7/16/02 Sign Permit
- *7/9/08 Conditions of Approval
- *Application

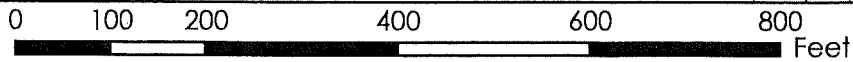
AERIAL MAP

www.boonecountygis.com



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Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



Boone County GIS - Putting Northern Kentucky on the Map

VIEW OF SUBJECT SIGN



64 Sq. Feet (Remains)

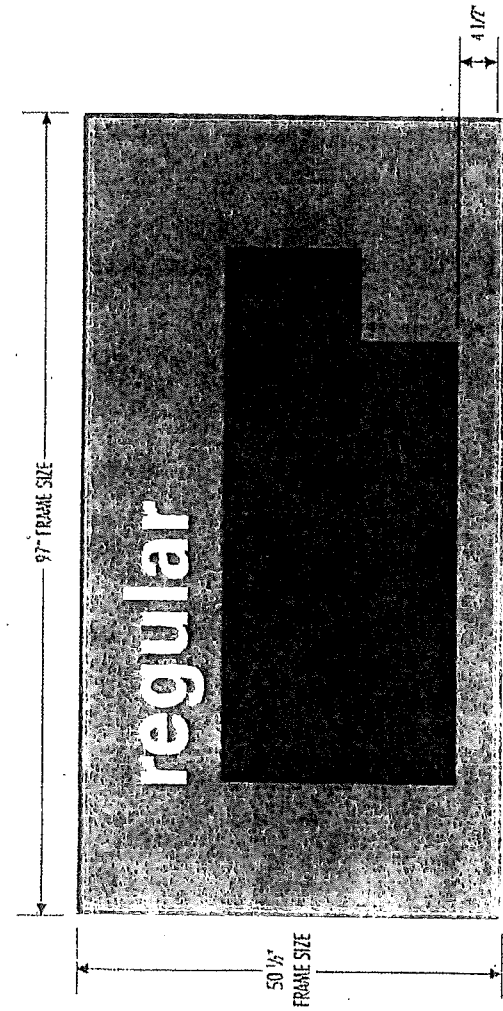
16 Sq. Feet (Remains)

16 Sq. Feet (Remains)

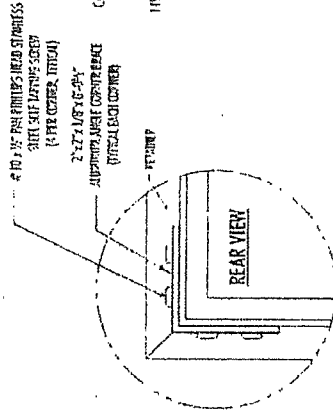
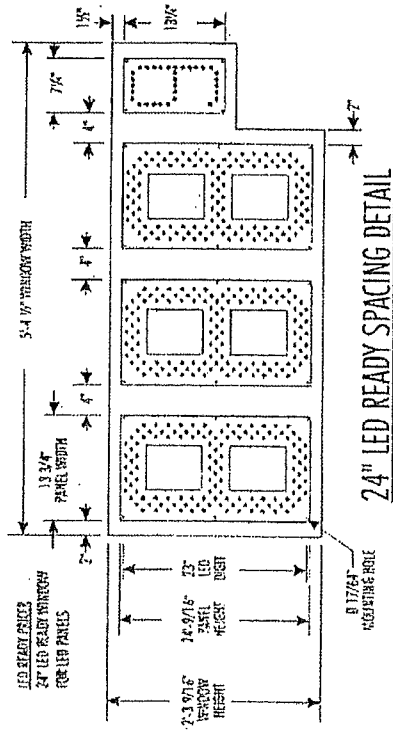
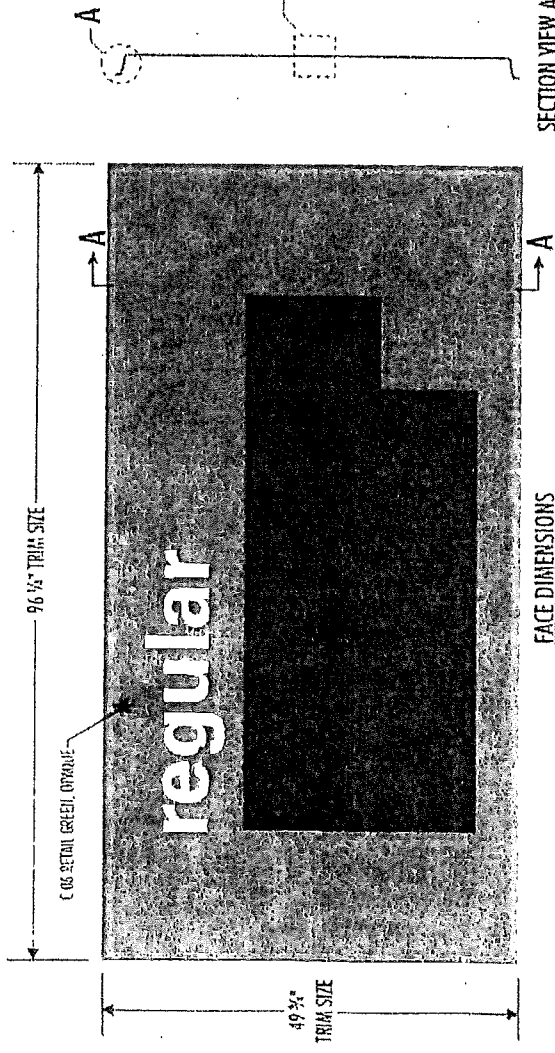
16 Sq. Feet (Becomes Snappy's)

