APPLICATION FORM

RECEIVED
OCT 17 2019
BOONE COUNTY PLANNING COMMISSION

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)

(Check One)

1. ✓ Boone _____ Florence _____ Walton _____ Union

(Check One)

2. ✓ Conditional Use Permit ✓ Variance _____ Appeal
_____ Change in Non-Conforming Use

3. Applicant's Name Richard & Louise Johnson, LLC
Applicant's Address 1980 Festival Plaza Drive, Suite 680
Las Vegas, NV 89135
City State Zip
Phone Number (702) 221-7800 Fax No. _____ E-Mail _____

4. Description of Request: Removal of Conditional Use #2 of Permit approved July 14, 2016.

5. Name of Development n\a

6. Location of Development 8555 Lower River Road
Burlington, KY

7. Acreage Under Review 1.29 acres

8. Lot Number and Name of Subdivision (if part of a subdivision)
n\a

9. Owner of Property Richard & Louise Johnson, LLC
Address of Property Owner 1980 Festival Plaza Drive Suite 680

10. Las Vegas Nevada 89135
City State Zip
Phone Number (702) 221-7800 Fax No. _____ E-Mail eguidroz@fullhouseresorts.com chodapp@fullhouseresorts.com

11. Proposed Use(s) on Site Ferry boat ramp

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

13. Current Zoning on Property recreation

14. Deed Book 1064 Page No. 637 Group No. 2644

15. Is the site subject to a zone change? no
If yes, give date of approval n\a

16. Have you submitted a Site Plan with this request? submitted with the 5/17/16 original submission

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: Elaine Gundroz
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

ORIGINAL Applicant's Signature: Elaine Gundroz
(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 10-22-19 Fee Received 732.00 Receipt # 30451
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer M. Schwartz
4. Scheduled Board Action Date 11/13/19
5. Board Action:
   ✓ **Approved**
   _____ **Approved with Conditions** (See #6)
   _____ **Denial** (See #7)
6. Conditions of Approval: _____
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 **#2**

APPLICANT: Richard and Louise Johnson, LLC

LOCATION: 8555 Lower River Road, Boone County, Kentucky

ZONING: Recreation (R)

DATE: November 13, 2019

PROPOSAL

A. The applicant is requesting an amendment to the previously approved Conditional Use Permit to remove condition #2, which states that operation of the ferry service shall be limited to one (1), ten (10) vehicle capacity ferry boat.

SITE HISTORY

2018 On July 13, 2016, the Boone Board of Adjustment approved a Conditional Use Permit to allow the construction of a ferry boat ramp that allows for the stacking of up to thirty-six (36) vehicles, subject to the following conditions: (1) the approval is based on the plans and studies as submitted by the applicant; (2) operation of the ferry service shall be limited to one (1), ten (10) vehicle capacity ferry boat; (3) all staff parking for the ferry shall occur in Indiana; (4) all ferry boat repairs shall occur in Indiana; (5) the parking lot shall be secured/locked during non-business hours; and (6) parking lot lighting, while normally off during non-business hours, shall be operated by motion sensors during non-business hours to deter loitering on the premises (BCBOA 16-008).

2018 On February 8, 2018, the Boone County Planning Commission staff approved a Major Site Plan for the ferry boat ramp on the site in question.

2018 On July 27, 2018, the Boone County Planning Commission staff approved a sign permit for the site in question which included a monument sign having a height of eight (8) feet and a sign area of fifty (50) square feet (Sign Permit SP-BC-096-2018).

APPLICABLE REGULATIONS

A. 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, with such additional safeguards as will uphold the intent of the zoning order.

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

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

a. 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;

b. 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;

c. Will not be hazardous to existing or future neighboring uses;

d. 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;

e. 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;

f. 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;

g. Will have vehicular approaches to the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

C. Section 713 of the Boone County Zoning Regulations identifies ferry boat landings as a conditional use within the R zone.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

A. The Our Boone County Plan 2040 Future Land Use Plan designates the site in question for "Transportation" uses, which is defined as airports, major four lane roads, interstates, interchanges, ferries, and rest areas.

B. The following Our Boone County Plan 2040 Goals and Objectives apply to this application:

Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community (Overall Goal A, Objective 4).

Tourist oriented commercial facilities should be encouraged provided that the impacts on other land uses are minimal (Natural and Cultural Resources Goal A, Objective 4).

Priority shall be given towards maintaining, protecting, and improving the capacity and safety of the existing road system across jurisdictions (Transportation Goal A, Objective 1).

C. Lower River Road is identified as a local street, having a pavement width of approximately twelve (12) feet, fronting the site in question. There are no sidewalks along the roadway.

SITE CHARACTERISTICS

A. The approximate 1.3 acre property is located along the northwest side of Lower River Road, approximately 1,500 feet southwest of McVille Road.

B. The site is currently occupied by a ferry landing with space for 36 automobile vehicles waiting for the ferry.

C. There is one curb cut onto Lower River Road.

D. The entire site is located within the 100-Year Floodplain of the Ohio River.

SURROUNDING LAND USES AND ZONING

North: Vacant land (RSE)

South: River Ridge Park RV Campground (R)

East: Single family (RSE)

West: Ohio River (R)

STAFF COMMENTS

A. The existing Conditional Use Permit has the following condition:

"2. Operation of the ferry service shall be limited to one (1), ten (10) vehicle capacity ferry boat."

The applicant is requesting that this condition be eliminated.

B. The applicant has submitted additional information pertaining to the background and current service levels of the ferry boat operation (see attached).

