

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

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 _____ Variance _____ Appeal _____
3. Change in Non-Conforming Use [checked]
Applicant's Name Blk Keystone Properties
Applicant's Address 618 St. Joseph Lane Park Hills KY 41011
Phone Number 513-616-7063 Fax No. 859-441-2696 E-Mail Joe@123wellness.com
4. Description of Request: We are selling our building to a business like ours and would like to change the non-conforming use to include their usage.
5. Name of Development _____
6. Location of Development 7545 River Road Hebron, KY 41048
7. Acreage Under Review 9.17 Approx
8. Lot Number and Name of Subdivision (if part of a subdivision) _____
9. Owner of Property Blk Stone Properties
Address of Property Owner 618 St. Joseph Lane Park Hills KY 41011
10. City State Zip
Phone Number 513-616-7063 Fax No. 859-441-2696 E-Mail Joe@123wellness.com
11. Proposed Use(s) on Site Light Assembly of metal products & distributing of Energy drinks
12. Total Square Footage of Existing and/or Proposed Buildings 8000 Sq Feet
13. Current Zoning on Property A-1
14. Deed Book 983 Page No. 266 Group No. 2002
15. Is the site subject to a zone change? NO
16. Have you submitted a Site Plan with this request? Aerial
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] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

RECEIVED APR 11 2017 7:50 AM BOONE COUNTY PLANNING COMMISSION

**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 4-17-17 Fee Received \$ 0.00 Receipt # 75261
2. Is application complete? Yes No
3. Staff Reviewer: _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 5/10/17 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: SEE 5/10/17 meeting
MINUTES AND CLK
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: Blakestone Properties

LOCATION: 7595 River Road, Boone County, Kentucky

ZONING: Agriculture (A-1)

DATE: May 10, 2017

PROPOSAL

The applicant has submitted a Change in Non-Conforming Use application to allow the use of a building to be changed from the light manufacturing and assembly of large metal products to the warehousing and repackaging of energy drinks and other general consumer products with the assembly of display racks. The applicant (property seller) and potential buyer have provided letters outlining their businesses (see attachments).

PERTINENT SITE HISTORY

On December 11, 1996, the Boone County Board of Adjustment approved a Change in Non-Conforming Use application allowing Northern Kentucky Engineering to construct a building addition. The Staff Report indicated the existing building was approximately 3,100 square feet in area and the proposed addition would be up to 5,000 square feet in area. The business designed and built thermoplastic molds for the molding and casting industry. The Board approved the application with the condition that all operations shall occur and be performed within the building once the building expansion was complete.

On July 7, 2010, the Zoning Administrator determined that the building could be occupied by 123 Wellness, Inc. without going through the Change in Non-Conforming Use process because the existing and proposed business operations were similar (see attached letter).

On October 21, 2016, the Zoning Administrator determined the proposed change in use had to go through the Change in Non-Conforming Use application process (see attached email).

APPLICABLE REGULATIONS

Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to act on applications for changes in non-conforming use.

Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming lots, uses or structures from being enlarged or extended beyond the scope and area of its operation at the time it became a legal non-conforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of non-conforming uses or structures.

Section 272 of the Boone County Zoning Regulations states here, at the time of the adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted.

KRS 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation which makes its use non-conforming was adopted, nor shall the board permit a change from one (1) non-conforming use to another unless the new non-conforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain non-conforming-use status, for enlargements or extensions, made or to be made, of the facilities of a non-conforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status of the site is an essential element, and where the enlargement or extension was, or is, designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.
3. Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Section 273 of the Boone County Zoning Regulations states the Board of Adjustments and Zoning Appeals shall have the power to hear and decide on applications to permit a change from one non-conforming use to another.

The Board shall not permit such a change unless the new non-conforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing non-conforming use. Application for change of non-conforming use shall conform to the procedures and requirements for appeals as specified in Sections 245-254, inclusive, of this order and Kentucky Revised Statutes, Section 100.253.

