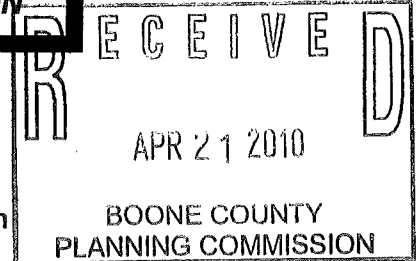


10-BeBOA-004-A

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)

- 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 PAUL HEMMER COMPANIES Phone Number 859-341-8300 Fax No. 859-341-6817 Applicant's Address 250 GRANDVIEW DR SUITE 400 FORT MITCHELL KY 41017
4. Description of Request: SEE ATTACHED
5. Name of Development AIRPARK INTERNATIONAL
6. Location of Development LOT 30 AIRPARK INTERNATIONAL 2750 EARHART CT.
7. Acreage Under Review 2.75 +/-
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT 30 AIRPARK INTERNATIONAL SEC. 19
9. Owner of Property STAPLETON REAL ESTATE VENTURES LLC Address of Property Ownr 2750 EARHART CT. Phone No 859-525-7477
10. City HEBRON KY State KY Zip 41048
11. Proposed Use(s) on Site WAREHOUSE & DISTRIBUTION
12. Total Square Footage of Existing and/or Proposed Buildings EX 87,000, PROP 42,400
13. Current Zoning on Property I-1/CD
14. Deed Book 842 Page No. 353 Group No. 7009
15. Is the site subject to a zone change? NO
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] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature] (JOHN F CURTIN) (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 4/21/10 Fee Received \$1580 w/ R#60579
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 5/12/10 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: STAFF COMMENT 4A.

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@boonecountky.org - E-mail
www.boonecountky.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: Paul Hemmer Companies

LOCATION: 2750 Earhart Drive

ZONING: Industrial One (I-1)

DATE: May 12, 2010

Proposal

The proposal consists of the following requests:

1. A Variance to reduce the rear yard setback requirement from 50' to 40' so a 42,400 square foot (200' x 212') building addition can be constructed onto the back of U.S. Worldwide Logistics. The building addition would raise the overall square footage of the building from 85,400 square feet to 127,800 square feet (see attachments).
2. A Variance to reduce the rear landscaping buffer from 80' in width to 40' in width with alternative landscaping plantings and the elimination of the required berm, wall, or fence (see attachments)

Applicable Regulations

Table 31.1 of the Boone County Zoning Regulations lists the rear yard setback requirement in an Industrial One (I-1) zone as 50 feet when the developing property adjoins a property which is zoned Agricultural Estate (A-2).

Section 3645 and Tables #1 and #2 of the Boone County Zoning Regulations list that Buffer Yard D is required along a property line when a developing Industrial One (I-1) property adjoins an agricultural zoning district.

BUFFER YARD D - 80 FOOT WIDTH

Landscaping required per 100 linear feet

20 Evergreens - Plant List D Planted in a double row spaced 10 feet on center in an equal lateral triangle configuration, AND

11 Large Trees - Plant List A

40 shrubs - Plant List C

BUFFER YARD D - 40 FOOT WIDTH

The same number of trees are required as for the 80' width buffer yard, but the width may be reduced to 40 feet if a 6 foot high berm, fence or masonry wall is used and the number of shrubs may be reduced to 20 from Plant List C. The maximum slope for the berm is 2.5 to 1.

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: 55.7 Acre Undeveloped Agricultural Tract Fronting on River Road (A-2)

South: Office/Warehouse Fronting on Earhart Drive (I-1)

East: Earhart Drive, Undeveloped 7.053 Acre Industrial Lot, FedEx, Ceva (I-1)

West: Office/Warehouse Fronting on Earhart Drive (I-1)

Site Characteristics

The 7.285 acre lot fronts on Earhart Drive and contains an 85,400 square foot office/warehouse, which is occupied by U.S. Worldwide Logistics. An employee/guest parking lot is located to the south of the building and a truck court is located to the west of the building. The topography of the parcel ranges from flat to rolling and a deciduous tree line exists along the rear property line.

Site History

1991- Airpark International Subdivision is rezoned from Agricultural Estate (A-2) to Commercial Two (C-2) and Industrial One (I-1). Condition of approval #7 indicates that the wooded areas depicted on the Concept Development Plan shall constitute the minimum remaining areas (see attachments).

The Zoning Administrator reviewed the approved Concept Plan and determined that a tree conservation area was not required behind the subject site (see attachments).

2002 - The Boone County Planning Commission approves a Site Plan allowing the construction of an 85,400 square foot office/warehouse on the subject lot.

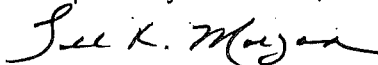
Staff Comments

1. The applicant submitted a letter which outlines the requests and explains why they should be approved based on the Variance criteria (see attachments).
2. Staff has the following concerns with the proposal:
 - A. The proposed grading will eliminate all the trees between the building and the rear property line.
 - B. The agricultural property to the north could develop in the future.
 - C. The proposed buffer is largely comprised of deciduous trees. As a result, the building could be visible from River Road in the winter months.
3. Staff doesn't believe the requests will alter the character of the area if an adequate landscaping buffer is installed on the rear property line.
4. Staff recommends the following conditions if the requests are approved:
 - A. A 40' wide landscaping buffer shall be required along the rear property line. Ten (10) evergreen trees from Plant List D shall be installed per 100 linear feet of buffer area. At least 2 species of evergreen trees shall be used in the buffer and all trees shall be a minimum of 6' tall at planting.
 - B. Landscaping along the side property lines shall comply with the Buffer Yard A requirements found in the Boone County Zoning Regulations.

