

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED JUL 19 1999 BOONE COUNTY PLANNING COMMISSION

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

(Check One) 1. Boone Florence Walton Union

(Check One) 2. Conditional Use Permit Variance Appeal

3. Applicant's Name MIKE HARGIS / PAUL HEMMER CONSTR. Co. Phone Number 341-8300 Fax No. 341-6817 Applicant's Address 250 GRANDVIEW DR. FT. MITCHELL KY 41017

4. Description of Request: TO ALLOW "OKI PROJECT" TO BE CONSTRUCTED IN C-2 ZONE AT AIRPARK INTERNATIONAL

5. Name of Development OKI SYSTEMS

6. Location of Development AVIATION BLVD AIRPARK INTERNATIONAL

7. Acreage Under Review 3 ACRES +/-

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

9. Owner of Property PAUL HEMMER ASSOC. III

Phone Number of Owner 341-8300

Address of Property Owner 250 GRANDVIEW FT. MITCHELL KY 41017

11. Proposed Use(s) on Site OFFICE / PARTS SALES / SALES & LEASING OF MATERIAL HANDLING MOTORIZED VEHICLES / REPAIR & MAINT. OF SUBJECT VEHICLES.

12. Total Square Footage of Existing and/or Proposed Buildings 20,000 SF

13. Current Zoning on Property C-2

14. Deed Book 438 Page No. 316 Group No. 2009

15. Is the site subject to a zone change? NO

16. Have you submitted a Site Plan with this request? YES

17. Have you submitted a list of adjoining property owners with this request? YES

18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: Mike Hargis

Property Owner's Signature: Mike Hargis / PH Assoc III

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
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SECTION B (To be completed by the Boone County Planning Commission Staff)

- 1. Date Received 7/19/99 Fee Received 738.00 R21324
- 2. Is application complete? Yes No
- 3. Staff Reviewer KEVIN WALKER
- 4. Scheduled Board Action Date 8/11/99
- 5. Board Action:
 - Approved
 - Approved with Conditions (See #6)
 - Denial (See #7) 9/3/99 - ZONING ADMINISTRATOR DECISION UPHOLD
- 6. Conditions of Approval: _____
- 7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

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

DEVELOPMENT: **Paul Hemmer Construction Co./OKI Project - Appeal**

APPELLANT: Mike Hargis/Paul Hemmer Construction Co.

LOCATION: Northwest Corner of Airpark Boulevard/KY 20 Intersection,
Boone County, Kentucky

ZONE: Commercial Two (C-2)

DATE: August 11, 1999

REQUEST

In accordance with sections 201, 220, 230, 240, 245, 253, and 254 of the Boone County Zoning Regulations, an Appeal of the Zoning Administrator's interpretation of the Zoning Regulations has been filed before the Boone County Board of Adjustment and Zoning Appeals. Specifically, Mike Hargis/Paul Hemmer Construction Company has filed an Appeal of the Zoning Administrator's interpretation of Section 1021 and 1023 (Principally Permitted and Conditional Uses in the C-2 zone) of the Boone County Zoning Regulations. The Zoning Administrator determination in question is explained in the letter to Mr. Mike Hargis dated July 13, 1999 which is attached as Exhibit A (a letter from the Appellant requesting a Zoning Administrator determination is attached as Exhibit B). In this letter, the Assistant Zoning Administrator, in conjunction with the Zoning Administrator, determined that the combination of wholesale and retail sales of forklifts and forklift parts, forklift repair, and related administrative offices, is a Principally Permitted Use in the Industrial One (I-1) and Industrial (I-2) zones, but is not permitted in the Commercial Two (C-2) zone. This determination is reinforced by a previous Zoning Administrator decision where it was concluded that uses involving light industrial equipment were permitted in the I-1 and I-2 zones, and uses involving heavy equipment were permitted in the I-2 zone only (letter dated May 11, 1998 to Mike Ryan attached as Exhibit C), and is also reinforced to a lesser extent by another determination that involved an industrial equipment maintenance use (letter dated March 25, 1998 from Kevin Wall to Si Pitstick attached as Exhibit D).

