

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED OCT 20 2009 BOONE COUNTY PLANNING COMMISSION

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

- 1. (Check One) Boone [X] Florence _____ Walton _____ Union _____
2. (Check One) Conditional Use Permit [X] Variance _____ Appeal _____ Change in Non-Conforming Use _____
3. Applicant's Name ABC Signs Phone Number 513-241-8884 Fax No. 513-241-8998 Applicant's Address 38 W. Mammoth Ave Cincinnati OH 45202
4. Description of Request: Replace Gas prices with digital faces in existing cabinet
5. Name of Development Pilot Travel
6. Location of Development 11229 Frontage RD Walton Ky 41094
7. Acreage Under Review
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property Pilot Travel Centers LLC Address of Property Owner 5508 Lonas DR Phone No. 865-4742868 Knoxville TN 37909
11. Proposed Use(s) on Site Business
12. Total Square Footage of Existing and/or Proposed Buildings 203
13. Current Zoning on Property C-3
14. Deed Book 852 Page No. 320 Group No. 2064
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.

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

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

(over) [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 10/20/09 Fee Received ~~\$173~~ 1,082⁰⁰ R# 59633
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 11/16/09 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: STAFF COMMENTS 6A, 6B, 6C, 6D

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: ABC Signs for Pilot Travel Centers

LOCATION: 11229 Frontage Road, Boone County, Kentucky

ZONING: Commercial Services (C-3)

DATE: November 16, 2009

Proposal

The applicant has submitted the following applications:

1. A Conditional Use Permit application to allow electronically changeable fuel prices on Pilot's existing 33'-4" tall free-standing sign. The submitted photograph and simulation show that a 5'-1" x 11'-11" (60.57 square foot) manually changeable fuel price cabinet will be replaced with an identically sized cabinet that displays unleaded fuel prices in red L.E.D. and diesel fuel prices in green L.E.D. The applicant informed Staff that the L.E.D. display area in the sign cabinet is 2'-4" x 11' (25.67 square feet).
2. A Variance to allow the electronic sign within 660' of other electronic signs. The Boone County G.I.S. system shows that the Pilot sign is approximately 342' from the BP sign and 222' from the Shell sign.

Pertinent Site History

On August 3, 1992, the Boone County Planning Commission approved a Sign Permit allowing the subject sign to be remodeled. The overall area of the sign was shown at 184 square feet.

On August 5, 1992, the Boone County Planning Commission approved a Site Plan application allowing a Pilot Travel Center to be constructed on the lot. The plan shows a 4,454 square foot building, gas and diesel pumps, fuel canopies, tractor trailer and car parking, and a truck scale.

On October 14, 2009, the Boone County Planning Commission approved a Sign Permit allowing the 52 square foot "Subway" sign cabinet to be removed from the subject sign and replaced with a 36 square foot "Subway" cabinet.

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that two duties of the Board of Adjustment and Zoning Appeals is to act on Conditional Use Permit and Variance applications.

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 variance request in terms of the criteria listed 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.

The Board needs to evaluate the Conditional Use Permit 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.

Section 3413 of the Zoning Regulations states individual parcels located in C-3 zoning districts shall be permitted a density of one (1) on-premises, architectural free-standing. The sign can be up to 30' tall and 200 square feet in area (dependent on road frontage).

Section 3430 of the Zoning Regulations permits electronically changeable message boards as a Conditional Use in the C-3 zoning district. The following minimum standards must be 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 majority of the site for "Commercial" uses. This designation is defined as "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 2.91 acre site fronts on Frontage Road and contains a 4,454 square foot Pilot Travel Center building, gas and diesel pumps, fuel canopies, tractor trailer and car parking, and a truck scale. Access to the site is provided from three curb cuts on Frontage Road and one curb cut on Frogtown Connector Road. The site has two free-standing signs. The first sign is located in close proximity to Frontage Road and is 33'-4" tall and 203.16 square feet in area. The second sign is an interstate high rise sign that has 300 square feet of signage.

