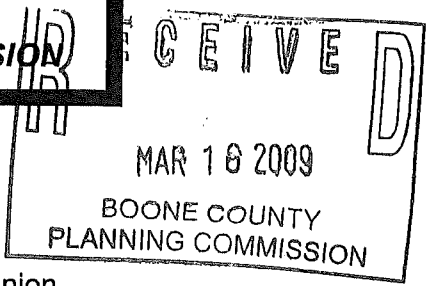


APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



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

- 1. (Check One) Boone [X] Florence [] Walton [] Union []
2. (Check One) [X] Conditional Use Permit [] Variance [] Appeal []
3. Applicant's Name BHUPINDER SINGH, Phone Number 859-282-8332, Fax No. 859-282-1245, Applicant's Address 1514 CHARLSTON CT, FLORENCE KY 41042
4. Description of Request: REFACE PRICE SIGN WITH LED
5. Name of Development []
6. Location of Development 6909 DIXIE H.WAY, FLORENCE KY 41042
7. Acreage Under Review []
8. Lot Number and Name of Subdivision (if part of a subdivision) []
9. Owner of Property BHUPINDER SINGH, Address of Property Owner 1514 CHARISTO CT, Phone No. 917-226-2999
10. City FLORENCE KY 41042
11. Proposed Use(s) on Site [] LED SIGN
12. Total Square Footage of Existing and/or Proposed Buildings []
13. Current Zoning on Property C-2
14. Deed Book 906 Page No. 620 Group No. 2043A
15. Is the site subject to a zone change? No
16. Have you submitted a Site Plan with this request? Yes
17. Have you submitted a list of adjoining property owners with this request? Yes
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

**BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2**

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

1. Date Received 3/14/09 Fee Received \$1,000⁰⁰ R#58249
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
4/8/09 **Approved**
Approved with Conditions (See #6)
Denial (See #7)
6. Conditions of Approval: SEE 4/8/09 FBOA meeting
MINUTES & CLUR
7. Reasons for Denial: _____

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

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

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

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

STAFF REPORT

APPLICANT: Bhupinder Singh for Dixie Gas & Go
LOCATION: 6909 Dixie Highway, Florence, Kentucky
ZONING: Commercial Two (C-2)
DATE: April 8, 2009

Proposal

The applicant has applied for a Conditional Use Permit to allow electronically changeable gas prices and an electronically changeable message board on Dixie Gas & Go's freestanding sign. The sign is located near the intersection of Dixie Highway and Banklick Street and is 20'-6" tall and 101.5 square feet in area.

The submitted rendering shows that the following modifications are being proposed to the sign:

1. Replace the gas price cabinet with a new cabinet that has electronic price windows. Both fuel windows are 4.375 square feet in area; and
2. Replace the 16.5 square foot manually changeable reader board with an electronically changeable message board.

Pertinent Site History

On December 27, 1996, the Boone County Planning Commission approved a Sign Permit for a 20'-6" tall, 99 square foot freestanding sign.

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that one duty of the Board of Adjustment and Zoning Appeals is to act on Conditional Use Permit applications.

The Board needs to evaluate the Conditional Use Permit request as it relates to the criteria necessary for granting or denying a Conditional Use Permit as stated in Section 262 of the Boone County Zoning Regulations. The criteria are listed below:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's comprehensive plan, a specific corridor plan and/or the zoning order;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area;

3. Will be hazardous to existing or future neighboring uses;
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately such services;
5. Will create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
6. Will involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons; property, or the general welfare by reason of excessive production of traffic, noise, smoke, dust, fumes, glare, or odors;
7. Will have vehicular approaches to the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 34, Section 3413 of the Boone County Zoning Regulations states that individual parcels of land in C-2 zoning districts shall be permitted a density of one (1) on-premises, architectural free-standing. In the City of Florence, the sign can be up to 20' tall and 150 square feet in area (dependent on road frontage).

Article 34, Section 3430 of the Boone County Zoning Regulations permits electronically changeable message boards and electronic display screens as a Conditional Use in the C-2 zoning district provided that the following requirements are met:

- A. Such message boards and screens will be considered a part of a permitted free-standing or building mounted sign; up to fifty percent (50%) of the permitted sign area can be used for an electronically changeable message board or electronic display screen.
- B. All such message boards shall meet the minimum standards of the Kentucky Transportation Cabinet and any other controlling local, state, or federal agency.
- C. Electronic message boards and electronic display screens shall not be permitted at intervals of less than six-hundred sixty (660) feet, measured along the centerline of each interstate or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.
- D. Apparent motion of the visual message, caused by, but not limited to, the illusion of moving objects, moving patterns or boards of light, expanding contracting, or rotating shapes or other similar animation effects, shall be prohibited. Such restriction applies to "scrolling" or "running" messages.