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 act on the requests.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

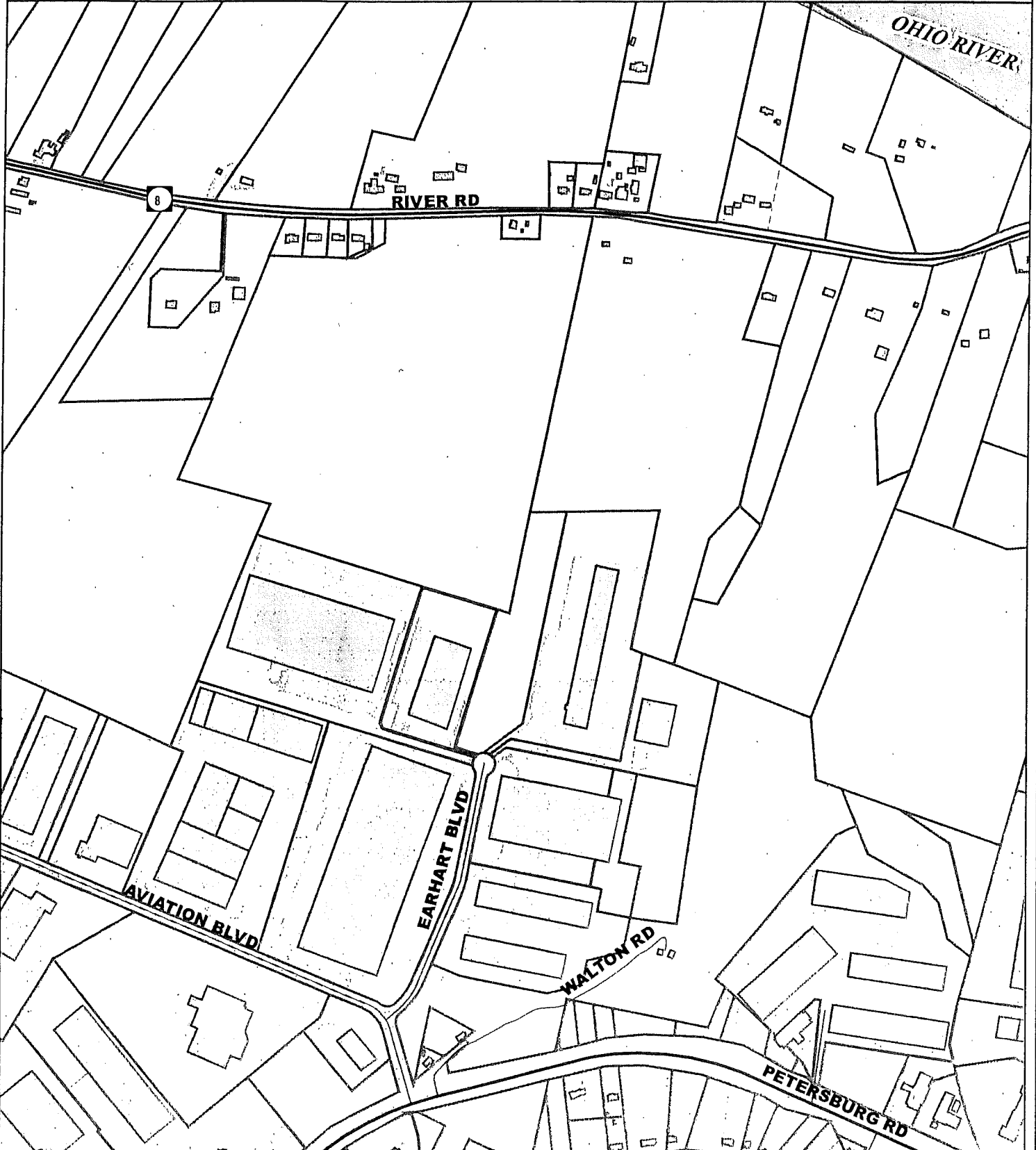
TKM/pr

Attachments

- *Site Vicinity Map
- *Conceptual Site Plan & Landscaping Plan
- *2007 Aerial Map
- *Zoning Map
- *1991 Concept Plan & Conditions
- *Application & Description of Request From Applicant

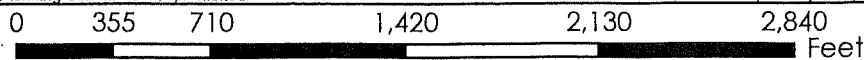
SITE VICINITY MAP

www.boonecountygis.com



Copyright 2008 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

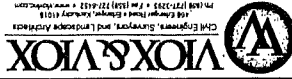
Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



