

**BOARD OF ADJUSTMENT
BOONE COUNTY PLANNING COMMISSION**



Five (5) scaled copies and one (1) 11 x 17 reduction of submitted drawings are required

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

SECTION A: (To be completed by applicant)

1. Check One Boone Florence Walton Union
2. Check One Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
3. Applicant: Gerald Wilson
Address: PO Box 10
Hebron KY 41048
City State Zip Code
Phone Number: 859-586-7587 Fax Number: _____
Email: jerrydouglaswilson@hotmail.com
4. Description of Request:
Appeal from determination by Zoning Administrator that applicant/owner's activity and use of the subject property is not agricultural and not subject to exemptions provided by Section 3115 of the Boone County Zoning Regulations KRS sec. 413.072 and 100.111(2) and other applicable law. Grounds for such appeal are that applicant/owner's use and activities are agricultural in nature and the Zoning Administrator's decision is contrary to law.
5. Name of Development: _____
6. Location of Development: 6650 River Road
Hebron KY 41048
City State Zip Code
7. Acreage Under Review: 15.6669
8. Lot Number and Name of Subdivision (if part of a subdivision):
N/A
9. Current Owner: Michael J. Wissman and Gerald Wissman
Address: PO Box 10
Hebron KY 41048
City State Zip Code
Phone Number: 859-586-7587 Fax Number: _____
Email: jerrydouglaswilson@hotmail.com

10. Proposed Use(s) on Site: Agricultural
11. Total Square Footage of Existing and/or Proposed Buildings: Approx. 2,400
12. Current Zoning: A-2
13.

<u>849</u>	<u>692</u>	<u>2002</u>
Deed Book	Page	Group Number
14. Is the site subject to a zone change: Yes No
If yes, date of approval: _____
15. Have you submitted a Site Plan with this request: Yes No
16. Have you submitted a list of adjoining property owners with this request: Yes No
17. 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: Gerald Wilson by Corey Gamm per authorization
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Gerald Wilson by Corey Gamm per authorization
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 10/13/22 Fee Received: \$ 716 Receipt #: 87183

2. Is application complete: _____

3. Staff Reviewer: M. Schwartz

4. Scheduled Board Action Date: 11/30/2022

5. Board Action: 11/30/2022

- Approved
- Approved with Conditions (see #6)
- Denial (See #7)

6. Conditions of Approval: _____

7. Reasons for Denial: See Minutes

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

STAFF REPORT

#1

APPLICANT: Gerald Wilson

LOCATION: 6650 River Road, Boone County, Kentucky

ZONING: Agricultural Estate (A-2)

DATE: November 30, 2022

DESCRIPTION OF REQUEST AND ISSUE

- A. On September 12, 2022, the Boone County Zoning Administrator made a determination that the activity and use on the site does not fall within the definition of agricultural use and is therefore not exempt from the zoning regulations.
- B. The applicant is appealing the Boone County Zoning Administrator's decision.

DOCUMENTED FACTS

1. March 18, 2003, Conveyance Plat creating the site was recorded in the Boone County Clerk's office (Attachment A).
2. April 21, 2021 – Boone County Planning Commission staff sends a violation letter to the property owner(s) (Attachment B).
3. June 16, 2021 – Boone County Planning Commission staff approves a Zoning Permit for a 4,000 square foot (80' x 50') pole building, as being farm exempt (Attachment C).
4. June 7, 2022 – Boone County planning Commission staff sends a letter to the property owner(s) requesting information relative to the activities that have been on the property and that are currently taking place on the property (Attachment D).
5. June 21, 2022 - Boone County Planning Commission staff sends a violation letter to the property owner(s) (Attachment E).
6. August 8, 2022 – Boone County Planning Commission staff receives a telephone call from the property owner asking what is his next step. Boone County Planning Commission informed him that he should provide a written documentation as to what activities are taking place on the property.
7. August 15, 2022 – Boone County Planning Commission staff observed that the existing building was being added onto.

8. August 18, 2022 – Boone County Planning Commission staff sends a violation letter to the property owner(s) (Attachment F).
9. August 19, 2022 – Boone County Planning Commission staff receives a letter from Jerry Wilson and Michael Wissman explaining what has been on the property, what is currently on the property, and their future plans for the property (Attachment G).
10. August 31, 2022 – Boone County Planning Commission staff conducts an on-site inspection of the property (Attachment H).
11. September 12, 2022 – Boone County Planning Commission sends the property owners a violation letter, via certified mail.
12. September 13, 2022 – The certified letter is delivered to Michael J. Wissman, one of the property owners.
13. September 30, 2022 – Michael Schwartz and Robert Krebs met with Gerald Wilson and Michael Wissman in the BCPC Offices, at their request, and informed them that they had 3 options: (1) do nothing; (2) file an appeal; or (3) remove the non-agricultural vehicles and the green screen fence by October 13, 2022. They stated that the vehicles are not used for an agricultural purpose and that they will do option 3, but did not know how much they could accomplish by October 13. I stated that they should do their best and we will see where they are come October 14, 2022.
14. October 13, 2022 – Gerald Wilson files an appeal with the Boone Board of Adjustment.

SITE FACTS

1. The site contains 15,6669 acres.
2. The site is zoned Agricultural Estate (A-2) (Attachment I).
3. Aerial photography from 2012, 2015, and 2022 show an increase in the amount of disturbed land area (Attachment J).

PERTINENT REGULATIONS

1. Section 110 (Boone County Zoning Regulations)

In their interpretation and application, the provisions of this order shall be held to be minimum requirements, adopted for the promotion of the public health, safety,

morals and the general welfare, as per KRS 100.201- 100.991. Whenever the requirements of these regulations conflict with the requirement of any other lawfully adopted rules, regulations, ordinance, orders or resolutions, or where there may be internal conflicts within this order, the most restrictive, or that imposing the higher standards shall govern.

2. Section 230 (Boone County Zoning Regulations)

It is the intent of this order that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board shall be to the appropriate court of jurisdiction as provided by law. It is further the intent of this ordinance that the duties for the legislative bodies in connection with this order shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this order. Under this order, the legislative bodies shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this order as provided by law.

3. Section 240 (Boone County Zoning Regulations)

Appeals and variances shall conform to the procedures and requirements of Sections 240-254, inclusive, of this zoning order and KRS 100.241-100.251 and 100.257-100.263. As specified in SECTION 220, the Board of Adjustment and Zoning Appeals has appellate jurisdiction relative to appeals and variances.

4. Section 245 (Boone County Zoning Regulations)

Appeal to the Board of Adjustment and Zoning Appeals may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision by filing, with the Board of Adjustment and Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken, and by giving notice of such appeal to any and all parties of record. The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The appellant may also submit any materials appropriate for review in consideration of the appeal.

5. Section 246 (Boone County Zoning Regulations)

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment and Zoning Appeals after the notice of appeal is filed with the Administrator, that by reason of facts stated in the application, a stay would, in the officer's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted upon application to the proper court of record, on notice to the Zoning Administrator from whom the appeal is taken.

6. Section 254 (Boone County Zoning Regulations)

The Board of Adjustment and Zoning Appeals shall hear and decide upon the notice of appeal or application for variance within sixty (60) days of filing. The Board of Adjustment and Zoning Appeals shall either approve, approve with supplementary conditions as specified in SECTION 245, or disapprove the request for appeal or variance. The Board shall further make a finding that the reasons set forth in an application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. If the request is disapproved, the board shall state the reasons for disapproval in writing. Appeals from Board decisions shall be to the appropriate court of jurisdiction as provided by law.

7. Section 266 (Boone County Zoning Regulations)

The Board of Adjustment and Zoning Appeals shall hear and decide upon the application for a conditional use permit within sixty (60) days of filing. The Board shall either approve, approve with supplementary conditions as specified in SECTION 264, or disapprove the application as presented. If the application is approved or approved with modification, the Board shall direct the Zoning Administrator to issue a conditional use permit listing the specific conditions specified by the Board for approval. If disapproved, the Board shall state the reasons for disapproval. If the application is disapproved by the Board, the applicant may seek relief through the appropriate circuit court. Appeals from Board decisions shall be as provided in Kentucky Revised Statutes (KRS), Section 100.347.

8. Section 400, Zoning Permit Required (Boone County Zoning Regulations)

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use or character without a permit that has been issued by the Zoning Administrator or designee. Zoning permits are required for single family dwelling units, duplex dwelling units, residential additions and accessory structures except

when Site Plan Review is otherwise required by this order. Zoning permits are also required for tenant finishes for previously occupied structures and where tenants were not known at the time when Site Plan Review was conducted by the Boone County Planning Commission for a completed structure. Site Plan Review is required when specified by individual zoning districts or ARTICLE 30.

For proposed retaining walls, a Zoning Permit or Minor Site Plan application as applicable is required if the wall is 4 feet or less in height, will not change the overall grading and/or drainage design of the site, is not a substantive structural component of a grade, and will not result in property damage if the wall fails. When the scope of work is limited to a retaining wall that is merely a decorative component of a landscape design, then no approval by the Planning Commission is required. A Major Site Plan application, or Grading Plan application per the Boone County Subdivision Regulations if applicable, is required if a proposed retaining wall is greater than 4 feet in height, will change the overall grading and/or drainage design of the site, is a substantive structural component of a grade, or would potentially cause property damage if the wall fails.

Zoning permits shall be issued only in conformity with the provisions of this ordinance unless the Zoning Administrator receives a written order from the Board of Adjustment and Zoning Appeals deciding an appeal, conditional use, or variance. Neither the Zoning Administrator nor the Building Inspector shall have the power to permit any construction, or to permit any use or change of use which does not conform to the literal terms of the zoning regulations.

9. Section 621 (Boone County Zoning Regulations), provides a list of principally permitted uses allowed in the A-2 district (Attachment K).
10. Section 622 (Boone County Zoning Regulations), provides a list of accessory uses allowed in the A-2 district (Attachment K).
11. Section 623 (Boone County Zoning Regulations), provides a list of conditional uses allowed in the A-2 district (Attachment K).
12. Section 3001, Site Plan Review, Authority (Boone County Zoning Regulations)

The purpose of Site Plan Review is to protect the public health, safety, and general welfare of Boone County. The provisions and requirements in this article are written in accordance with K.R.S. 100 and shall be administered to ensure orderly growth and development of Boone County. No building shall be erected or expanded, nor shall any grading take place or other site improvements occur, on any lot, site, or parcel for uses or in zoning districts where Site Plan Review is required except in accordance with the regulations in this Zoning Order and with

the requirements stated in this article. All such Site Plans shall be reviewed by the Boone County Planning Commission and a determination either approving or rejecting such plans shall be made in accordance with the requirements of this article and other applicable articles of this order.

The Planning Commission shall not be given the power to impose any additional regulations not included in this Zoning Order with the exception of specific public or private improvements, such as stormwater, sanitary sewer water, and road construction as adopted by the appropriate legislative body of Boone County. The Planning Commission shall not be permitted to reject any Site Plan which is in full conformance with the requirements, terms and conditions of this article and Zoning Order. All approved Site Plans shall be binding upon the applicant, property owner, developer, or their successors and shall limit the development or project to the construction work as shown on the approved Site Plan and to all conditions and limitations for such plans agreed to by the applicants. Amendments or changes to the approved Site Plans shall be subject to the provisions of SECTION 3008. Site Plan Review is required when specified by the individual zoning district, when the proposal is beyond the scope of a Zoning Permit as specified in ARTICLE 4, or when the scope of the proposal is within the definition of a Minor Site Plan or Major Site Plan as described in SECTION 3002.

13. Section 3115 (Boone County Zoning Regulations)

Land used for agricultural uses, as defined in ARTICLE 40, are exempt from requirements for zoning permits, certificates of occupancy and height and yard standards for agricultural buildings, except that:

1. Set back lines may be enforced for the protection of existing and proposed streets and highways;
2. That all buildings and structures in flood areas designed under local flood protection control areas may be fully regulated.

14. Section 4000 (Boone County Zoning Regulations)

Agricultural Use

Per KRS 100.111.(2), "agricultural use" means the use of:

- a. A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public;

- b. Regardless of the size of the tract of land used, small farm wineries licensed under KRS 243.155;
- c. A tract of at least five (5) contiguous acres used for the following activities involving horses:
 - 1. Riding lessons;
 - 2. Rides;
 - 3. Training;
 - 4. Projects for educational purposes;
 - 5. Boarding and related care; or
 - 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations; or
- d. A tract of land used for the following activities involving horses:
 - 1. Riding lessons;
 - 2. Rides;
 - 3. Training;
 - 4. Projects for educational purposes;
 - 5. Boarding and related care; or
 - 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations.