- E: The message displayed on the board must be displayed for a minimum of five (5) second intervals. In no instance can a message, or part thereof, flash on the message board.

Relationship of the Request to the Comprehensive Plan

The 2005 Boone County Comprehensive Plan's "2030 Future Land Use Plan" designates the site for "Commercial" uses. This designation is defined as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The Future Land Use Development Guidelines (pages 140-142) found in the Land Use Element state that "developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify a specific development, but should not be used as a means to compete for motorist attention. The objective is to avoid the confusion and/or distraction of motorists, and to avoid the potential negative impacts of signs on the visual appearance of a development or corridor" (Design, Signs, and Historic Preservation).

Surrounding Land Uses & Zoning

North: Dixie Highway, CDS, Lighting EFX, Holian Granite and Bronze (C-2)

South: Ryan Muffler (C-2)

East: Metzger Eye Care (C-2)

West: Banklick Street, Hair Salon, and Cabanilla's Cheez Cakes (C-2)

Site Characteristics

The approximate 0.53 acre site contains a convenience store, a gasoline canopy, and three fuel islands. The site has two access points on Dixie Highway and one access point on Banklick Street. The freestanding sign is located in a landscaped area at the intersection of Dixie Highway and Banklick Street.

Staff Comments

1. The subject sign is currently 20'-6" tall and 101.5 square feet in area. The zoning regulations permit signs in C-2 districts to be a maximum of 20' tall and 150 square feet in area in the City of Florence.

2. Section 3430 of the Boone County Zoning Regulations states that electronic message boards shall conform to the following criteria:
 - A. The electronic message board(s) shall not be more than fifty percent (50%) of a permitted sign area. The three message boards are 24.9% (25.25/101.5) of the overall sign area.
 - B. Electronic messages must be displayed on the board for at least 5 seconds and the messages cannot flash, scroll, or run.
 - C. Electronic message boards must be at least 660 feet apart. The closest electronic sign is located at CVS on the corner of Dixie Highway and Rose Avenue. The Gas & Go sign is approximately 1,228' from the CVS sign.
3. Staff has the following comments that are relevant to the proposal:
 - A. The Florence Board of Adjustment has heard several requests for electronic message boards over the last couple of years. Only two requests have involved both electronic fuel windows and electronically changeable message boards on the same sign. In both cases, the Board approved the request on the basis that some non-conformity or error was being reduced or eliminated.
 - On May 14, 2008, the Florence Board of Adjustment approved a Conditional Use Permit allowing Thorntons (Industrial Road) to replace a 75.96 electronic price panel with a 49.11 square foot sign cabinet that had red and green L.E.D. price windows.

The existing sign also contained an electronically changeable reader board that was mistakenly approved by Planning Commission Staff in 1997. The Board imposed a condition requiring this reader board to comply with the 5 second rule (see attachments).
 - On January 14, 2009, the Florence Board of Adjustment approved a Conditional Use Permit allowing Thorntons (U.S. 42) to have electronic gas prices and an electronically changeable message board on one of their freestanding signs. One of the conditions of approval required removal of an interstate high rise sign.
 - B. The Board should analyze the "Design, Signs, and Historic Preservation" section of the Future Land Use Development Guidelines before making a decision on the Conditional Use Permit. This section calls out that motorists should not be confused and/or distracted by excessive signs and that signs should not have a negative impact on the visual appearance of a corridor.
 - C. Staff received an e-mail from an adjoining property owner stating that she has no objection as long as the electronic copy is limited to gas prices (see attachments).

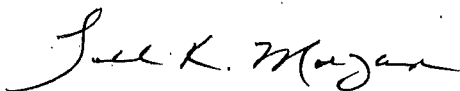
Staff is concerned about the electronically changeable reader board because it could be distracting to motorists. Staff would prefer the electronically reader board to be removed from the proposal. A second preference would be to limit the reader board to one line of text and allow the message to change no more than once every ten seconds.

4. The applicant has not provided any specifications or details for the proposed electronic message board. Staff has the following questions:
 - A. Will the electronically changeable message board comply with the 5 second rule. Will any messages flash, scroll, or run?
 - B. How many lines of text will be displayed on the changeable message board?
 - C. What colors will be displayed on the electronic message board?
5. If the application is approved, Staff recommends the following conditions:
 - A. The electronically changeable fuel windows shall only advertise fuel prices;
 - B. The electronically changeable message board shall be limited to one line of text and advertisements shall change no sooner than once every 10 seconds;
 - C. All electronic messages shall be displayed in red.
 - D. Photocells shall be provided in the sign and all electronic messages shall dim as the sky gets darker;
 - E. The applicant shall apply for a permit for the lottery sign that has been attached to the freestanding sign.

