

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED APR 21 2009 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
3. Applicant's Name JOHN Z MILLER
Phone Number 859-902-3789 Fax No. 859-283-5737
Applicant's Address 1622 AMSTERDAM RD FORT WRIGHT KY 41011

4. Description of Request: Used Car lot

5. Name of Development TRI CITY AUTO SALES
6. Location of Development 166 WEAVER RD FLORENCE KY 41042

7. Acreage Under Review 1.8 ACERS
8. Lot Number and Name of Subdivision (if part of a subdivision)

9. Owner of Property JOHN PIERCE w/ ASHLEIGH - Sydney Investment
Address of Property Owner 11 SPIRAL DR SUITE 2 FLORENCE KY 41042 Phone No. 859-647-2800

10. Proposed Use(s) on Site USED CAR LOT

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

13. Current Zoning on Property I-2
14. Deed Book 928 Page No. 120 Group No. 2049A

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?

17. Have you submitted a list of adjoining property owners with this request?

18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations

ORIGINAL Property Owner's Signature: (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

(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 4/21/09 Fee Received \$1,089⁰⁰ R# 58470
- 2. Is application complete? Yes No
- 3. Staff Reviewer _____
- 4. Scheduled Board Action Date _____
- 5. Board Action:
 - Approved
 - 5/13/09 Approved with Conditions (See #6)
 - Denial (See #7)
- 6. Conditions of Approval: STAFF COMMENTS YA - YE
- 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: John Miller

LOCATION: 166 Weaver Road, Boone County, Kentucky

ZONING: Industrial Two (I-2)

DATE: May 13, 2009

PROPOSAL

The Applicant has applied for a Conditional Use Permit to sell used motor vehicles (automobiles, light trucks, and motorcycles) at 166 Weaver Road, Boone County, Kentucky.

APPLICABLE REGULATIONS

Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to grant conditional uses permits as specified by the zoning order.

Section 1143 of the Boone County Zoning Regulations permits "retail sales and service of new and used motor vehicles including tires, batteries and accessories, auto body services including junkyards, wrecking or other storage" as a Conditional Use in the Industrial Two (I-2) district.

Section 3312 of the Boone County Zoning Regulations requires all parking lots to be striped to facilitate the movement of vehicles into and out of parking lots.

Section 3314 of the Boone County Zoning Regulations requires all parking lots to be constructed with either asphalt concrete or portland cement to provide a durable dust free surface.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit as stated in Sections 262 & 1143 of the Boone County Zoning Regulations.

Findings listed in Section 262 (Findings for all Conditional Uses):

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's Comprehensive Plan, a specific corridor plan and/or the zoning order;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area;
3. Will not be hazardous to existing or future neighboring uses;
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately such services;

5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
6. Will not involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, dust, fumes, glare, or odors;
7. Will have vehicular approaches to the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 11, Section 1.143 of the Boone County Zoning Regulations allows "retail sales and service of new and used motor vehicles including tires, batteries and accessories, auto body services including junkyards, wrecking or other storage" as Conditional Uses in the Industrial One (I-2) district provided that:

- a. the activity is provided primarily in support of and obtains its trade from the employees of the district; or
- b. the activity is of integral relation to the purpose of the district;
- c. the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district; and
- d. provided the arrangement of uses, buildings or structures is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The 2005 Boone County Comprehensive Plan's "2030 Future Land Use Plan" designates the site in question for "Industrial" and "Commercial" uses. These designations are defined as follows:

Industrial - "Manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses."

