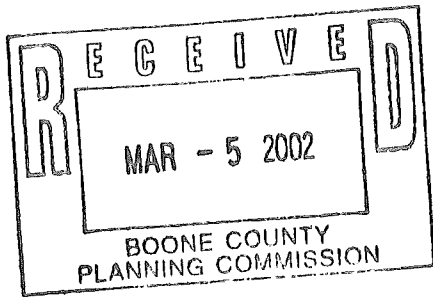


02-WBDA-001-A



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 Florence  Walton Union

(Check One)

2.  Conditional Use Permit  Variance  Appeal

Change in Non-Conforming Use

3. Applicant's Name BRINKMAN OIL CO.

Phone Number 485-4177 Fax No. 485-4180

Applicant's Address 260 OLD WALTON NICHOLSON ROAD

WALTON KY 41094

City State Zip

4. Description of Request: REMOVE 2333 SQ FT BUILDING REPLACE with 2850 SQ FT BUILDING

5. Name of Development BRINKMAN OIL CO

6. Location of Development 260 OLD WALTON-NICHOLSON Rd WALTON KY 41094

7. Acreage Under Review .11

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

9. Owner of Property BRINKMAN OIL CO.

Phone Number of Owner 485-4177

Address of Property Owner 260 Old WALTON-Nicholson Rd

10. City State Zip

11. Proposed Use(s) on Site ~~OFFICE~~ OFFICES & STORAGE FOR OIL BUSINESS

12. Total Square Footage of Existing and/or Proposed Buildings 2333 Purposed 2850

13. Current Zoning on Property C-2

14. Deed Book 588 Page No. 186 Group No. 2080

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: Joe Webster

Property Owner's Signature: Richard Brinkman

**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 3-5-07 Fee Received \$502.00 R# 30601
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
 Approved  
 Approved with Conditions (See #6)  
 Denial (See #7)
6. Conditions of Approval: THE Proposed Warehouse cannot be any closer to the water main than the existing warehouse
7. Reasons for Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005  
(859) 334-2196 - Phone  
(859) 334-2264 - Fax  
plancom@boonecountyky.org - E-mail**

[www.boonecountyky.org](http://www.boonecountyky.org)

**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: Brinkman Oil Company  
LOCATION: 260 Old Walton Nicholson Road, Walton, Kentucky  
ZONING: Commercial Two (C-2)  
DATE: April 22, 2002

### Proposal

Brinkman Oil Company is requesting a change in non-conforming use so they can remove a 2,333 square foot warehouse and replace it with a 2,850 square foot warehouse. The 0.13 acre parcel is zoned Commercial Two (C-2) and is part of the Brinkman Oil Company operation located on Old Walton Nicholson Road. The proposed warehouse would not be any closer to the property lines than the existing structure. The existing building is setback 10' off the road and 0' feet off the Louisville & Nashville Railroad right-of-way.

### Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for changes in non-conforming uses.

Article 2, Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming uses or structure from being "enlarged or extended beyond the scope and area of its operation at the time it became a legal non-conforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of non-conforming uses or structures."

Article 2, Section 271 of the Boone County Zoning Regulations states that "when an addition is proposed for a pre-existing structure that does not meet the current setback requirements, the addition may be located along the non-conforming building line established by the existing structure, but may not encroach into the non-conforming setback unless a variance is granted by the Board of Adjustment."

Article 2, Section 272 of the Boone County Zoning Regulations states that where, at the time of adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted.

K.R.S. 100.253 allows the following:

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

Article 2, Section 274 of the Boone County Zoning Regulations states that "where a lawful structure exists at the effective date of adoption or amendment of this order that could not be built under the terms of this order by reason of restrictions on intensity or size or lot coverage or height or bulk or setback, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;
2. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved as otherwise provided in Kentucky Revised Statutes, Section 100.253(2).