Conclusion

KRS 100.237 and Section 2220 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/pr

Attachments

- *Site Vicinity Map
- *Rendering of Proposed Sign
- *Aerial Map with 660' Radius
- *Zoning Map
- *Future Land Use Map
- *12/27/96 Sign Permit
- *5/14/08 Conditions of Approval for Thorntons
- *1/14/09 Conditions of Approval for Thorntons
- *e-mail from Julie Metzger Aubuchon
- *Application

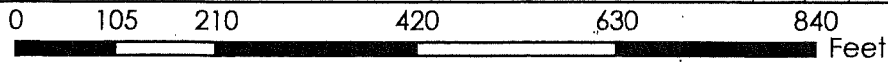
SITE VICINITY MAP

www.boonecountygis.com



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

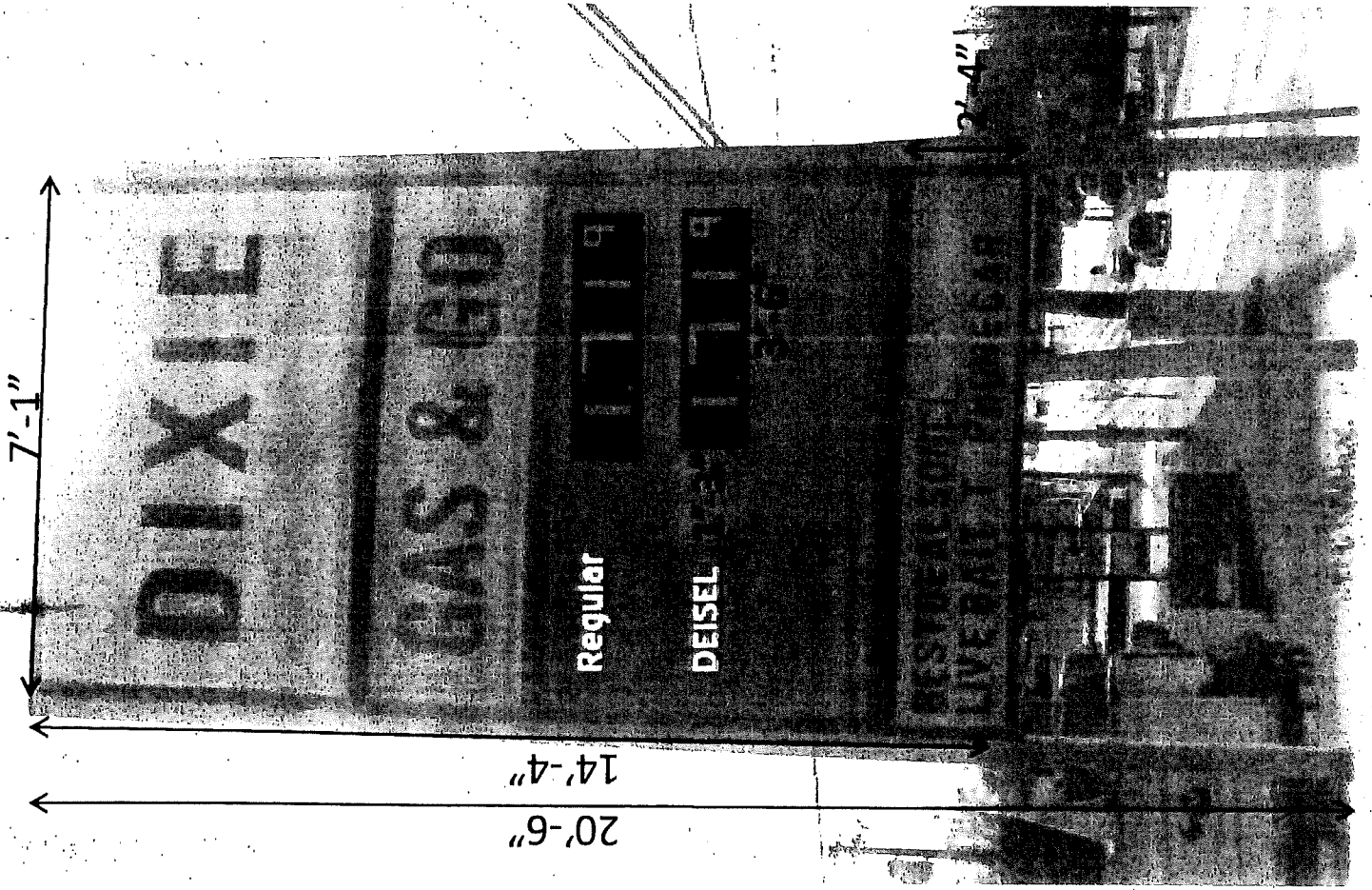


1 inch equals 200 feet



Boone County GIS - Putting Northern Kentucky on the Map

EXISTING SIGN
20'-6" TALL