Commercial - "Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The Land Use Element (Devon Area, pp. 147-148) makes the following statements regarding the general area:

"This section contains the Northern Kentucky Industrial Park, which is the largest park in the metropolitan region. Expansion and continued development of this employment center has slowed some, but is expected to continue over the study period of this Plan. The residential areas to the north of the Park prohibit any expansion in that direction, and industrial expansion should not occur west of the interstate. Development should occur along the east side of the interstate, however, this development should retain the existing tree line to buffer the uses from residential development on the west side of the interstate and to hide the outside storage and parking areas from public view from the interstate. Industries should continue to locate and expand along

Industrial Road into Kenton County, and along the length of Empire Drive. The Park should be encouraged to expand to the south along the Empire Road Connector, and the proposed Weaver Road to Sam Neace Boulevard. In addition, development should continue along U.S. 25 and Weaver Road, and near the railways. Tracts of developable land exist in the area and development depends only upon public utility expansion and an improved road network, including upgraded railroad crossings. The Park is now old and is experiencing building vacancies and other signs of being dated, however, the planned Industrial Road widening and reconstruction will give the area new life."

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

- A. "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas" (Business Activity, Goal).
- B. "Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe and effective access and ample parking spaces" (Business Activity, Objective).

SITE HISTORY

- 4/10/91 - The Boone County Board of Adjustment approved an Appeal of the Zoning Administrator's decision. The approval allowed a variance to be sought to reduce the minimum lot size of an Industrial Two (I-2) parcel.
- 4/10/91 - The Boone County Board of Adjustment approved a Conditional Use Permit and two Variances. The Conditional Use Permit allowed a bank to be constructed in an Industrial Two (I-2) zone. The first Variance reduced the front yard setback requirement from 100' to 50'. The second Variance reduced the minimum lot size of a I-2 lot from 2.75 acres to 1 acre.
- 7/17/91 - The Boone County Planning Commission approves a Site Plan allowing a 3,100 square foot bank and 14 parking spaces.

SITE CHARACTERISTICS

The approximate 1.07 acre tract is located on the north side of Weaver Road and contains a 3,100 square foot building (former bank) and 17 striped parking spaces. A 15' one-way driveway is located to the east of the building. This driveway connects to the rear parking lot and the former bank drive through (three 8' wide lanes) that is located on the western side of the building. The site contains a driveway connection to Mubea's vacant lot.

SURROUNDING LAND USES & ZONING

North: Bi-County Farm Bureau (I-2 & C-2)

South: Weaver Road, Chap's Lake (I-2) , and Mary's Kitchen (C-2)

East: Bi-County Farm Bureau (I-2 & C-2)

West: Mubea (I-2)

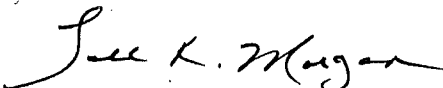
STAFF COMMENTS

1. Staff has the following questions for the applicant:
 - A. How many vehicles will be for sale on the lot at any given time?
 - B. Will any vehicles be repaired on site? If so, what types of repairs will be performed and where will the work take place?
 - C. Some of the large shrubs that were located in front of the parking lot were removed and not replanted. Are these shrubs going to be replanted?
2. The applicant installed a sign on the building and refaced the freestanding sign. The Boone County Zoning Regulations requires the issuance of Sign Permits.
3. Staff would like to point out that there are regulations regarding Temporary Signs. Section 3420 of the Zoning Regulations requires a Temporary Advertising Display Permit to be issued before banners, posters, streamers, flags, or other devices are used on site.
4. Staff recommends the following conditions if the request is approved:
 - A. The parking lot striping shall remain unchanged and shall be repainted to make it visible.
 - B. All vehicles for sale shall be located in striped parking places.
 - C. No major vehicle repairs shall be conducted on site (engine work, transmission repair, auto glass, heating/air conditioning, upholstery, etc.)
 - D. No auto parts shall be stored outside.
 - E. The landscaping that was removed from the front parking lot shall be replanted along the front property line.