Surrounding Land Uses and Zoning

North: Vacant Commercial Lot Fronting on Frogtown Connector Road (C-4)

South: Frontage Road, Richwood Road, Shell Station, Best Self Storage, and Huntington Bank (C-3)

East: Waffle House (C-4)

West: Frogtown Connector Road, Penn Station/Gold Star Chili, Valvoline, Richwood Plaza (C-4)

Staff Comments

1. The existing free-standing signs are legally non-conforming for the following reasons:
 - A. Section 3413 of the Zoning Regulations states individual parcels located in C-3 zoning districts shall be permitted a density of one (1) on-premises, architectural free-standing.

There are two free-standing signs on the site.
 - B. The Zoning Regulations permit an architectural free-standing sign to be up to 30' tall and 200 square feet in area (dependent on road frontage).

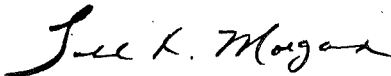
Both signs exceed 30' in height and 200 square feet in area.
2. The submitted photo and simulation show that the square footage of the subject sign will be reduced from 203.16 square feet to 157.16 square feet if the requests are granted. The catwalk on the sign will also be removed because the fuel prices will be changed from inside the store.
3. The Board should analyze the "Design, Signs, and Historic Preservation" section of the Future Land Use Development Guidelines before acting on the Conditional Use Permit request. 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. It should be noted that three electronic fuel price signs (Shell, Pilot, and BP) will be about 564' apart if the requests are approved.
4. The Board needs to determine if granting the Variance application would alter the essential character of the area or if denying the request would create an unnecessary hardship on the property owner.
5. Section 3430 of the Boone County Zoning Regulations states that an electronic message board shall conform to the following criteria:
 - A. The electronic message boards shall not be more than fifty percent (50%) of a permitted sign area. The electronic message board comprises 16.33% (25.67/157.16) of the overall sign area.
 - B. Electronic messages must be displayed on the board for at least 5 seconds and messages cannot flash, scroll, or run.

- C. Electronic message boards must be at least 660 feet apart. A Variance request was submitted because the Pilot sign is located approximately 222' from the Shell sign and 342' from the BP sign.
6. If the application is approved, Staff recommends the following conditions:
- A. The electronic copy shall only be used to advertise fuel prices;
 - B. The fuel price displays shall not flash, run, or scroll;
 - C. The sign shall be equipped with photocells and the fuel prices shall dim as the sky gets darker; and
 - D. The sign shall be constructed as presented and additional sign cabinets shall not be permitted.

Conclusion

K.R.S. 100.237 and 100.241 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 requests.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