101.5 SQ. FEET

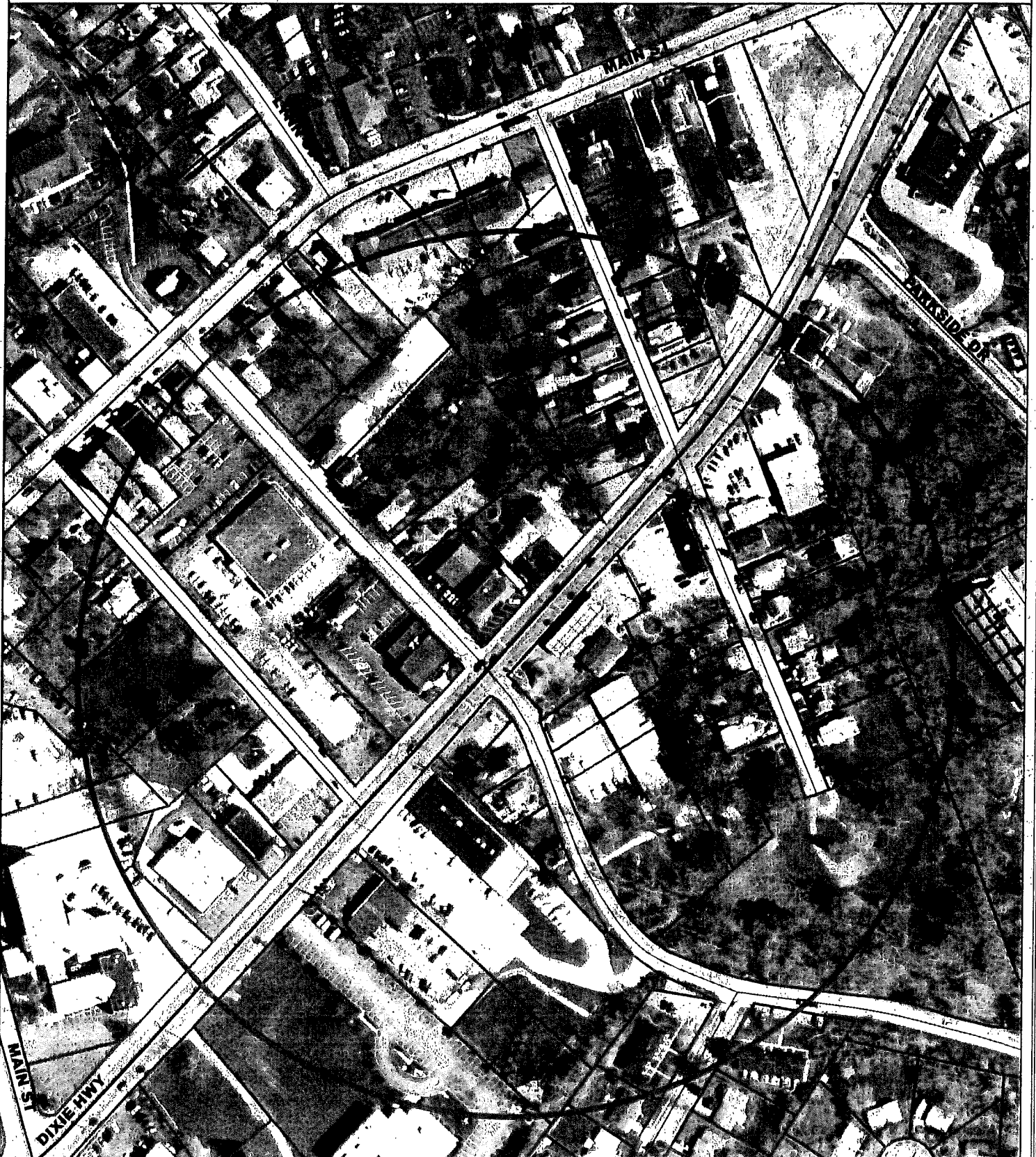


EACH FUEL WINDOW
4.375 SQ. FEET

CHANGE MANUAL
MESSAGE BOARD TO
ELECTRONICALLY
CHANGEABLE COPY
16.5 SQ. FEET

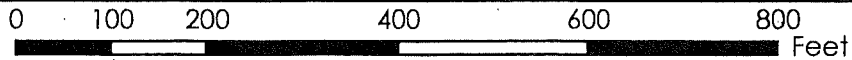
660' RADIUS MAP

www.boonecountygis.com



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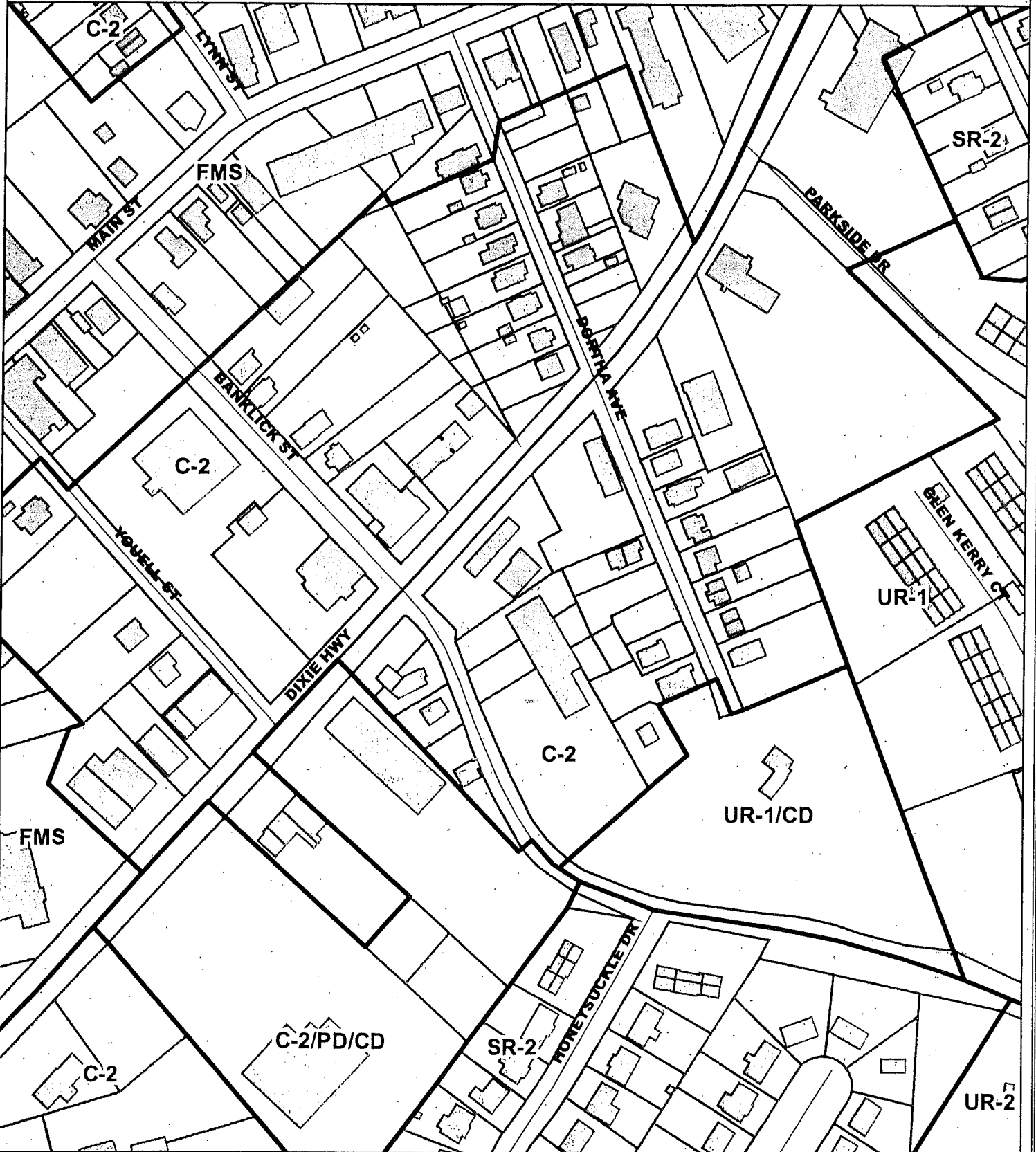