CONCLUSION

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

Respectfully Submitted,

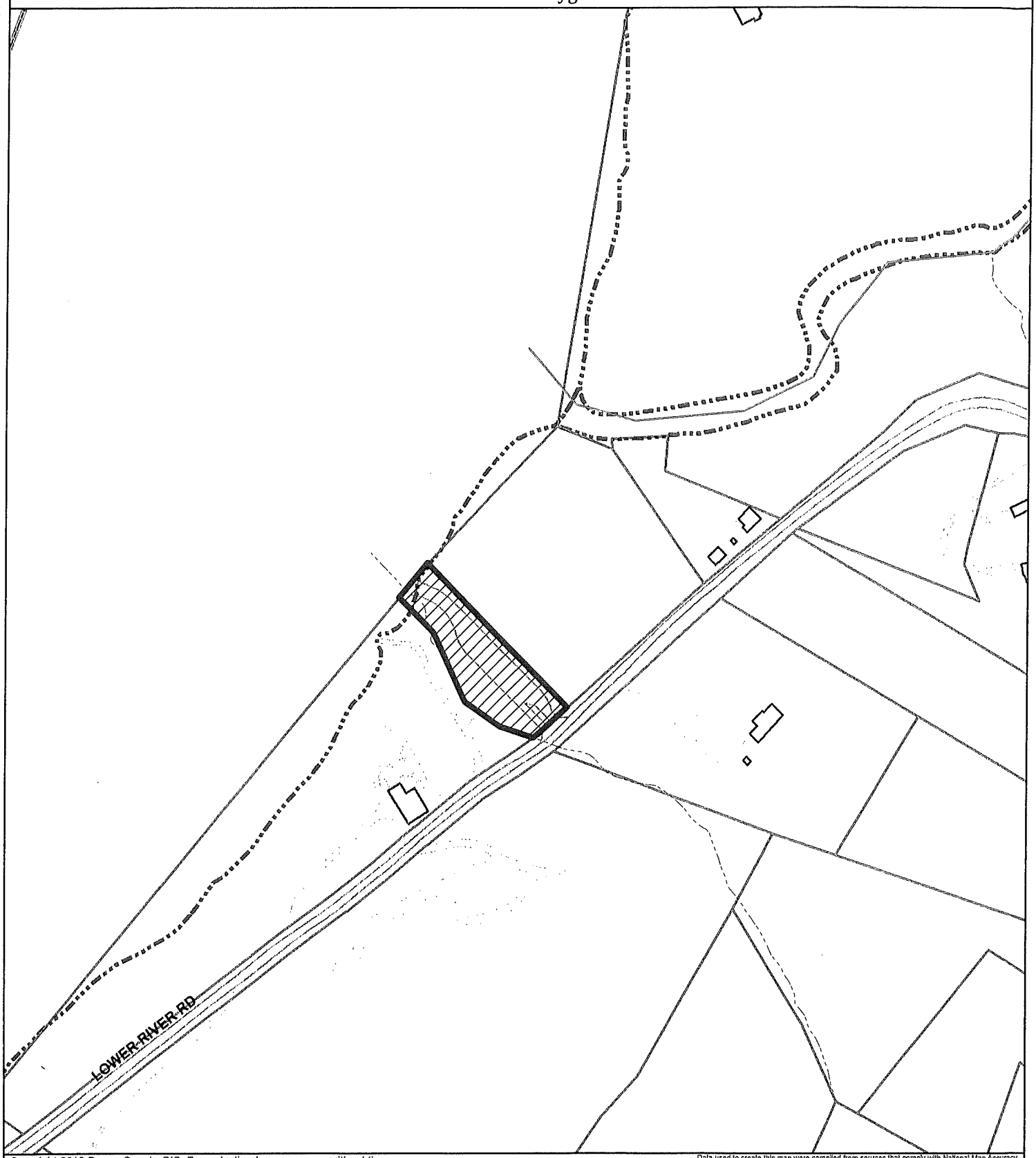
Michael D. Schwartz
Planner

MDS/ss

Attachments
*Vicinity Map
*Aerial Map
*Topographical Map
*Floodplain Map
*Zoning Map
*2040 Future Land Use Map
*2018 Major Site Plan
*Application
*Applicant's Additional Narrative

Vicinity Map

www.boonecountygis.com



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0 150 300 600 900 1,200 Feet

1 Inch = 300 feet

N W E S

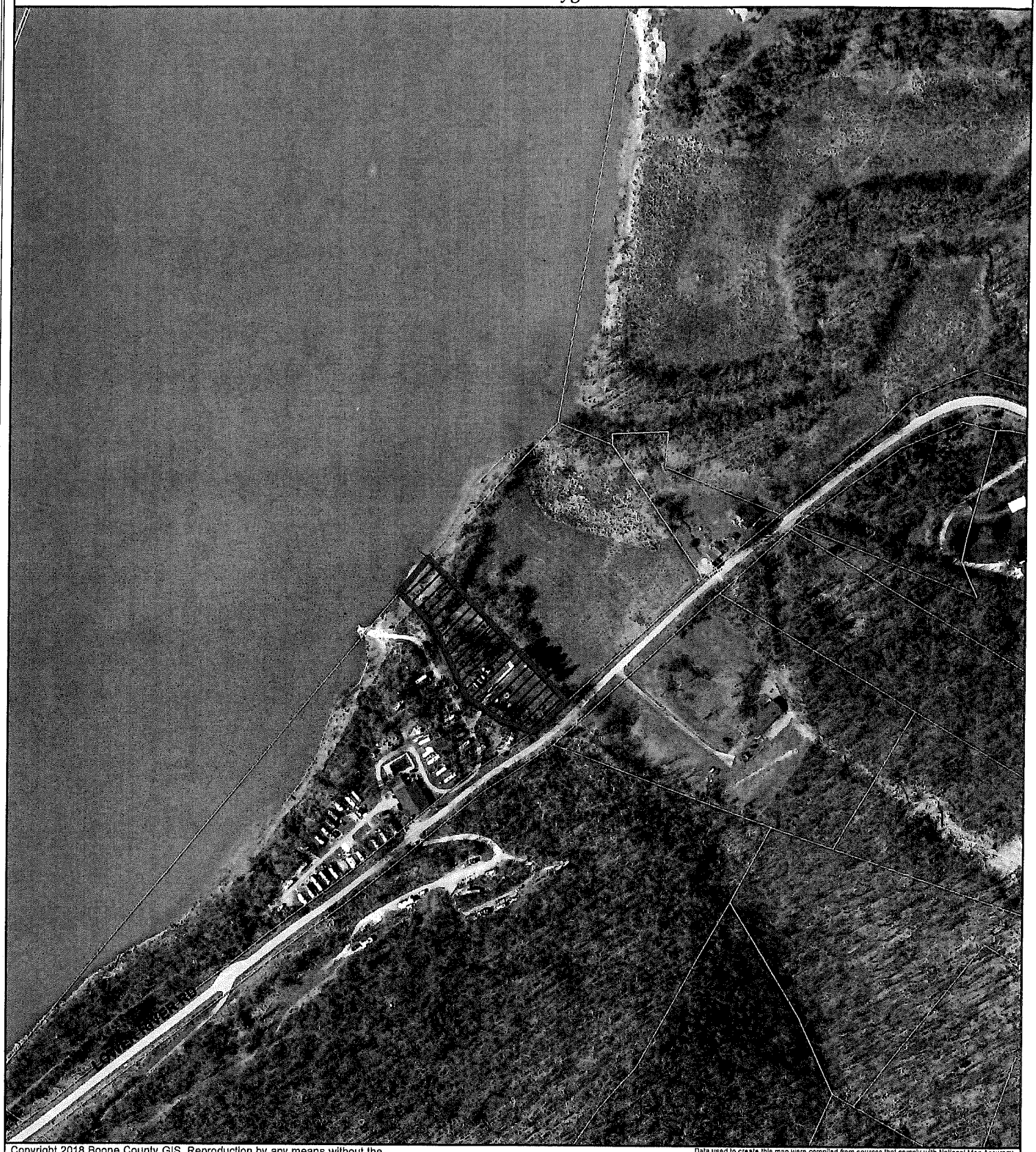
Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2018

