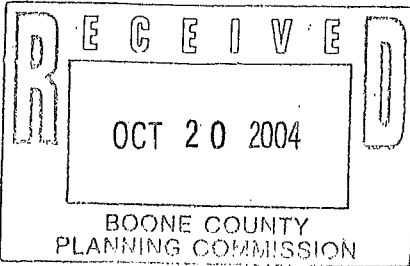


10/20/04

04-WBOA-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 XXX Walton Union

(Check One)

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

3. Applicant's Name James W. Berling Phone Number 331-9191 Fax No. 344-7422 Applicant's Address 1671 Park Road, Suite One Ft. Wright, Kentucky 41011

4. Description of Request: Variance on front and rear setbacks on Lot Nos. 1, 2 & 3 from 50' to 30' + BUFFER FROM 40' to 20'

5. Name of Development North Walton Commerce Park

6. Location of Development Mullen Drive, Walton, Kentucky

7. Acreage Under Review Lot 1-1.0486 Ac., Lot 2-1.1313 Ac., Lot 3-1.0370 Ac.

8. Lot Number and Name of Subdivision (if part of a subdivision) Lot Nos. 1, 2 & 3 - North Walton Commerce Park

9. Owner of Property Bessmer Lane, L.L.C. Phone Number of Owner 282-6900

10. Address of Property Owner 8080 Steilen Drive City Florence State Kentucky Zip 41042

11. Proposed Use(s) on Site Wholesale distribution, storage, manufacturing and assembly of industrial products.

12. Total Square Footage of Existing and/or Proposed Buildings N/A

13. Current Zoning on Property I-1

14. Deed Book 787 - Page No. 708 - 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: [Handwritten Signature]

Property Owner's Signature: [Handwritten Signature]

(over)

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

**SECTION B** (To be completed by the Boone County Planning Commission Staff) <sup>10/28/04 #1332.00 R# 40679</sup>

1. Date Received 10-20-04 Fee Received \$803.00 R# 40582
2. Is application complete?  Yes  No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
11/22/04  Approved  
 Approved with Conditions (See #6)  
 Denial (See #7)
6. Conditions of Approval: STAFF COMMENT # 3.  
SEE STAFF REPORT
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) - 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: James W. Berling  
LOCATION: Lots 1, 2, and 3, North Walton Commerce Park, Walton, Kentucky  
ZONING: Industrial One (I-1)  
DATE: November 22, 2004

### Proposal

The Applicant is requesting the following Variances for lots 1, 2, and 3 of North Walton Commerce Park:

1. Reduce the front yard setback requirement from 50 feet to 30 feet;
2. Reduce the rear yard setback requirement from 50 feet to 30 feet; and
3. Reduce the landscaping buffer requirement on the rear property line from 40 feet in width (Buffer Yard D) to 20 feet in width (Buffer Yard B).

### Applicable Regulations

Article 2, Section 250 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 variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.
  - A. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  - B. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;

- C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

#### Site History

3/12/01 – The City of Walton approved an Ordinance which rezoned an approximate 115 acre site from Agricultural Estate (A-2) and Rural Suburban (RS) to Industrial One (I-1) to allow light industrial uses. There were no conditions which limited any of the principally permitted I-1 uses.

#### Site Characteristics

The attached Final Plat shows that the three lots are long and narrow and just a little over an acre in area. The Final Plat also shows that a 30' wide storm sewer easement exists along the frontage of the three lots. The attached Grading Plan shows that the topography of the three lots drops off drastically toward the rear lot lines.

#### Adjoining Properties & Zoning

North: Single-Family Residential Dwellings Across KY 16 (RS)  
South: Vacant Lot in North Walton Commerce Park (I-1)  
East: 37.5 acre farm (A-2 & RS)  
West: Single-Family Residence (RS), D & D Industrial Contracting, H & M Construction, and Arch-Micro Tool (I-1)

#### Staff Comments

1. Staff believes the front yard and rear yard setback Variances can be viewed in two ways:
  - a. The 50' front yard and rear yard setback variances impose unnecessary hardships on the Applicant because the lots on average are only 144 feet deep. Without the Variances, the required front and rear yard setbacks would only allow 44' long buildings to be constructed on each of the lots.
  - b. It should have been apparent that the lots lacked depth at the time the Preliminary Plat was submitted. The Variance requests were self imposed with the creation of the three lots.

2. Staff is concerned about the request to reduce the rear buffer yard requirements from 40 feet (Buffer Yard D) to 20 feet (Buffer Yard B) because the adjoining lot to the east is a 37 acre farm which could develop in the future. In addition, the attached grading plan shows that approximately the last 35 feet of the three lots drop off from 938 feet above sea level to 924 feet above sea level. The topography of the lots means that the majority landscaping in the rear buffers will be planted on slopes which are significantly lower than the future industrial buildings.