1 Inch = 700 feet



Boone County GIS - Putting Northern Kentucky on the Map

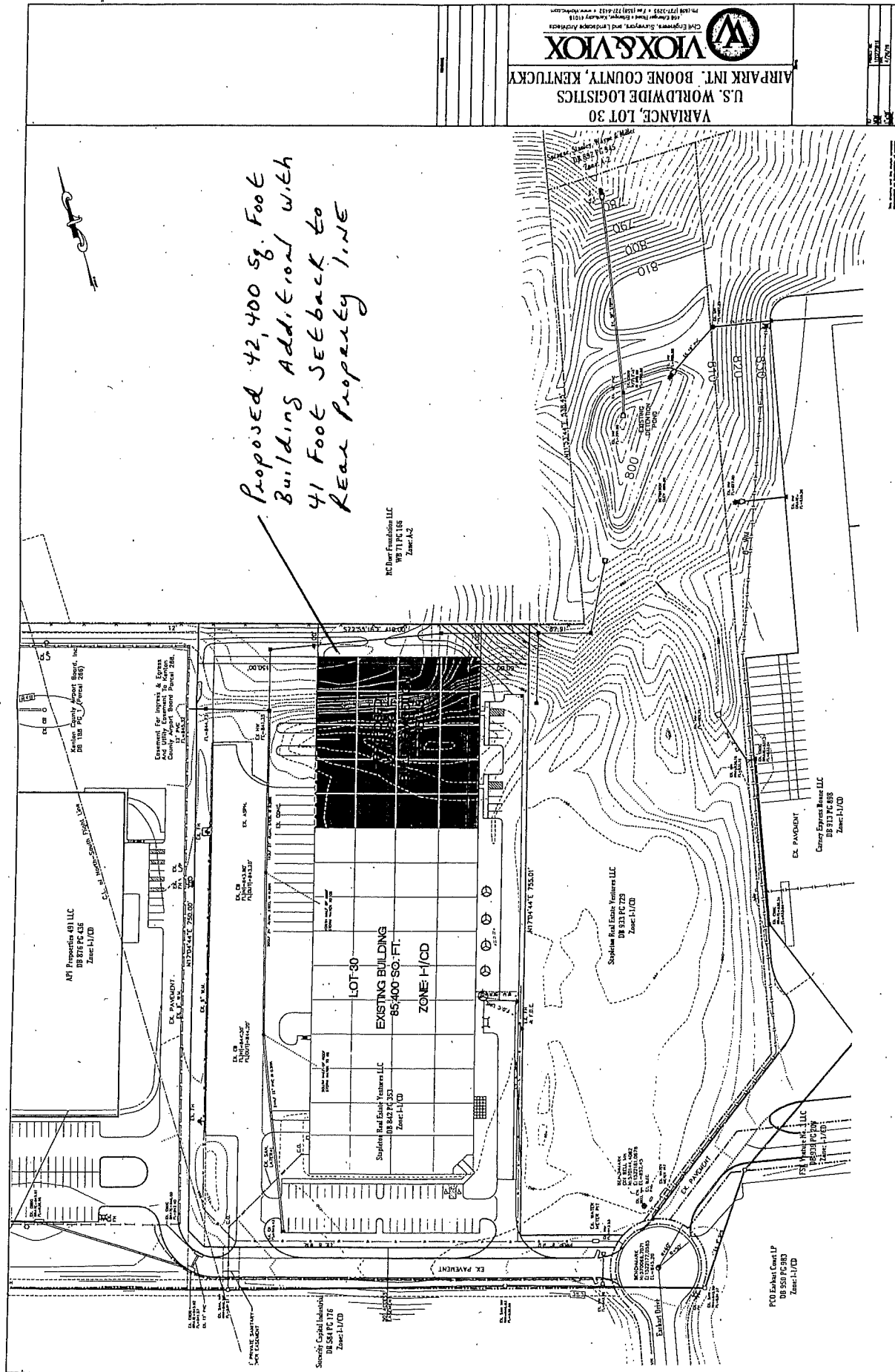


Civil Engineers, Surveyors, and Landscape Architects
 1048 Crumpler Road • Evansville, Kentucky 40318
 Phone: (812) 438-1111 • Fax: (812) 438-1112 • www.viox.com

EXHIBIT I

*Proposed 42,400 sq. Foot
 Building Addition with
 41 Foot Setback to
 Rear Property Line*

McDermott Foundation LLC
 WB 71 PC 16
 Zone: A2



DISCLAIMER: The information contained herein is for informational purposes only and does not constitute an offer of any financial product or service. The information is not intended to be used as a basis for investment decisions. The information is not intended to be used as a basis for investment decisions. The information is not intended to be used as a basis for investment decisions.

PROPOSED REAR BUFFER YARD VARIANCE PLANTINGS ARE PROPOSED TO BE LARGE CANOPY TREES WITH EVERGREEN TREES MIXED IN. THIS LAYOUT IS MEANT TO REPLICATE THE LOOK OF THE EXISTING TREE LINE ALONG THE BLUFF. IN ORDER TO ESTABLISH A MORE NATURAL BUFFER, THAT IS IN HARMONY WITH THE NATIVE LANDSCAPE, WE REQUEST THAT THE SHRUB REQUIREMENT BE OMITTED AS THEY WILL NOT ACCOMPLISH ANY SCREENING.

PROPOSED REAR BUFFER YARD VARIANCE PLANTINGS ARE PROPOSED TO BE LARGE CANOPY TREES WITH EVERGREEN TREES MIXED IN. THIS LAYOUT IS MEANT TO REPLICATE THE LOOK OF THE EXISTING TREE LINE ALONG THE BLUFF. IN ORDER TO ESTABLISH A MORE NATURAL BUFFER, THAT IS IN HARMONY WITH THE NATIVE LANDSCAPE, WE REQUEST THAT THE SHRUB REQUIREMENT BE OMITTED AS THEY WILL NOT ACCOMPLISH ANY SCREENING.

PROPOSED REAR BUFFER YARD VARIANCE PLANTINGS ARE PROPOSED TO BE LARGE CANOPY TREES WITH EVERGREEN TREES MIXED IN. THIS LAYOUT IS MEANT TO REPLICATE THE LOOK OF THE EXISTING TREE LINE ALONG THE BLUFF. IN ORDER TO ESTABLISH A MORE NATURAL BUFFER, THAT IS IN HARMONY WITH THE NATIVE LANDSCAPE, WE REQUEST THAT THE SHRUB REQUIREMENT BE OMITTED AS THEY WILL NOT ACCOMPLISH ANY SCREENING.

PROPOSED REAR BUFFER YARD VARIANCE PLANTINGS ARE PROPOSED TO BE LARGE CANOPY TREES WITH EVERGREEN TREES MIXED IN. THIS LAYOUT IS MEANT TO REPLICATE THE LOOK OF THE EXISTING TREE LINE ALONG THE BLUFF. IN ORDER TO ESTABLISH A MORE NATURAL BUFFER, THAT IS IN HARMONY WITH THE NATIVE LANDSCAPE, WE REQUEST THAT THE SHRUB REQUIREMENT BE OMITTED AS THEY WILL NOT ACCOMPLISH ANY SCREENING.