This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004;

15. KRS 100.111(2) (Kentucky Revised Statute)

"Agricultural use" means the use of:

- (a) A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their

- families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public. For purposes of this subsection, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- (b) Regardless of the size of the tract of land used, small farm wineries licensed under KRS 243.155;
 - (c) A tract of at least five (5) contiguous acres used for the following activities involving horses:
 - 1. Riding lessons;
 - 2. Rides;
 - 3. Training;
 - 4. Projects for educational purposes;
 - 5. Boarding and related care; or
 - 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations; or
 - (d) A tract of land used for the following activities involving horses:
 - 1. Riding lessons;
 - 2. Rides;
 - 3. Training;
 - 4. Projects for educational purposes;
 - 5. Boarding and related care; or
 - 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations.

This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004;

16. KRS 100.203(4) (Kentucky Revised Statute)

Cities and counties may enact zoning regulations which shall contain:

- (4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:
 - (a) Setback lines may be required for the protection of existing and proposed streets and highways;
 - (b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated;
 - (c) Mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy; and
 - (d) The uses set out in KRS 100.111(2)(c) may be subject to regulation as a conditional use;

DETERMINATION

The activity and use on the site does not fall within the definition of agricultural use and is therefore not exempt from the zoning regulations.

ANALYSIS

1. I observed the following as part of an on-site inspection of the property on August 31, 2022:
 - a. A building that is larger than what was permitted on June 16, 2021.
 - b. A small garden.
 - c. A tractor.
 - d. Three passenger vehicles and a camper/trailer adjacent to the building.
 - e. A green screen fence.
 - f. A commercial pick-up truck (with no license plate), three passenger vehicles, a boat/boat trailer, a trailer, and a semi-truck cab, and a cargo trailer in front of the green screen fence.
 - g. Several commercial vehicles on the opposite side of the green screen fence.
2. When asked to provide documentation as to what is occurring on the property, the owner responded that they have:
 - a. 60 pine trees, a batch of oak trees, and a meadow of wildflowers.
 - b. A plowed area for growing fruits and vegetables.
 - c. 12 chickens and a couple of goats.
3. The property owner has stated that “there are some vehicles on the property that are being stored and then there are also vehicles that come and go however, we

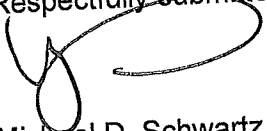
have researched the requirements in the KT RTF, ('Kentucky Right to Farm') for the agricultural exemption and we believe that we are within the guidelines."

4. While there may be some agricultural activity taking place on the property, I did not observe any. Regardless, the amount and type of vehicles that I observed as being kept on the property cannot be reasonably construed as being for an agricultural purpose.
5. Since the determination has been made that a non-agricultural activity is taking place on the property, there is no agricultural exemption and the property owner is in violation of the following zoning regulations:
 - a. Section 400, use of the property without a valid permit.
 - b. Section 400, building construction without a permit.
 - c. Section 611, use of the property that is not permitted in the A-2 district.
 - d. Section 3001, grading of the property without an approved Site Plan.
6. While balancing the rights of a property owner against the requirements of the zoning regulations, given the previous analysis, I am also bound by Section 110 of the zoning regulations to impose the most restrictive standard, which is to make the determination that there is a non agricultural activity taking place on the property..

CONCLUSION

Section 160 of the Boone County Subdivision Regulations give the Boone Board of Adjustment and Zoning Appeals the authority to act on this request. In order for an appeal to be granted, the Board must determine that the administrative decision in question is in error.

Respectfully submitted,



Michael D. Schwartz
Director, Zoning Services
Zoning Administrator

Attachments

- Application
- Attachment A: Conveyance Plat
- Attachment B: April 21, 2021 Violation Letter
- Attachment C: Zoning Permit
- Attachment D: Request Letter
- Attachment E: June 21, 2022 Violation Letter

- Attachment F: August 18, 2022 Violation Letter
- Attachment G: Response Letter from Property Owner
- Attachment H: August 31, 2022 Site Visit Information
- Attachment I: Zoning Map
- Attachment J: Aerial Photographs
- Attachment K: Zoning Regulations

Agricultural

10. Proposed Use(s) on Site: _____
11. Total Square Footage of Existing and/or Proposed Buildings: Approx. 2,400
12. Current Zoning: A-2
13. 849 692 2002
Deed Book Page Group Number
14. Is the site subject to a zone change: Yes No
If yes, date of approval: _____
15. Have you submitted a Site Plan with this request: Yes No
16. Have you submitted a list of adjoining property owners with this request: Yes No
17. 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: Gerald Wilson by Corey Comm per authorization
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Gerald Wilson by Corey Comm per authorization
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 10/13/22 Fee Received: \$ 716 Receipt #: 87183
2. Is application complete: _____
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
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2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

I HEREBY CERTIFY THAT THIS PLAT DEPICTS A SURVEY MADE UNDER MY DIRECTION BY THE METHOD OF RANDOM TRAVEL, THE NORTH POINT AND BEARINGS SHOWN HEREON ARE BASED ON MAGNETIC NORTH, THE BEARINGS AND DISTANCES SHOWN HEREON HAVE NOT BEEN ADJUSTED FOR CLOSURE; THE UNADJUSTED ERROR OF CLOSURE MEETS OR EXCEEDS 1" IN 10,000' LINEAR ERROR OF CLOSURE; THIS SURVEY AND PLAT MEETS OR EXCEEDS THE MINIMUM STANDARDS OF ALL LOCAL AUTHORITIES AND THAT THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT AS SHOWN.

JERRY L. GUNCH
REGISTERED LAND SURVEYOR
REC. NO. 2838
DATE 2-23-03

- ▲ INDICATES P.R. SPINE SET IN CENTER OF EXISTING GRAVEL DRIVE.
- INDICATES P.I. OF RIGHT OF WAY LINE OR CENTER LINE.
- INDICATES 1/2" x 24" IRON PIN WITH YELLOW CAP STAMPED 2838 ON IT, SET.

L1	S 88°50'56" W	15.00'
L2	S 80°19'37" W	123.17'
L3	S 48°38'37" W	282.20'
L4	N 75°10'23" W	71.80'
L5	N 42°39'37" E	100.00'
L6	N 36°56'37" E	100.00'
L7	N 32°44'37" E	100.00'
L8	S 28°56'42" E	288.73'
L9	N 28°56'29" W	24.50'

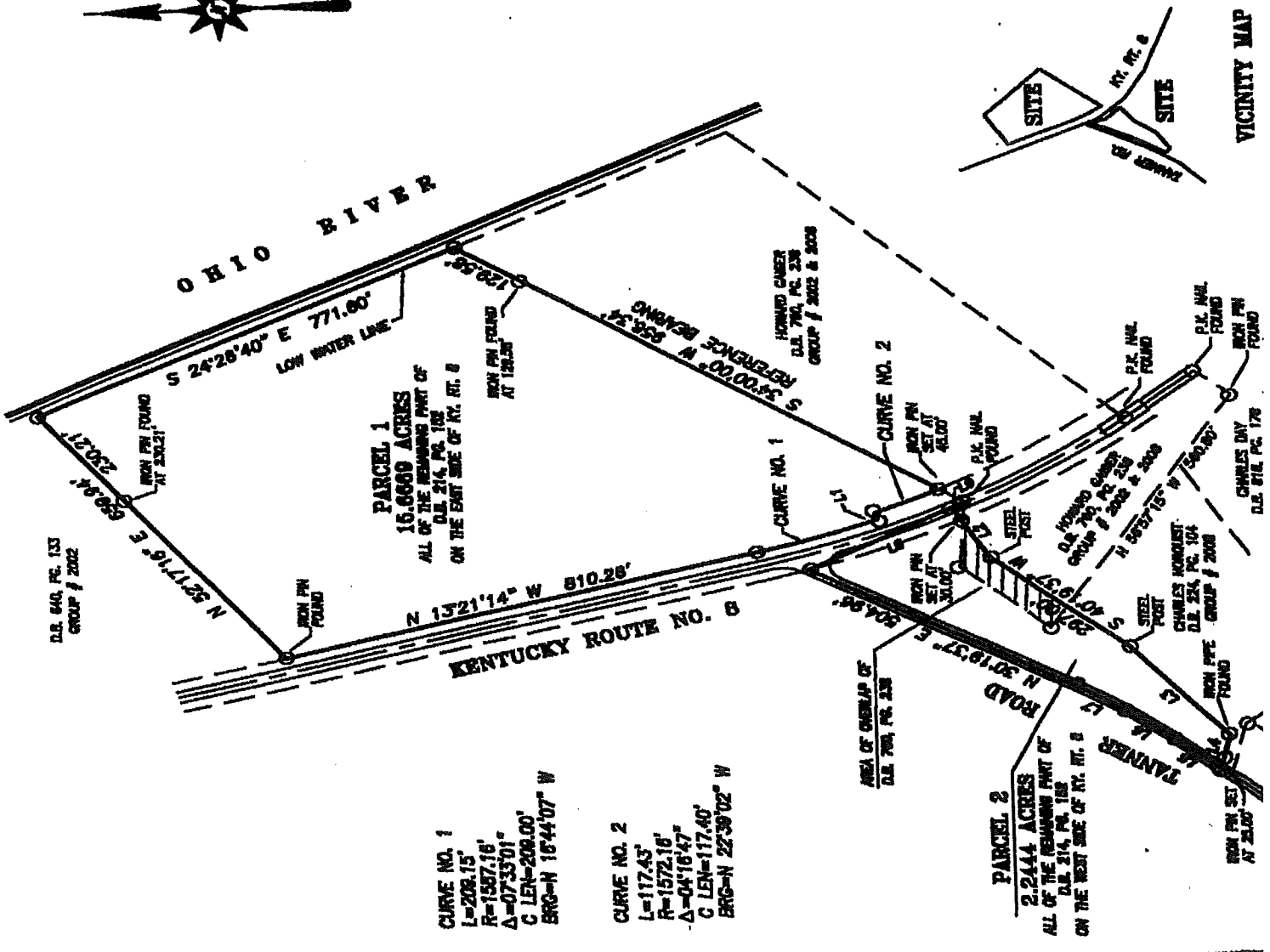
D849 Pg 698
BOONE COUNTY



SURVEY FOR BOUNDARY
FOR
JERRY WILSON
KENTUCKY BOULE NO. 8
HERRICK, KY. 41018
SURRENDER ALL OF THE REMAINDERS OF
LOTTA A. SPRAGUE, HER PROPERTY
AND CHIEF LINE
MEMPHIS, KENTUCKY
LOCATED ON THE EAST & WEST SIDE OF KENTUCKY BOULE
NO. 8 AT THE INTERSECTION OF TANNER ROAD,
BOONE COUNTY, KY.
ANDREW J. AMERT
LAND SURVEYOR PSC
ONE ONE ONE LANE, EMBERSBURG, KENTUCKY 40027
PH. 502-341-7928
FAX 502-341-7928

DOCUMENT NO: 158287
RECORDED ON: MARCH 18, 2003 02:36:59PM
TOTAL FEES: \$29.88
TRANSFER TAX: \$42.88
GROUP 1 2002
COUNTY CLERK: MERRILYN K. ROUSE
BOONE COUNTY CLERK
DEPUTY CLERK: DONNA COLLINS
BOOK D849 PAGES 692 - 698

STATE OF KENTUCKY
JERRY L. GUNCH
REGISTERED LAND SURVEYOR
NO. 2838
LICENSED PROFESSIONAL LAND SURVEYOR



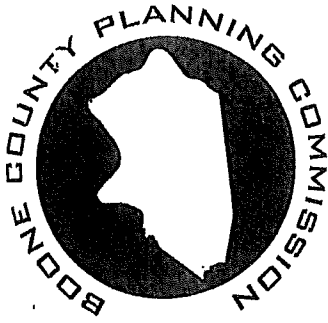
CURVE NO. 1
L=208.15'
R=1587.76'
Δ=07°33'01"
C LEN=209.00'
BEG=N 16°44'07" W

CURVE NO. 2
L=117.43'
R=1572.16'
Δ=04°16'47"
C LEN=117.40'
BEG=N 22°39'02" W

PARCEL 2
2.2444 ACRES
ALL OF THE REMAINING PART OF
D.B. 214, PG. 158
ON THE WEST SIDE OF KY. RT. 8

PARCEL 1
16.6669 ACRES
ALL OF THE REMAINING PART OF
D.B. 214, PG. 158
ON THE EAST SIDE OF KY. RT. 8

VICINITY MAP



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

April 21, 2021

Michael Wissmann & Gerald Wilson
PO Box 10
Hebron, KY 41048

RE: Possible Violation of the *Boone County Zoning Regulations* River Road & Tanner Road, Boone County, Kentucky, PIDN 046.00-00-006.00

Dear Sir(s):

The Zoning Services Division of the Boone County Planning Commission has observed the grading/filling of a portion of the property you own at River & Tanner Road and that a Site Plan for Grading may be required. Therefore, the work already performed on your property may require a Grading Plan, prepared by a Kentucky Registered Engineer.