Article 36 of the Boone County Zoning Regulations defines Buffer Yard B and Buffer Yard D as follows:

Buffer Yard B – A 20 foot wide buffer yard with 10 small trees, 5 large trees, and 60 shrubs per 100 linear feet.

Buffer Yard D – A 80 foot wide buffer with 20 evergreen trees, 10 small trees, 5 large trees, and 90 shrubs per 100 linear feet ; or

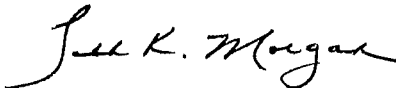
A 40 foot wide buffer with a 6 foot tall berm, fence, or masonry wall must and 20 evergreen trees, 10 small trees, 5 large trees, and 30 shrubs per 100 linear feet.

3. If the Board grants the Variances, Staff recommends a condition which requires the rear yard buffers to be 20 feet wide with 10 small trees (Plant List C) and 10 large trees (Plant List A, B, or D) required per 100 linear feet. In addition, at least half of the plantings shall be required to be evergreen species.

#### Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Walton Board of Adjustment and Zoning Appeals the authority to grant the Applicant request for three (3) Variances.

Respectfully submitted,

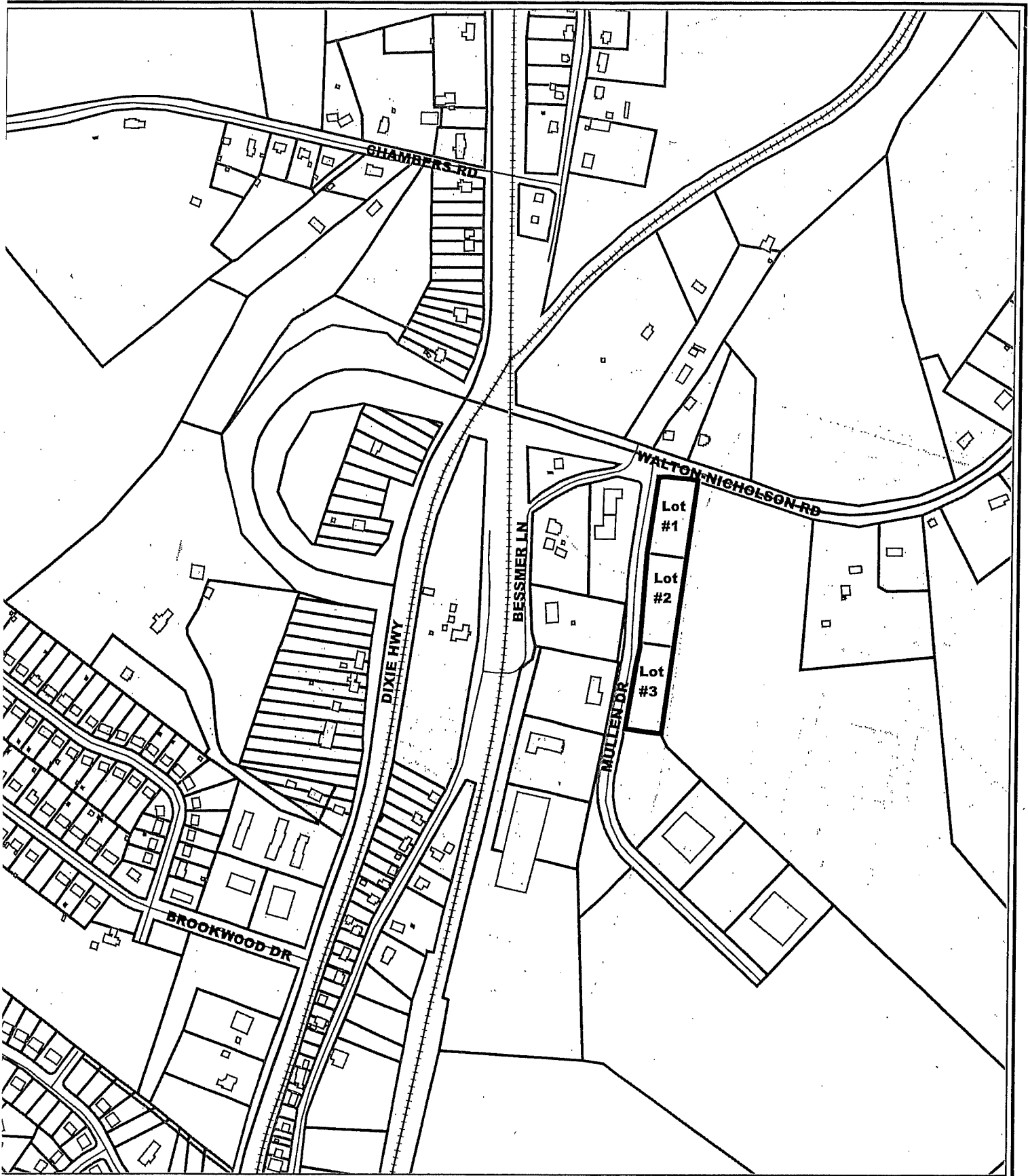


Todd K. Morgan, AICP  
Planner, Zoning Services

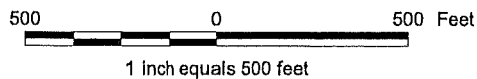
TKM/pr

#### Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Grading Plan
- Exhibit C – Final Plat, North Walton Commerce Park
- Exhibit D – Zoning Map
- Exhibit E – Aerial Map
- Exhibit F – Application