The Board shall not allow any changed non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original non-conforming use. In permitting such change in non-conforming use, the Board may require appropriate conditions and safeguards in accord with other provisions of this order, such as the provision of landscaping and buffering, the improvement of parking areas, and restrictions on the hours of operation.

SITE CHARACTERISTICS

The subject property is approximately 8 acres in area and is located on the southwest side of River Road. The property contains a 7,980 square foot office/warehouse building, which is constructed predominately with metal siding, and 20 parking stalls. The building contains a covered truck dock on the front of the building and a large oversized garage bay on the west side of the building. Ingress and egress to the property is provided from a single access point on River Road. The topography of the property falls approximately 642 feet above sea level at the southeast property line to 464 feet above sea level at the northwest property line. The front of the building sits about 30 feet higher than River Road (530' vs. 500'). The front, rear, and sides of the property contain significant deciduous tree lines and scrubby vegetation.

SURROUNDING LAND USES & ZONING

North: River Road and Giles Conrad Park (A-2/SR-1/R/PD/CD)

South: 92 Acre Undeveloped Parcel (SR-3/C-1/O-1/PD/CD)

East: 1.49 Acre Undeveloped Parcel (A-1)

West: 2 Acre Undeveloped Parcel ((A-2/SR-1/R/PD/CD)

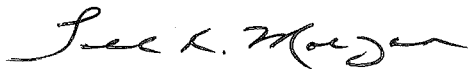
STAFF COMMENTS

1. The letters from the applicant and potential buyer of the property indicate the truck traffic associated with existing and proposed businesses should be similar or identical (approximately 3 per day).
2. The Board needs to analyze the request in terms of Sections 270, 272, and 273 of the Boone County Zoning Regulations. The Board should analyze if the proposed change in non-conforming use is more objectionable than the existing condition.
3. Staff recommends the following conditions if the request is approved:
 - A. All business operations shall be performed inside the building.
 - B. There shall be no outside storage.
 - C. No more than 5 truck deliveries shall be permitted per business day.

CONCLUSION

KRS 100.253 and Section 220 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/ss

Attachments

- *Site Vicinity Map
- *Letter From Applicant (Property Seller)
- *Letter From Potential Buyer
- *10/20/16 Email from Zoning Administrator
- *7/7/10 Letter From Zoning Administrator
- *Zoning Map
- *Topographical Map
- *2016 Aerial Map
- *Application

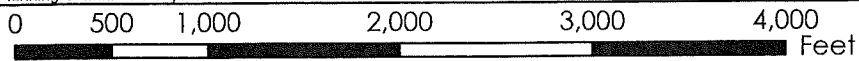
SITE VICINITY MAP

www.boonecountygis.com



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1 inch = 1,000 feet



Boone County GIS - Putting Northern Kentucky on the Map





Mr. Kevin Wall,

RE: 7595 River Road
Hebron, KY 41017

In 2010, we purchased the building located at the address located above. Our purchase contract was contingent on getting a non-conforming usage approval from your office. At that time you determined that our usage did not differ that much from the previous company that owned the building, Northpointe LLC, and you granted us approval based on that ruling.

Northpointe, LLC was a firm that did injection molding and light manufacturing of car parts for distribution to car manufacturers. Our business, 123 Wellness, Inc. is a small company that receives goods from manufacturers and redistributes them to end customers such as YMCAs, recreation centers and many other fitness facilities. In some cases we had to assemble the products before we redistributed them and in other cases we would ship them out in boxes. We did not manufacture anything but rather stored products and redistributed them to end customers. We averaged 2-3 trucks per day, both tractor trailers and box style trucks, coming to and from our facility and never received any type of complaint for the traffic that resulted from our business.

We have moved our business closer to home and are trying to sell this property. SME LLC. found us and after touring our facility we have determined that they would be a perfect fit for the building. SME LLC. has a small division of their business that represents 1 customer. This customer requires a controlled temperature and secure environment that a building like ours is perfect for. Outside of needing a constant temperature, our businesses are practically identical. They will bring in product from a manufacturer, repackage it for redistribution to the end customer. Some of the time that requires light assembly of products before they are shipped to their end customer. They estimate that they will not receive more than 3 trucks a day for this one customer as most shipments are sent back out through UPS or Fed Ex that will consolidate the pickups to one vendor which will keep the traffic even lighter than ours because they do not have the retail aspect of the business that we had.