It has also been observed that there are disabled vehicles on the property.

Please contact me at the above number to determine whether a Grading Plan is required and to discuss the other violations at the property.

Thank you in advance for your cooperation in resolving this issue.

Sincerely,

Robert Krebs
Zoning Enforcement Officer

RAK/ss

6650
046.00-00-06.00 (15.66)

BUILDING ADDRESS OR LOCATION: River Rd, Hebron, Ky 41048

NOTICE: I certify that what is submitted is true and accurate and I or we understand and agree that all construction work will be performed in accordance with this Zoning Permit Application, the Boone County Zoning Regulations and the Boone County Subdivision Regulations.

NAME AND ADDRESS OF APPLICANT: Michael Wissmann, Gerald Wilson
please print PO Box 10 Hebron, Ky 41048

SIGNATURE OF APPLICANT: Gerald Wilson
as authorized by property owner

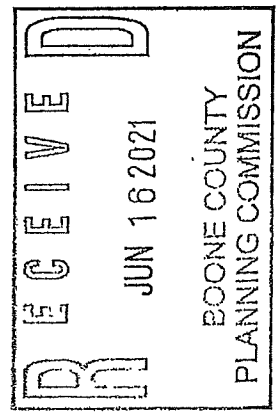
DATE: 6-12 PHONE: 859-586-7587 E-MAIL: Wilson Truck inc @ Gmail.com

Below this line to be completed by the Boone County Planning Commission

Zoning: <u>A-2</u>	Date: <u>6-16-21</u>	Fee:	\$90.00	<input checked="" type="checkbox"/> Farm Exempt
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied		\$45.00	(No Fee)
Staff Reviewer: <u>[Signature]</u>	Address: <u>6650 River Rd</u>			
Subdivision: <u>N/A</u>				
Lot:	Section:	Block/Phase:	Group No.: <u>2002</u>	Census: <u>704.01</u>

TYPE OF IMPROVEMENT:

<input type="checkbox"/>	Single Family Residence	<input type="checkbox"/>	Detached Garage
<input type="checkbox"/>	Duplex	<input type="checkbox"/>	Garage Addition
<input type="checkbox"/>	Mobile Home	<input checked="" type="checkbox"/>	Barn or Shed
<input type="checkbox"/>	Residential Addition	<input type="checkbox"/>	Above Ground Pool
<input type="checkbox"/>	Porch or Deck	<input type="checkbox"/>	In Ground Pool
<input type="checkbox"/>	Other:		



JURISDICTION:

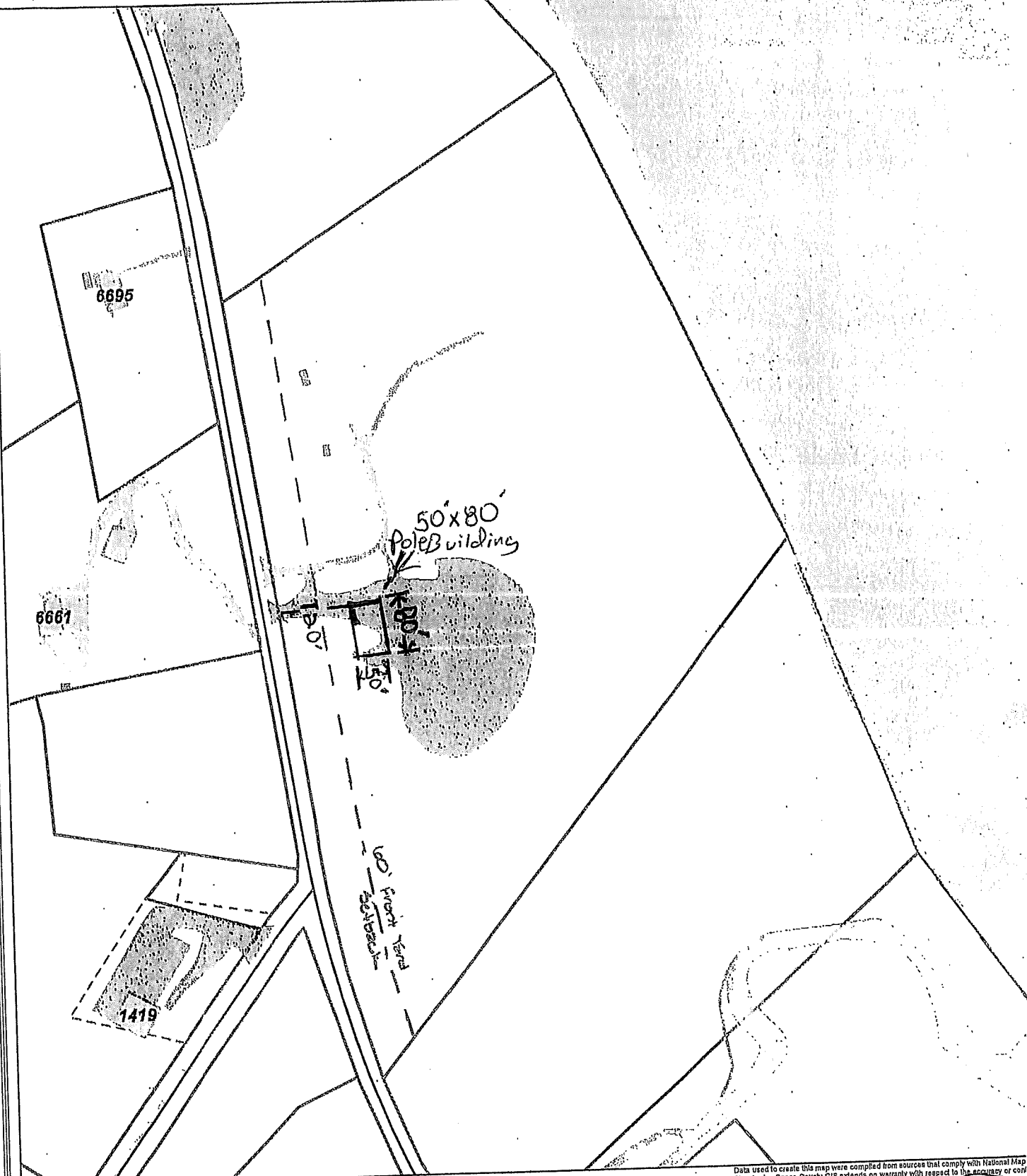
<input checked="" type="checkbox"/>	Unincorporated Boone County	<input type="checkbox"/>	City of Florence
<input type="checkbox"/>	City of Walton	<input type="checkbox"/>	City of Union

POST OFFICE (ZIP CODE):

<input type="checkbox"/>	Burlington (41005)	<input type="checkbox"/>	Florence (41042)
<input type="checkbox"/>	Walton (41094)	<input type="checkbox"/>	Union (41091)
<input checked="" type="checkbox"/>	Hebron (41048)	<input type="checkbox"/>	Verona (41092)
<input type="checkbox"/>	Petersburg (41080)	<input type="checkbox"/>	Erlanger (41018)
<input type="checkbox"/>	Crittenden (41030)	<input type="checkbox"/>	Independence (41051)

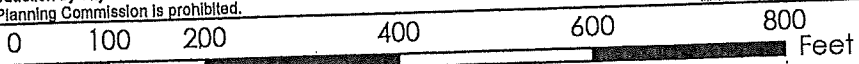
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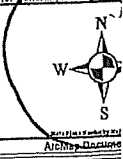
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1 inch = 200 feet



Boone County GIS - Putting Northern Kentucky on the Map



Map Created: x/20/2021



Cindy Arlinghaus Martin, CPA

Chris Cross
Chief Deputy

Boone County Property Valuation Administrator

Please remit to: Property Valuation Administration, P.O. Box 388, Burlington KY 41005

APPLICATION FOR VALUATION, ASSESSMENT AND TAXATION OF LAND UNDER THE AGRICULTURAL AND HORTICULTURAL USE ACT

County Boone

Application is hereby made for valuation, assessment and taxation of land as Agricultural land (KRS 132.010(9)) or Horticultural Land (KRS132.010(10)). The land covered by this application is actively used for agricultural or horticultural use. The following declarations are here with submitted in support of such application:

PROPERTY OWNER INFORMATION:

OWNER(S): Michael Wissmann, Gerald Wilson MAILING ADDRESS: PO Box 10 Hebron KY 41048
DAYTIME PHONE: 859-580-7587 E-MAIL: _____

PROPERTY INFORMATION:

1. PROPERTY ADDRESS LOCATION: River Rd
2. ACREAGE USED IN CONNECTION WITH OWNER'S DWELLING HOUSE*: 0.7
3. ACREAGE FOR AGRICULTURAL/HORTICULTURAL USE (INCLUDING PASTURES): _____
4. ACREAGE OF WOODLANDS: 8.6669
5. OTHER ACREAGE: _____
5. TOTAL ACREAGE: 15.6669

DESCRIBE CURRENT AGRICULTURAL/HORTICULTURAL USE(S). ATTACH ADDITIONAL PAGES IF NEEDED.

Greenhouses (future), timber, corn, tomatoes, pine trees
Chickens,

NUMBER OF STRUCTURES: NONE, LAND ONLY _____ RESIDENCE(S) _____ OUTBUILDING(S) _____
MOBILE HOME YEAR, MAKE, MODEL: _____ PLEASE BE SURE TO COMPLETE BACK OF APPLICATION

PLEASE INDICATE SUPPORTING DOCUMENTATION ENCLOSED: _____ RECENT SCHEDULE F (FORM 1040)*ONLY REQUIRED IF APPLYING FOR HORTICUL
_____ COPY OF CURRENT LEASE OTHER: _____

SIGNATURE AND VERIFICATION:

I DECLARE UNDER THE PENALTIES PROVIDED BY LAW, THAT THIS APPLICATION AND ANY SUPPORTING MATERIAL HAVE BEEN EXAMINED BY ME AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS TRUE AND CORRECT AND THAT PURSUANT TO KRS 132.010, THIS PROPERTY QUALIFIES AS AGRICULTURAL/HORTICULTURAL PROPERTY.

SIGNATURE: Gerald Wilson DATE: _____

This application is: Approved beginning year 2021 Not Approved. Reason _____

PARCEL NUMBER(S): 046.00-00-006.00 (15.6669)

[Signature] DATE: 10/14/21
PVA/DEPUTY

*Including, but not limited to lawns, drives, flower gardens, swimming pools, or other areas devoted to family recreation. See KRS 132.450(2)(a)

Do not include acreage of housing occupied by farm or horticultural workers employed by or engaged by the property owner in work on the property.

This application shall be valid until the property is transferred or the land use is changed.



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

June 7, 2022

Michael J. Wissmann
Gerald Wilson
PO Box 10
Hebron, Kentucky 41048

Michael J. Wissmann
Gerald Wilson
6650 River Road
Hebron, Kentucky 41048

RE: Land Use Activity for 6650 River Road, Boone County, Kentucky

Dear Mr. Wissmann:

This office has been monitoring your property

We have received complaints regarding the use of your property located at 6650 River Road. We are obligated to follow up on those complaints to determine if a violation of the zoning regulations exists.