Boone County GIS - Putting Northern Kentucky on the Map



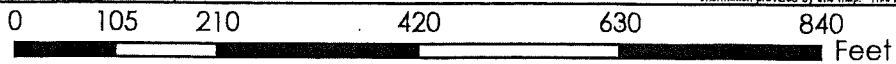
ZONING MAP

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1 Inch equals 200 feet

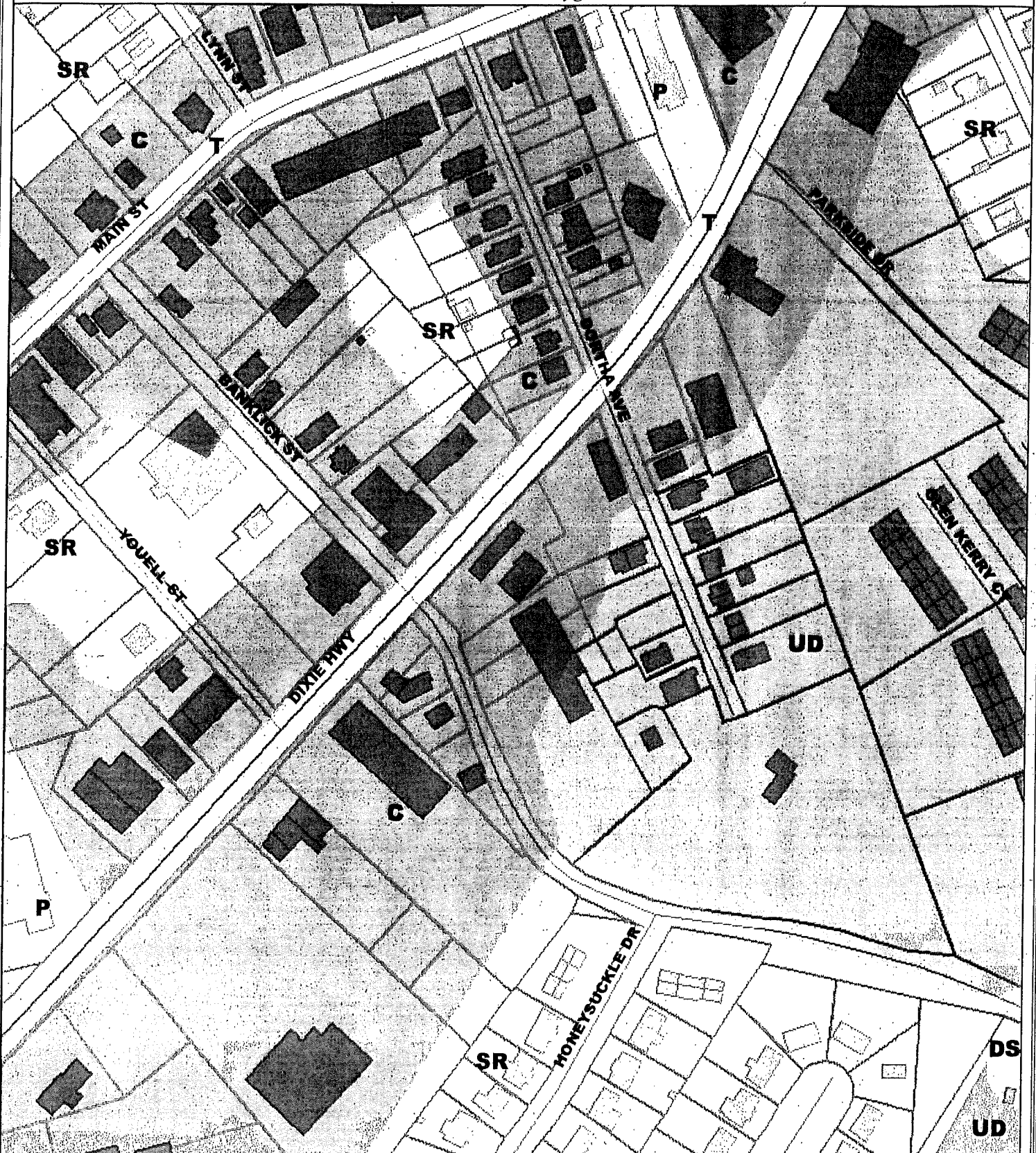


Boone County GIS - Putting Northern Kentucky on the Map



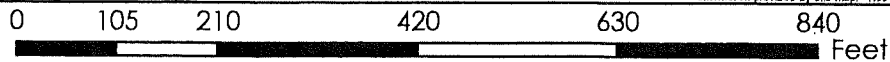
FUTURE LAND USE MAP

www.boonecountygis.com



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Boone County GIS - Putting Northern Kentucky on the Map

**BOONE COUNTY PLANNING COMMISSION
SIGN PERMIT**

****NOTE:** *Prior to the placement of any approved sign, a building permit may be required from the Boone County Building Inspector - contact at 334-2218 for requirements.*

A Sign permit is hereby granted to Annette Lane

for Kocolene Fuel/Food Mart #44

for property located at 6909 Dixie Highway

and zoned C-2, for the purpose of erecting signage in accordance with Article 34, Section 34.13 of the Boone County/Florence Zoning Order (Ordinance),

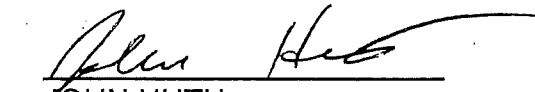
subject to the following special conditions/descriptions:

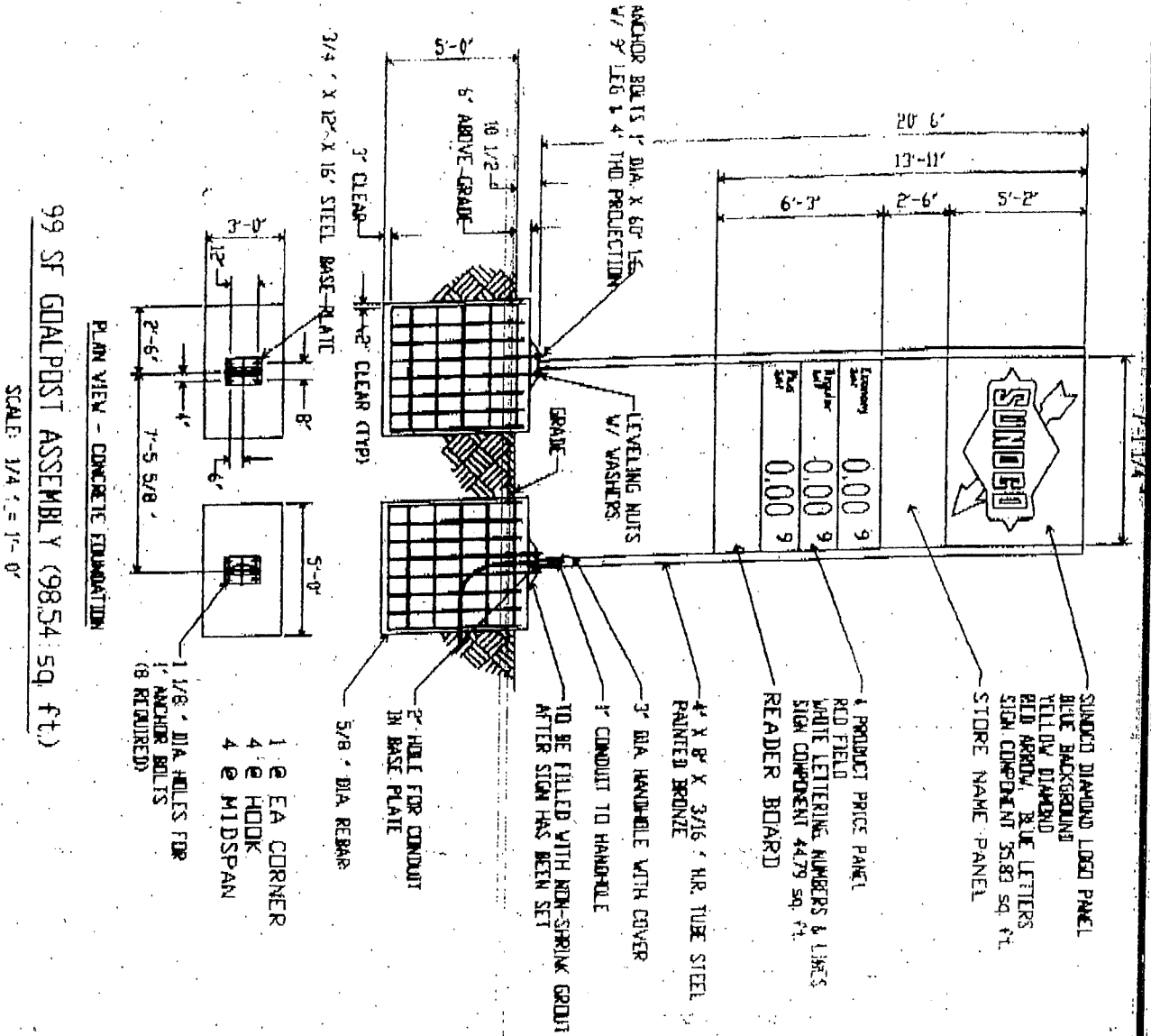
Free-Standing pole - 20.6 feet high/99 square feet - per 244 feet of road frontage

Replaces existing pole sign.

Failure to comply with the above cited Zoning Regulations and special conditions, shall render this permit null and void and to no effect.

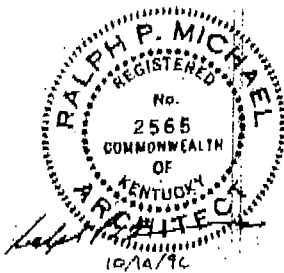
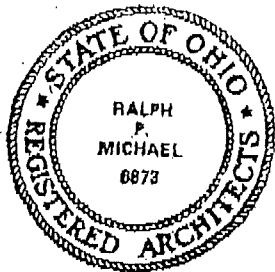
12/27/96
DATE


JOHN HUTH
PLANNER



99 SF GOALPOST ASSEMBLY (98.54 sq. ft.)

SCALE: 1/4" = 1'-0"



Kocolene Oil Corporation
 1725 E. Tipton Box 448
 Seymour, IN 47274-0448
 Phone 812-522-2224



CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of May 14, 2008 Certificate of Land Use Restriction (#08-FBOA-004-A), for Thornton's, Property Owner(s).

The following conditions will apply:

- 1) The bottom sign (existing electronic sign) is to abide by the five-second rule.
- 2) The new LED sign is for gas prices only and limited to two colors.
- 3) There is to be a sign filler between the existing LED sign and the newly approved sign and fillers on the sides between the signs and the poles. The filler panels shall be painted black to match the poles. There is to be no signage on the filler panels.