32 Sq. Feet (Electronic Price)

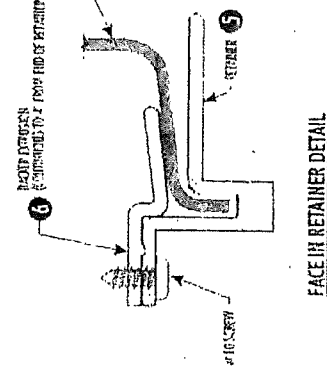
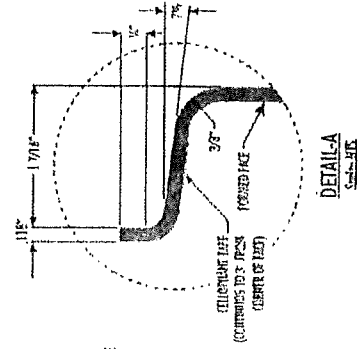
Fuel Window - 12.35 Square Feet



FACE WITH RETAINER DIMENSIONS

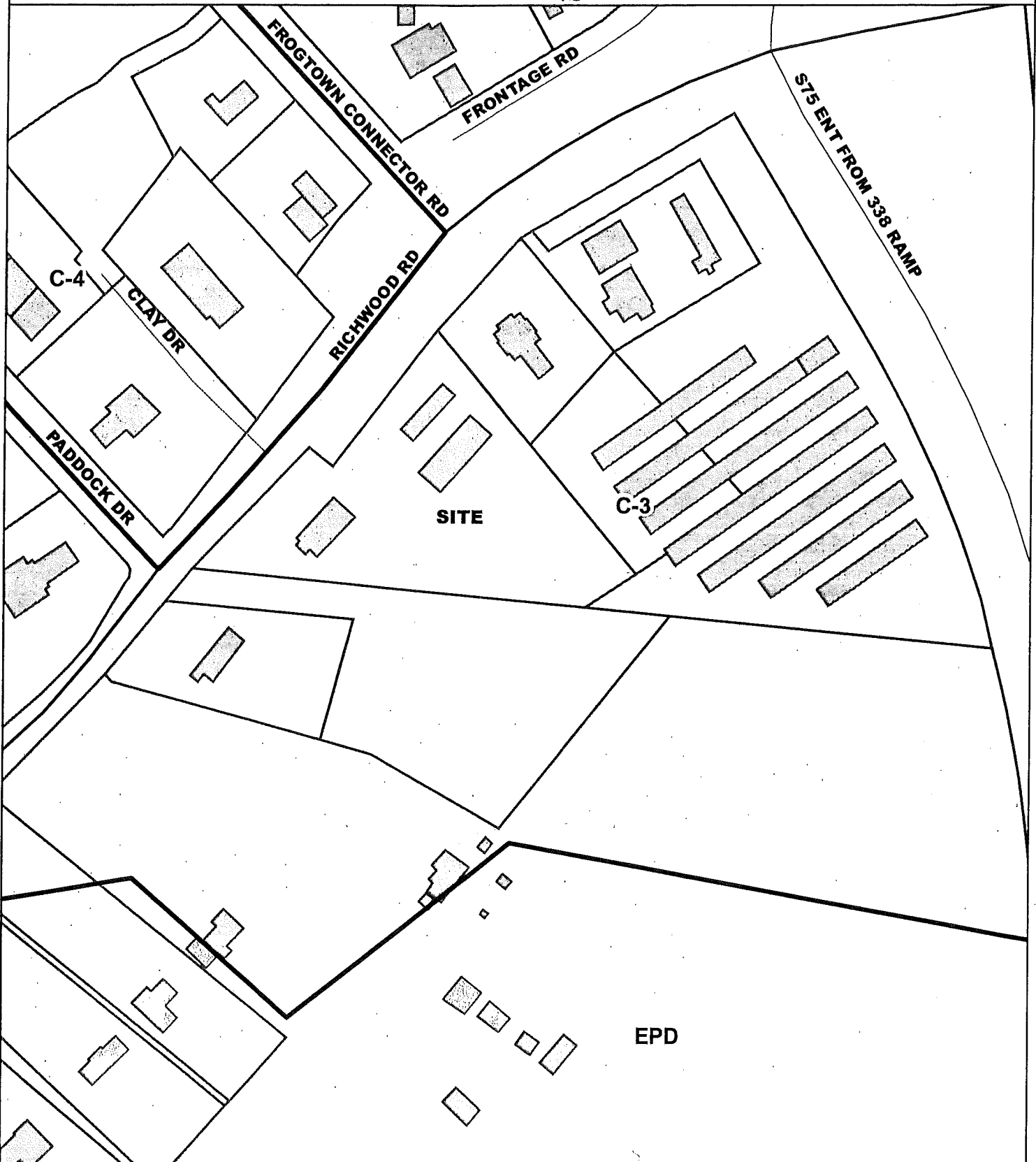