Conclusion

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

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

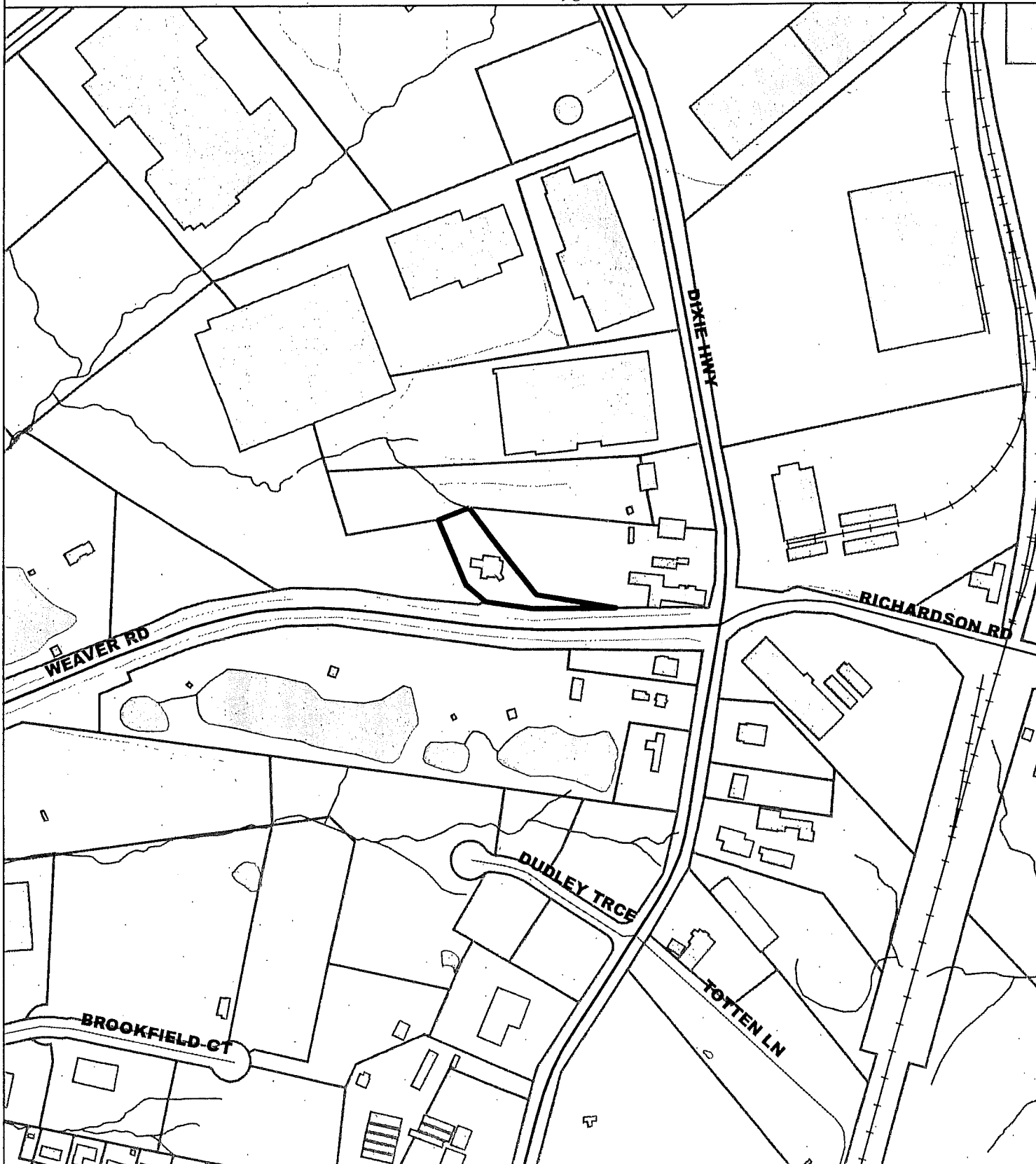
TKM/pr

Attachments

- *Site Vicinity Map
- *2007 Aerial Map (Site)
- *2007 Aerial Map (Site & Adjoining Properties)
- *Zoning Map
- *Future Land Use Map
- *Application