We are asking that you grant permission for SME LLC. to use the non-conforming usage permit for their business in the building located at 7595 River road in the same way that you allowed us to do our business in 2010. With your help we will be able to enter into contract with them and sell this building.

I have asked SME LLC. to include a better scope of the work that will be taking place on the property beginning the day after you approve the usage.

We thank you for your consideration.

Best Regards,

Joe Lawrie, President
123 Wellness, Inc.
513-616-7063

To Whom It May Concern,

SME is looking to occupy the building located at 7595 River Road Hebron, KY 41048. This site will be a one customer, specific use that involves bringing product in (energy drinks) breaking down pallets and repackaging for small parcel shipments. There will also be some light assembly for point of sale display racks. As mentioned in a previous letter, truck volume will not exceed 3 trucks per day consisting mostly of LTL and small parcel.

SME is requesting a non-conforming usage permit for the above referenced address.

Sincerely,

A handwritten signature in black ink, appearing to read "Mathew Sylvester", with a long horizontal line extending to the right.

Mathew Sylvester

11/10/2016

~~Kevin Wall~~

From: Kevin Wall
Sent: Thursday, October 20, 2016 10:44 AM
To: 'Erin Schmidt'
Cc: Todd Morgan
Subject: Warehousing/Distribution at 7595 River Road, Hebron, KY property

Ms. Schmidt:

As explained in your e-mail and our phone discussion, the proposed use of the building at 7595 River Road is general warehousing and distribution. This site is in a Agriculture (A-1) zone, and the historic industrial use of the property was legal pre-existing, nonconforming. The past use was light manufacturing/assembly of large metal products. This involved some delivery traffic/movement of goods, but it was secondary to the light manufacturing/assembly function. Due to this difference, a Change in Nonconforming Use request would need to be approved by the Boone County Board of Adjustment before the site could be used for a warehousing/distribution operation. This is reviewed and potentially approved through a public hearing process which takes up to 60 days to complete. We would also need to analyze the available parking on the site to make sure that it is sufficient for the new business. Todd Morgan in our office can assist with questions about the Board of Adjustment process. The phone number is 334-2196.

Sincerely,

Kevin T. Wall, AICP CDT CNU-A
Director, Zoning Services
Zoning Administrator
v: 859-334-2196
f: 859-334-2264
www.boonecountyky.org/planning_commission/



BOONE COUNTY
PLANNING COMMISSION

From: Erin Schmidt [<mailto:eschmidt@awdxlogistics.com>]
Sent: Wednesday, October 19, 2016 3:07 PM
To: Kevin Wall
Subject: 7295 River Road, Hebron, KY property

Hi Kevin,

Per your request, the operations would include the following:

- One of our customers is an energy drink that comes packaged in cans and bottles and then in cartons and then on pallets. We warehouse their product and then ship out full pallets and we also take the cases and put them into another carton and ship those out fed ex. That is the pick-pack part.
- Another customer is plastics in totes and drums used in things like personal care items and healthcare. It is NOT haz-mat nor hazardous in any way. It is raw materials that we store and then ship right back out. We do not do anything to the product other than store it and ship it back out.

Let me know if you need anything else.

Thanks,



BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

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

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

July 7, 2010

Mr. Ray Merkel
First Commercial Realty Inc.
8174 Mall Road
Florence, KY 41042

FAX: 371-6365

RE: Proposed Assembly and Distribution of Fitness Equipment at 7595 River Road,
Boone County, Kentucky; Agriculture (A-1) Zone

Dear Mr. Merkel:

I have reviewed the materials that you provided regarding the previous use of the building at 7595 River Road (Northern Kentucky Engineering/Northpointe, LLC), and the proposed assembly and distribution of commercial fitness equipment by 123 Wellness Inc. Also, I was given a tour of the facility when it was operated by NKE in the mid 1990s. As you are aware, the site is within an A-1 zone, and the previous use of the building for the manufacture of injection molds and related tooling has legal pre-existing, nonconforming status.