Article 10, Sections 1021 and 1023 of the Boone County Zoning Regulations do not list businesses which store gas and petroleum as a principally permitted or conditional use in the Commercial Two (C-2) zoning district.

Article 11, Section 1132 of the Boone County Zoning Regulations list businesses which store gas and petroleum as conditional uses in the Industrial One (I-1) zoning district.

Article 11, Section 1141 of the Boone County Zoning Regulations lists petroleum and coal product businesses as principally permitted uses in the Industrial Two (I-2) zoning district.

#### Surrounding Land Uses and Zoning

- North: Brinkman Oil Office Building (C-2)
- South: Brinkman Oil Office Building (C-2)
- East: Old Walton Nicholson Road and Brinkman Oil Property (C-2)
- West: L & N Railroad Right-of-Way and Dixie Highway (C-2)

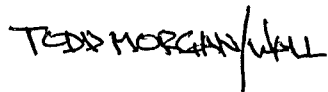
#### Staff Comments

1. The existing warehouse is non-conforming for the following reasons:
  - a. it is part of a use that is not permitted in the Commercial Two (C-2) zoning district; and
  - b. it does not meet the current setback requirements (30' front, 20' rear, 10' sides).
2. Staff has talked with Mayor Trzop about the water main that is located immediately to south of the existing warehouse. It appears the Applicant's proposal would place a portion of the new warehouse on top of this water main. If the Board grants approval of this request, Staff and Mayor Trzop are recommending a condition that prohibits the new warehouse from being any closer to the water main than the existing warehouse. This condition could potentially limit the size of the warehouse that the Applicant can erect.
3. The existing tin warehouse is in a state of disrepair. As a result, Staff believes that the request to replace this structure with a slightly larger (517 square feet) building is less objectionable than leaving the warehouse as it exists today.

Conclusion

KRS 100.253 and Section 220 of the Boone County Zoning Regulations gives the Walton Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for Change-in-Non-Conforming Use.

Respectfully submitted,

Handwritten signature of Todd K. Morgan in black ink, appearing as 'TODD MORGAN/WALL'.

Todd K. Morgan, AICP  
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Plat of Property
- Exhibit C – Concept Plan
- Exhibit D – Zoning Map
- Exhibit E – Application



# Brinkman Oil Site Vicinity Map

300 0 300 Feet



1 inch equals 300 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 8, 2002





RR

PLAT BOOK 104, 120  
BERT Packer Subdivision  
LOTS 25-22

N 17° 44' 13" E  
216.00'

D30445  
TRACT B

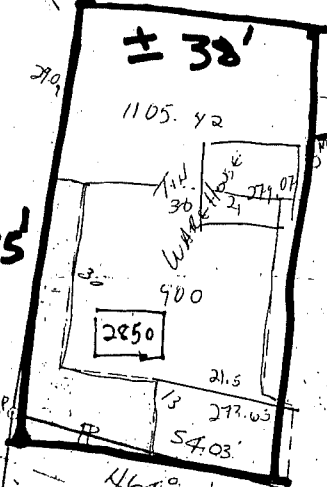
BLACK TOP

220.02'  
S 21° 32' 29" W

N 4° 46'

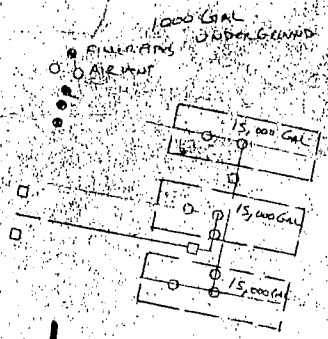
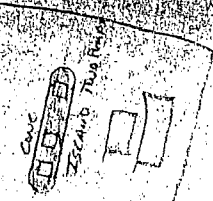
S 21° 32' 28" W  
352.33'

+75'



ONE WAREHOUSE

WAREHOUSE



1" = 20'