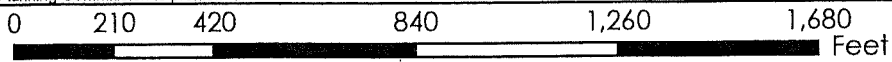
SITE VICINITY MAP

www.boonecountygis.com



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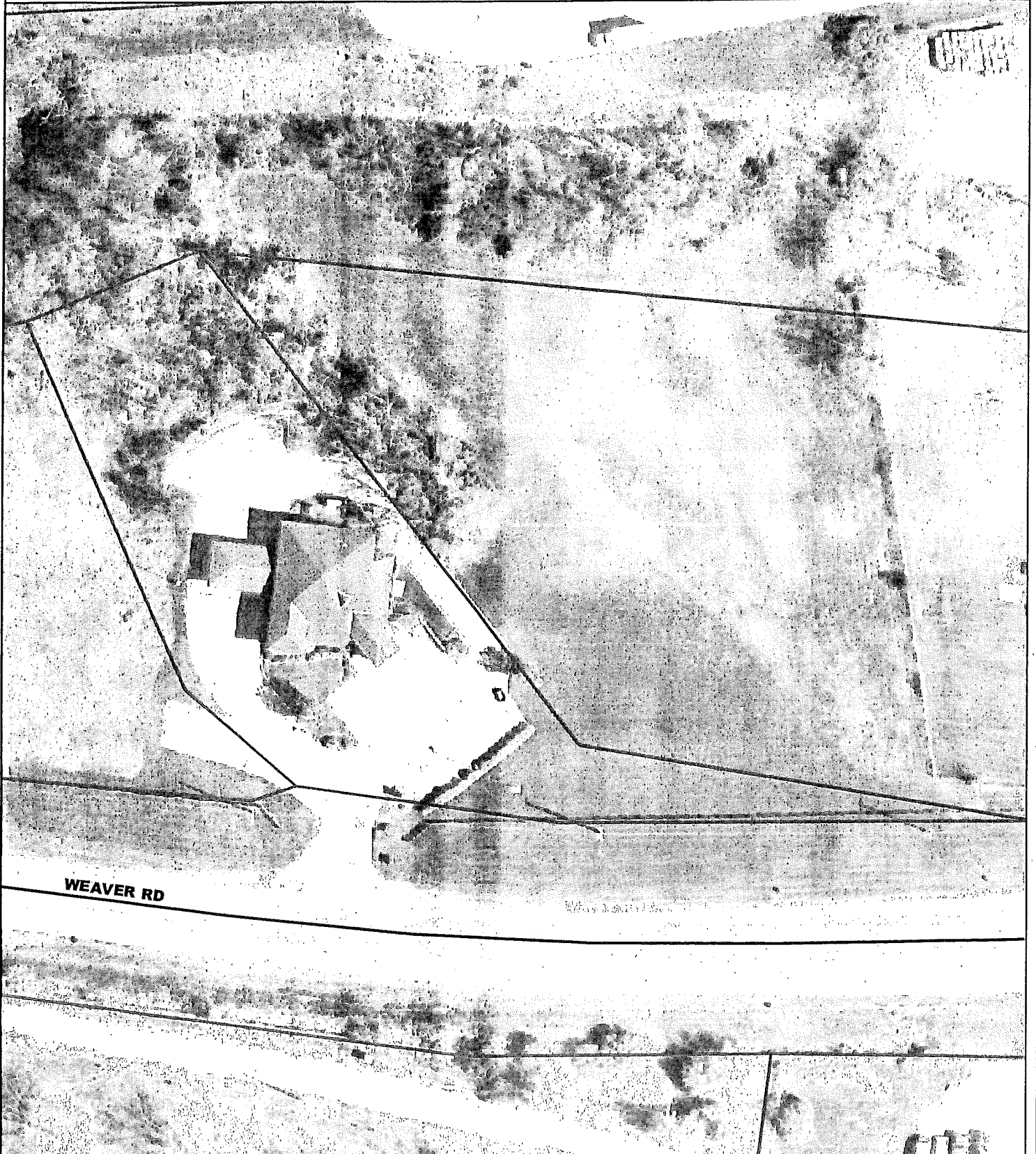
1 inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map