ArcMap Document: *.mxd

Aerial Map

www.boonecountygis.com



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Topographical Map

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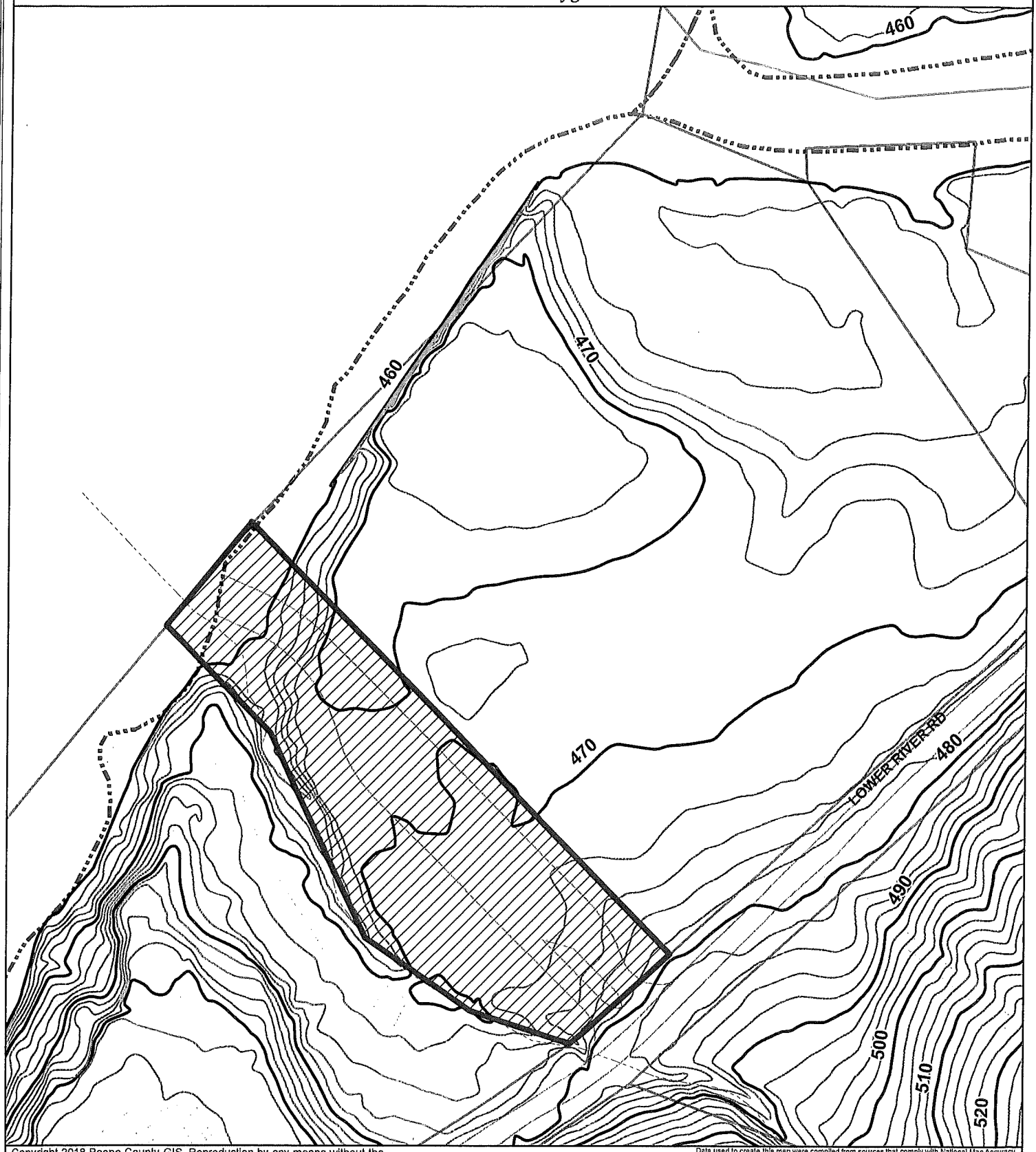

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0 50 100 200 300 400 Feet

1 inch = 100 feet

N

W E

S

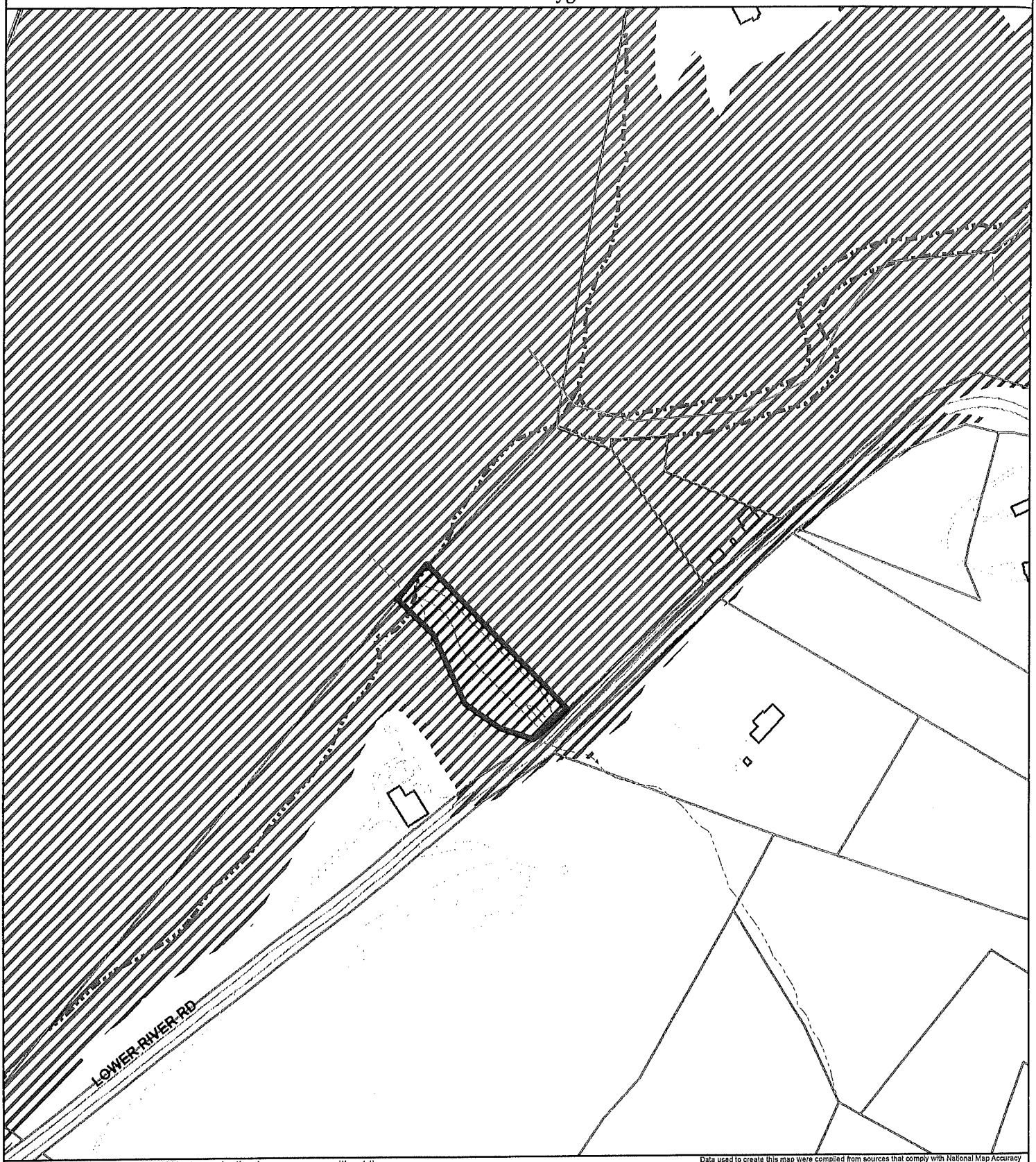
Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2018