A Change in Nonconforming Use was conditionally approved by the Boone County Board of Adjustment on 12/11/96 to allow an expansion of the facility. The one condition of approval is "upon completion of the building expansion, all operations on site shall occur and be performed within the building." The building expansion has since been completed.

When comparing the previous and proposed operations, it is my conclusion that they are very comparable to one another. Both involve the light manufacturing/assembly of largely metal products and have associated delivery traffic (due to the types of products and tools involved, the fitness equipment business is likely "lighter" from a manufacturing perspective than Northpointe). The proposed use should not outwardly appear any different to the neighboring properties than the previous injection mold business. Based on these facts, it is my conclusion that the proposed fitness equipment use is functionally equivalent to the prior operation from a land use perspective, and a Change of Nonconforming Use application does not need to be submitted to the Board of Adjustment for approval.

Mr. Ray Merkel
July 7, 2010
Page 2

This conclusion is based on the understanding that there will be no changes to the exterior of the building or site, and that the BOA condition from the 12/11/96 approval outlined above will be followed. If this is not the intent of the buyer, then any intended changes need to be outlined and this decision will be reconsidered.

Before the new use is initiated, a Tenant Finish application needs to be approved by this office. A key aspect in the review of the Tenant Finish application is making sure that adequate parking exists on the site per the requirements of Article 33 of the zoning regulations. You also need to check with the Building Department to see if a Building Permit will be required. Please call me if you have any questions or need any clarifications.

Sincerely,

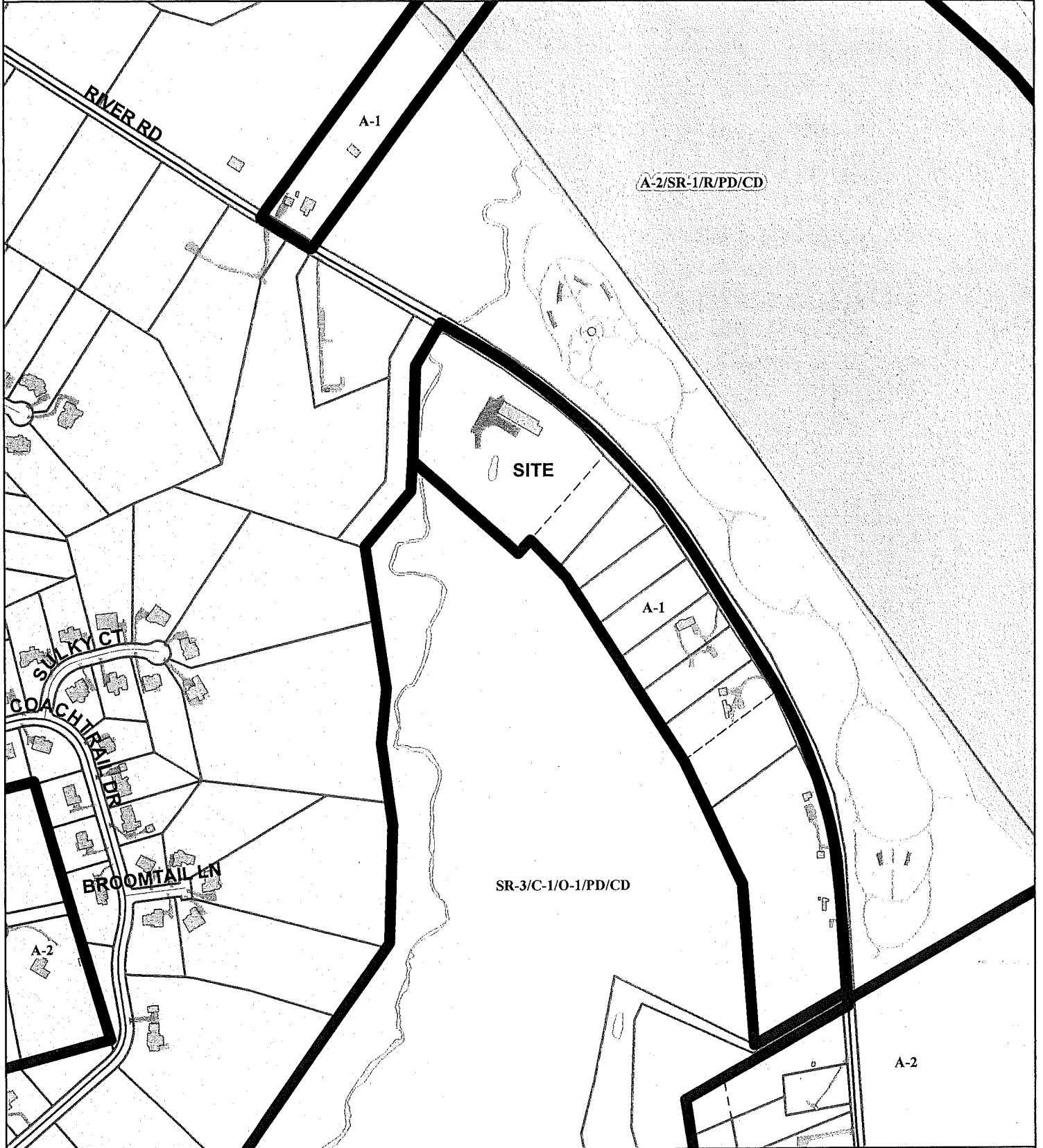
A handwritten signature in black ink, appearing to read 'Kevin T. Wall', written in a cursive style.