2007 AERIAL MAP

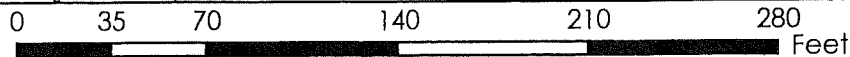
www.boonecountygis.com



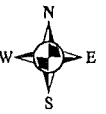
WEAVER RD

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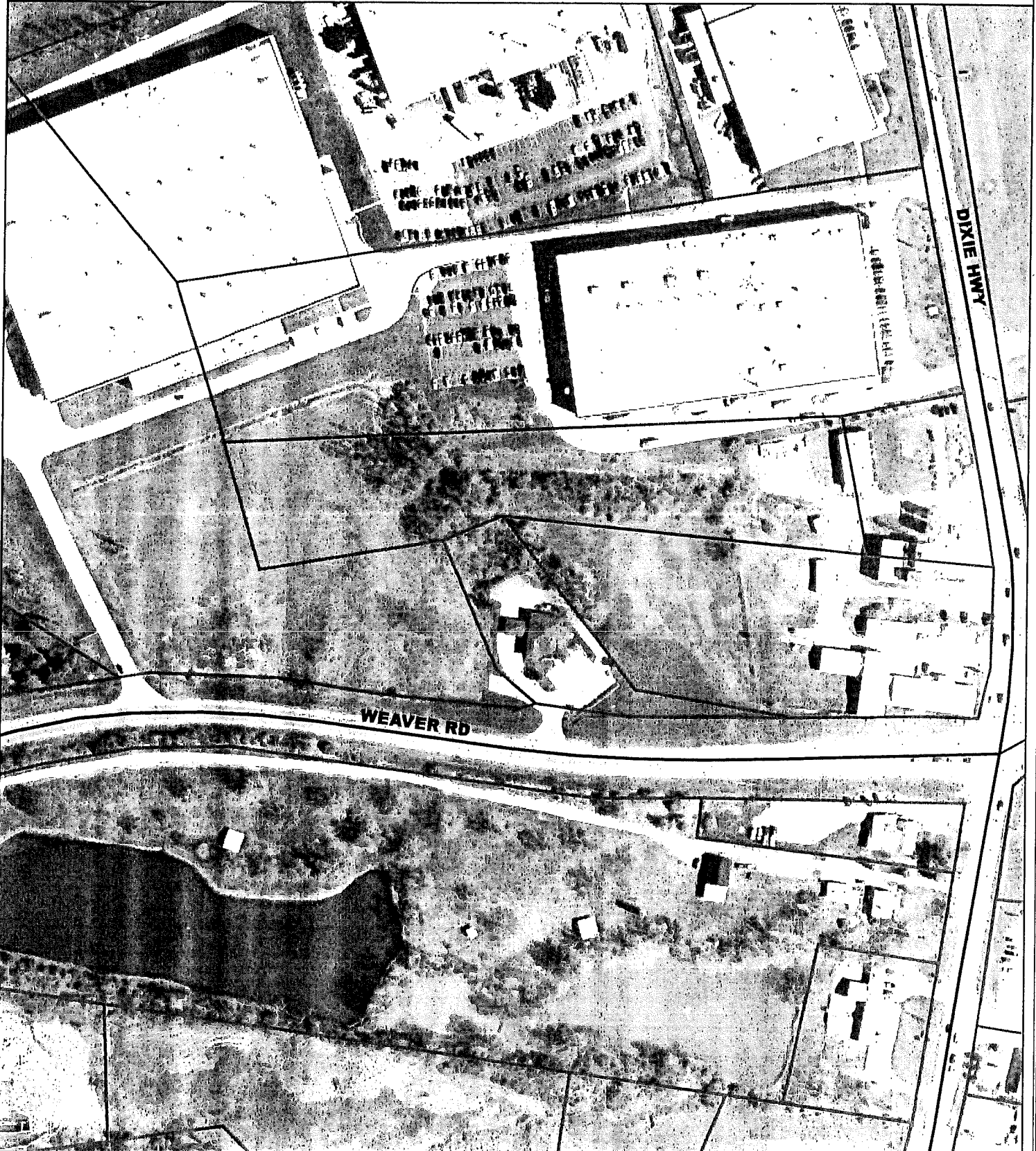