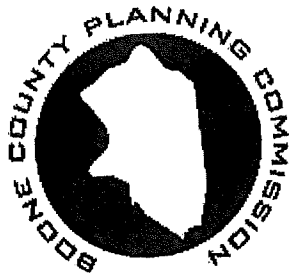
We kindly ask that you respond to this letter and inform us of the activities that: (1) have been on the property located at 6650 River Road; and (2) are currently taking place on the property located at 6650 River Road.

You may respond to this request either by letter or by email to mschwartz@boonecountyky.org.

Your assistance in this matter is greatly appreciated.

Sincerely,

Michael D. Schwartz
Director, Zoning Services



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

June 21, 2022

Michael J. Wissmann
Gerald Wilson
PO Box 10
Hebron, Kentucky 41048

Michael J. Wissmann
Gerald Wilson
6650 River Road
Hebron, Kentucky 41048

RE: Land Use Activity for 6650 River Road, Boone County, Kentucky

Dear Mr. Wissmann:

On June 16, 2021, this office approved a zoning permit for a pole barn on the site in question. It was noted on that permit that the site had an agricultural exemption.

This office has been monitoring your property and we have determined that the activity goes beyond what would be allowed under the agricultural exemption.

Therefore, we are informing you that you are in violation of the following zoning regulations:

- Section 400, use of the property without a valid permit.
- Section 611, use of the property that is not permitted within the A-2 district.
- Section 3001, grading of the property without an approved Site Plan.

Pursuant to Kentucky Revised Statute (KRS) 100.261, appeals to the board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of any zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the official by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record.

Sincerely,

Michael D. Schwartz
Director, Zoning Services



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

August 18, 2022

Michael J. Wissmann
 Gerald Wilson
 PO Box 10
 Hebron, Kentucky 41048

Michael J. Wissmann
 Gerald Wilson
 6650 River Road
 Hebron, Kentucky 41048

RE: Land Use Activity for 6650 River Road, Boone County, Kentucky

Dear Mr. Wissmann:

On June 16, 2021, this office approved a zoning permit for a pole barn on the site in question. It was noted on that permit that the site had an agricultural exemption.

This office has been monitoring your property and we have determined that the activity goes beyond what would be allowed under the agricultural exemption.

On June 21, 2022, this office sent you a violation letter indicating the zoning regulations that are not in compliance.

On August 8, 2022, I received call from the property owner asking what is his next step. I informed the property owner to provide written documentation as to what activities are taking place on the property. To date, this office has not received that information.

On August 15, 2022, this office observed that the existing building was added onto without a permit.

Therefore, we are informing you that you are in violation of the following zoning regulations:

- Section 400, use of the property without a valid permit.
- Section 400, building construction without a permit.
- Section 611, use of the property that is not permitted within the A-2 district.
- Section 3001, grading of the property without an approved Site Plan.

Pursuant to Kentucky Revised Statute (KRS) 100.261, appeals to the board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of any zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the official by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record.

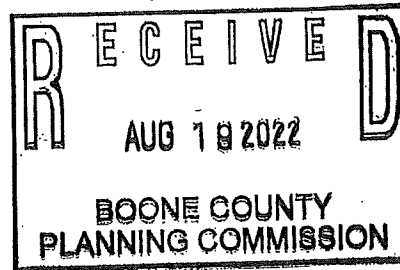
Sincerely,

A handwritten signature in black ink, appearing to read 'MS', with a large, sweeping flourish extending to the right.

Michael D. Schwartz
Director, Zoning Services

RE: Land Use Activity for 6650 River Road, Boone County, Kentucky

Boone County Planning Commission
2950 Washington St., room 317
PO Box 958
Burlington, KY 41005



Dear Michael Schwartz,

Thank you for taking my call last week regarding the letter I received a few weeks back. As I mentioned, I didn't receive the letter until late July even though it was dated June 21. I tried to visit your office the following week upon receiving it but you were on vacation, so I appreciate your understanding for the delay.

In terms of our property located at 6650 River Road, this property is intended as an agricultural farm and as such, we are striving to stay within the guidelines to keep the agricultural exemption. If I understood your request correctly, you need to better understand how we are using the land, so I would like to outline all that we have done along with our goals going forward. Hopefully, this will help to clear up any issues.

We have planted 60 pine trees, a batch of oak trees and a meadow of wildflowers. We have cleared and plowed a large area where we have fruits and vegetables growing (Tomatoes, Potatoes, Cucumbers, Watermelon, Spinach, etc.) We have 12 chickens a couple of ducks that we are raising. We have an area that we are planning to use for goats and then we also plan to incorporate beehives in the lower section of the property.

In terms of the buildings, we have the main building in the front that will be used to service our tractor and other vehicles, we have a couple of storage units for mowers and equipment, and we have 2 greenhouses that need to be installed.

As any former can attest, this is a long process. We still work regular jobs, but it was our hope to use the property as a farm someday as we hope to retire soon. In the meantime, we have friends that come and go to help along with our family. It takes a lot of work and dedication to get it all running.

In terms of the grading, we have been working closely with SD1 and I believe we have a great working relationship. The head of SD1 has confirmed that we have done everything that they have asked us to do. We were told by SD1 one that everything looks good, and they have inspected monthly for six months per the board's request.

There are some vehicles on the property that are being stored and then there are also vehicles that come and go however, we have researched the requirements in the KY RTF, ('Kentucky Right to Farm') for the agricultural exemption and we believe that we are within guidelines. If

there is a reason why we are not, then we would really appreciate your help and letting us know what I need to do. We are more than happy to comply.

Thank you in advance for your help, we are sorry for any complaints that you may have received, and we do look forward to hearing from you.

Kindest regards,

Jerry Wilson & Michael Wissmann
Farmers
6650 River Road
Hebron, KY 41048
859.586.7587

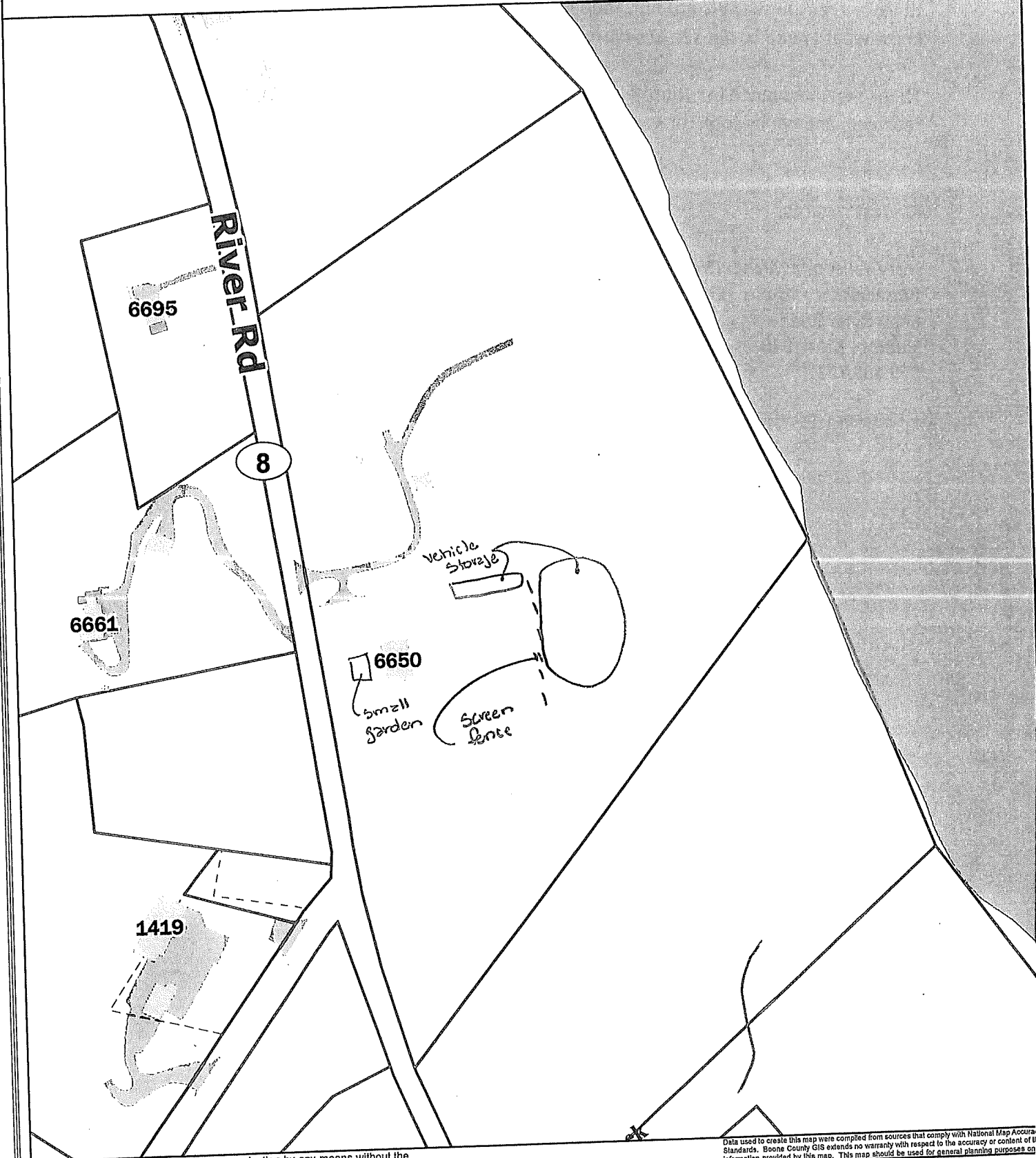
jerrydouglasswilson@hotmail.com

Boone County GIS Map ATTACHMENT H

Site Visit 8/31/2022

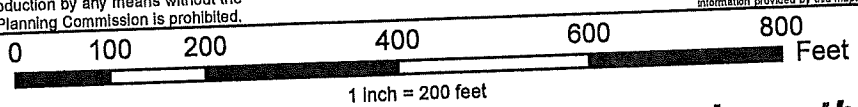
9:11 am

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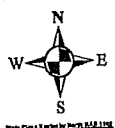


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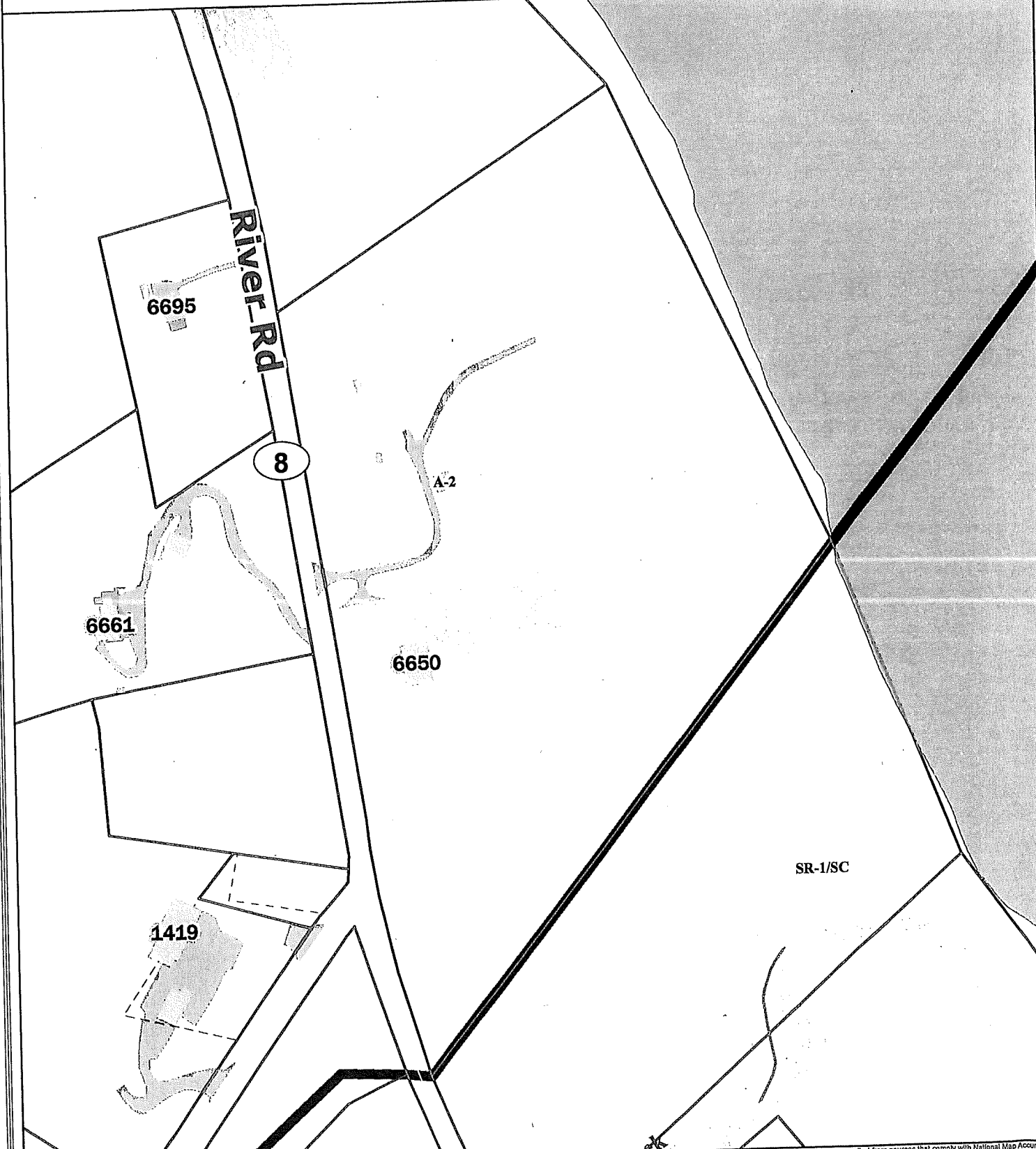
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Boone County GIS Map