ArcMap Document: *.mxd

Floodplain Map

www.boonecountygis.com



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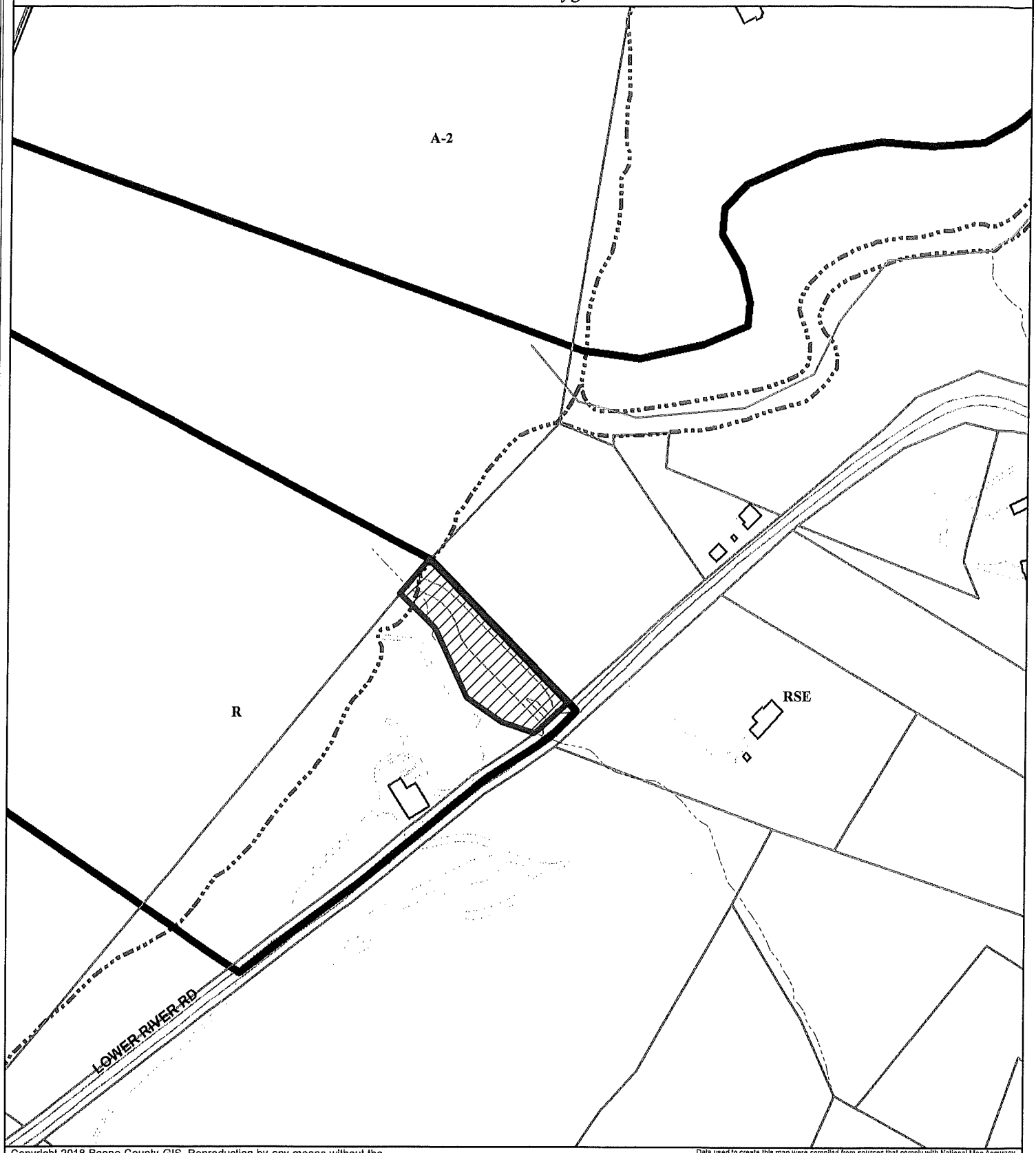
ArcMap Document: *.mxd