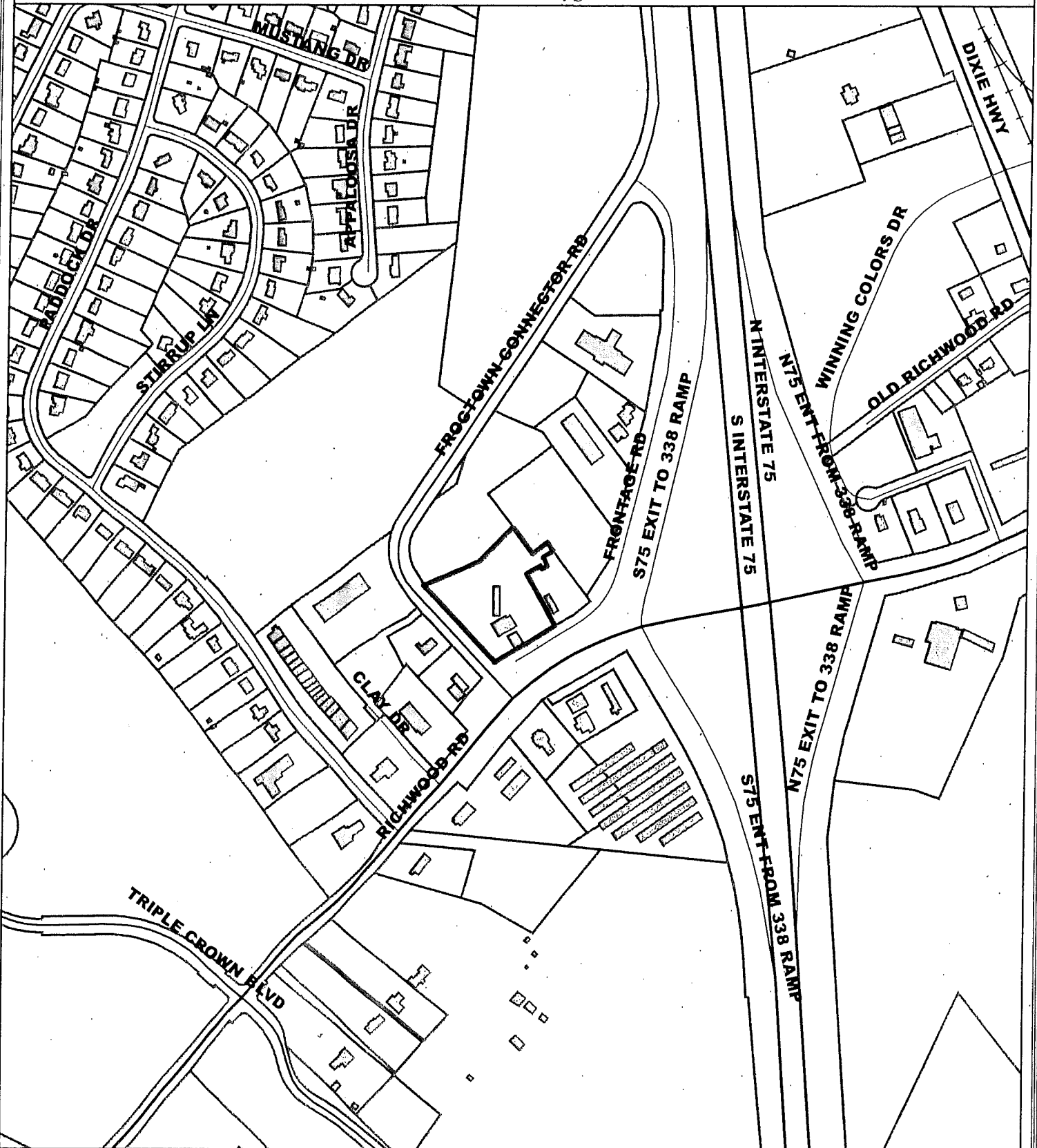
TKM/pr

Attachments

- *Site Vicinity Map
- *Sign Photo/Simulation (Before and After)
- *Distance Between Electronic Signs
- *Aerial Map
- *Zoning Map
- *Topographical Map
- *Future Land Use Map
- *Applications

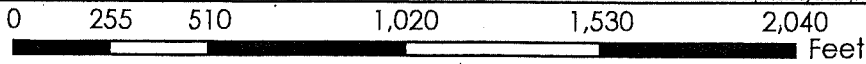
SITE VICINITY MAP

www.boonecountygis.com



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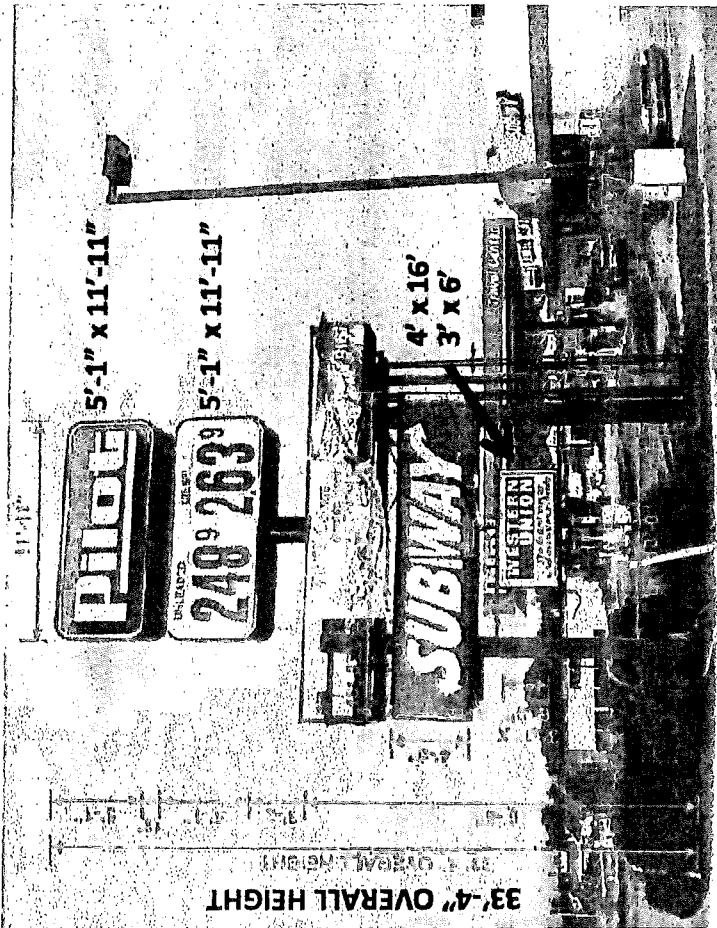