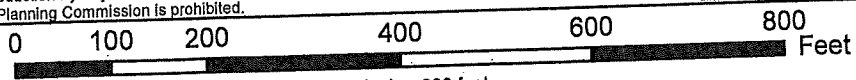
ATTACHMENT I

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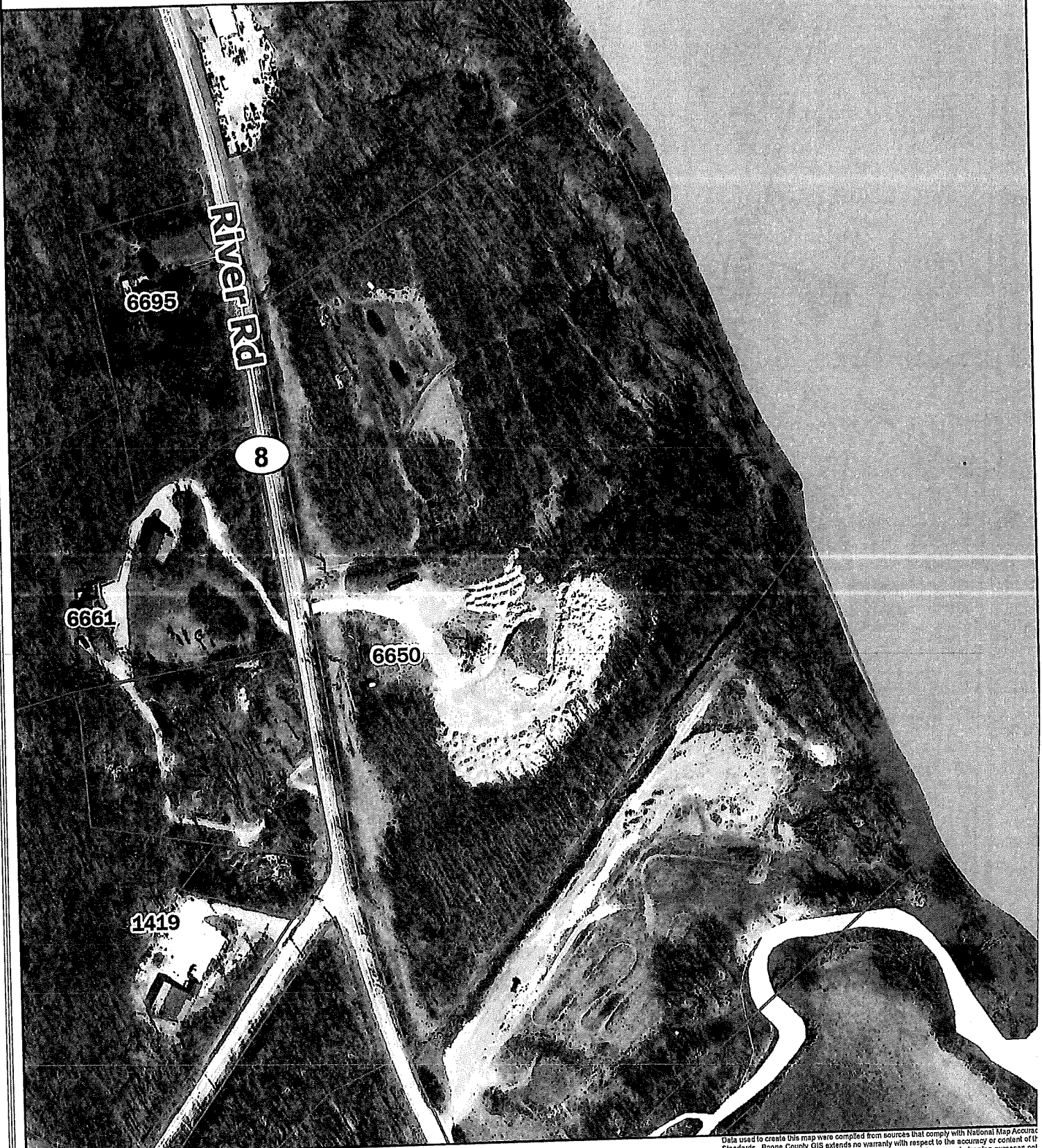


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Boone County GIS Map ATTACHMENT J

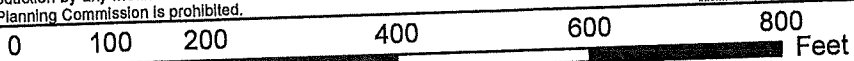
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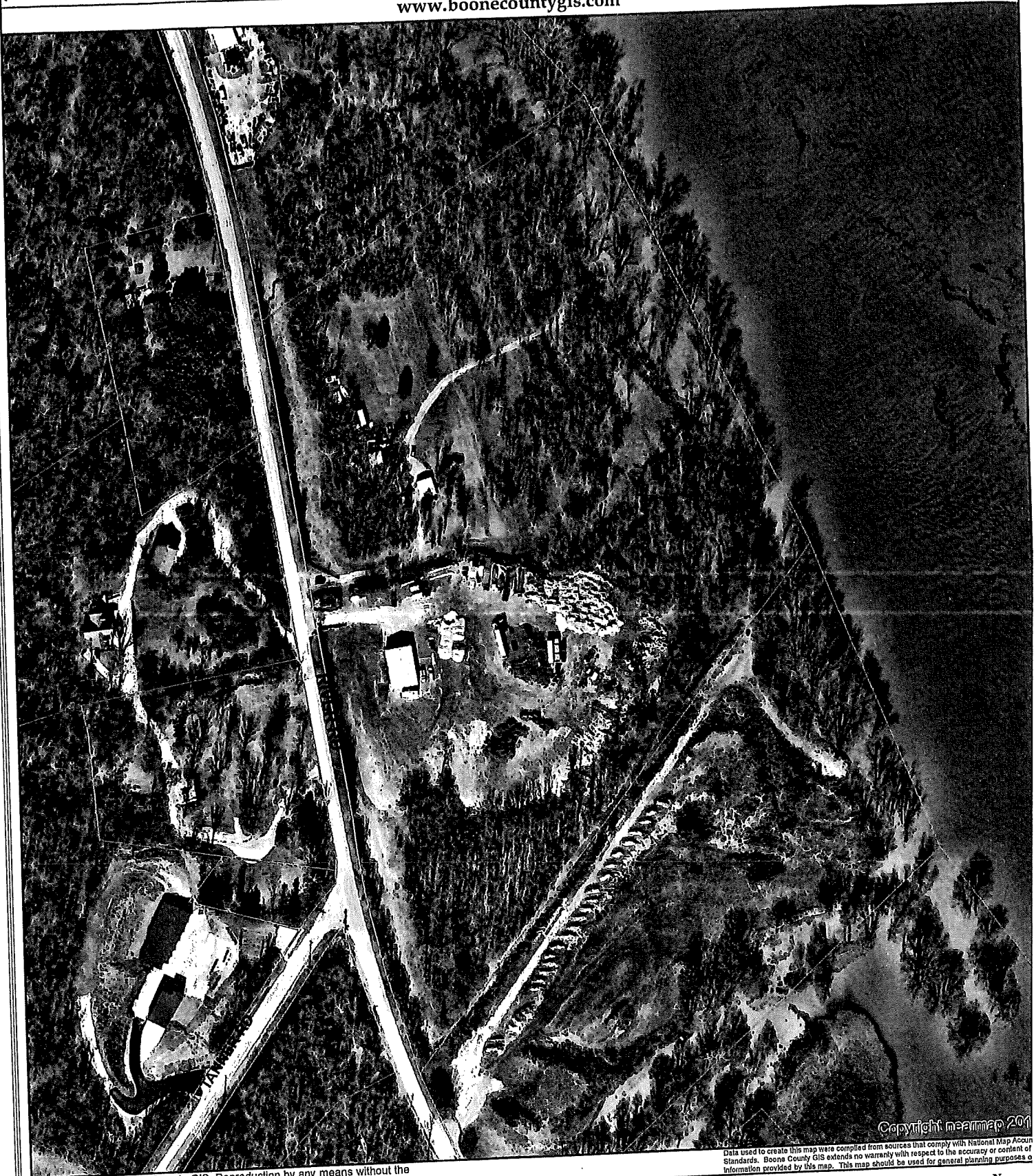
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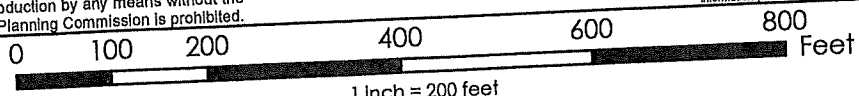
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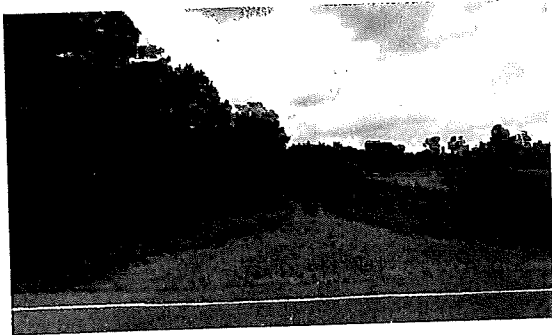
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ArcMap Document: *.mxd

Map Created: 10/20/2021

6650 River Rd





Imagery ©2022 Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2022 100 ft ...



6650 River Rd

-  Directions
-  Save
-  Nearby
-  Send to phone
-  Share

 6650 River Rd, Hebron, KY 41048

 4833+X4 Hebron, Kentucky

Photos





BOONE COUNTY ZONING REGULATIONS

ARTICLE 6 AGRICULTURAL DISTRICTS

Contents:

- SECTION 600 Intent**
- SECTION 610 AGRICULTURE (A-1)**
- SECTION 611 Principal Permitted Uses**
- SECTION 612 Accessory Uses**
- SECTION 613 Conditional Uses and Criteria**
- SECTION 614 Intensity**
- SECTION 615 Minimum Standards**
- SECTION 616 Minimum Standards**
- SECTION 617 Landfill Compatibility Standards**
- SECTION 620 AGRICULTURAL ESTATE (A-2)**
- SECTION 621 Principal Permitted Uses**
- SECTION 622 Accessory Uses**
- SECTION 623 Conditional Uses and Criteria**
- SECTION 624 Intensity**
- SECTION 625 Minimum Size**
- SECTION 626 Minimum Standards**

SECTION 600 Intent

The intent of this article is to specifically identify and protect the present and future viability and character of agricultural and rural lands.

SECTION 610 AGRICULTURE (A-1)

The purpose of the Agriculture district is to preserve and protect the supply of productive agricultural lands and other open space, primarily for non-urban uses.