Kevin T. Wall, AICP
Zoning Administrator
Boone County Fiscal Court

KTW/vlm

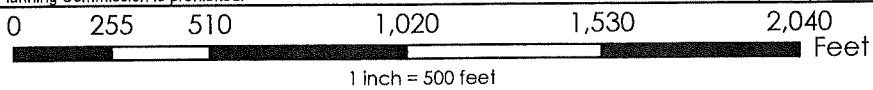
ZONING MAP

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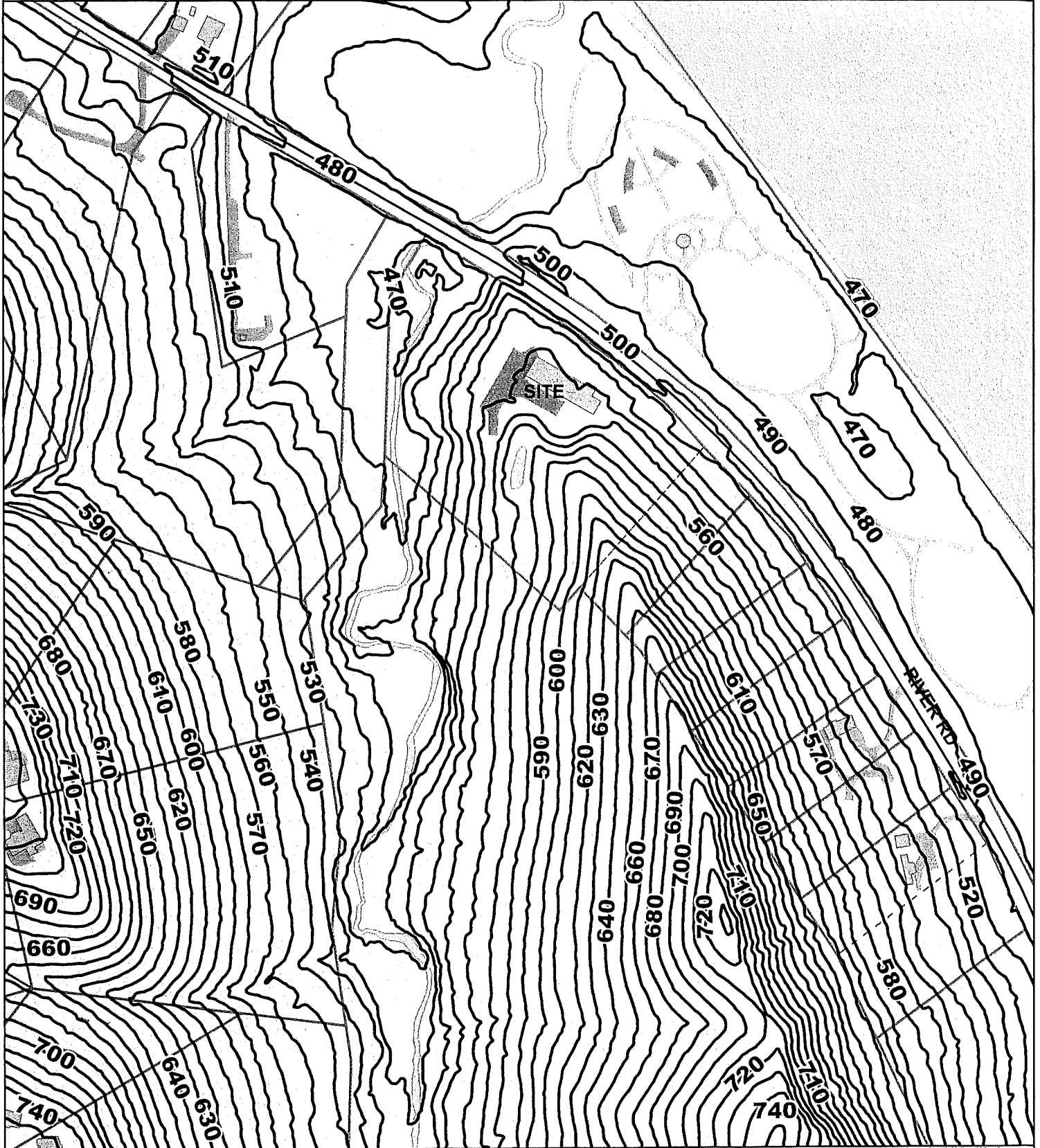