Boone County GIS - Putting Northern Kentucky on the Map



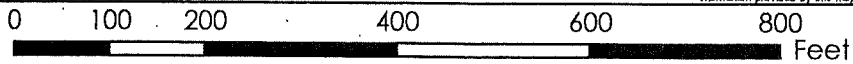
2007 AERIAL MAP

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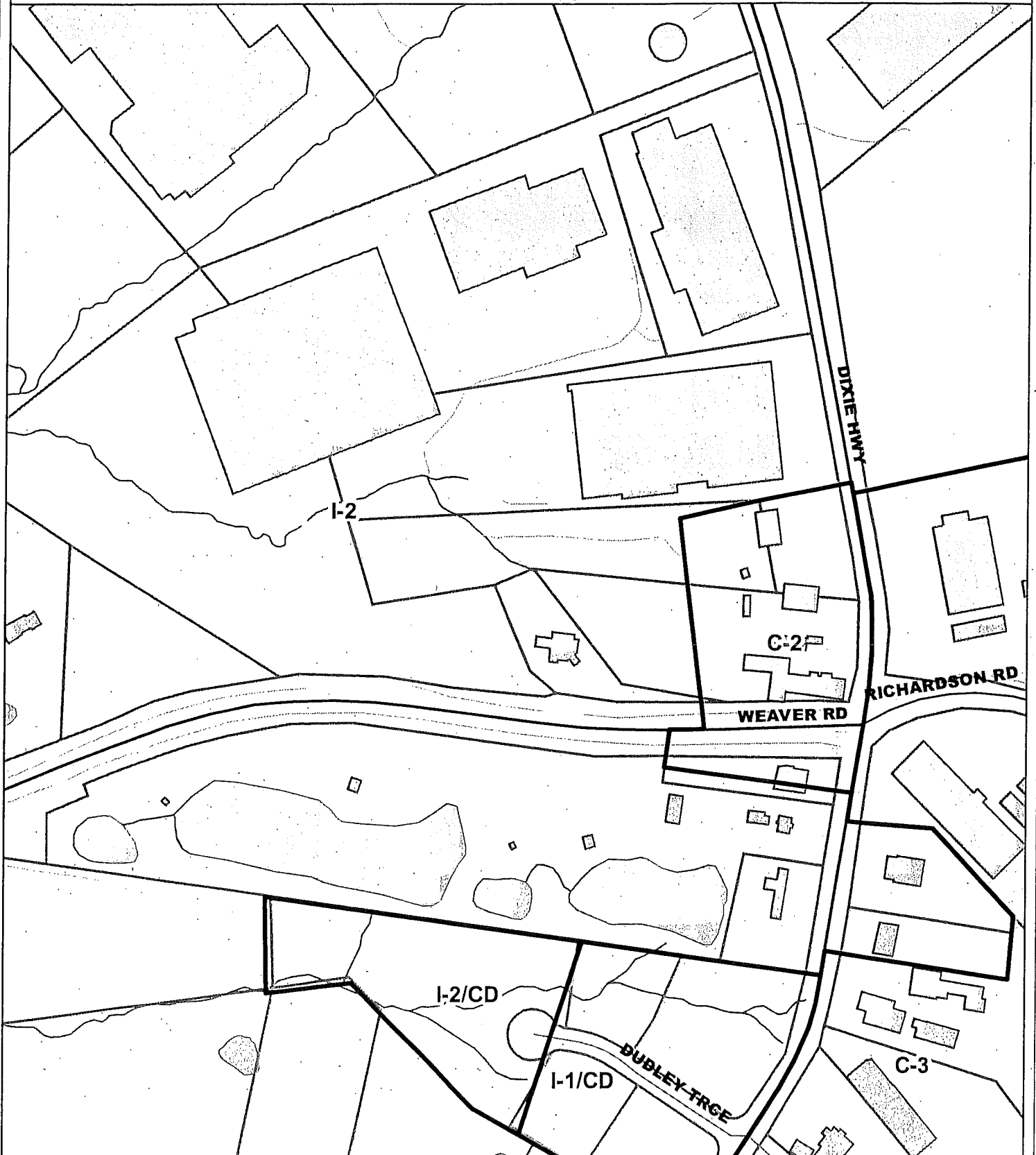
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Boone County GIS - Putting Northern Kentucky on the Map