The applicant's request for a determination (Exhibit B) specifically states that the proposal involves forklifts, however, the Appeal application form states that the proposed use entails "office/parts sales/sales and leasing of material handling motorized vehicles/repair and maintenance of subject vehicles." The applicant contends that fork lifts should be considered "motor vehicles" in the context of the C-2 zone as it relates to the sales and service of automobiles/motor vehicles - both uses are Conditional Uses in the C-2 zone; the use categories in question are described as "automotive repair facility" and "small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises." As noted in the July 13, 1999 letter and reinforced by the May 11, 1998 letter, the Assistant Zoning Administrator characterizes fork lifts as industrial equipment/materials handling equipment, and not as automobiles/motor vehicles. The Assistant Zoning Administrator also noted that wholesaling is not permitted in the C-2 zone in any form.

The applicant has also submitted a concurrent application with the Planning Commission to change the zoning of the site in question from Commercial Two (C-2) to Industrial One (I-1) to allow the forklift business. Although the applicant has contended that forklift sales and repair should be classified as motor vehicle sales and repair, retail motor vehicle sales are not permitted in the I-1 zone (only wholesale vehicles sales as a CUP), and no CUP request was submitted with the zone change application - auto repair facilities are a Conditional Use in the I-1 zone. Thus, although the Zoning Administrator finds that the submission of the zone change application to I-1 is the correct course of action for the given proposal, it is contradictory in light of the Appellant's arguments relative to the C-2 zone.

DUTIES OF ZONING ADMINISTRATOR AND BOARD OF ADJUSTMENT AND ZONING APPEALS

Section 201 of the Boone County Zoning Regulations describes the authority of the Zoning Administrator. One of the roles of the Zoning Administrator is to determine the classification of any use of land, buildings or structures as a principally permitted, accessory, or conditional use in a specific zoning district, as well as determine whether uses are illegal or have pre-existing, nonconforming status, based on an interpretation of the stated and implied requirements of the zoning regulations. This includes the classification of new uses or uses not specifically identified in the regulations, determination of how applicable development standards are applied in different circumstances, and the interpretation of the regulations in instances where there is not a precise "fit" between the regulations and existing site conditions or development objectives.

In addition, one of the Board's duties is to hear and decide Appeals where it is alleged there is an error in any order, requirements, decision, interpretation, grant or refusal made by the Zoning Administrator.

DESCRIPTION OF SITE

The site in question is located on the northwest corner of the intersection of Airpark Boulevard and KY 20. The site is zoned C-2, although the adjoining portions of Airpark International Subdivision are zoned I-1. The site in question is an approximately 3 acre portion of an existing undeveloped lot.

DECISION AND BASIS FOR DECISION

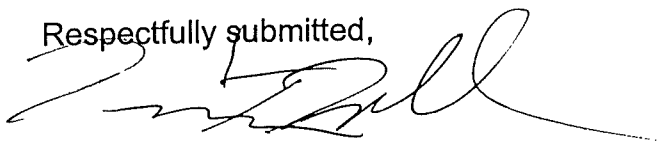
The decision in question, and the basis for the decision, are described in the previously mentioned letter dated July 13, 1999 from Mitchell Light to Mike Hargis.

CONCLUSION

As provided in Article 2 of the Boone County Zoning Regulations, an Appeal of the Zoning Administrator's decision may be granted by the Board of Adjustment and Zoning Appeals when it has been demonstrated that the decision is in error. Issues of particular relevance to this matter include:

- A. The motor vehicle sales and automotive repair facility use categories have been consistently applied to automobiles, and not uses involving other types of machinery or equipment. Based on staff's research on forklifts and other equipment, the industry itself characterizes forklifts as "equipment" and not as motor vehicles or automobiles.
- B. As per the Appellant's June 30, 1999 letter, a portion of the use includes wholesaling. Wholesaling is not permitted in the C-2 zone under any circumstances.
- C. An ambiguous description of the proposed uses was provided on the application form (described previously). However, the Appeal is for the July 13, 1999 determination, which involves wholesale and retail sales of forklifts and forklift parts, and forklift repair.
- D. Because the Appeal pertains to a use classification, if the Appeal were granted, the forklift use would be able to locate in C-2 zones throughout Boone County, such as on Mall Road or various sections of Burlington Pike.
- E. As of this writing, no evidence which demonstrates that the Assistant Zoning Administrator's decision is in error (as required by Section 220 of the zoning regulations and KRS 100.257 "Administrative Review") has been submitted.
- F. The Appellant has already submitted an application for a zone change from C-2 to I-1 for the site in question as per the July 13, 1999 determination.