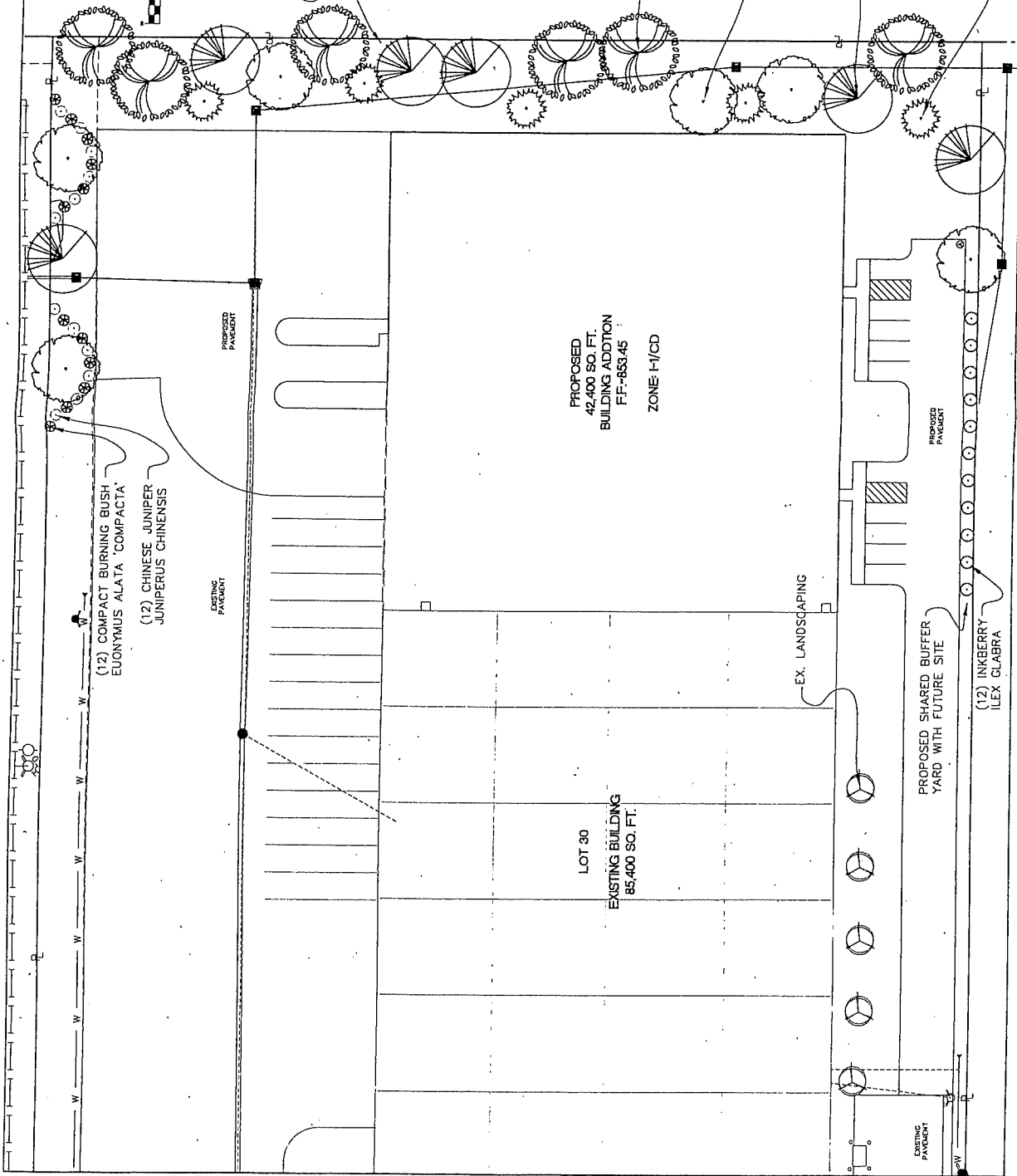
PROPOSED REAR BUFFER YARD VARIANCE PLANTINGS ARE PROPOSED TO BE LARGE CANOPY TREES WITH EVERGREEN TREES MIXED IN. THIS LAYOUT IS MEANT TO REPLICATE THE LOOK OF THE EXISTING TREE LINE ALONG THE BLUFF. IN ORDER TO ESTABLISH A MORE NATURAL BUFFER, THAT IS IN HARMONY WITH THE NATIVE LANDSCAPE, WE REQUEST THAT THE SHRUB REQUIREMENT BE OMITTED AS THEY WILL NOT ACCOMPLISH ANY SCREENING.

LANDSCAPE PLAN
U.S. WORLDWIDE LOGISTICS
AIRPARK INT. BOONE COUNTY, KENTUCKY

VOXS & VOX
 Civil Engineers, Surveyors, and Landscape Architects
 418 Glasgow Road, Evansville, Indiana 47718
 Phone: (317) 425-1234 • Fax: (317) 425-1234 • www.vox.com