Zoning Map

www.boonecountygis.com



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N W E S

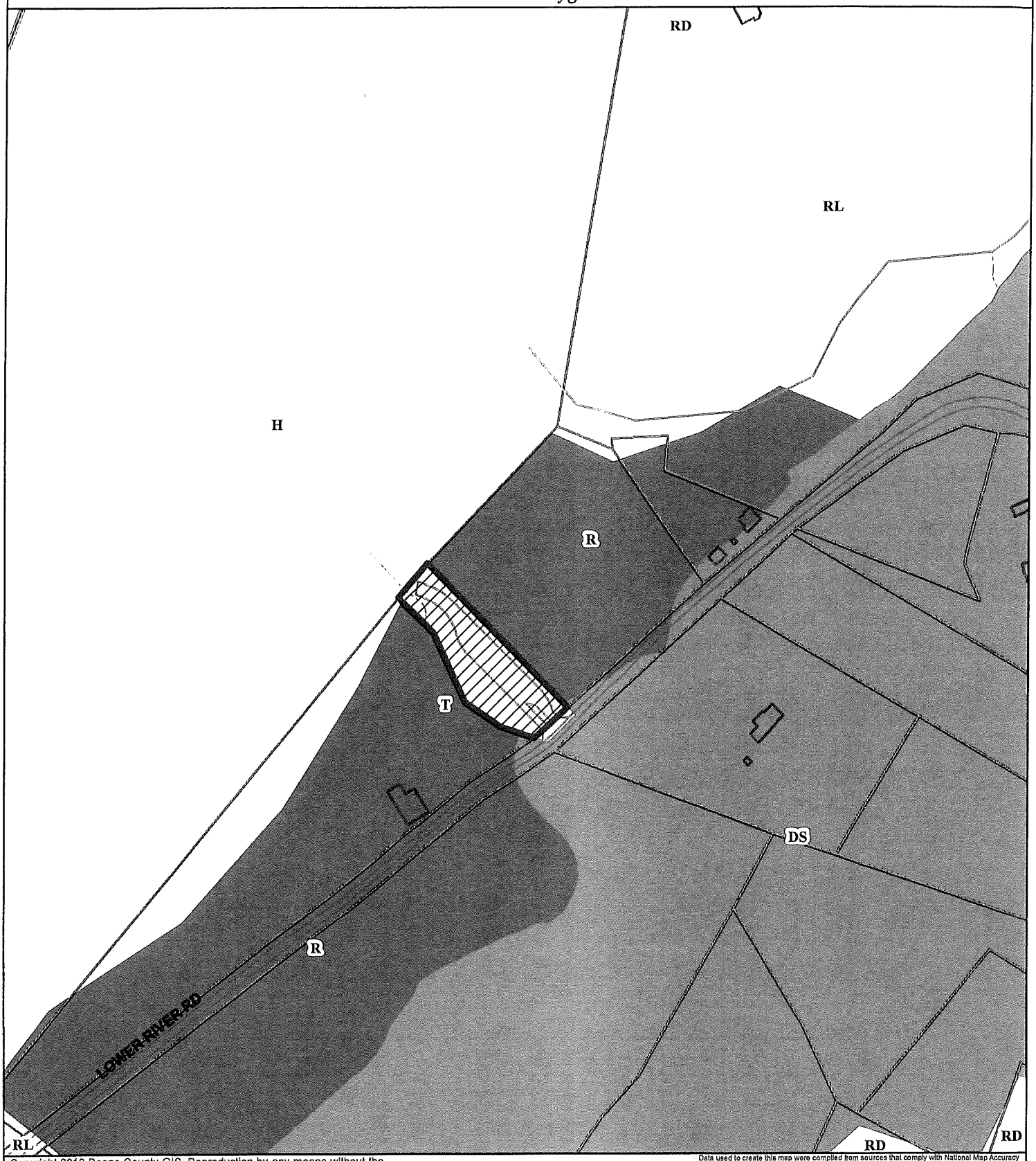
Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2018

ArcMap Document: *.mxd

2040 Future Land Use Map

www.boonecountygis.com



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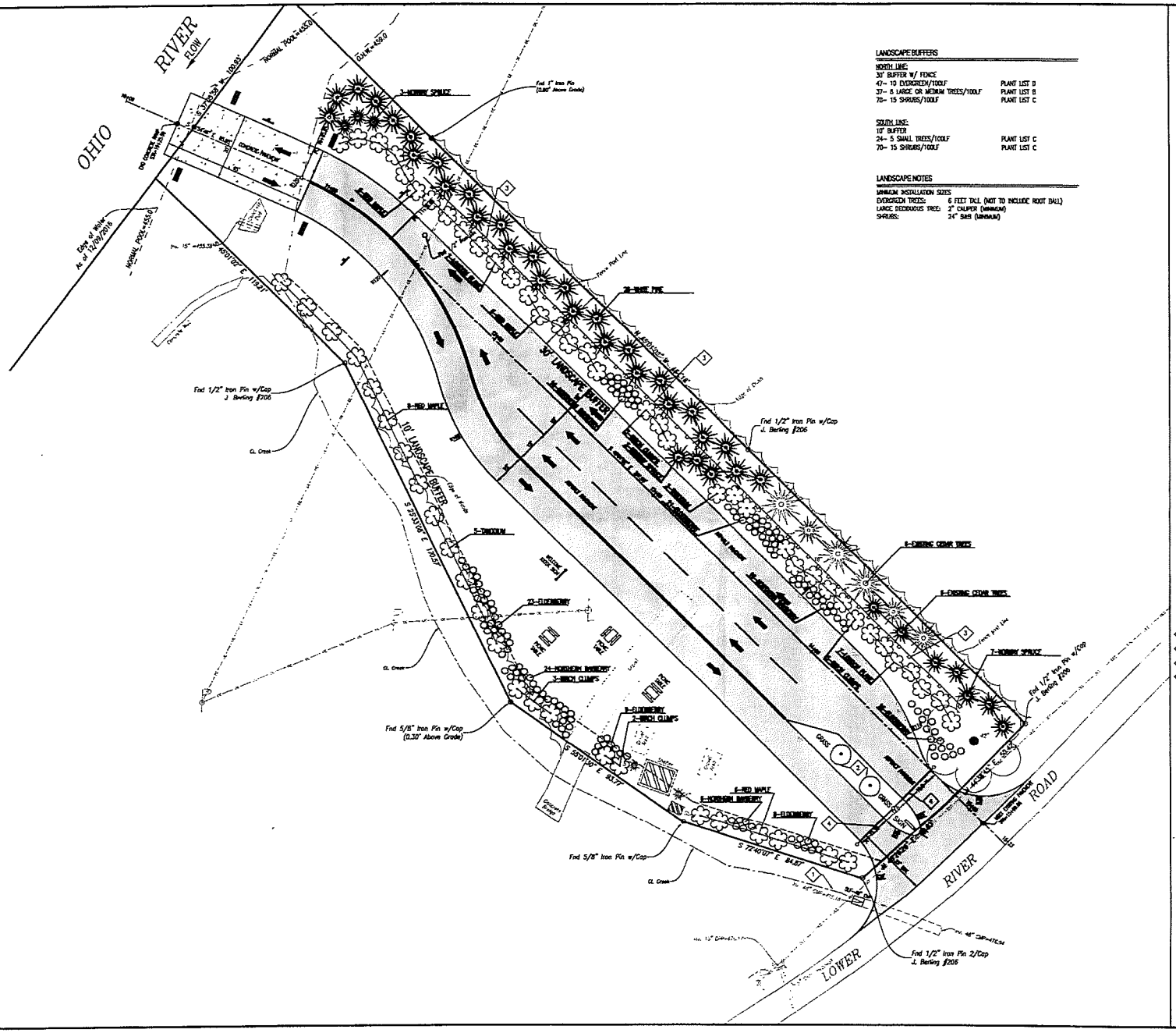
OHIO RIVER
FLOW
LOWER RIVER ROAD
RIVER
Edge of Water
As of 12/09/2016
Top of Bank
Toe of Slope
Fence Post Line
Fnd 1/2" Iron Pin w/Cap
J. Berling #206
Fnd 5/8" Iron Pin w/Cap
(0.30' Above Grade)
Fnd 1" Iron Pin
(0.80' Above Grade)
Fnd 1/2" Iron Pin 2/Cap
J. Berling #206
G. Cross
Grass
Gravel
Asphalt
Concrete
Overhead Wires
Utility Pole
Guy Wire
Sign
Culvert
Inlet
Manhole
Catch Basin
Curb Inlet
Gate
Fence
Tree Line
Bush Line
Stump
Rock
Rip Rap
Existing Cedar Trees
Existing Hardwood Trees
Existing Shrubs
Existing Bushes
Existing Grass
Existing Gravel
Existing Asphalt
Existing Concrete
Existing Overhead Wires
Existing Utility Pole
Existing Guy Wire
Existing Sign
Existing Culvert
Existing Inlet
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Existing Fence
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Existing Stump
Existing Rock
Existing