Respectfully submitted,



Kevin T. Wall, AICP CDT
Director, Zoning Services
Zoning Administrator for Boone County Fiscal Court

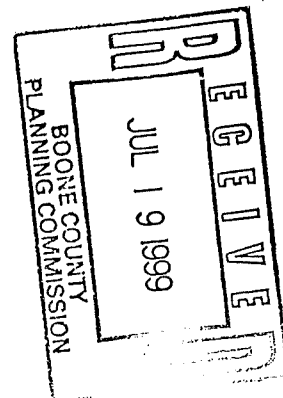
KTW\pr

Attachments:

- Appeal application form
- Exhibit A - letter dated July 13, 1999 from Mitchell Light to Mike Hargis
- Exhibit B - letter dated June 30, 1999 from Mike Hargis to Mitchell Light
- Exhibit C - letter dated May 11, 1998 from Kevin Wall to Mike Ryan
- Exhibit D - letter dated March 25, 1998 from Kevin Wall to Si Pitstick
- C-2 zone text

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



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

- (Check One) 1. Boone [checked] Florence Walton Union
(Check One) 2. Conditional Use Permit Variance Appeal [checked]
3. Applicant's Name MIKE HARGIS / PAUL HEMMEL CONSTR. Co.
Phone Number 341-8300 Fax No. 341-6817
Applicant's Address 250 GRANDVIEW DR. FT. MITCHELL KY 41017
4. Description of Request: TO ALLOW "OKI PROJECT" TO BE CONSTRUCTED IN C-2 ZONE AT AIRDARK INTERNATIONAL
5. Name of Development OKI SYSTEMS
6. Location of Development AVIATION BLVD AIRDARK INTERNATIONAL
7. Acreage Under Review 3 ACRES +/-
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property PAUL HEMMEL Assoc. III
Phone Number of Owner 341-8300
Address of Property Owner 250 GRANDVIEW FT. MITCHELL KY 41011
10.
11. Proposed Use(s) on Site OFFICE / PARTS SALES / SALES & LEASING OF MATERIAL HANDLING VEHICLES / REPAIR & MAINT. OF SUBJECT VEHICLES.
12. Total Square Footage of Existing and/or Proposed Buildings 20,000 SF
13. Current Zoning on Property C-2
14. Deed Book 438 Page No. 316 Group No. 2089
15. Is the site subject to a zone change? NO
If yes, give date of approval
16. Have you submitted a Site Plan with this request? YES
17. Have you submitted a list of adjoining property owners with this request? YES
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: Mike Hargis

Property Owner's Signature: Mike Hargis / PH Assoc III

(over)

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
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PAGE 2

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

1. Date Received 7/19/99 Fee Received 738.00 R21324

2. Is application complete? Yes No

3. Staff Reviewer KENN WALK

4. Scheduled Board Action Date 8/11/99

5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)

6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

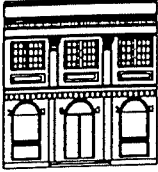
Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

EXHIBIT A

BOONE COUNTY PLANNING COMMISSION

2995 Washington Street, Burlington, KY 41005



606-334-2196
FAX 606-334-2264
E-Mail plancom@one.net

July 13, 1999

Mr. Mike Hargis
Paul Hemmer Construction Company
P.O. Box 17310
Ft. Mitchell, KY 41017

Fax: 341-6817

RE: Proposed OKI Systems, Fork Lift Sales, Leasing and Repair, Airpark International,
Boone County, Kentucky

Dear Mr. Hargis:

In response to your request concerning the proposed OKI Systems fork lift wholesale and retail sales, leasing, office and repair facility at the corner of Aviation Boulevard and KY 20, this is not a permitted use in the Commercial Two (C-2) zone.

Specifically, fork lifts are not motor vehicles in the context of the zoning regulations and this point is reinforced by the fact that they are not licensed as such. Thus, they cannot be categorized under motor vehicle sales or repair use categories that are conditional uses in the C-2 zone. Fork lifts are not heavy equipment such as bulldozers, panners, and backhoes, but industrial/materials handling equipment. As you may be aware, uses involving sales and repair of heavy equipment are limited to the Industrial Two (I-2) zone.

Furthermore, wholesaling is not permitted in the Commercial Two (C-2) zone.