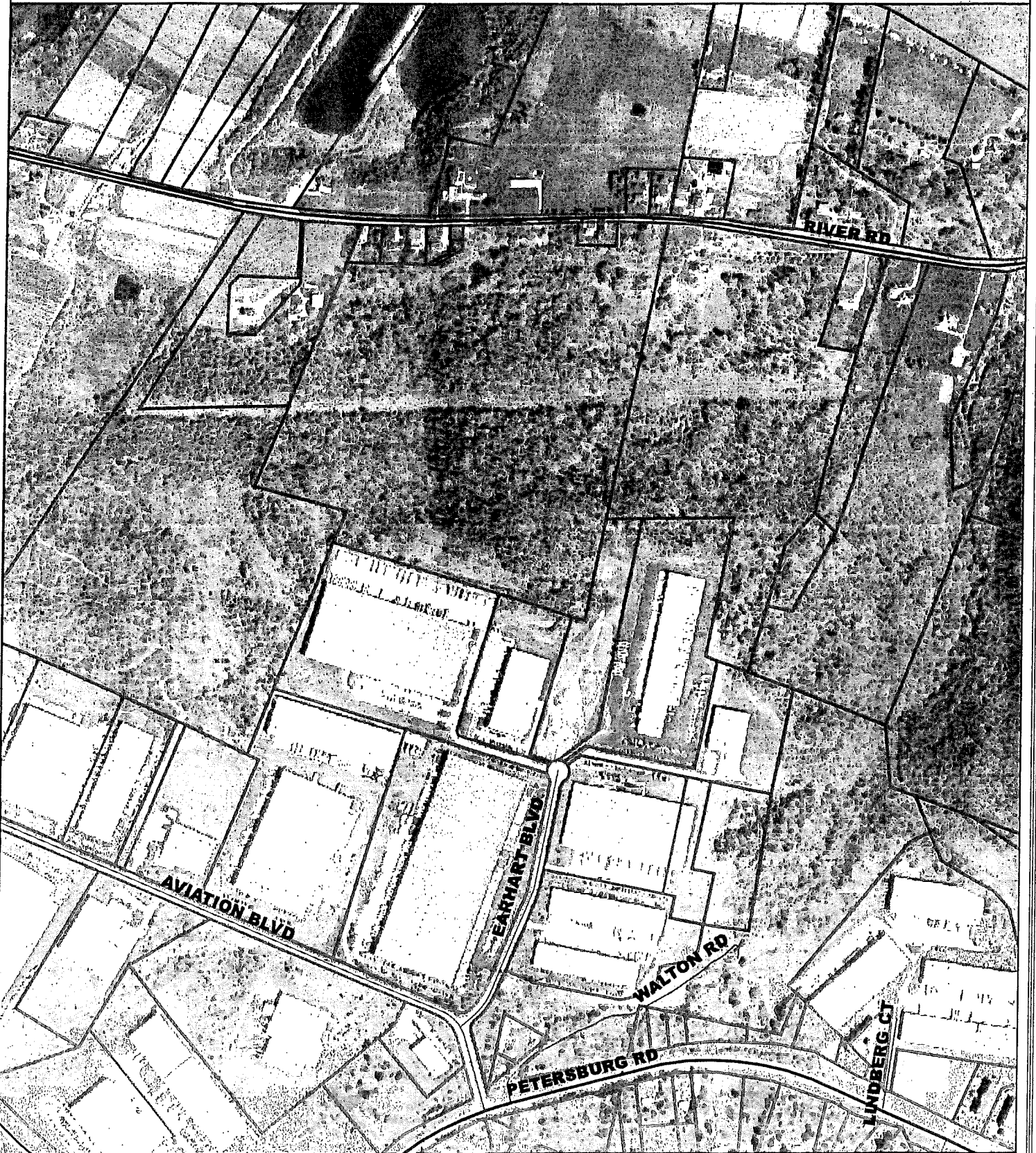
PROJECT:
DATE:
SCALE:
DATE:
DATE:

FIGURE 1-1



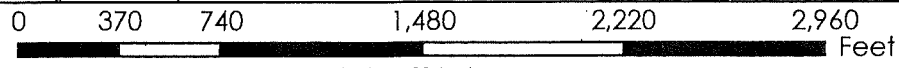
2007 AERIAL MAP

www.boonecountygis.com



Copyright 2010 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

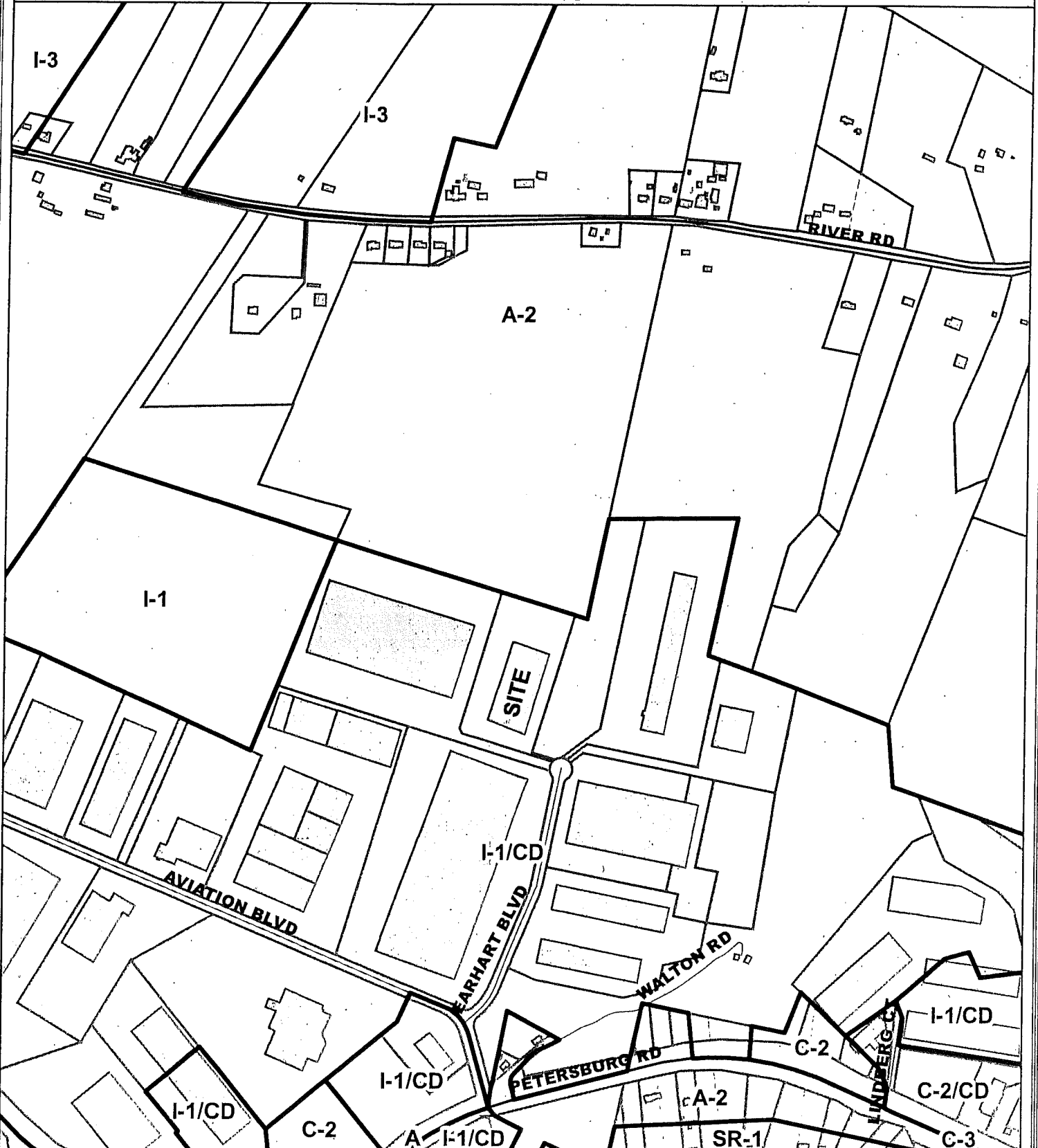
Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