Boone County GIS - Putting Northern Kentucky on the Map

EXISTING SIGN

33'-4" TALL

203.16 SQUARE FEET IN AREA

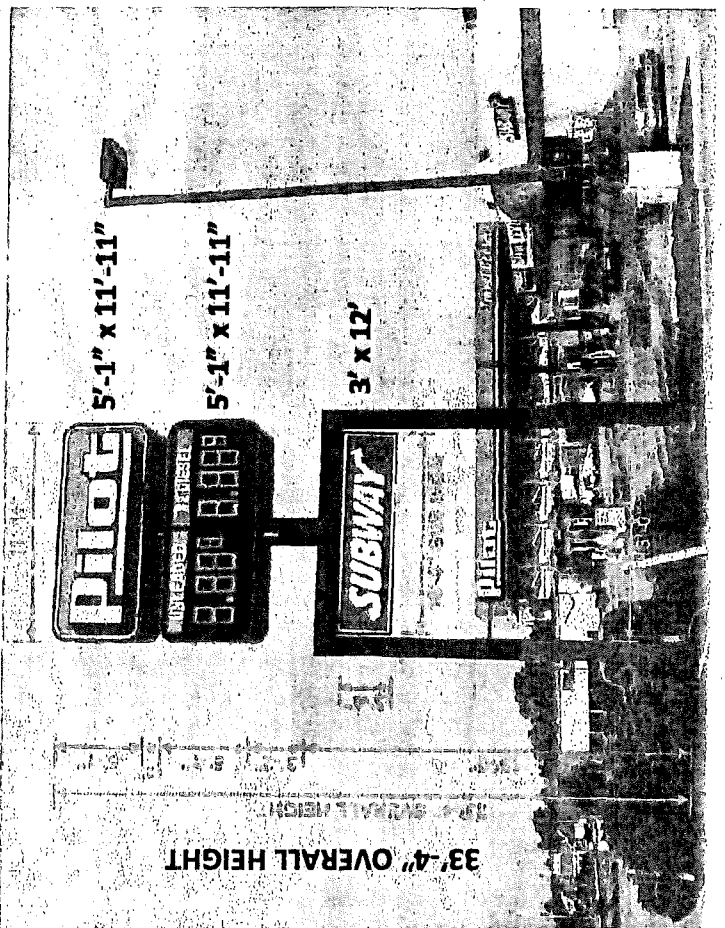


PROPOSED SIGN

33'-4" TALL

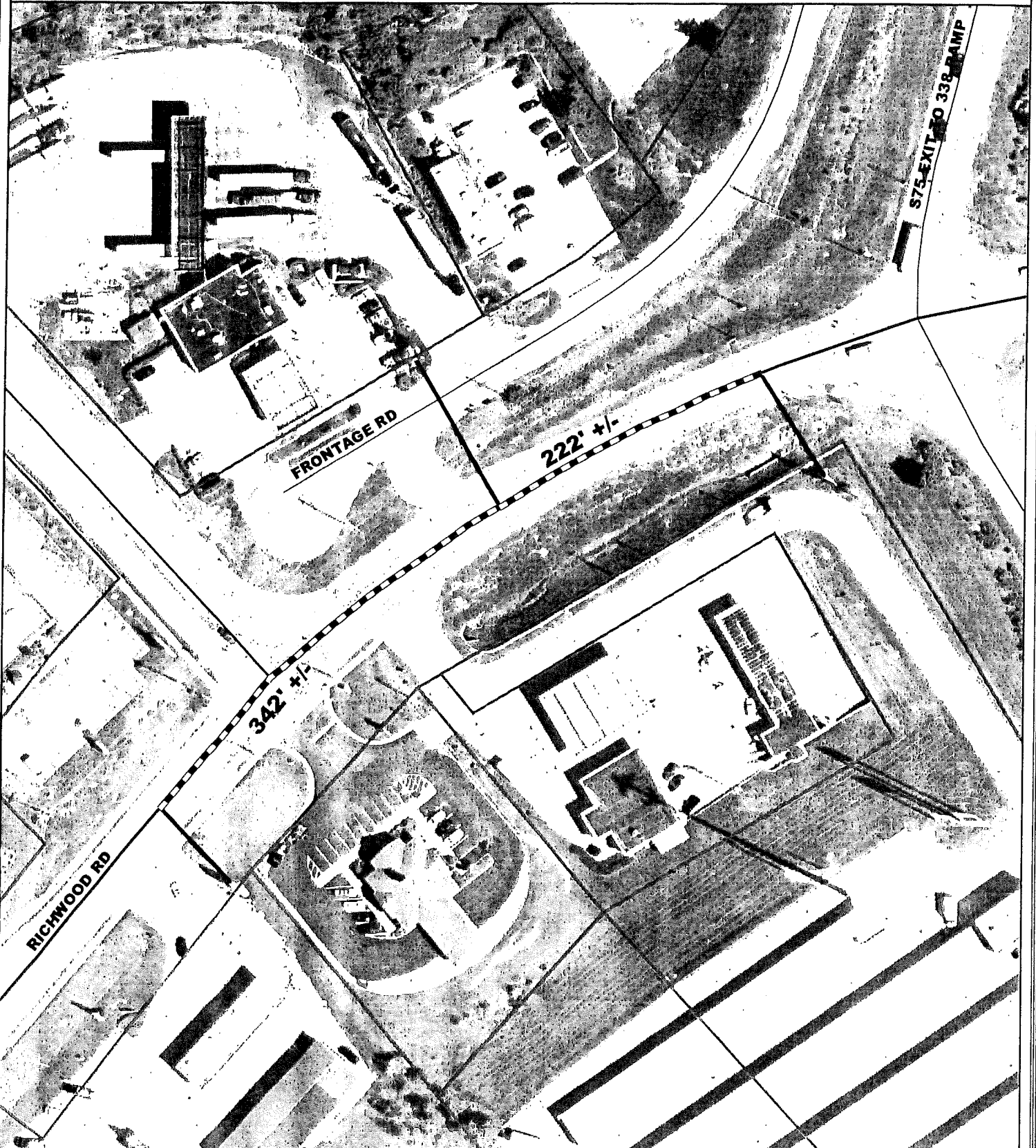
157.16 SQUARE FEET IN AREA

LED AREA IS 2'-4" x 11' = 25.67 SQUARE FEET
16.33% OF SIGN IS ELECTRONIC COPY



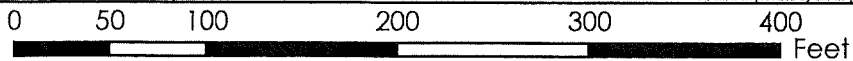
DISTANCE BETWEEN ELECTRONIC SIGNS

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1 inch = 100 feet



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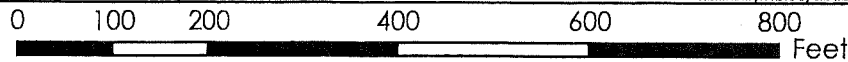
2007 AERIAL MAP