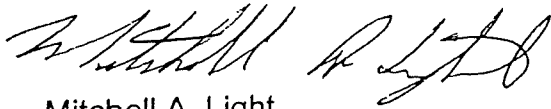
The proposed office use is a principally permitted use in the I-1 and I-2 zones by reference to the O-1 and O-2 zones. The industrial machinery/equipment use (wholesale, leasing and repair) is principally permitted in the I-1 zone (uses 11, 23, 40 & 43); all I-1 principally permitted uses are permitted in the I-2 zone by reference. The retail aspect (i.e. industrial sales) is permitted as an Accessory Use (#2) in the I-1 and I-2 zones. We will need to re-evaluate the use if equipment larger than fork lifts becomes part of the request, otherwise the uses involved in the proposed fork lift business are principally permitted in the I-1 and I-2 zones.

Mr. Mike Hargis
July 13, 1999
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If you wish to appeal this interpretation to the Boone County Board of Adjustment you must do so within thirty (30) days of the date of this letter. The cutoff for the August 11, 1999 hearing is July 21, 1999. A copy of the application has been enclosed.

If you have any further questions, please contact me at the above number.

Sincerely,



Mitchell A. Light
Asst. Zoning Admin./Enforcement Officer

MAL/pr

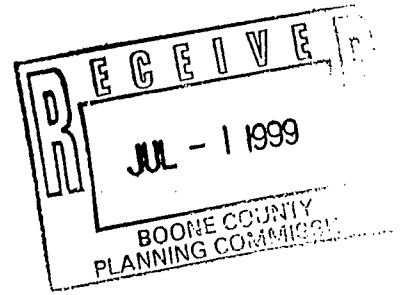
Enclosure

cc: Mark Scheper, Paul Hemmer Const.



EXHIBIT B

P.O. Box 17310
250 Grandview Drive
Fort Mitchell, Kentucky 41017-0310
TEL 606-341-8300
FAX 606-341-6817



June 30, 19999

Mr. Mitchell A. Light
Assistant Zoning Administrator
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

Dear Mitch:

I am writing to confirm our telephone conversation of June 29, 1999 in which we discussed the proposed OKI project at Airpark International.


The proposed project will consist of a total of 20,000 square feet of which 5,500 square feet will be administrative offices, 2,000 square feet will be wholesale and retail part sales and the remaining area will be dedicated to fork lift sales, leasing and repair.

As you will recall, the particular site on which this project will be located is currently zoned C-2. We are requesting a confirmation from your office that this project is permitted in the C-2 zone.

If you have any questions concerning this project, please contact me at my office.

Very truly yours,

PAUL HEMMER COMPANIES

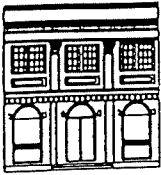

Wm. Michael Hargis, A.I.A.
Vice President

WMH:klm

EXHIBIT C

BOONE COUNTY PLANNING COMMISSION

2995 Washington Street, Burlington, KY 41005



606-334-2196
FAX 606-334-2264
E-Mail plancom@one.net

May 11, 1998

Mr. Mike Ryan, Manager
Planning and Development
Holt Company of Ohio
5252 Walcutt Court
Columbus, OH 43228

RE: Proposed Holt/Cat Facility in Park Place Subdivision along U.S. 25, Boone County, Kentucky; Industrial One (I-1) Zone

Dear Mr. Ryan:

I have given a great deal of consideration to the Holt/Cat facility that is proposed for Park Place Subdivision. In addition to considering our discussion a few weeks ago (and my notes from that meeting) and our other discussion last week, I have visited the Holt/Cat facility on Mostellor Road in Sharonville, Ohio, and reviewed the printed materials and video that you provided. I have further explored a number of Internet resources under the topic "heavy equipment" to gain an understanding of how the industry distinguishes "heavy equipment" from other types of equipment and machinery (Cat/Caterpillar had their own Web page and the type of products that we discussed were routinely mentioned in other pages under the heavy equipment topic heading). As we discussed, the Boone County Zoning Regulations tends to treat operations which deal with these products differently.

First, it is my understanding that the proposed facility would provide repair, parts, sales, and leasing services for products such as bulldozers, pavers, backhoes, tractor-trailer engines (and other types of equipment engines as well such as power generators), tractors, and similar equipment. The leasing/sales function and the repair function would be served from different buildings and there could be between fifty and eighty pieces of equipment stored outdoors during the "slow" season. If this understanding is incorrect, please let me know because it has bearing on the conclusions I have drawn regarding the proposed facility.