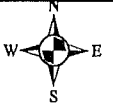
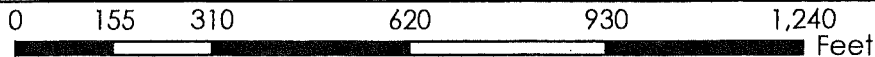
ZONING MAP

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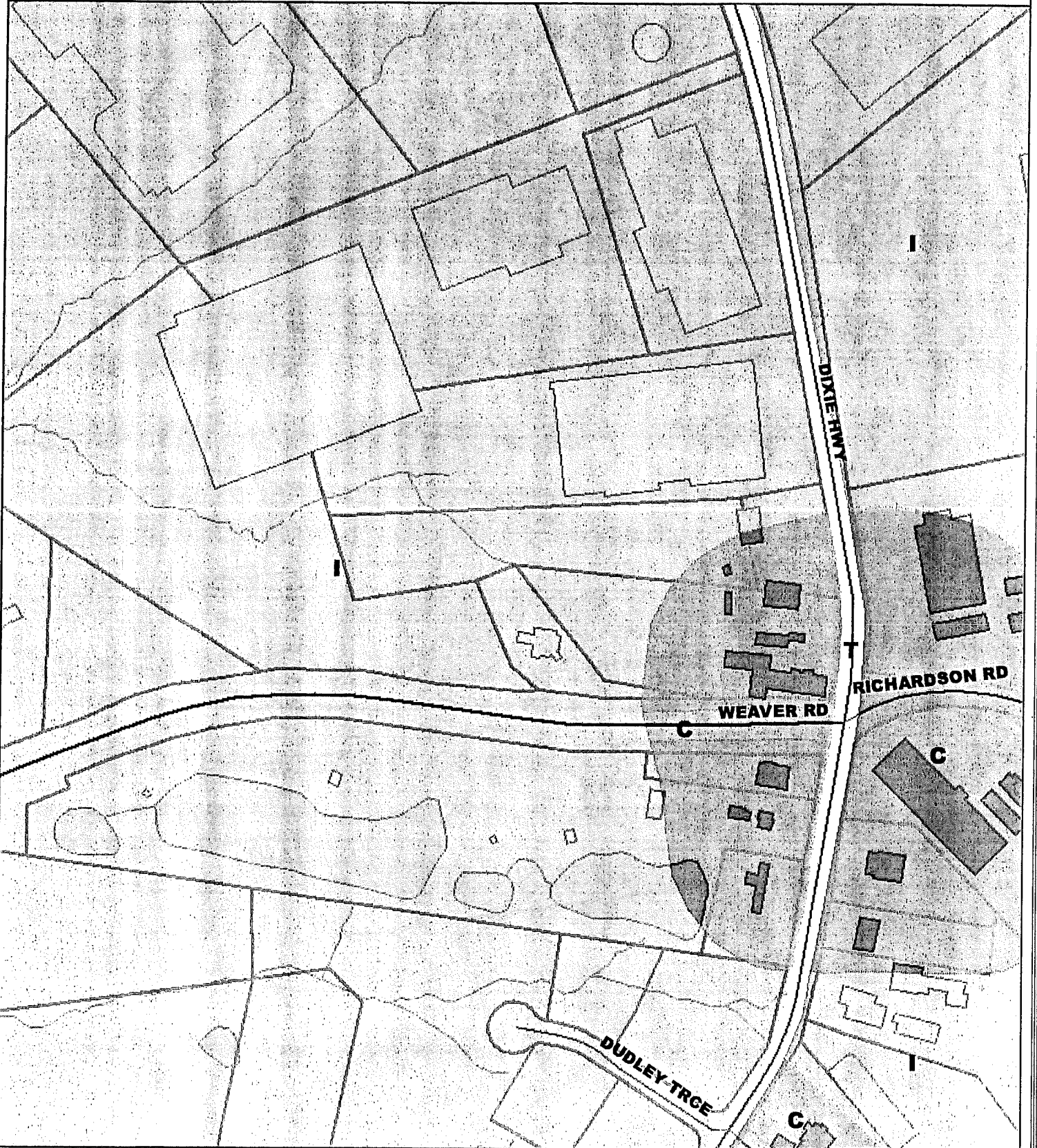
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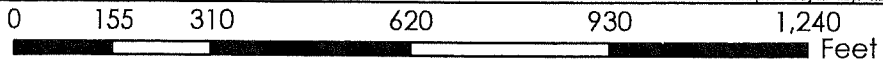
FUTURE LAND USE MAP