Lot #26  
BERT Packer  
Subdivision

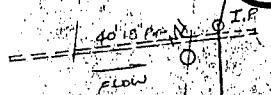
STREET

- STORAGE OF TIRES,  
PIPE, FURNACE, TRUCK SUPPLIES

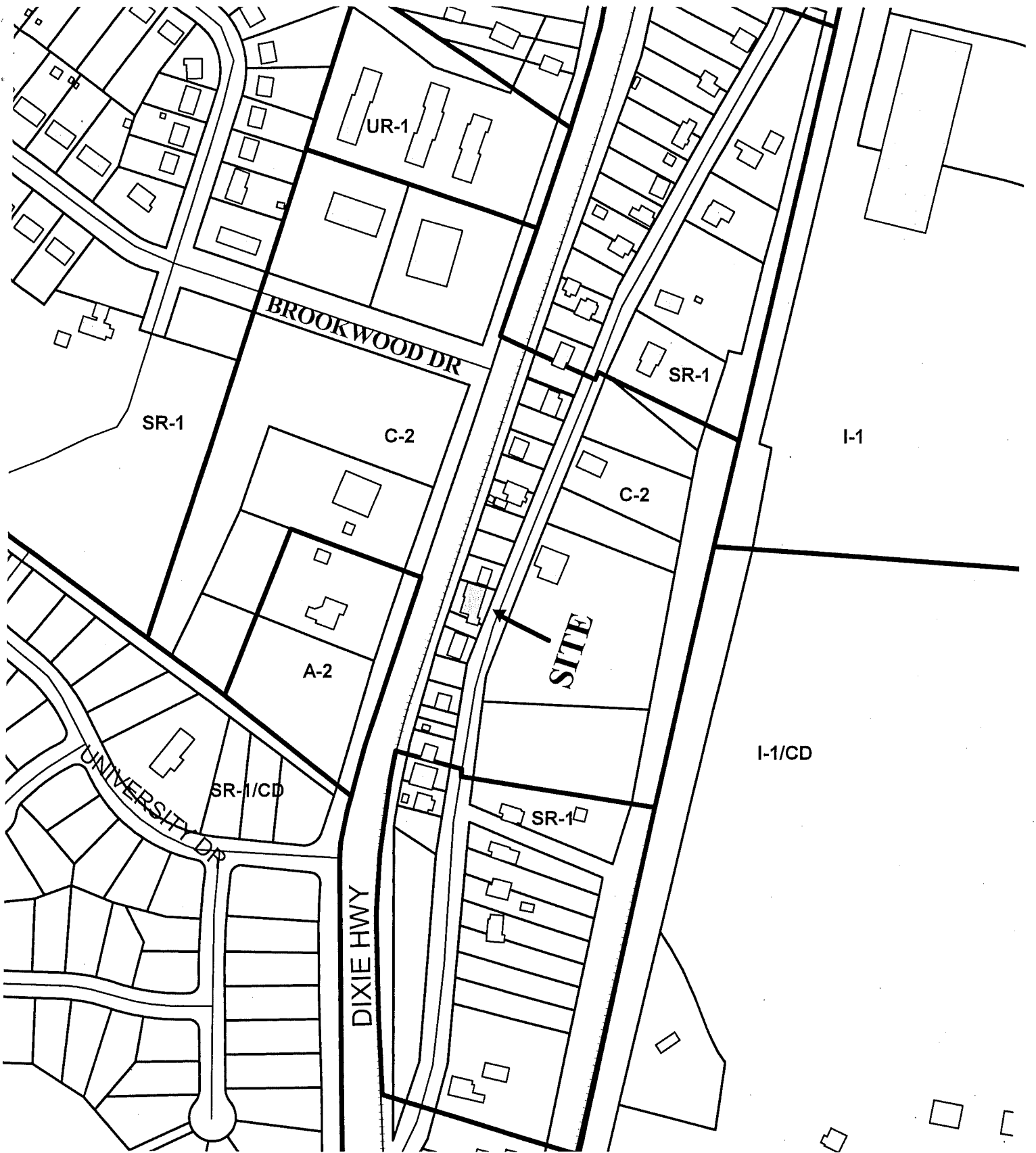
EXISTING & PROPOSED  
USE

JOG

485-4177



06° 26' 50" W  
LIFT STA.  
44.70'