Second, any development of Park Place Subdivision must follow the approved Concept Development Plan or attempt to amend it through a public hearing process. As the approved plan shows several smaller users within the subdivision, it is my opinion that the basic physical layout of the project is in general conformance with the approved plan (i.e., the two Holt/Cat facilities proposed thus far present themselves as two distinct, smaller

Mr. Mike Ryan, Manager

May 11, 1998

Page 2

users - no specific proposals have been shown for the remainder of the subdivision which allows this concept to be followed with any further future development).

However, a recurring theme through the Concept Development Plan process was an attempt to limit/prohibit outside storage and display and to maintain a low-key/high quality development. Such a concern was mentioned in the Staff Report and Mr. Mike Schleper is quoted in the minutes from the public hearing as stating that outside storage will be prohibited in the protective covenants, thus, this statement is part of the proposal that was approved by the Planning Commission and the Fiscal Court. In addition, outdoor display was not part of the approved Concept Development Plan. Thus, an amendment to the approved Concept Development Plan must be approved through the normal public hearing process in order for these aspects of the proposed plan to be permitted. Additionally, because the small lot along US 25 is within the Commercial One (C-1) zone, it can only be used in accordance with the C-1 requirements and cannot be used for the display or storage of products not associated with permitted C-1 uses, such as the equipment stored outside at the Mostellor Road facility or shown in the photographs of various Holt facilities in Ohio.

Second, as we have discussed previously, the Boone County Zoning Regulations tend to treat uses that deal with smaller-scaled equipment and machinery different from those that deal with large-scaled heavy equipment and machinery and farm-type equipment. For example, the Industrial One (I-1) zone permits the following uses that relate to your proposal:

- A. Wholesale trade of small machinery, equipment and supplies except transportation or farm vehicles (Principally Permitted Use #23 - transportation and farm vehicles are expressly excluded from this use category).
- B. Equipment rental and leasing services including automobiles and trucks (Principally Permitted Use #40 - does not include heavy machinery or equipment which are mentioned expressly in other parts of the regulations).
- C. Welding shops for the repair of industrial machinery and heavy equipment (Principally Permitted Use #43 - limits repair activities to welding and related repair activities; the "light fabrication" that you mentioned relative to sheet metal housings and buckets fit into this category).

In contrast, the Industrial Two (I-2) zone permits:

- A. Any principally permitted use of an Industrial One (I-1) district (Principally Permitted Use #1 -, i.e., permits the uses mentioned above in addition to others with a more heavy industry nature).

Mr. Mike Ryan, Manager

May 11, 1998

Page 3

- B. Uses which involve the manufacture, assembly, processing, treatment, or storage of the following (among several other products mentioned in the regulations that do not relate to the matters at hand):
- I. Heavy machinery and transportation vehicles and equipment (Principally Permitted Use #13 - this category basically permits any uses which deal with these products in any manner except retail sales and wrecking).
- C. Wholesale trade of heavy machinery, equipment, and supplies, including transportation and farm equipment (Principally Permitted Use #19 - contrast to the "small equipment," etc. mentioned in paragraph "A" above under the related I-1 uses; because of the industrial nature/character of the sales and rental services that Holt performs, I can reasonably consider these sales and rental services to be of a "wholesale" nature for the purposes of the I-2 zone because they cater to industry versus the walk-in or "off the street" retail customer).

Thus, it is very apparent that the Boone County Zoning Regulations consciously treats uses that deal with "equipment" and "machinery," or "small equipment and machinery" different from "heavy equipment and machinery." The former is considered a light industrial use which is permitted in the I-1 and I-2 zones, whereas, the latter is considered a heavy industrial use permitted in the I-2 zone. Based on the characterization of the products that Holt deals with in their literature, as well as the various industry sources provided on the Internet, I have concluded that the equipment/products that pertain to the proposed facility are by and large "heavy equipment" (although certain, specific products could arguably be put in a less intense category). If these products are not correctly identified as "heavy equipment," I have not been able to find what would otherwise constitute "heavy equipment," although I do realize that there is heavy equipment that is notably larger than the equipment that would be stored/handled at this facility (i.e., "heavier equipment" for massive earth moving, mining, etc.).