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION

BOONE COUNTY PLANNING COMMISSION

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OCT 17 2019
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)

(Check One)

1. ✓ Boone _____ Florence _____ Walton _____ Union

(Check One)

2. ✓ Conditional Use Permit ✓ Variance _____ Appeal _____ Change in Non-Conforming Use
3. Applicant's Name Richard & Louise Johnson, LLC
   Applicant's Address 1980 Festival Plaza Drive, Suite 680
   Las Vegas, NV 89135
   City State Zip
   Phone Number (702) 221-7800 Fax No. _____ E-Mail _____
4. Description of Request: Removal of Conditional Use #2 of Permit approved July 14, 2016.
5. Name of Development n\a
6. Location of Development 8555 Lower River Road
   Burlington, KY
7. Acreage Under Review 1.29 acres
8. Lot Number and Name of Subdivision (if part of a subdivision)
   n\a
9. Owner of Property Richard & Louise Johnson, LLC
   Address of Property Owner 1980 Festival Plaza Drive Suite 680
10. Las Vegas Nevada 89135
    City State Zip
    Phone Number (702) 221-7800 Fax No. _____ E-Mail equidroz@fullhouseresorts.com chodapp@fullhouseresorts.com
11. Proposed Use(s) on Site Ferry boat ramp
12. Total Square Footage of Existing and/or Proposed Buildings n\a
13. Current Zoning on Property recreation
14. Deed Book 1064 Page No. 637 Group No. 2644
15. Is the site subject to a zone change? no
    If yes, give date of approval n\a
16. Have you submitted a Site Plan with this request? submitted with the 5/17/16 original submission
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: Elaine Gundroz
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

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

(over)

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 10-17-19 Fee Received 132.00 Receipt # 30451
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
   _____ **Approved**
   _____ **Approved with Conditions** (See #6)
   _____ **Denial** (See #7)
6. Conditions of Approval: _____
   _____
   _____
   _____
7. Reasons for Denial: _____
   _____
   _____

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

Board of Adjustment and Zoning Appeals Action
Boone County Planning Commission
Application by Richard and Louise Johnson LLC d/b/a The Rising Star / Rabbit Hash Ferry

Background:
On July 16, 2016, the Boone County Board of Adjustment ("Board") approved the conditional use permit ("Permit") in accordance with the current zoning and Certificate of Land Use Restriction (#16-BCBOA-008-A) ("Approval") to Richard and Louise Johnson LLC ("Applicant" or "We"), the property owner of 8555 Lower River Road (Deed Book 1064, Page No. 637, Group No. 2044) (the "Property"), Burlington, Kentucky. The Permit is used to operate a commercial ferry boat between Rabbit Hash, Kentucky and Rising Sun, Indiana ("Ferry").

The following requirements were included as Conditions of the Permit Approval ("Conditional Use(s)"):

1. The Approval is based on the plans and studies as submitted by the Applicant.
2. Operation of the ferry service shall be limited to one (1), ten (10) vehicle capacity ferry boat.
3. All staff parking for the ferry shall occur in Indiana.
4. All ferry boat repairs shall occur in Indiana.
5. The parking lot shall be secured/locked during non-business hours.
6. Parking lot lighting, while normally off during non-business hours shall be operated by motion sensors during non-business hours to deter loitering on the premises.

Request:
The Applicant requests a modification of the currently approved Permit, seeking the removal of Conditional Use #2. The Ferry began its operations on or about September 23, 2018, and has been well-received by both the Boone County community and Ohio County, Indiana community. In addition to serving these communities, the Ferry serves as an amenity to patrons of Rising Star Casino Resort ("Rising Star"). As a benefit to Rising Star patrons, Applicant made the Ferry free of charge for all ferry users as of May 1, 2019. As a result, the Ferry usage has increased significantly. The average number of vehicles using the Ferry has steadily increased over the last several months. Please refer to the attached graph marked Exhibit A. We attribute this increase to a number of factors including, (i) favorable weather; (ii) the Ferry becoming free of charge; as well as (iii) time for the public and Rising Star patrons to develop familiarization with the Ferry and develop habits of use.

Currently, Conditional Use # 2 limits the Ferry to transporting ten (10) vehicles per trip. By way of example for the month of August 2019, you can see that the average number of vehicles per trip is indicative that we are operating at this limit during peak days and times. Specifically, we experience higher volumes of Ferry usage on the weekends. Please refer to the attached graphs marked Exhibit B. By removing Conditional Use #2, we would significantly reduce the risk of vehicles backing up beyond the loading space and onto Lower River Road. We believe that by removing this restriction, the safety of those individuals using Lower River Road is improved.