SECTION 611 Principal Permitted Uses

The following uses are permitted:

1. Single Family dwelling units;
2. Farms of tobacco, fiber, cash grain, fruits, tree nuts, vegetables, or other field crops;
3. Farms of no predominant crops, including range and grassland pastures, horticultural specialties, apiary farms and other agriculture and related activities;



BOONE COUNTY PLANNING COMMISSION

4. Farms and ranches of dairy production, livestock including cattle, hogs, sheep, goats, horses or similar, poultry or other fowls;
5. Animal Husbandry services, poultry hatching and related services, veterinary services and animal hospitals (Site Plan Review required);
6. Fish hatcheries, and other fish culture activities and related services;
7. Wildlife preserve sanctuaries, habitats, cultures and related activities;
8. Forestry activities including timber production, tree products production, commercial forestry production, forest nurseries and other forestry activities and related services;
9. Horticultural, floricultural, viticultural, and other agricultural related uses and services;
10. Agriculture related activities including grist milling services, corn shelling, hay baling, threshing, contract sorting, grading and packaging services and other agricultural processing services;
11. Retail trade for the sale of hay, grain, feed and other farm and garden supplies and agriculture related equipment excluding vehicles (Site Plan Review required);
12. Roadside stands, farmers marts and similar sales uses of agricultural and related products including specialty crafts and foods (Site Plan Review required);
13. Garden plots and other similar forms of communal or organizational farming practices;
14. Riding and boarding stables (Site Plan Review required);
15. Mobile homes;
16. Bed and Breakfast Inns (Site Plan Review required).
17. Historic sites and structures, monuments and other exhibits available for public viewing (Site Plan Review required);
18. Play lots or tot lots, playgrounds (Site Plan Review required);
19. General, leisure, ornamental and other parks, spaces, trails, bikeway systems and similar uses for non-motorized activities (Site Plan Review required);
20. Art and craft galleries (Site Plan Review required).
21. Short term rentals. (Applies to Unincorporated Boone County Only)

SECTION 612 Accessory Uses

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses including:

1. Dwelling units of the family of the farm owner-operator, resident manager or farm laborer including:
 - a. private garages and parking;
 - b. structures such as fences, satellite dishes, and walls;
 - c. buildings such as storage sheds, private greenhouses and gazebos;
 - d. storage of a recreational vehicle or unit;
 - e. private swimming pool, sauna, bathhouse and like accessories;
 - f. private recreational court, complex or similar recreational activity;
 - g. private stables or other keeping and use of pets and animals **(Does not apply in the City of Florence)**;
 - h. chicken coops **(Does not apply in the City of Florence)**;
 - i. keeping of household pets **(Applies to City of Florence only - see SECTION 3140)**;
2. Temporary buildings incidental to construction;
3. Offices for farm management and administration of agricultural services offered on the farm premises;



4. Accessory dwelling units;
5. Family day care.

SECTION 613 Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral part of the agricultural use of the land, and the activity is not of scale, nature or other character which will detract or conflict with the principal purposes of the district; or b) the activity is necessary to provide the specified public service for the character of the activity does not overpower, transcend or conflict with the principal purpose of the district; and c) provided the arrangement of use, building or structure is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

1. Dwellings or rooming houses for persons employed on the premises other than the family of the farm owner/operator and/or resident manager;
2. Garden store, nursery and similar landscape sales of products produced on the premises (Site Plan Review required);
3. Commercial kennels (minimum 5 acres) (Site Plan Review required);
4. Churches, synagogues, temples and other places of religious assembly for worship (Site Plan Review required);
5. Cemeteries and mausoleums (Site Plan Review required);
6. Duplex dwelling units;
7. Commercial stockyards and feed lots (Site Plan Review required);
8. Dumps and landfills for non-combustible materials including sanitary landfills subject to the landfill compatibility standards in SECTION 617 (Site Plan Review required);
9. Production, processing and sales of fertilizer (Site Plan Review required).
10. Botanical gardens and arboretums, nature preserves, wildlife habitats and other natural exhibitions (Site Plan Review required);
11. Skiing and tobogganing and other similar outdoor sporting activities (Site Plan Review required);
12. Swimming beaches and swimming pools (Site Plan Review required);
13. Camping, picnicking, hiking areas, trails and other recreational uses (Site Plan Review required);
14. Dude ranches, health resorts, ski resorts, hunting grounds, fishing lakes and fishing lake access, indoor and outdoor target ranges and other resorts (Site Plan Review required);
15. Yachting, boat rentals, boat access sites and other marina activities (Site Plan Review required);
16. Recreational vehicle and trailer camps provided such living arrangements are of transient or seasonal use and such facility meets the requirements of K.R.S. Section 219.310 through Section 219.410. Permits as required under K.R.S. 219.310 through 219.410 shall be included with an application for Site Plan Review (Site Plan Review required);
17. Day care centers (Site Plan Review required).
18. Taxidermy.
19. Private, noncommercial airstrips.
20. Uses that promote or pertain to the following elements of Heritage Tourism (Site Plan Review required):
 - a. Retail sales including grocery items, confectionery, proprietary, books and stationery, antiques, sporting and athletic goods, bait, fuel, ice, firewood, bottled gas, cigars and cigarettes, music, books, newspapers and magazines, photographic supplies, gifts, novelties, souvenirs and similar products, locally made furniture and crafts
 - b. Eating and drinking establishments including alcoholic beverages;
 - c. Museums;



BOONE COUNTY PLANNING COMMISSION

- d. Exhibitions of local history or culture, wildlife habitats and other natural exhibitions;
- e. Amphitheaters, playhouses and other entertainment assemblies.

SECTION 614 Intensity

The maximum intensity of use shall not be greater than one lot per five (5) gross acres of land.

SECTION 615 Minimum Standards

The minimum size and extent of an A-1 district, including all the contiguous private property so designated, shall not be less than thirty (30) acres.

SECTION 616 Minimum Standards

The following standards shall apply to any permitted, accessory or conditional use and structure in this district:

1. No use shall include the operation or maintenance of a commercial stockyard or feedyard, except as permitted as a conditional use.
2. See ARTICLE 31 for dimensional standards and for developing open space and conventional residential subdivisions.

SECTION 617 Landfill Compatibility Standards

All landfill uses permitted under Conditional Use #8 are subject to the following compatibility standards:

1. Setbacks/Buffer Yards from Adjoining Zones and Uses: A minimum 200 foot buffer yard shall be maintained where the landfill site adjoins any residential zone, agricultural zones where there is an existing residence on the lot adjoining the landfill site, and the Small Community (SC) overlay zone; no activity may occur within this 200 foot buffer yard. A minimum 100 foot buffer yard shall be maintained from all other zones and agricultural zones where there is no existing residence on the lot adjoining the landfill site; no activity may occur within this 100 foot buffer yard. Structures shall be setback an additional 150 feet from the 100 foot and 200 foot buffer yards; other landfill activities may occur within this 150 foot additional setback. For areas of a landfill site that adjoin public or private streets or roads, the zone across the street shall be used to determine whether the 100 foot buffer yard or 200 foot buffer yard applies. Tree cover shall be maintained and/or provided throughout the entire buffer yard area. Existing tree cover shall be retained and incorporated into required buffer yards. Where there is not continuous forest cover in a buffer yard, the following shall be provided:
 - a. Berms which are at least 10 feet high from the centerline of the adjoining public street when the buffer yard adjoins a street, or from the property line when the buffer yard adjoins another tract, shall be constructed, unless such construction would necessitate the removal of existing forest cover. If construction of 10 foot high berming would necessitate the removal of existing forest cover, berms shall be constructed to the highest height possible without removing existing forest cover or exceeding a 3:1 slope. Berming shall meander in the buffer yard when viewed from plan view.
 - b. Native hardwood trees which are a minimum of 2 inch caliper at planting shall be installed at a minimum density of one tree per 150 square feet for the first 50 feet of a buffer yard from the adjoining zone or use; the hardwood tree seedling mixture outlined in SECTION 1164 shall also be provided in this area. For any remaining area in a buffer yard, at least one tree shall be installed per 250 square feet of area - between 50 and 70 percent of these trees shall be evergreen trees that are a minimum of 6 feet in height at planting and the remainder shall be hardwood trees that are a minimum of 2 inch caliper at planting; either tree mixture in SECTION 1164, or a combination of both tree seedling mixtures, shall also be provided for any remaining area in a buffer yard. All planting materials shall be evenly distributed within a buffer yard from a quantitative standpoint, although



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- formal, rectilinear planting configurations are prohibited. Planting materials shall be selected based on compatibility with soil types, and at least four different species of trees shall be provided for each tree group (hardwood and evergreen).
- c. Where the difference in topographical elevation between the landfill and an adjoining, upslope residential zone, or agricultural zone where there is an existing residence on the adjoining lot, is 30 feet or greater, berming shall be provided at the top of the slope in accordance with the standards in subsection A above. In this instance, the minimum planting size for the hardwood trees within the first 50 feet of the buffer yard shall be increased to 4 inch caliper.
 - d. All required buffer improvements adjoining a specific phase of a landfill site shall be completed before the filling of any waste within said phase commences.
2. Clearing: Clearing of existing vegetation within a specific phase of a landfill site shall not occur more than six (6) months prior to planned excavation of said phase.
 3. All state and federal regulations pertaining to landfills are herein incorporated by reference into this order and are Conditional Use Permit requirements.

SECTION 620 AGRICULTURAL ESTATE (A-2)

The purpose of the Agricultural Estate district is to provide for low density residential development and on a limited basis agricultural uses or agricultural related uses in the context of a rural environment.

SECTION 621 Principal Permitted Uses

Permitted uses in the A-1 district numbered 1-14, inclusive, and 20, are permitted in the A-2 district.

SECTION 622 Accessory Uses

All accessory uses permitted in the A-1 district are permitted in the A-2 district.

SECTION 623 Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral part of the agricultural or residential use of the land, and the activity is not of scale, nature or other character which will detract or conflict with the principal purposes of the district; or b) the activity is necessary to provide the specified public service for the residents of the district so long as the service area, use, scale or other character of the activity does not overpower, transient or conflict with the principal purpose of the district; and c) provided the arrangement of use, building or structure is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

1. Garden store, nursery and similar landscape sales of products produced on the premises (Site Plan Review required);
2. Garden plots and other similar forms of communal or organization farming practices;
3. Churches, synagogues, temples and other places of religious assembly for worship (Site Plan Review required);
4. Cemeteries and mausoleums (Site Plan Review required);
5. Duplex dwelling units; except in the City of Florence only allowed with garages;
6. Commercial kennels (minimum 5 acres) (Site Plan Review required);
7. Bed and Breakfast Inns (Site Plan Review required);
8. Botanical gardens and arboretums, nature preserves, wildlife habitats and other natural exhibitions (Site Plan Review required);



BOONE COUNTY
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9. Skiing and tobogganing and other similar outdoor sporting activities (Site Plan Review required);
10. Swimming beaches and swimming pools (Site Plan Review required);
11. Camping, picnicking, hiking areas, trails and other recreational uses for non-motorized activities (Site Plan Review required);
12. Dude ranches, health resorts, ski resorts, hunting grounds, fishing lakes and fishing lake access, indoor and outdoor target ranges and other resorts (Site Plan Review required);
13. Yachting, boat rentals, boat access sites and other marina activities (Site Plan Review required);
14. Recreational vehicle and trailer camps provided such living arrangements are of transient or seasonal use and such facility meets the requirements of K.R.S. Section 219.310 through Section 219.410. Permits as required under K.R.S. 219.310 through 219.410 shall be included with an application for Site Plan Review (Site Plan Review required);
15. Day care centers (Site Plan Review required).
16. Taxidermy
17. Private, noncommercial airstrips
18. Uses that promote or pertain to the following elements of Heritage Tourism (Site Plan Review required)
 - a. Retail sales including grocery items, confectionery, proprietary, books and stationery, antiques, sporting and athletic goods, bait, fuel, ice, firewood, bottled gas, cigars and cigarettes, music, books, newspapers and magazines, photographic supplies, gifts, novelties, souvenirs and similar products, locally made furniture and crafts
 - b. Eating and drinking establishments including alcoholic beverages;
 - c. Museums;
 - d. Exhibitions of local history or culture, wildlife habitats and other natural exhibitions.
19. Short term rentals. (Applies to Unincorporated Boone County Only)

SECTION 624 Intensity

The maximum intensity of use shall not be greater than one (1) lot per 80,000 square feet of land.