Boone County GIS - Putting Northern Kentucky on the Map

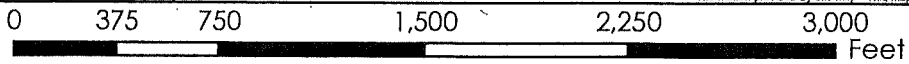
ZONING MAP

www.boonecountygis.com



Copyright 2010 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

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



COMMITTEE REPORT

#1

TO: Boone County Planning Commission.

FROM: Phil Damstrom, Chairman

DATE: February 6, 1991

RE: Request of Paul Hemmer Construction Company (applicant) for Paul Hemmer Associates III (owners) for a Zoning Map Amendment for a 264.40 acre site located on the north side of KY 20 and Elijah Creek Road, Boone County, Kentucky. The request is to rezone the site from Agricultural Estate (A-2) to Industrial One (I-1) and Commercial Two (C-2). The proposed project is a mixed-use industrial, commercial and office park named Airpark International.

REMARKS:

We, the Committee, recommend approval based upon the following Findings of Fact and with the following Conditions:

FINDINGS OF FACT:

- 1) With the attached conditions in this report, the proposed industrial, office, and commercial development meets the general guidelines of the Comprehensive Plan's Land Use Element, which recommends the Business Park land use classification. Specifically, the street scaping, large building setbacks, retention of existing vegetation, and design review procedure are all recommendations made for future Business Park areas. The request also contains a significant amount of office development which is consistent with the Comprehensive Plan's recommendation for the area. In addition, the applicant has agreed to retain certain areas of existing wooded hillsides, which is consistent with the Comprehensive Plan's designation of Developmentally Sensitive for portions of the site. Specific references to the Comprehensive Plan are made in the 1/16/91 Staff Report.
- 2) Upon evaluating this request, the Committee believes that business park land uses can be developed under Industrial One (I-1) zoning, as long as appropriate development controls for the design of the project are included.
- 3) The applicant has shown that the existing zoning of Agricultural Estate (A-2) is not appropriate for the site because of the airport noise impacts and the fact that a flight path lies directly over this site. The proposed zoning of Industrial One (I-1) is appropriate for the site because it correlates with the airport flight patterns while not adversely affecting existing or planned residential development.

CONDITIONS

The applicant is being asked to agree to include these items as part of the Concept Development Plan in order to clarify the plan presented at the 1/16/91 Public Hearing. Further, these conditions are intended to clarify the suitable uses and development for the presented plan.


1. In order to give the proposed industrial and office development a business park character and be consistent with the Comprehensive Plan recommendations, all portions of the 264.4 acre development shall undergo architectural design review by the Planning Commission's Technical Committee. The Committee shall use the Houston-Donaldson Study Design Review Standards (attached to this report) to evaluate individual site plan applications. At the Preliminary Plat stage, a sign package shall be designed that includes monument style signs and a consistent sign style. No pole mounted signs shall be permitted in the 264.4 acre development. The design of all industrial buildings shall include an office appearance at the front, consistent building materials, screened loading areas, completely screened air conditioning, ventilation, and electrical equipment. The minimum front yard building setback for the industrial uses shall be 100 feet from the right-of-way.
2. The applicant shall be required to have preliminary archaeological investigations conducted on the 264.4 acre site prior to grading. These investigations shall be comparable to Phase I of the State of Kentucky's requirements for archaeological excavations. This procedure will be conducted to determine if the site contains any significant archaeological resources. The preliminary investigation shall be supervised by the Boone County Planning Commission and conducted by a certified archaeologist agreed upon by the developer and the Boone County Planning Commission (see attached list of certified archaeologists). The developer shall bear the cost of the preliminary investigation. The archaeologist shall submit a copy of the report directly to the Planning Commission. The Planning Commission and developer shall then determine what steps need to be taken and what organizations need to be involved in addressing any significant archaeological findings. The allocation of costs of further investigation shall be negotiated between the developer and proper authorities. In addition, the developer must immediately notify the Planning Commission if any archaeological sites are encountered by construction workers during site work. The Planning Commission may require a portion of the site work to cease until further archaeological investigation is conducted.
3. The development shall be limited to three access points onto KY 20. Truck traffic should be discouraged at the commercial entrance unless the trucks serve the commercial portion of the development. The developer shall work with the Planning Commission and the Airport to try to achieve access between the commercial area and Elijah's Creek Road. The proposed access from KY 20 to the proposed office development shall contain a sufficient level stretch of roadway before proceeding downhill into the development.

In addition, access shall be provided to the residential Walton Road area along KY 20, and to both airport properties. Property along Walton Road should be accessed through the proposed office/warehouse portion of the development, and the existing Walton Road access should be eliminated.