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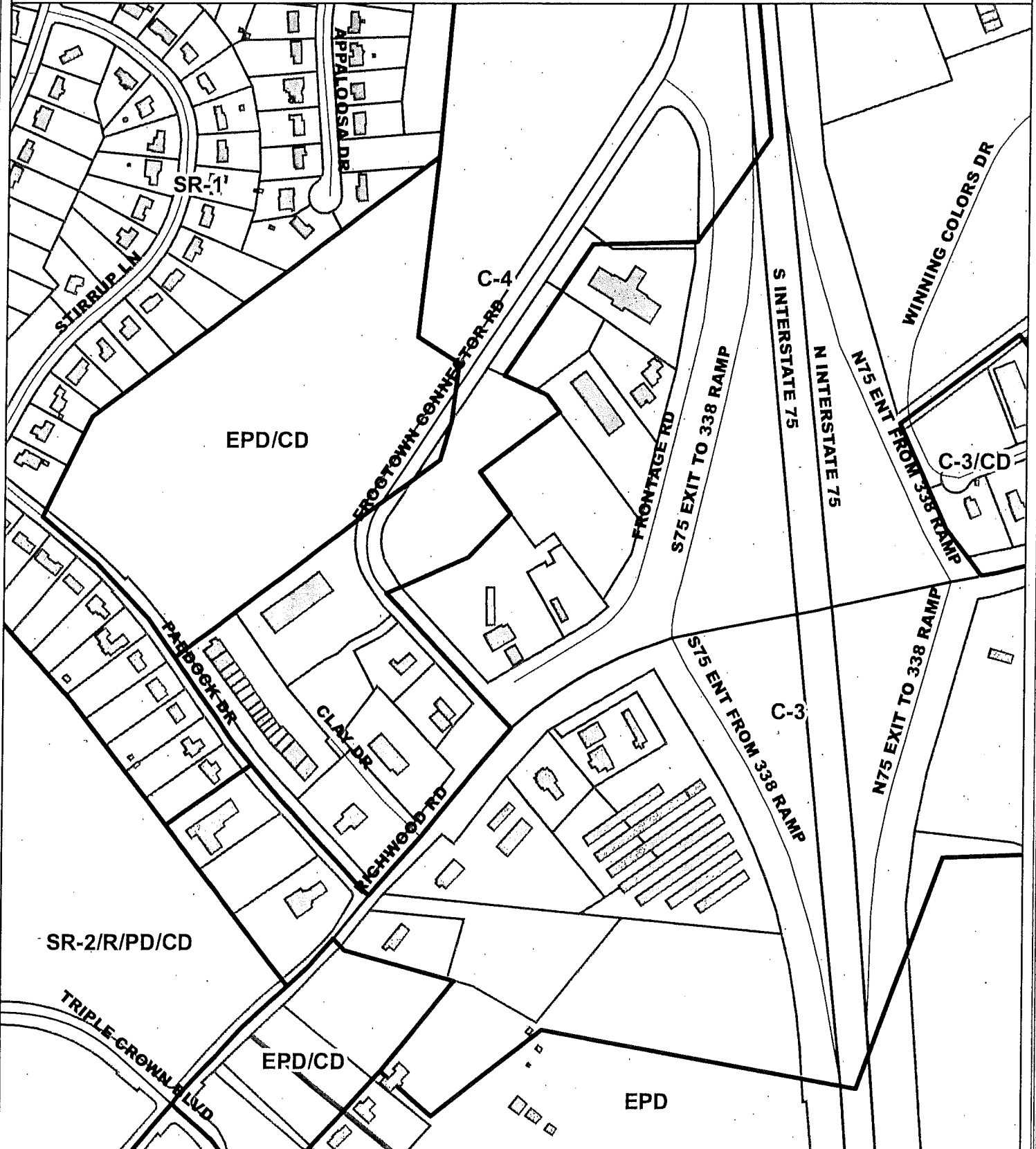
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Boone County GIS - Putting Northern Kentucky on the Map

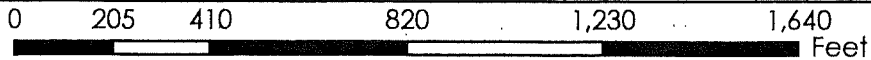
ZONING MAP

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Boone County GIS - Putting Northern Kentucky on the Map