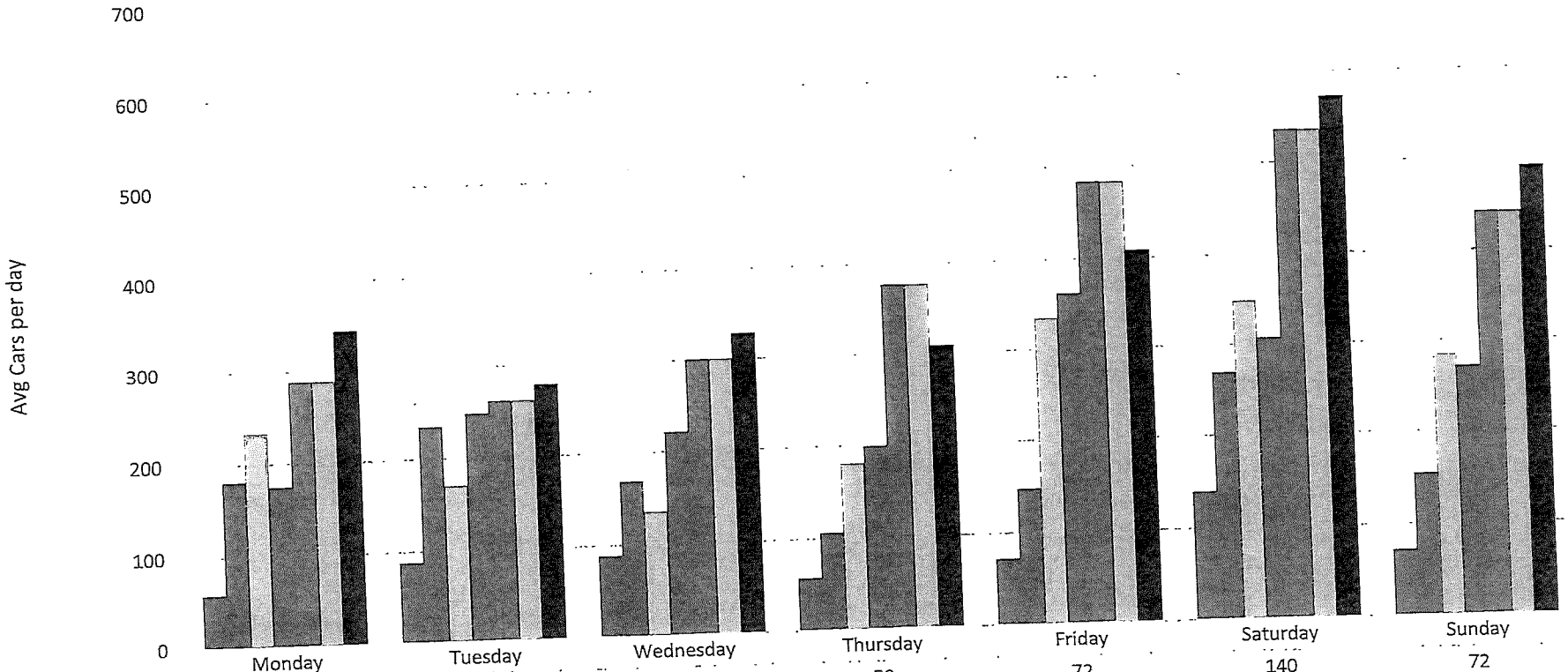
As a business that serves the public, safety is of the utmost importance to the Applicant. The Ferry is operated by U.S. Coast Guard certified captains and regular safety drills and inspections are conducted to ensure safety of those using the Ferry. We carry life vests to accommodate a capacity of 149 passengers, which has been deemed acceptable by the U.S. Coast Guard. Based on its size, the Ferry can easily transport eighteen (18) 2-axle vehicles. However, we have transported commercial trucks, cars, RVs, tractors, golf carts, motorcycles, and bicycles. Accordingly, our criteria of determining capacity is

based on the physical space to accommodate the vehicles for each ride, as well as the ability to provide a life vest for each passenger in the event of emergency. Given the wide variety of modes of transportation that utilize the Ferry, we would respectfully request that no specific restriction on the number of vehicles be placed on the Permit.

Conclusion:

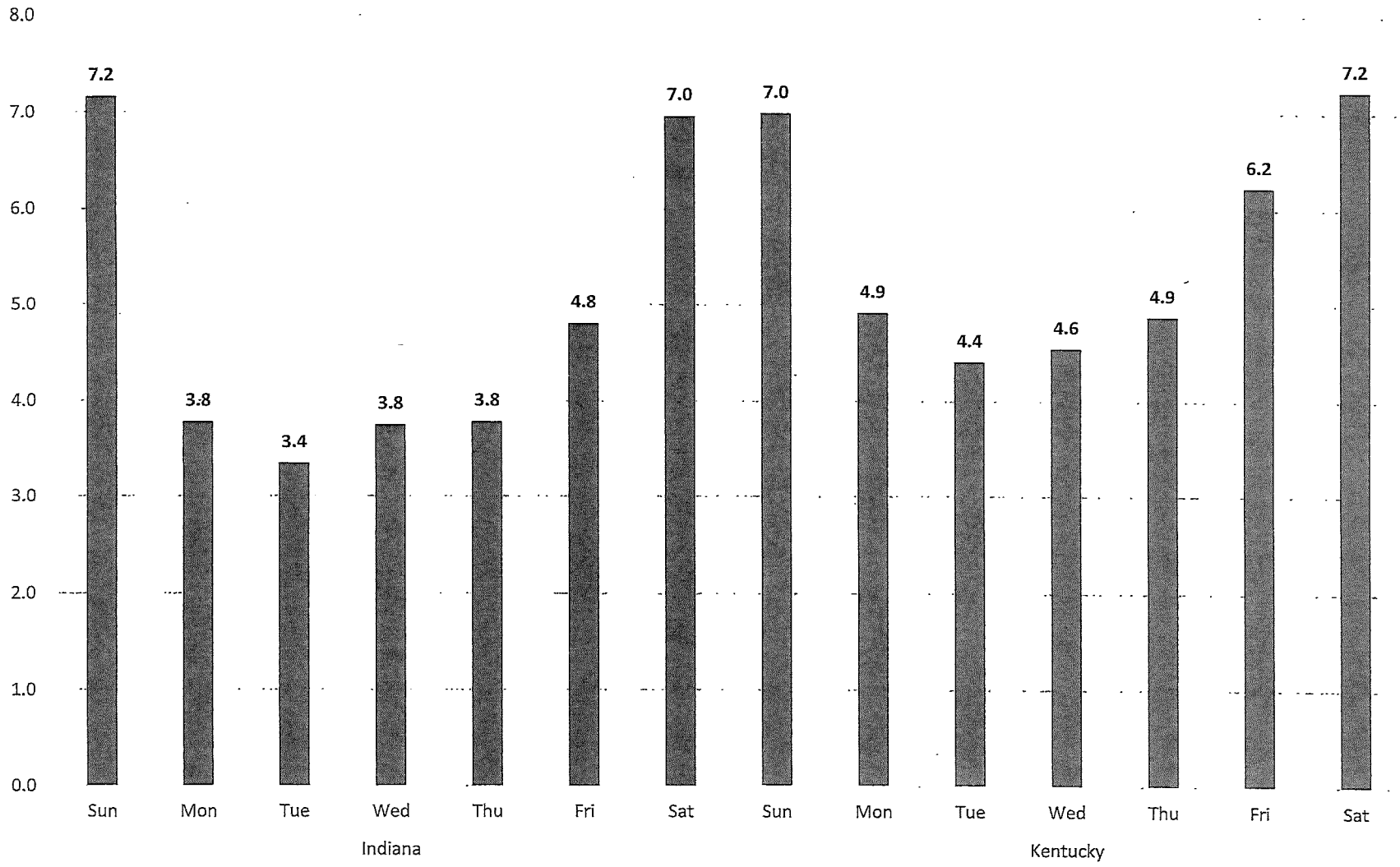
Based on the forgoing, we would respectfully request that the Board remove Conditional Use #2 of the Permit previously issued on July 16, 2016. We intend to continue to comply with all other Conditional Uses, requirements and criteria as required.