SECTION VIEW FACE DETAIL B



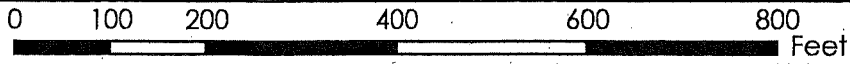
ZONING MAP

www.boonecountygis.com



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1 inch equals 200 feet

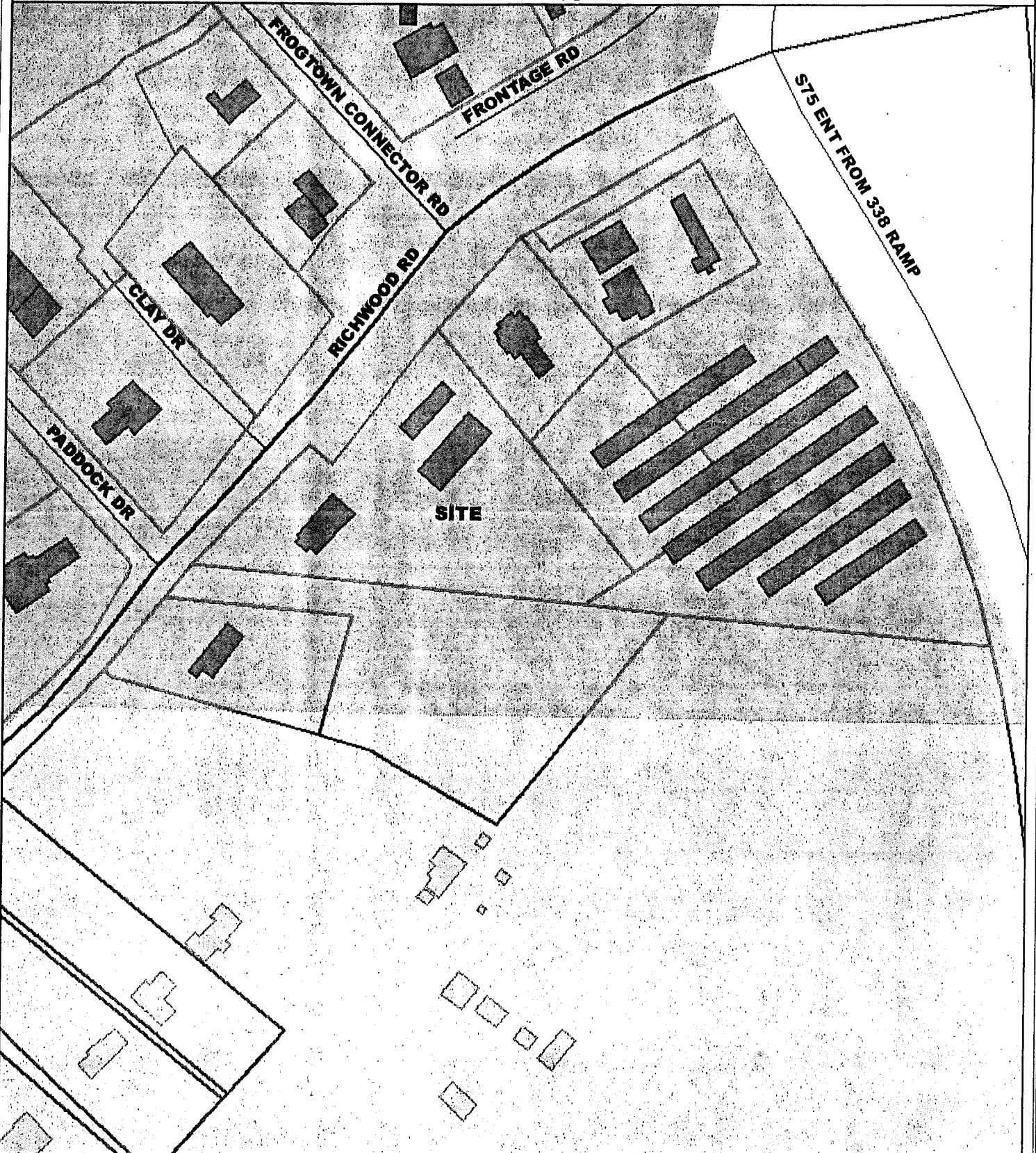


Boone County GIS - Putting Northern Kentucky on the Map



FUTURE LAND USE MAP

www.boonecountygis.com



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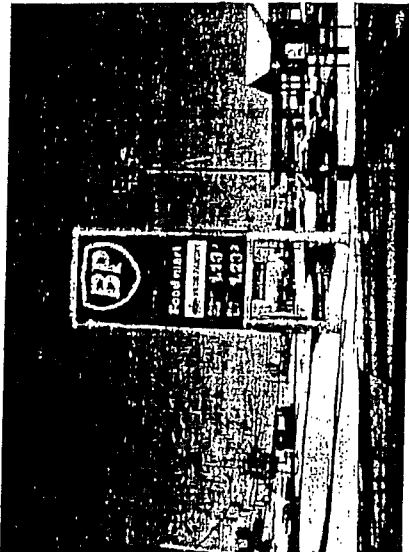
0 100 200 400 600 800 Feet