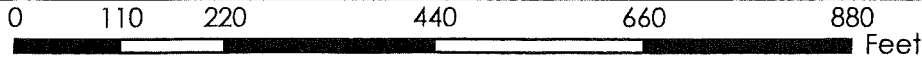
TOPOGRAPHICAL MAP

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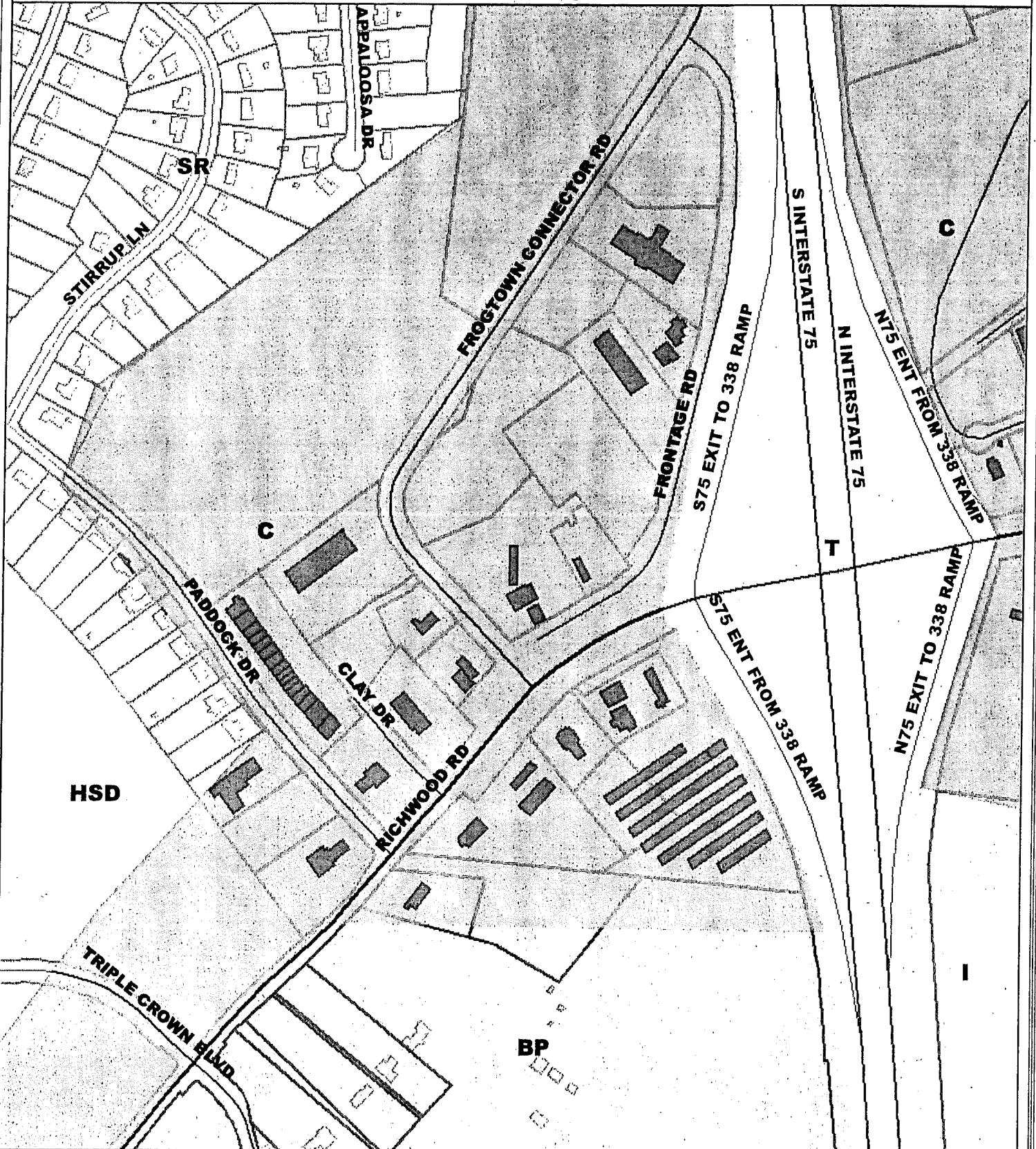
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Boone County GIS - Putting Northern Kentucky on the Map

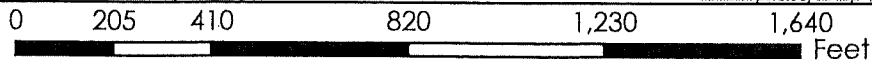
FUTURE LAND USE MAP

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Boone County GIS - Putting Northern Kentucky on the Map

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AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