Based on these conclusions, a change to the Industrial Two (I-2) zone is necessary to permit all of the proposed functions, or perhaps a change to the Planned Development (PD) overlay district in conjunction with the existing I-1 zone could be considered. The "PD" overlay zone permits flexibility in the normal zoning requirements, and variations in the permitted I-1 uses and signage/outdoor display requirements can be considered on their own merits, including the types of signage that we discussed last week (this would eliminate the need to apply for a Special Sign District). However, you could apply for a change to the I-2 zone (without the Planned Development overlay) and a Special Sign District concurrently. All of these processes involve public hearings and take between four and six months to complete.

Even if I could reasonably conclude that all of the proposed functions could be appropriately classified in the current I-1 zone, as discussed earlier, a change in the

Mr. Mike Ryan, Manager
May 11, 1998
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approved Concept Development Plan would need to be approved in order to permit the contemplated outdoor storage (this change also requires the public hearing procedure that takes between four and six months to complete). The Commercial Services (C-3) does permit some uses that relate to Holt's proposal, however, I have not reviewed the C-3 zone in depth because the current zoning of the property is I-1 and because the site is planned for "Industrial" uses. Regardless of which route is opted, the outdoor storage prohibition commitment which was made through the initial zone change procedure may be resolved through this subsequent review.

I would like to close by stating that I appreciate all of the information that you have provided which helped me in evaluating your proposal, although I realize that this decision requires Holt and the developer of the subdivision to take an extra step and invest additional time into the project. I will note that I did take some extra time to carefully evaluate this proposal as to avoid causing the project to go through any unnecessary review processes.

I will also note that because this is a decision of the Zoning Administrator, it may be appealed by an aggrieved party to the Board of Adjustment and Zoning Appeals (BOA) within thirty (30) days of today's date. Appeals are reviewed by the BOA through a public hearing forum. In order for an appeal to be granted, it must be demonstrated that the administrative decision is in error. Further, I am willing to consider any additional materials or information that you may have which would shed a different light on any of the issues discussed above. If you would like, I will return the video and photo binder. Please call me if you have any questions or need any clarifications.

Sincerely,

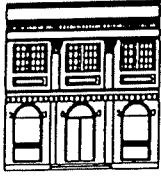


Kevin T. Wall, AICP CDT
Director, Zoning Services

KTW/vlm

cc: Mike Schleper, Pilot Contracting, 1452 Donaldson Highway, Erlanger, 41018-1047
Dick Braun, Huff Commercial, 2332 Royal Drive, Ft. Mitchell, 41017-2097
The Honorable Kenneth R. Lucas, Boone County Judge-Executive

EXHIBIT D
BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005

606-334-2196

FAX 606-334-2264

E-Mail plancom@one.net

March 25, 1998

Mr. Si A Pitstick, SIOR, CCIM
Sales Vice President
Cincinnati Commercial Realtors
250 West Court Street
Suite 450 E
Cincinnati, OH 45202-1054

FAX: 241-2654

RE: 1845 Airport Exchange Boulevard, Building B, Airport Exchange Business Park, Boone County, Kentucky

Dear Mr. Pitstick:

In response to your inquiry, I am providing the following information.

First, the property in question is within an Industrial One/Office Two/Commercial Services/Planned Development (I-1/O-2/C-3/PD) zone. The "Planned Development" overlay zone is our local version of the Planned Unit Development (PUD) concept and allows the combination of underlying zones. The "PD" overlay zone requires a Concept Development Plan which outlines the overall development scheme to be approved at the zone change level.

Second, "Building B" (1845 Airport Exchange Boulevard) was approved through the Concept Development Plan for a "service center" use (the term "service center" is not defined in the plan). Based on your description of the proposed use (cleaning of shop lathe machines, installation of electronic components on shop lathe machines but no other type of manufacturing, warehousing of machines and spare parts storage, service support, technical training center, showroom, and support office area), and my discussion of this use with Kevin Costello, the Planning Commission's current Executive Director, who reviewed the original Concept Development Plan in 1988, it is appropriate to categorize the proposed use as a "service center." Thus, the proposed use is permitted in Building B. Please call me if you have any questions or need any clarifications.

Sincerely,

Kevin T. Wall, AICP CDT
Director, Zoning Services

KTW/vlm

SECTION 1013

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 and subordinate function of a permitted commercial use, professional or personal service; or b) the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center; and, c) the arrangement of uses, buildings or structures will be compatible with the organization of permitted and accessory uses to be protected in the district:

1. Gasoline filling stations and automotive repair facilities;
2. Churches, synagogues, temples and other places of religious assembly for worship;
3. Franchise style fast food establishments and drive thru eating and drinking establishments (CITY OF FLORENCE ONLY).