SECTION 625 Minimum Size

The minimum size and extent of an A-2 district shall not be less than twenty (20) acres of land.

SECTION 626 Minimum Standards

The following standards shall apply to any permitted, accessory or conditional use and structure in this district:

1. No use shall include the operation or maintenance of a commercial stockyard or feedyard.
2. See ARTICLE 31 for dimensional standards and for developing open space and conventional residential subdivisions.

CITY OF FLORENCE ONLY

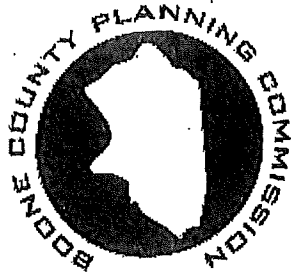
The following standards shall apply to any permitted, accessory or conditional use and structure in this district: See ARTICLE 31 for dimensional standards.

1. A 15 X 40 foot driveway will be required for each duplex structure.
2. A common entrance shall be provided to the front of duplex buildings.
3. Each duplex dwelling shall provide landscaping in the front yard as per bufferyard "A" as outlined in SECTION 3645.



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4. Duplex dwellings shall be encouraged to have a shared driveway with the parking located behind the unit if practical. A garage will be required for each unit which can either be attached or detached to the duplex building.
5. The building shall have the appearance of one building rather than two separate units. Therefore, separate materials and colors which designate one unit from another will not be permitted.



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

September 12, 2022

Michael J. Wissmann
Gerald Wilson
PO Box 10
Hebron, Kentucky 41048

Michael J. Wissmann
Gerald Wilson
6650 River Road
Hebron, Kentucky 41048

9489 0090 0027 6421 4259 78

RE: Zoning Administrator's determination as to whether the activity on property located at 6650 River Road is exempt as an agricultural use

Dear Mr. Wissman and Mr. Wilson:

DOCUMENTED FACTS

1. March 18, 2003, Conveyance Plat creating the site was recorded in the Boone County Clerk's office (Attachment A).
2. April 21, 2021 – Boone County Planning Commission staff sends a violation letter to the property owner(s) (Attachment B).
3. June 16, 2021 – Boone County Planning Commission staff approves a Zoning Permit for a 4,000 square foot (80' x 50') pole building, as being farm exempt (Attachment C).
4. June 7, 2022 – Boone County planning Commission staff sends a letter to the property owner(s) requesting information relative to the activities that have been on the property and that are currently taking place on the property (Attachment D).
5. June 21, 2022 - Boone County Planning Commission staff sends a violation letter to the property owner(s) (Attachment E).
6. August 8, 2022 – Boone County Planning Commission staff receives a telephone call from the property owner asking what is his next step. Boone County Planning Commission informed him that he should provide a written documentation as to what activities are taking place on the property.
7. August 15, 2022 – Boone County Planning Commission staff observed that the existing building was being added onto.
8. August 18, 2022 – Boone County Planning Commission staff sends a violation letter to the property owner(s) (Attachment F).

STATEMENT FROM CONCERNED NEIGHBORING PROPERTY OWNERS

**Boone County Board of Adjustment Hearing
November 30, 2022 at 6:30 PM re: Michael Wissman and Gerald Wilson
6650 River Road, Hebron, Kentucky**

This written statement is from certain property owners who live in close proximity to the property owned by Michael Wissman and Gerald Wilson at 6650 River Road, Hebron, Kentucky. The statements contained in this written summary are based on our personal observations of the property located at 6650 River Road, Hebron, Kentucky. As concerned neighboring property owners, we desire to have this written statement read aloud at the above-referenced Board of Adjustment hearing:

The property in question has an agricultural exemption. However:

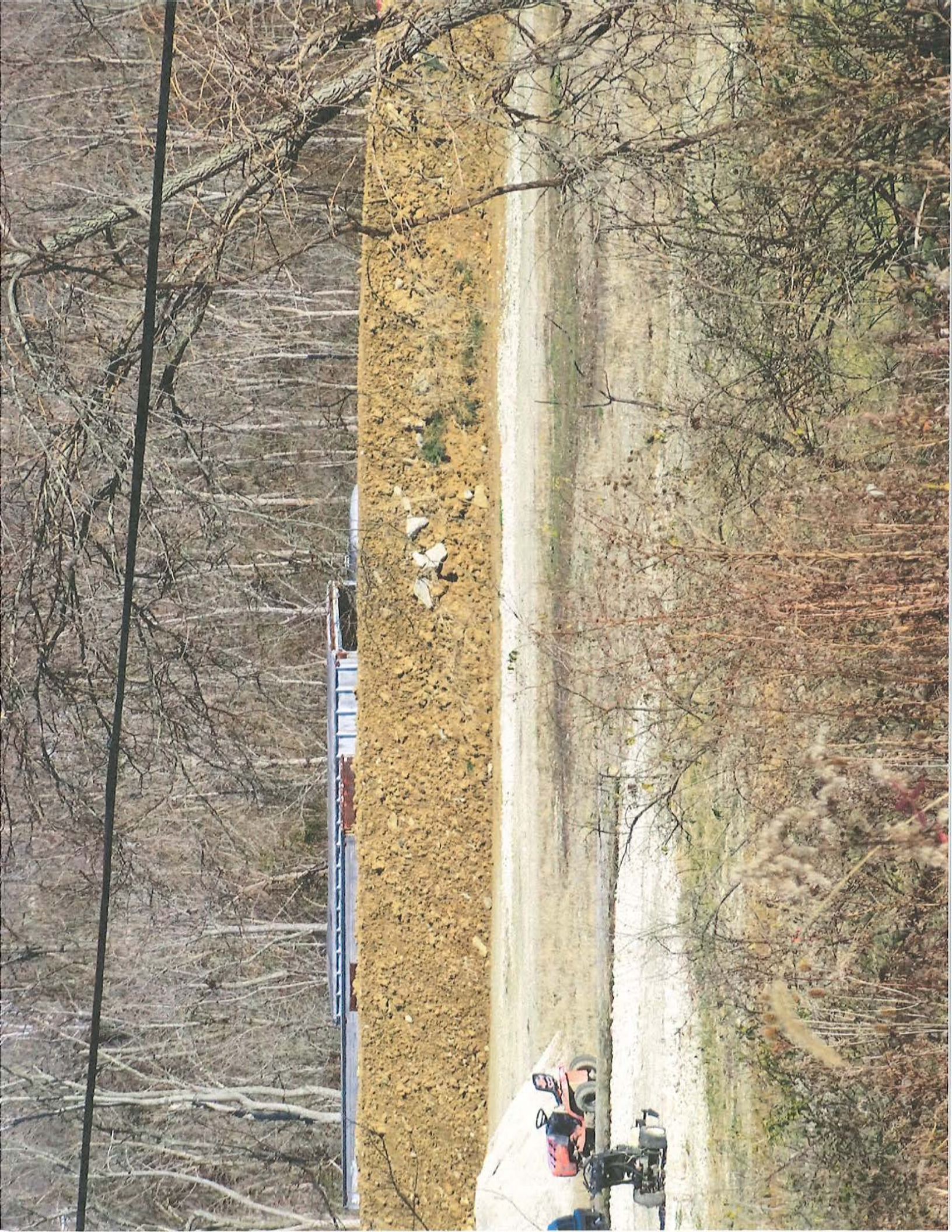
- The property owners are using the property for non-agricultural purposes. The property is being used for repair work on semi-trucks. The owners own a trucking company. Approximately six to eight workers arrive daily to work on semi-trucks inside the building. As has been shown in drone photos, the owners have brought semi-truck trailers, boats, campers, box trucks, and inoperable vehicles onto the property.
- Additionally, the property in question has been receiving truckloads of fill material with concrete and rubbish for the last few years without, to our knowledge, a permit from either SD1 or the US Army Corps of Engineers. Indeed, the US Army Corps of Engineers recently put a stop work order on site.
- There is no meaningful or substantive agricultural activity on the property. It would be impossible to grow trees on property which consists of concrete fill below a gravel lot. The owners recently made three small garden beds in front of the building, but this is clearly just an attempt to mask the situation.
- The owners of the property have managed to avoid having the property re-zoned to fit their actual use of the property.





















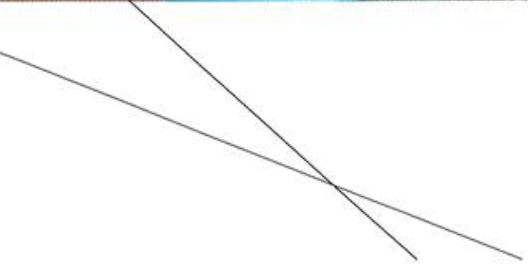


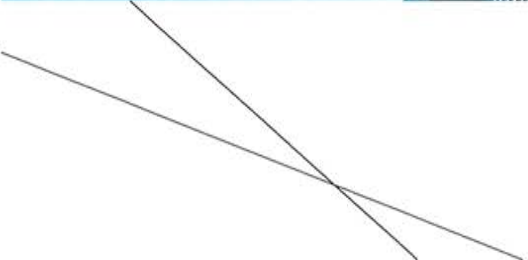


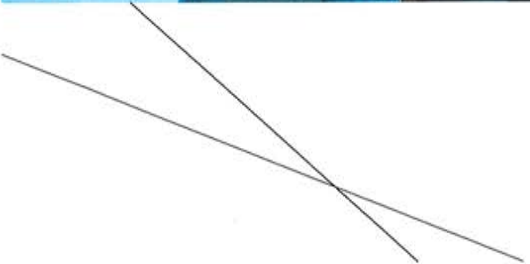










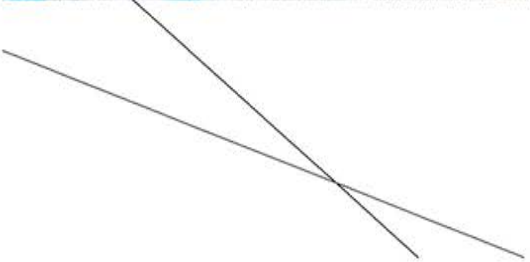
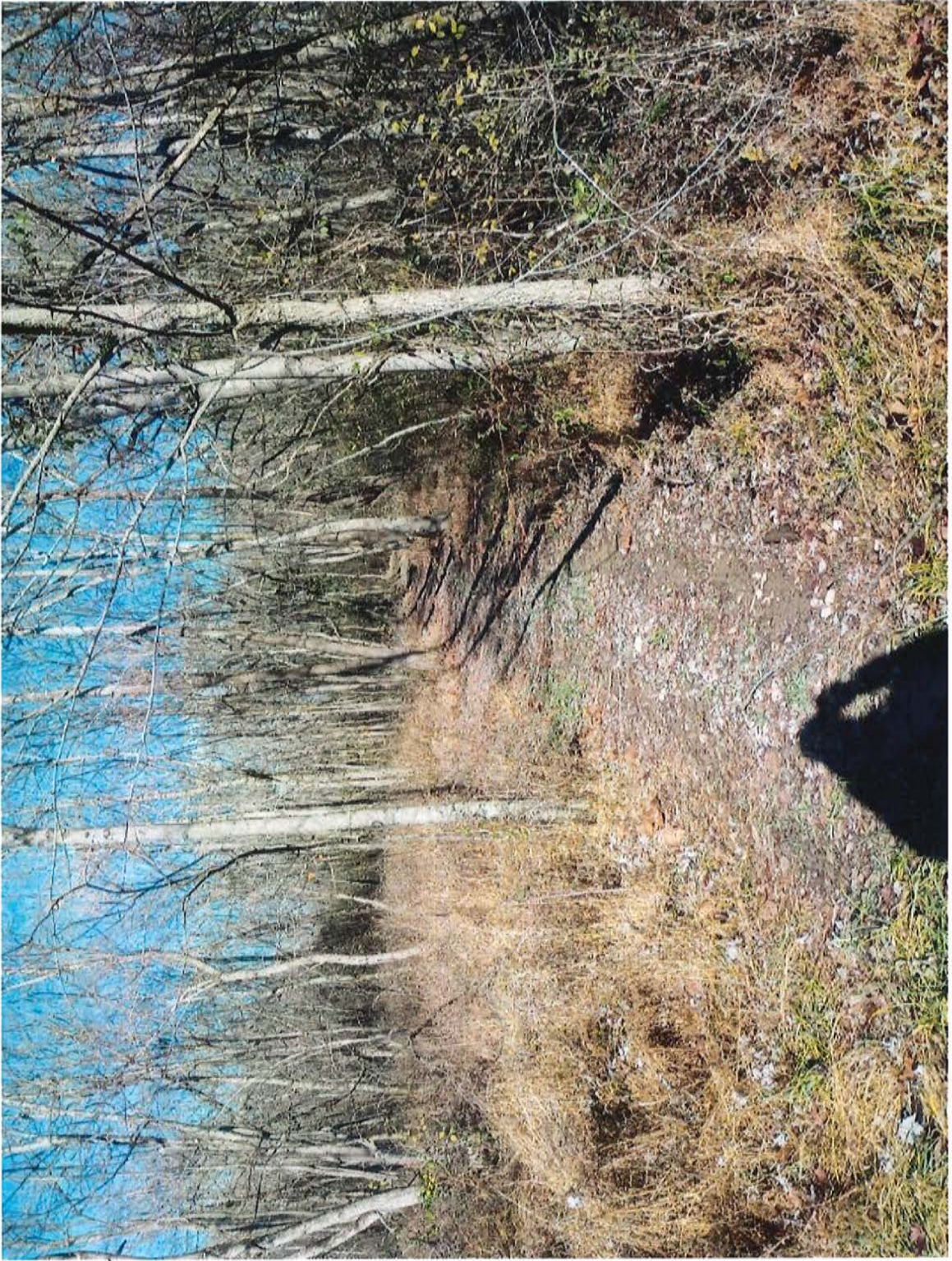