RECEIVED
OCT 20 2009
BOONE COUNTY
PLANNING COMMISSION

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

- (Check One)
- Boone _____ Florence _____ Walton _____ Union _____
 - (Check One)
 Conditional Use Permit _____ Variance _____ Appeal _____
_____ Change in Non-Conforming Use _____
 - Applicant's Name ABC Signs
Phone Number 513-241-8884 Fax No. 513-241-8998
Applicant's Address 38 W. Mamicken Ave
Cincinnati OH 45202
City State Zip
 - Description of Request: Replace Gas pricer with
digital faces in existing cabinet
 - Name of Development Pilot Travel
 - Location of Development 11229 Frontage RD
Walter Ky 41094
 - Acreage Under Review _____
 - Lot Number and Name of Subdivision (if part of a subdivision) _____
 - Owner of Property Pilot Travel Centers LLC
Address of Property Owner 5508 Longs DR Phone No. 865-474-2868
Knoxville TN 37909
City State Zip
 - Proposed Use(s) on Site Business
 - Total Square Footage of Existing and/or Proposed Buildings 203
 - Current Zoning on Property C-3
 - Deed Book 852/320 Page No. 0 Group No. _____
 - Is the site subject to a zone change? _____
If yes, give date of approval _____
 - Have you submitted a Site Plan with this request? yes
 - Have you submitted a list of adjoining property owners with this request? yes
 - I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

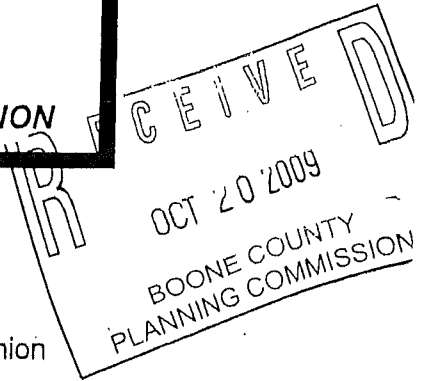
ORIGINAL Property Owner's Signature: J. C. Z. - Pilot Travel Centers
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: J. C. Z. - Pilot Travel Centers
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

(over) Sevi Cantor

APPLICATION FORM

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AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION



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

- (Check One)
1. Boone Florence Walton Union
 2. (Check One)
 Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
 3. Applicant's Name ABC Signs
 Phone Number 513-241-8884 Fax No. 513-241-8972
 Applicant's Address 38 W-McMicken
Cincinnati OH 45202
 City State Zip
 4. Description of Request: To install digital gas pricing in
existing cabinet - within 200' of Shell Station
 5. Name of Development Pilot TRAVEL
 6. Location of Development 11229 Frontage
Walton Ky 41094
 7. Acreage Under Review _____
 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
 9. Owner of Property Pilot Travel Center LLC
 Address of Property Owner 5508 Lewis Dr Phone No. 865-474-2888
 10. Knoxville TN 37909
 City State Zip
 11. Proposed Use(s) on Site BUSINESS
 12. Total Square Footage of Existing and/or Proposed Buildings 203
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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)

(over) [Signature]

COPY

CLUR #09-BCBOA-013-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Pilot Travel Centers, LLC
5508 Lonas Drive
Knoxville, TN 37909
2. ADDRESS OF PROPERTY
11229 Frontage Road
Walton, KY 41094
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Pilot Travel Center
4. DEED BOOK 852 PAGE NO. 320 GROUP NO. 2064
5. TYPE OF RESTRICTION(S) (Check all that apply)
- ___ Zoning Map Amendment: X Conditional Use Permit
 From ___ To
- ___ Development Plan ___ Conditional Zoning
- ___ Subdivision Plat
 (Not Recorded) ___ Other:
- X Variance
6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005

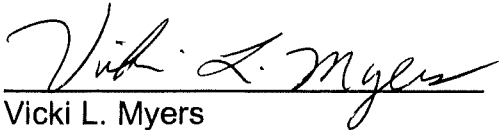
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

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

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit and Variance approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of November 16, 2009 Certificate of Land Use Restriction (#09-BCBOA-013-A), for Pilot Travel Centers, LLC, Property Owner(s).

The following conditions will apply:

- 1) The electronic copy shall only be used to advertise fuel prices.
- 2) The fuel price displays shall not flash, run, or scroll.
- 3) The sign shall be equipped with photocells and fuel prices shall dim as the sky gets darker.
- 4) The sign shall be constructed as presented and additional sign cabinets shall not be permitted.

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

DEED BOOK 852 PAGE NO. 320 GROUP NO. 2064