# Brinkman Oil Zoning Map

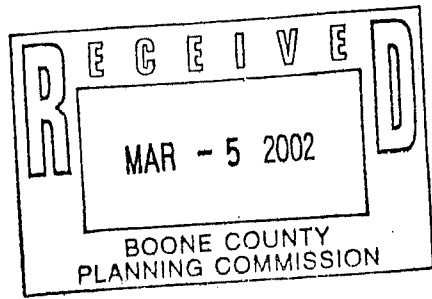
250 0 250 Feet



1 inch equals 250 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 8, 2002





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 Florence [checked] Walton Union

(Check One)

- 2. [checked] Conditional Use Permit Variance Appeal Change in Non-Conforming Use

- 3. Applicant's Name BRINKMAN OIL CO, Phone Number 485-4177 Fax No. 485-4180 Applicant's Address 260 OLD WALTON NICHOLSON ROAD WALTON KY 41094

- 4. Description of Request: REMOVE 2333 SQ FT BUILDING REPLACES WITH 2850 SQ FT BUILDING

- 5. Name of Development BRINKMAN OIL CO

- 6. Location of Development 260 OLD WALTON-NICHOLSON RD WALTON KY 41094

- 7. Acreage Under Review .11

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

- 9. Owner of Property BRINKMAN OIL CO.

- 10. Phone Number of Owner 485-4177 Address of Property Owner 260 Old WALTON-Nicholson Rd

- 11. Proposed Use(s) on Site OFFICE & STORAGE FOR OIL BUSINESS

- 12. Total Square Footage of Existing and/or Proposed Buildings 2333 Proposed 2850

- 13. Current Zoning on Property C2

- 14. Deed Book 588 Page No. 186 Group No.

- 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: Joe Webster

Property Owner's Signature: Richard Brinkman

COPY

CLUR #02-WBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Brinkman Oil Company  
260 Old Walton-Nicholson Road  
Walton, KY 41094

2. ADDRESS OF PROPERTY  
260 Old Walton-Nicholson Road  
Walton, KY 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Brinkman Oil Company

4. DEED BOOK 588                      PAGE NO. 186                      GROUP NO. 2080

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

Zoning Map Amendment:  
From      To     

Conditional Use Permit

Development Plan

Conditional Zoning

Subdivision Plat

Other: Change in Non-Conforming Use

(Not Recorded)

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  
2995 WASHINGTON STREET  
BURLINGTON, KENTUCKY 41005

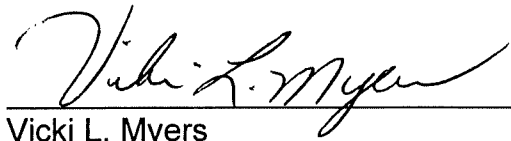
  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

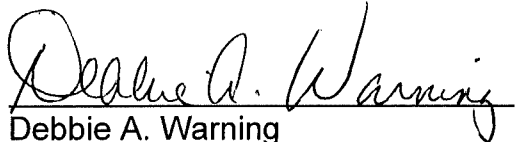
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 1<sup>st</sup> day of May, 2002.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2003

This instrument was prepared for recording purposes only by:



Debbie A. Warning  
Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

NO TITLE EXAMINATION

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

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Change in Non-Conforming Use approved by the Walton Board of Adjustments and in accordance with the current zoning in effect as of April 22, 2002 Certificate of Land Use Restriction (#02-WBOA-001-A), for Brinkman Oil Company, Property Owner(s).

The following conditions will apply:

- 1) The proposed warehouse cannot be any closer to the water main than the existing warehouse.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 588

PAGE NO. 186

GROUP NO. 2080