Boone County GIS - Putting Northern Kentucky on the Map



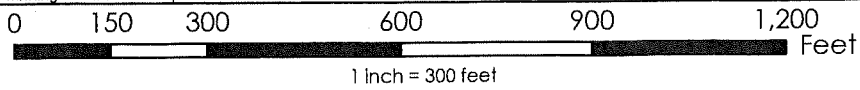
TOPOGRAPHICAL MAP

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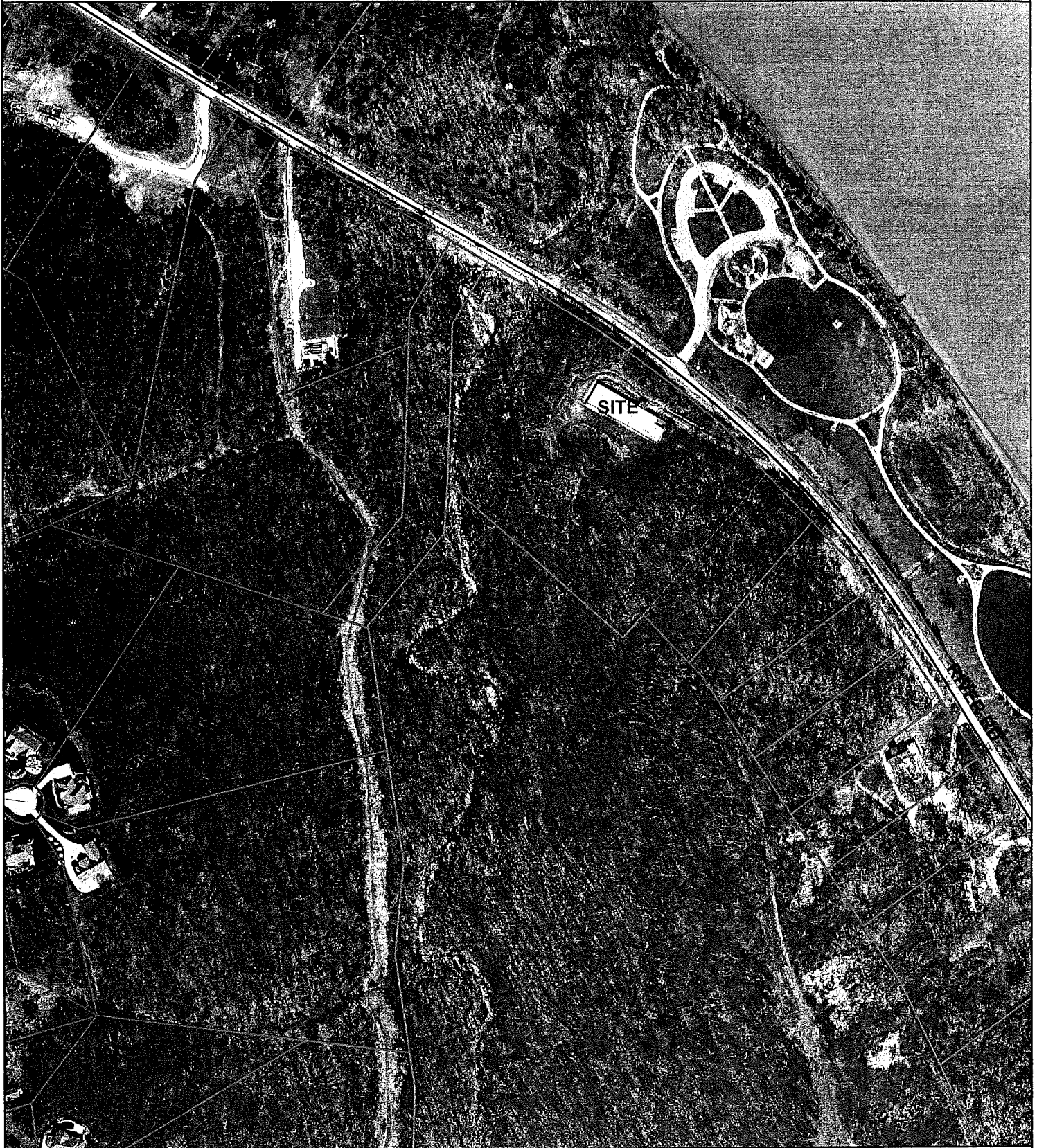
Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 07/01/2013

Map File: BooneMap (10).mxd

2016 AERIAL MAP

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0 150 300 600 900 1,200 Feet

1 inch = 300 feet



Boone County GIS - Putting Northern Kentucky on the Map



Map Created: 07/01/2013

ArcMap Document: BooneMap (ite).mxd

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

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Applicant's Address 618 St. Joseph Lane Park Hills KY 41011
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13. Deed Book 983 Page No. 266 Group No. 2002
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15. If yes, give date of approval _____
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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)

Stamp: BOONE COUNTY PLANNING COMMISSION APR 11 2017 75261

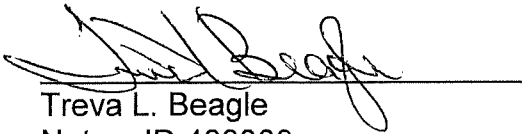
[COPY]

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 10 day of May, 2017.



Treva L. Beagle
Notary ID 499309
NOTARY PUBLIC, State at Large

My commission Expires:
November 12, 2017

This instrument was prepared for recording purposes only by:



Ronica Wuest
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.)

COPY

CLUR #17-BCBOA-009 -A

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the change in non-conforming use approved by the Board of Adjustment and in accordance with the current zoning in effect as of May 10, 2017 Certificate of Land Use Restriction (#17-BCBOA-009 -A), for Blakestone Properties, Property Owner(s).

The following conditions will apply:

1. All business operations shall be performed inside the building.
2. There shall be no outside storage.
3. No more than 5 truck deliveries shall be permitted per business day.

The approved change in non-conforming use as well as the preceding conditions apply to the property described in:

DEED BOOK 983

PAGE NO. 266

GROUP NO. 2002