SECTION 1014

Intensity

The intensity of use in a Commercial One district of under two (2) acres shall not exceed 8,000 square feet of gross floor area per acre of land.

The intensity of use in a Commercial One district larger than two (2) acres shall not exceed 11,000 square feet of gross floor area per acres of land.

SECTION 1015

Minimum Size

There is no minimum size or extent required of a Commercial One district.

SECTION 1016

Minimum Standards

See Article 31 for dimensional standards. (Site Plan Review required for all permitted uses, See Article 30)

SECTION 1020

COMMERCIAL TWO (C-2)

The purpose of the Commercial Two district is to provide comparable shopping goods, personal and professional services, and some convenience goods required for normal living needs as well as major purchase opportunities. Districts will be located on suitable lands primarily central to regional trade areas and to some extent the community as a whole and such districts have access from expressways or arterial roads. District facilities and plans will be organized to provide central and convenient collection of vehicles, pedestrians and multi-modal forms of transportation within the district's facilities and major shopping spaces.

SECTION 1021

Principally Permitted Uses

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;
2. All the principally permitted uses in an Office One (O-1) district;
3. Eating and drinking establishments including alcoholic beverages and with drive-thru facilities; Eating and drinking establishments including alcoholic beverages and entertainment, but excluding drive thru and franchise style fast food establishment (CITY OF FLORENCE ONLY);
4. Department stores, mail order houses, direct retail selling organizations of general merchandise;
5. Furniture, home furnishings including specialty and floor coverings;
6. Specialized upholstery and furniture repair or refinishing services;
7. Apparel stores;
8. Household appliances, china, glassware and metal ware;
9. Radio, t.v., watch, clock, and jewelry repair;
10. Drive-thru photographic, stenographic and other duplicating and mailing services;
11. Legal services, engineering and architectural services;
12. Security brokers, dealers and flotation services;
13. Title abstracting services; holding and investment services;
14. Advertising services including direct mail;
15. Business and management consulting services;
16. Employment services;
17. Consumer and mercantile credit reporting, adjustment and collection services;
18. Travel arranging, transportation ticket and public event or promotional booking agencies;
19. Radio and television broadcasting studios excluding transmitting stations and towers;
20. Art, music and dancing schools, libraries and museums;
21. Medical and dental laboratory services;
22. Medical clinics - out - patient services;
23. Welfare and charitable services;
24. Business associations and professional membership organizations including civic, social and fraternal organizations;

25. Art and craft galleries and similar exhibit space;
26. Aquariums, botanical gardens and other natural exhibitions;
27. Arcades and other amusement centers;
28. Motion picture theaters (indoor);
29. Bowling alley, skating rinks, roller skating rinks, miniature golf courses golf driving ranges, and skateboard facilities;
30. Recreation centers, gymnasiums, clubs and similar athletic uses;
31. Motorcycles sales or bike shops excluding outside storage;
32. Churches, synagogues, temples and other places or religious assembly for worship;
33. Hotels and motels including convention facilities;
34. Pawn shops;
35. Auto parts and accessories stores;
36. Gasoline filling station;

SECTION 1022

Accessory Uses

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

1. Recreation uses or spaces of integral relation to the developed portions of the district defined to be:
 - a. Stages and similar assembly areas;
 - b. Auditoriums, exhibition halls and other public assembly spaces;
 - c. Billiards;
 - d. Play lots and tot lots;
 - e. General, leisure, ornamental and other parks, spaces, trails bikeway systems, malls and urban pedestrian networks;

2. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
 - a. Private garage and parking;
 - b. Structures such as fences and walls;
 - c. Buildings such as storage sheds;
 - d. The keeping and use of appropriate household pets;
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Temporary buildings incidental to construction ;
6. Storage, uncrating or unpacking areas provided such activities are an integral function of a permitted use and do not create enclosed or outside spaces which will tend to enlarge or overpower the activities of permitted uses;
7. Drive-up photo finishing services and automatic teller services;
8. Indoor target ranges and similar athletic uses;
9. Recycling collection points (See Article 31);
10. Garment and Furniture centers (See Article 31);
11. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property).