Average Cars per Day March - Aug 2019
Exhibit A

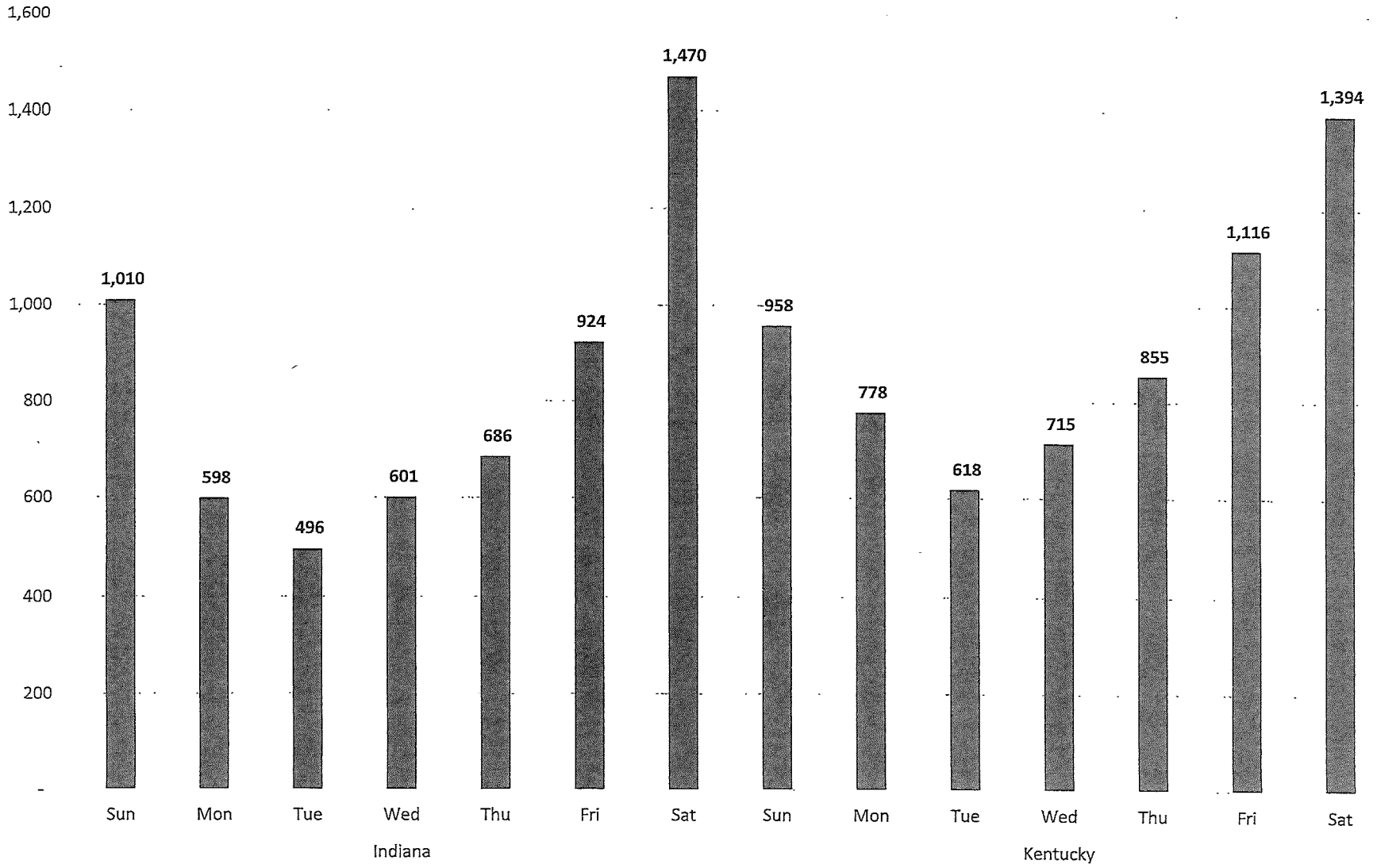


	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Avg Cars March	59	88	89	58	72	140	72
Avg Cars April	181	235	170	106	148	270	155
Avg Cars May	233	171	135	181	334	348	285
Avg Cars June	175	248	221	199	361	307	271
Avg Cars July	289	261	301	377	484	537	442
Avg Cars Jul	289	261	301	377	484	537	442
Avg Cars Aug	344	279	329	308	408	572	492

August Average Ferry Cars per Trip from Departing State
Exhibit B



August Total Cars per Trip by Weekday from Departing State
Exhibit B



CLUR #19-BCBOA-017-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Richard & Louise Johnson, LLC
1980 Festival Plaza Drive, Suite 680
Las Vegas, NV 89135

2. ADDRESS OF PROPERTY
8555 Lower River Road
Burlington, KY 41005

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Richard & Louise Johnson, LLC

4. DEED BOOK 1064 PAGE NO. 637 GROUP NO. 2044

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

____ Zoning Map Amendment: From____ To____

_X_ 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

Michael D. Schwartz - Planner
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Michael D. Schwartz

on behalf of the Boone County Planning Commission this 14 day of November , 2019.

Treva L. Beagle
Notary ID 588897
NOTARY PUBLIC, State at Large

My commission Expires:
November 12, 2021

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.)