1 Inch equals 200 feet

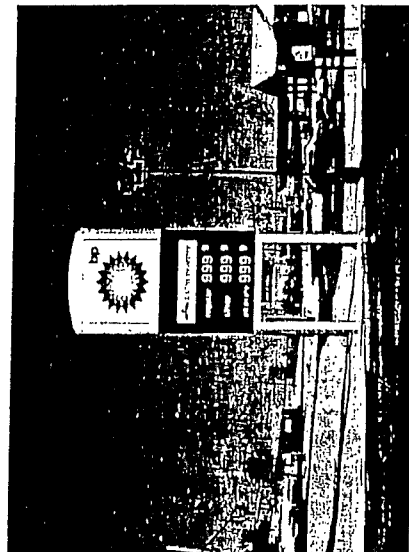


Boone County GIS - Putting Northern Kentucky on the Map





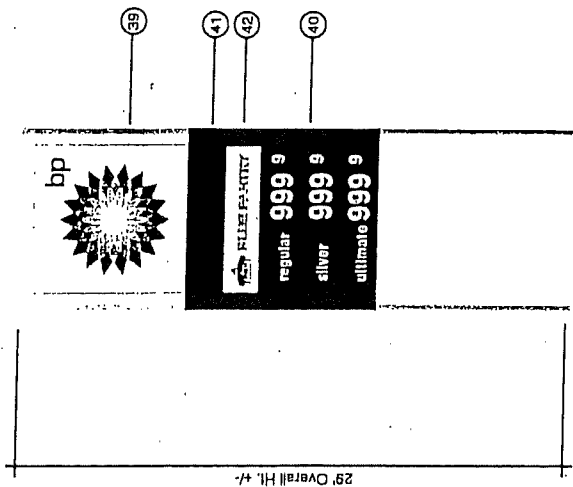
MID - Existing



MID - Proposed

No.	EXISTING ITEM	UNIT	QTY.	RECOMMENDATIONS
39	sign E1 logo	EA	2	reface with BP helios graphics, 8' x 8'
40	sign E1 pricer panel	EA	6	reface w/ new pricer panels, 2' x 8'
41	sign E1 facility panel #1	EA	2	reface w/ new blank panel, 2' x 8'
42	sign E1 facility panel #2	EA	2	relocate Blue Pantry panels
43	sign E1 facility panel #3	EA		
44	sign E1 facility panel #4	EA		
45	sign E2 high rise	EA	2	reface with BP helios graphics, paint cabinet
46	sign E3 logo	EA		
47	sign E3 pricer panel	EA		
48	sign E3 facility panel #1	EA		
49	sign E3 facility panel #2	EA		
50	sign E3 facility panel #3	EA		
51	sign E4 facility panel #4	EA		
52	MID cladding	EA	1	apply film/paint over MID column cladding per visual standards
53	other			

144 Sq. Feet



DESIGN INTENT ONLY

The design intent drawings are to provide general guidance for the vendor development of this project. They are not intended for fabrication purposes. The vendor has total responsibility for materials selection, engineering, fabrication and installation.

SIGN SERVICES GROUP
Nashville, Tennessee (615) 297-2371



Client: Bovis Lend Lease
Project: BP

Title: MID

Date: 2/12/2002

7/16/02 Sign Permit

Site No.: 70964
City: Walton, KY

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 9, 2008 Certificate of Land Use Restriction (#08-BCBOA-015-A), for Deters Company, Property Owner(s).

The following conditions will apply:

- 1) The overall square footage of the sign shall be limited to 144 square feet in area.
- 2) The electronic copy can only advertise regular fuel prices.
- 3) The illegal lottery sign shall be removed.
- 4) The electronic copy color is limited to red.

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

DEED BOOK 409

PAGE NO. 97

GROUP NO. 2071

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See Boone County Zoning Regulations
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- (Check One)
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_____ Change in Non-Conforming Use _____
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R&QUBST ON LINE 4
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If yes, give date of approval _____
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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: [Signature]

Director of Operations

COPY

CLUR #08-BCBOA-020-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Deters Company
7230 Turfway Road
Florence, KY 41042
2. ADDRESS OF PROPERTY
305 Richwood Road
Walton, KY 41094
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
BP Gas Station
4. DEED BOOK 409 PAGE NO. 97 GROUP NO. 2071
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



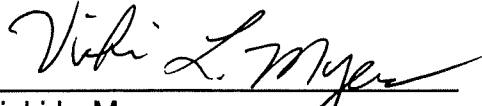
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

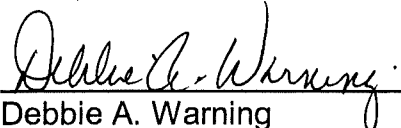
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 14 day of October, 2008.



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.)

CONDITIONS OF APPROVAL

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PAGE NO. 97

GROUP NO. 2071