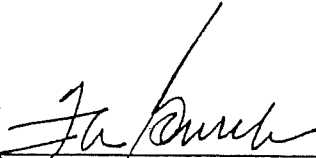
4. All streets in the development shall be publicly dedicated and meet the county street specifications. The proposed roadway serving the industrial portion of the development shall be designed and built as a boulevard. The street shall contain minimum 12 foot wide travel lanes and a planted median which converts to turn lanes at appropriate locations. Undulating berms and street plantings shall be installed along this street to give it a parkway appearance, and to screen all parking areas. The right-of-way shall be required to be a minimum of 60 feet to allow this landscaping and the planted median. Driveway entrances shall be limited and combined wherever possible, and must be coordinated to enable appropriate site access with the median design. The proposed cul-de-sac end shall be eliminated, and a public right-of-way shall be dedicated to the west property line to provide for future access to residential development. The location of this future street connection shall be determined at Improvement Plan review. The location of the end of the proposed major street shall be at least as close to the west property line as shown on the submitted Concept Development Plan, and can include a temporary turn-around. The developer shall dedicate additional right-of-way for future improvements to Elijah's Creek Road if needed through the subdivision review process.
5. All site access points shall include right-hand deceleration lanes on KY 20. In addition, the southernmost entrance shall include a left-turn lane on KY 20, if required by the KY Department of Highways. The design of all turning lanes shall be coordinated with the Planning Commission and KY Department of Highways. As recommended by the submitted traffic study, the main street shall contain two entrance lanes and two exit lanes.
6. The developer shall provide a traffic signal at KY 20 as recommended in the submitted traffic study, when the intersection meets a signal warrant or an unsafe condition becomes apparent.
7. Development plans and site design shall be adjusted to utilize more of the existing vegetation and topography as recommended in the Comprehensive Plan. The wooded areas depicted as undisturbed on the submitted Concept Development Plan shall constitute the minimum remaining wooded areas. The developer shall walk the site with Planning Commission staff and clearly mark all disturbed limits before any site work. Erosion control measures will be required at grading plan or improvement plan review to protect sensitive areas and streams.
8. The development shall include buffering in the form of mixed tree plantings, specifically along the west property line or when Lot 7 is developed and around the Walton Road residential area, wherever existing tree cover or berms do not constitute a sufficient buffer.

9. The proposed commercial portion of the development shall be designed so that some mature trees are retained in that area. All the commercial buildings shall be of consistent architecture and contain extensive landscaping. Access to the main entrance roads of the development shall be a sufficient distance from KY 20.
10. All development shall be served by public water and sanitary sewer improvements like those referenced in letters submitted by the applicant.
11. The developer agrees to construct a pedestrian network along the proposed roadway network.
12. As indicated in the Boone County Zoning Regulations, the proposed office uses are a conditional use in the I-1 zoning district. The applicant will need to receive a Conditional Use Permit from the Board of Adjustments to develop these uses.
13. The developer is encouraged to contact organizations that may be interested in preserving a portion of the undeveloped hillside area. The Planning Commission will furnish a list of such organizations.
14. The applicant agrees to work with the Hebron Fire District to ensure adequate water pressure.


A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request.