The approved Conditional Use Permit as well as the preceding conditions apply to the property described in:

DEED BOOK 451

PAGE NO. 153

GROUP NO. 2042

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of January 14, 2009 Certificate of Land Use Restriction (#09-FBOA-001-A), for MAT Real Estate, LLC, Property Owner(s).

The following conditions will apply:

- 1) The proposed electronically changeable fuel windows shall advertise fuel prices only and all three panels (2 electronic fuel windows and electronic reader board) are to be one color only and that color is red.
- 2) The electronic reader board is to be red only. It is limited to two lines of text and the message can change no more often than every ten seconds.
- 3) The electronically changeable message board and fuel cells shall comply with the applicable zoning regulations (Article 34).
- 4) There is to be a photo cell in the sign and the electronic messages are to dim as the sky gets darker.
- 5) The interstate high rise sign at the rear of the property is to be totally removed prior to installing the new sign.
- 6) There are to be no scrolling, running, moving patterns or other effects prohibited by the regulations.
- 7) The applicant is to contact the Kentucky Transportation Cabinet and determine if an advertising device permit is required.

The approved Conditional Use Permit as well as the preceding conditions apply to the property described in:

DEED BOOK 957 PAGE NO. 642 GROUP NO. 2040B

Todd Morgan

From: Pat Russ
Sent: Wednesday, March 25, 2009 3:19 PM
To: Todd Morgan
Subject: FW: Florence Board of Adjustments

From: Julie Metzger [mailto:drjulie@zoomtown.com]
Sent: Wednesday, March 25, 2009 1:30 PM
To: Planning Commission General Account
Subject: Florence Board of Adjustments

As an adjoining property owner I am writing regarding a request of a electronic sign at 6909 Dixie Hwy. in Florence, We have no objection as long as it is limited to gas prices.

Thank you,
Julie Metzger Aubuchon.

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

RECEIVED
MAR 18 2009
BOONE COUNTY
PLANNING COMMISSION

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

(Check One)
1. Boone Florence Walton Union

(Check One)
2. Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use

3. Applicant's Name BHUPINDER SINGH
Phone Number 859-282-8332 Fax No. 859-282-1245
Applicant's Address 1514 CHARLSTON CT
Florence KY 41042
City State Zip

4. Description of Request: ReFace PRICE SIGN WITH LED

5. Name of Development ~~SEASIDE~~ GAS & CO

6. Location of Development 6909 DIXIE H.WAY
FLORENCE KY 41042

7. Acreage Under Review _____

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

9. Owner of Property BHUPINDER SINGH

Address of Property Owner 1514 CHARISTO CT Phone No. 917-226-2999
Florence KY 41042
City State Zip

11. Proposed Use(s) on Site ~~Business~~ LED SIGN

12. Total Square Footage of Existing and/or Proposed Buildings _____ ~~_____~~ AR

13. Current Zoning on Property C-2

14. Deed Book 906 Page No. 620 Group No. 2043A

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

If yes, give date of approval _____

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

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

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

ORIGINAL Property Owner's Signature: Bhupinder Singh
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Bhupinder Singh
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CLUR #09-FBOA-003-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Bhupinder Singh
1514 Charleston Court
Florence, KY 41042
2. ADDRESS OF PROPERTY
6909 Dixie Highway
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Gas and Go
4. DEED BOOK 906 PAGE NO. 620 GROUP NO. 2043A
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment:
From _____ To _____
- Conditional Use Permit
- Development Plan Conditional Zoning
- Subdivision Plat
(Not Recorded) Other:
- Variance
6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005

Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Senior Planner, Zoning Services
Name and Title of Completing Official

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of April 8, 2009 Certificate of Land Use Restriction (#09-FBOA-003-A), for Bhupinder Singh, Property Owner(s).

The following conditions will apply:

- 1) The electronic reader board at the bottom of the sign can have a maximum of two lines of copy.
- 2) The electronic copy can change no more than once every 24 hours.
- 3) The electronically changeable fuel windows shall only advertise fuel prices.
- 4) All electronic messages shall be displayed in red.
- 5) Photocells shall be provided in the sign and all electronic messages shall dim as the sky gets darker.

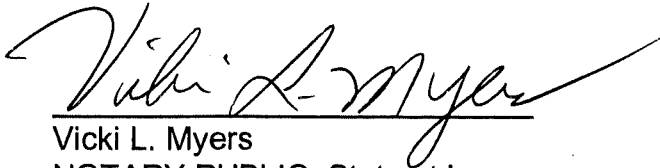
The approved Conditional Use Permit as well as the preceding conditions apply to the property described in:

DEED BOOK 906 PAGE NO. 620 GROUP NO. 2043A

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 20 day of April, 2009.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2011

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)