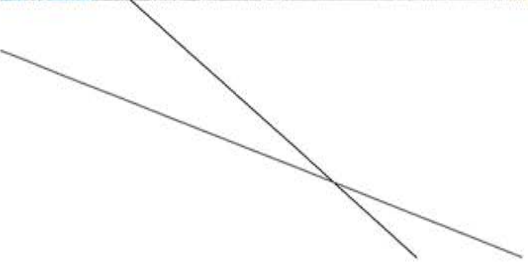


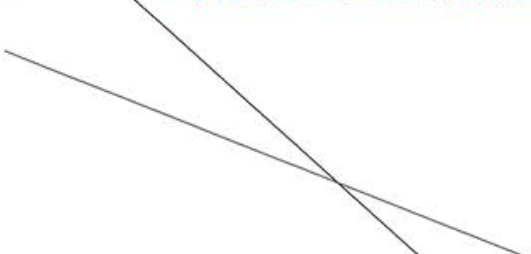


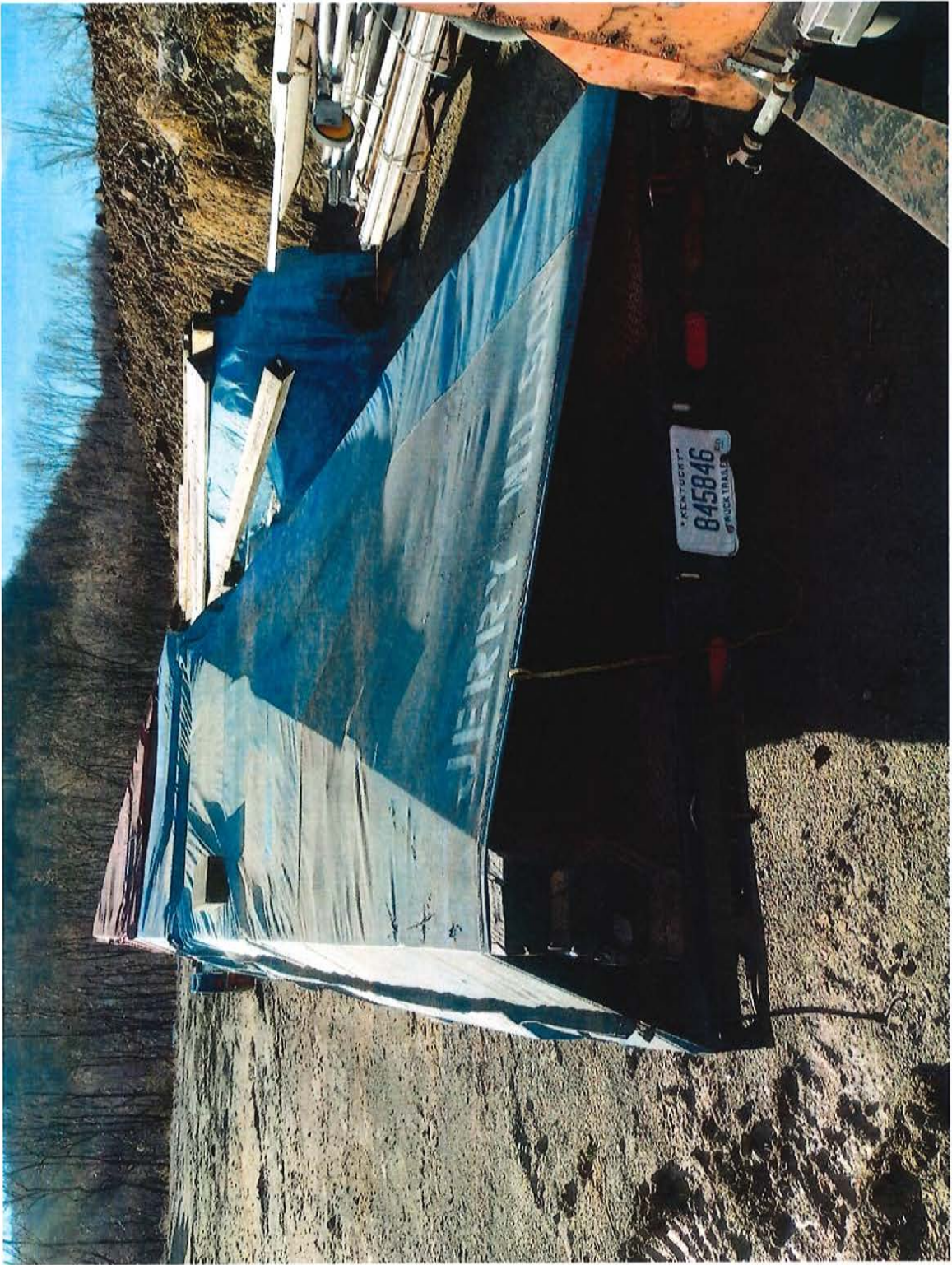




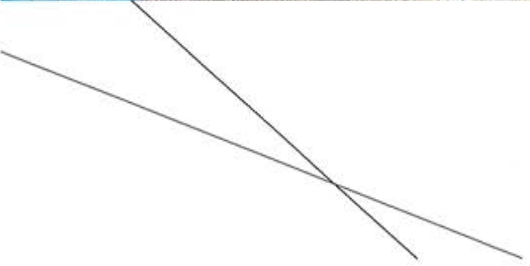
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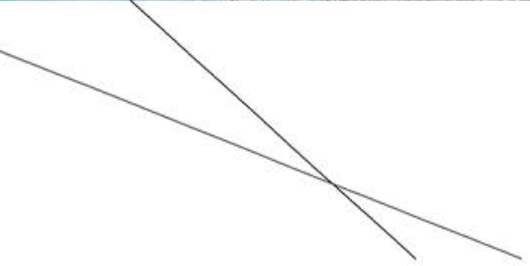














WSSMAN & WILSON PROPERTY	
PROJECT NO.	849/892
DATE	04/15/2011
BY	WSSMAN & WILSON
SCALE	AS SHOWN
PROJECT	15.6569 ACRES

PARCEL INFO
 MICHAEL WILSON
 GERALD WILSON
 DB 849/892
 PIN: 046.00-00-006.00
 15.6569 ACRES

SOUTH RIVER

RIVER ROAD KY 5



413.072. Relationship of agricultural and silvicultural operations to law of nuisance and trespass — Preemption of local ordinances — Sustainable agriculture and best management practices.

- (1) It is the declared policy of the Commonwealth to conserve, protect, and encourage the development and improvement of its agricultural land and silvicultural land for the production of food, timber, and other agricultural and silvicultural products. When nonagricultural land uses extend into agricultural and silvicultural areas, agricultural and silvicultural operations often become the subject of nuisance suits or legal actions restricting agricultural or silvicultural operations. As a result, agricultural and silvicultural operations are sometimes either curtailed or forced to cease operations. Investments in farm and timber improvements may be discouraged. It is the purpose of this section to reduce the loss to the state of its agricultural and silvicultural resources by clarifying the circumstances under which agricultural and silvicultural operations may be deemed to be a nuisance or interfered with by local ordinances or legal actions.
- (2) No agricultural or silvicultural operation or any of its appurtenances shall be or become a nuisance or trespass, private or public, or be in violation of any zoning ordinance, or be subject to any ordinance that would restrict the right of the operator of the agricultural or silvicultural operation to utilize normal and accepted practices, by any changed conditions in or about the locality thereof after the same has been in operation for more than one (1) year, when the operation was not a nuisance at the time the operation began. The provisions of this subsection shall not apply whenever a nuisance, trespass, or zoning violation results from the negligent operation of an agricultural or silvicultural operation or its appurtenances.
- (3)
- (a) For the purposes of this section, "agricultural operation" includes, but is not limited to, any facility for the production of crops, livestock, equine, poultry, livestock products, poultry products, horticultural products, and any generally accepted, reasonable, and prudent method for the operation of a farm to obtain a monetary profit that complies with applicable laws and administrative regulations, and is performed in a reasonable and prudent manner customary among farm operators. Agricultural practices protected by this section shall include, but not be limited to, fertilizer application, the application of pesticides or herbicides that have been approved by public authority, planting, cultivating, mowing, harvesting, land clearing, and constructing farm buildings, roads, lakes, and ponds associated with a farming operation.
- (b)
1. An agricultural operation may include the practice of sustainable agriculture.
 2. For purposes of this section, "sustainable agriculture" includes science-based practices that:
 - a. Are supported by research and the use of technology;
 - b. Are demonstrated to lead to broad outcomes-based performance improvements that meet the needs of the present, and

- c. Improve the ability of future generations to meet their needs while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities.
3. Sustainable agriculture may use continuous improvement principles, with goals that include:
 - a. Increasing agricultural productivity;
 - b. Improving human health through access to safe, nutritious, and affordable food, and
 - c. Enhancing agricultural and surrounding environments, including water, soil, and air quality, biodiversity, and habitat preservation.
- (4) For the purposes of this section, "silvicultural operation" includes timber harvest, site preparation, slash disposal including controlled burning, tree planting, precommercial thinning, release, fertilization, animal damage control, reasonable water resource management, insect and disease control in forest land, and any other generally accepted, reasonable, and prudent practice normally employed in the management of the timber resource for monetary profit. A silvicultural operation inherently includes lengthy periods between harvests and shall be deemed continuously operating so long as the property supports an actual or developing forest.
- (5) An agricultural or silvicultural operation shall not lose its status by reason of a change of ownership or a cessation of operation of no more than five (5) years or one (1) year after the expiration of a state or national program contract, either in whole or in part, nor shall it lose its status by reason of changes of crops or methods of production due to the introduction and use of new and generally accepted technologies which allow the operator to continue an existing agricultural or silvicultural corporation, unless the operation is substantially changed.
- (6) The provisions of this section shall not affect the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by them on account of pollution of the waters of any stream or ground water of the person, firm, or corporation.
- (7) Any and all ordinances of any unit of local government now in effect or hereafter adopted that would make an agricultural or silvicultural operation or its appurtenances a nuisance per se, or providing for abatement thereof as a nuisance, a trespass, or a zoning violation in the circumstance set forth in this section shall be void. However, the provisions of this subsection shall not apply whenever a nuisance results from the negligent operation of any such agricultural operation or any of its appurtenances.
- (8) Any administrative regulation promulgated by any agency that establishes standards for harvesting or producing agricultural crops in a sustainable manner shall be based on the principles outlined in this section and shall allow the use of best management practices developed under KRS 224.71-100 to 224.71-140.

History

Enact. Acts 1980, ch. 214, § 1, effective July 15, 1980; 1986, ch. 91, § 1, effective July 15, 1986; 2010, ch. 100, § 1, effective July 15, 2010.

THANK YOU

Corey T. Gamm

Adams Law, PLLC

www.adamslaw.com

859.394.6200