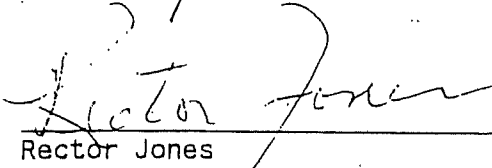
Phil Damstrom, Chairman



Fred Burch




Larry Collins



Hector Jones

Barry Neltner

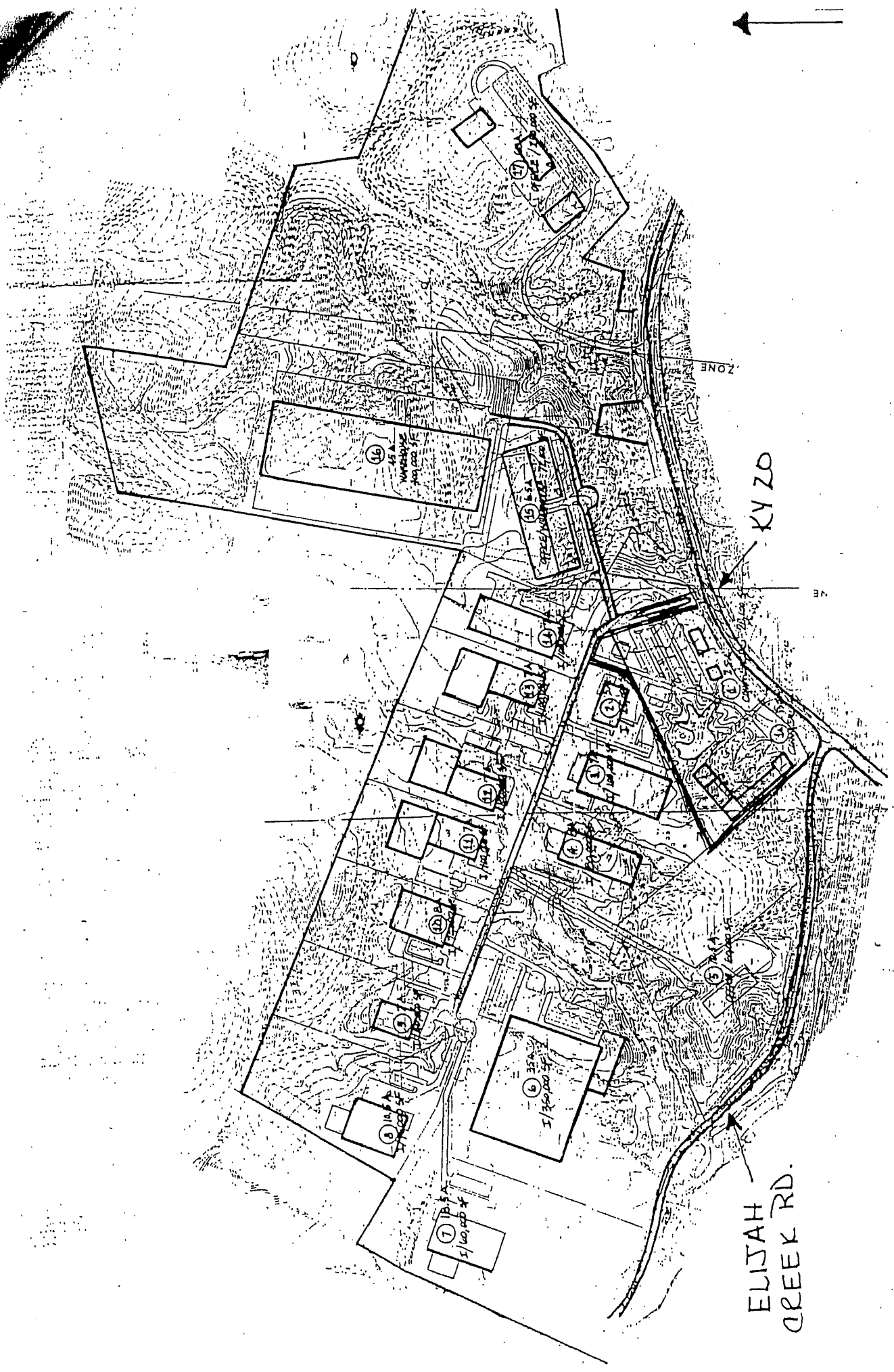


Carol Smith

Floyd Sharp

PD:kat

AIRPARK INTERNATIONAL
CONCEPT DEVELOPMENT PLAN



ELIJAH
CREEK RD.

KY ZD

ZONE

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

RECEIVED
APR 21 2010
BOONE COUNTY
PLANNING COMMISSION

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 PAUL HEMMER COMPANIES
Phone Number 859-341-8300 Fax No. 859-341-6817
Applicant's Address 250 GRANDVIEW DR SUITE 400
FORT MITCHELL KY 41017
City State Zip
4. Description of Request: SEE ATTACHED
5. Name of Development AIRPARK INTERNATIONAL
6. Location of Development LOT 30 AIRPARK INTERNATIONAL
2750 EARHART CT.
7. Acreage Under Review 2.75 +/-
8. Lot Number and Name of Subdivision (if part of a subdivision)
LOT 30 AIRPARK INTERNATIONAL SEC. 19
9. Owner of Property STAPLETON REAL ESTATE VENTURES LLC
Address of Property Owner 2750 EARHART CT. Phone No. 857-525-7477
10. HEBRON KY 41028
City State Zip
11. Proposed Use(s) on Site WAREHOUSE & DISTRIBUTION
12. Total Square Footage of Existing and/or Proposed Buildings EX 82,000, PROP 42,400
13. Current Zoning on Property I-1/CD
14. Deed Book 842 Page No. 353 Group No. 2009
15. Is the site subject to a zone change? NO
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]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

Description of Request

The "findings necessary for granting variances" are defined by KRS100.243. The three possible findings are as follows;

(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 of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
and

(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.

The variances requested in this application meet these findings as follows.

Variance of Landscape Buffer from "Buffer Yard D" to "modified Buffer Yard A"

The "Buffer Yard D" requirement results from the fact that the subject property is zoned Industrial and the adjoining property is zoned Agricultural.

Under sub-section (a), it should be noted that this adjoining zone represents a special circumstance that does not generally apply to land within the same zone. The Agricultural land in question is a large parcel that fronts on KY8 (River Road). Thus the access and potential use of the majority of the property is oriented towards the agricultural uses along River Road and it is zoned as such. However, the portion of the property in question for this application is at the extreme rear of the property and is separated from the rural area on River Road by nearly 2000' of distance and over 400' of elevation change. Based on the extreme topography of the adjoining property the only reasonable use of the portion of the property adjoining this application is additional industrial uses, which are in conflict with the existing zoning.

Furthermore, the site in question as well as the adjoining property fall within the dnl65 noise contour for the center north/south runway. This precludes residential uses on the adjoining property and thus leaves nothing to buffer against. This also represents a special circumstance that does not generally apply to land within the same zone.

The circumstances described above are also applicable to sub-section (b) since the reasonable use of the adjoining property is a continuation of industrial uses it is an unreasonable hardship to require this property owner to buffer against a use that is not reasonable in the first place.

Finally, under sub-section (c), when the site in question was originally developed this addition was foreseen and met the Zoning regulations in place at the time. The previous zoning regulations contained language that exempted industrial land from the buffer requirement if the adjoining agricultural land did not contain any residences. This change in the zoning regulations is a clear example of circumstances set forth in sub-section (c).

Variance of Rear Yard Setback from 50' to 40'

The standard rear yard setback for Industrial-1 (I-1) parcels is 30'. However, that setback is increased to 50' when the subject property adjoins an agricultural zone.

This proposed variance meets both sub-sections (a&c) based on the same rationale as the previous buffer yard variance. The extreme topography and noise contour restrictions create a special circumstance in which the zoning of the adjoining property is not a reasonable use of the adjoining portion of the property. For this reason, strict application of the zoning requirements is an unnecessary hardship on the applicant.

COPY

CLUR #10-BCBOA-004-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Stapleton Real Estate Ventures, LLC
2750 Earhart Court
Hebron, KY 41048

2. ADDRESS OF PROPERTY
2750 Earhart Court
Hebron, KY 41048
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Airpark International, Section 19, Lot 30

4. DEED BOOK 842 PAGE NO. 353 GROUP NO. 2009

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 (2)

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

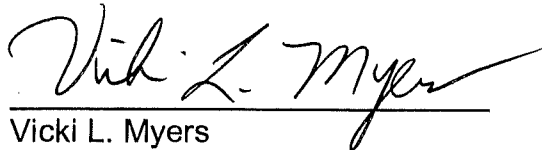

SIGNATURE OF COMPLETING OFFICIAL

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 May, 2010.



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 Variances (2) approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of May 12, 2010 Certificate of Land Use Restriction (#10-BCBOA-004-A), for Stapleton Real Estate Ventures, LLC, Property Owner(s).

The following conditions will apply:

- 1) A 40' wide landscaping buffer shall be required along the rear property line. Ten (10) evergreen trees from Plant List D shall be installed per 100 linear feet of buffer area. At Least 2 species of evergreen trees shall be used in the buffer and all trees shall be a minimum of 6' tall at planting.

The approved Variances (2) as well as the preceding conditions apply to the property described in:

DEED BOOK 842

PAGE NO. 353

GROUP NO. 2009