SECTION 1023

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 and subordinate function of a permitted commercial use, professional or personal service; or b) the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center; and c) the arrangement of uses, buildings or structures will be mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. Franchise style fast food establishments and drive thru eating and drinking establishments (CITY OF FLORENCE ONLY).
2. Garden and landscape sales including florist greenhouses, lawn furniture and the like;
3. Automotive repair facility and wash services for vehicles;
4. Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises;
5. Sale of satellite dishes;

6. Small scale sales or leasing of new and used recreational vehicles requiring the storage of no more than fifty (50) vehicles on the premises;

7. Mini-warehouses or storage facilities;

SECTION 1024

Intensity

The intensity of use in a Commercial Two district of under four (4) acres, including all the contiguous private property so designated, shall not exceed 12,000 square feet of gross floor area per acre of land. In a commercial two district of over four (4) acres, the intensity of use shall not exceed 15,000 square feet of gross floor area per acre of land.

SECTION 1025

Minimum Size

The minimum size and extent of a Commercial Two district, including all the contiguous private property so designated, shall not be less than two (2) acres.

SECTION 1026

Minimum Standards

See Article 31 for dimensional standards. (Site Plan Review required for all permitted uses, See Article 30)

SECTION 1030

COMMERCIAL SERVICES (C-3)

The purpose of the Commercial Services district is to provide, control and centralize those types of commercial activities which; a) depend on and generate high vehicular accessibility, visibility and traffic; and/or b) large outdoor single-purpose storage, display and parking areas and c) which do not fit the scale, character, trade area and general objectives of the other commercial districts in this article or the employment districts defined in Article 11. Such districts will generally be organized about regional or major community trade areas. Sites will be of suitable lands which can be appropriately buffered from surrounding urban uses. Districts will be located to have direct visibility from major arterials. District facilities and plans should be organized to accomplish as much clustering of compatible uses, sharing of parking and access, signage, lighting and other spaces and improvements as possible.

SECTION 1031

Principally Permitted Uses

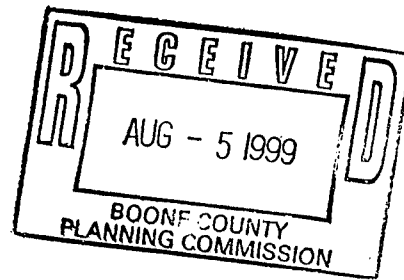
The following uses are permitted:

1. Commercial parking facilities;
2. Sales of lumber, building materials, heating and plumbing equipment, electrical supplies, hardware and farm equipment;
3. Sales, automotive repair, or lease of new and used motor vehicles including tires, batteries and accessories;



4665 Interstate Dr.
Cincinnati, Ohio 45246
(513) 874 2600
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David M. Reder
President



August 3, 1999

Mr. Kevin Wall
Zoning Administrator
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

RE: OKI Systems Limited

Dear Mr. Wall:

Thank you for the opportunity to discuss the zoning requirement for our new Northern Kentucky facility, which is proposed to be located at Airpark International on State Route 20 in Hebron. The purpose of this letter is to provide information about our operation and the various components of our business.

Our primary business is the sale or lease of material handling equipment and forklift trucks. We provide parts and services to support their use in the industrial and commercial market. Our facility, when complete, will consist of four main components:

- ✓ Administrative Offices
- ✓ Sales Offices
- ✓ Parts Department
- ✓ Service Department

The Administrative offices house the management of the operation. The functions of management, personnel, payroll, and some accounting are performed from these offices.

Sales offices are for the use of outside sales personnel who call on the industrial and commercial users of forklift trucks and other miscellaneous material handling equipment. Their customers are businesses who purchase or lease this equipment.

Your partner in material handling

Mr. Kevin Wall
August 3, 1999
Page Two

The Parts segment of the business stocks parts for the repair and maintenance of forklift trucks and sells some parts over the counter to the end user. The end user is the owner of the forklift truck and/or material handling equipment purchased or leased from OKI. The primary uses of our parts are on service jobs at the customers' locations.

Finally, the Service Department performs routine service and repair of the purchased or leased forklift trucks. They pick up and deliver as needed. Any units that are kept overnight are stored inside. No outside storage is required.

We hope that this information is helpful in determining the zoning classification applicable to this project. Thank you for your consideration of this project.

Sincerely,



David M. Reder

DMR:db