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Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2008

Boone County GIS - Putting Northern Kentucky on the Map

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED APR 21 2009 BOONE COUNTY PLANNING COMMISSION

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 JOHN Z MILLER Phone Number 859-907-3789 Fax No 859-283-5737 Applicant's Address 1622 AMSTERDAM RD FORT WRIGHT KY 41011
4. Description of Request: Used Car Lot

- 5. Name of Development TRI CITY AUTO SALES
6. Location of Development 166 WEAVER RD FLORENCE KY 41042
7. Acreage Under Review 1.8 ACERS
8. Lot Number and Name of Subdivision (if part of a subdivision)

- 9. Owner of Property JOHN PIERCE w/ ASHLEIGH-SYDNEY INVESTMENTS Address of Property Owner 11 SPIRAL DR SUITE 2 FLORENCE KY 41042 Phone No. 859-647-2800
10. City State Zip

- 11. Proposed Use(s) on Site USED CAR LOT

- 12. Total Square Footage of Existing and/or Proposed Buildings
13. Current Zoning on Property I-2
14. Deed Book 928 Page No. 120 Group No. 2049A

- 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?
17. Have you submitted a list of adjoining property owners with this request?

- 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CLUR #09-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Ashleigh-Sydney Investments
11 Spiral Drive, Suite 3
Florence, KY 41042

2. ADDRESS OF PROPERTY

166 Weaver Road
Florence, KY 41042

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Tri City Auto Sales

4. DEED BOOK 928

PAGE NO. 120

GROUP NO. 2049A

5. TYPE OF RESTRICTION(S) (Check all that apply)

Zoning Map Amendment:
From To

Conditional Use Permit

Development Plan

Conditional Zoning

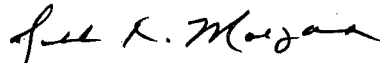
Subdivision Plat
(Not Recorded)

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

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 May 13, 2009 Certificate of Land Use Restriction (#09-BCBOA-006-A), for Ashleigh-Sydney Investments, Property Owner(s).

The following conditions will apply:

- 1) The parking lot striping shall remain unchanged and shall be repainted to make it visible.
- 2) All vehicles for sale shall be located in striped parking places.
- 3) No major vehicle repairs shall be conducted on site (engine work, transmission repair, auto glass, heating/air conditioning, upholstery, etc.)
- 4) No auto parts shall be stored outside.
- 5) The landscaping that was removed from the front parking lot shall be replanted along the front property line.

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

DEED BOOK 928

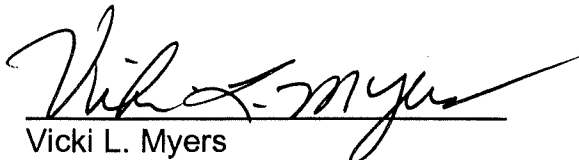
PAGE NO. 120

GROUP NO. 2049A

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

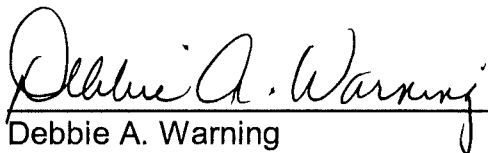
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 14 day of May, 2009.



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.)