**North Walton Commerce Park  
Lots 1, 2, and 3  
Site Vicinity Map**

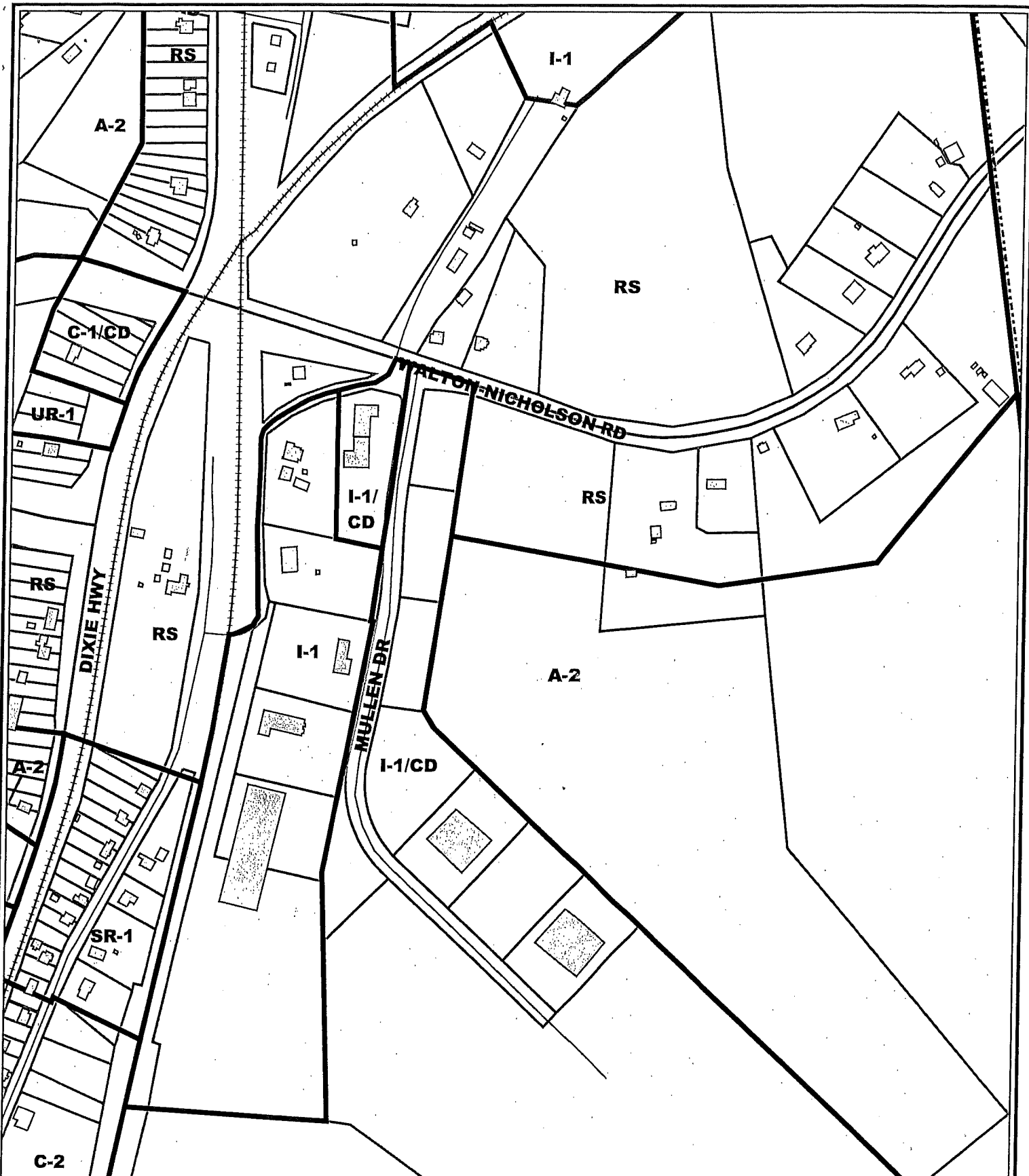


Produced by the  
Boone County Planning Commission  
GIS Services Division  
November 10, 2004









**North Walton Commerce Park  
 Lots 1, 2, and 3  
 Zoning Map**

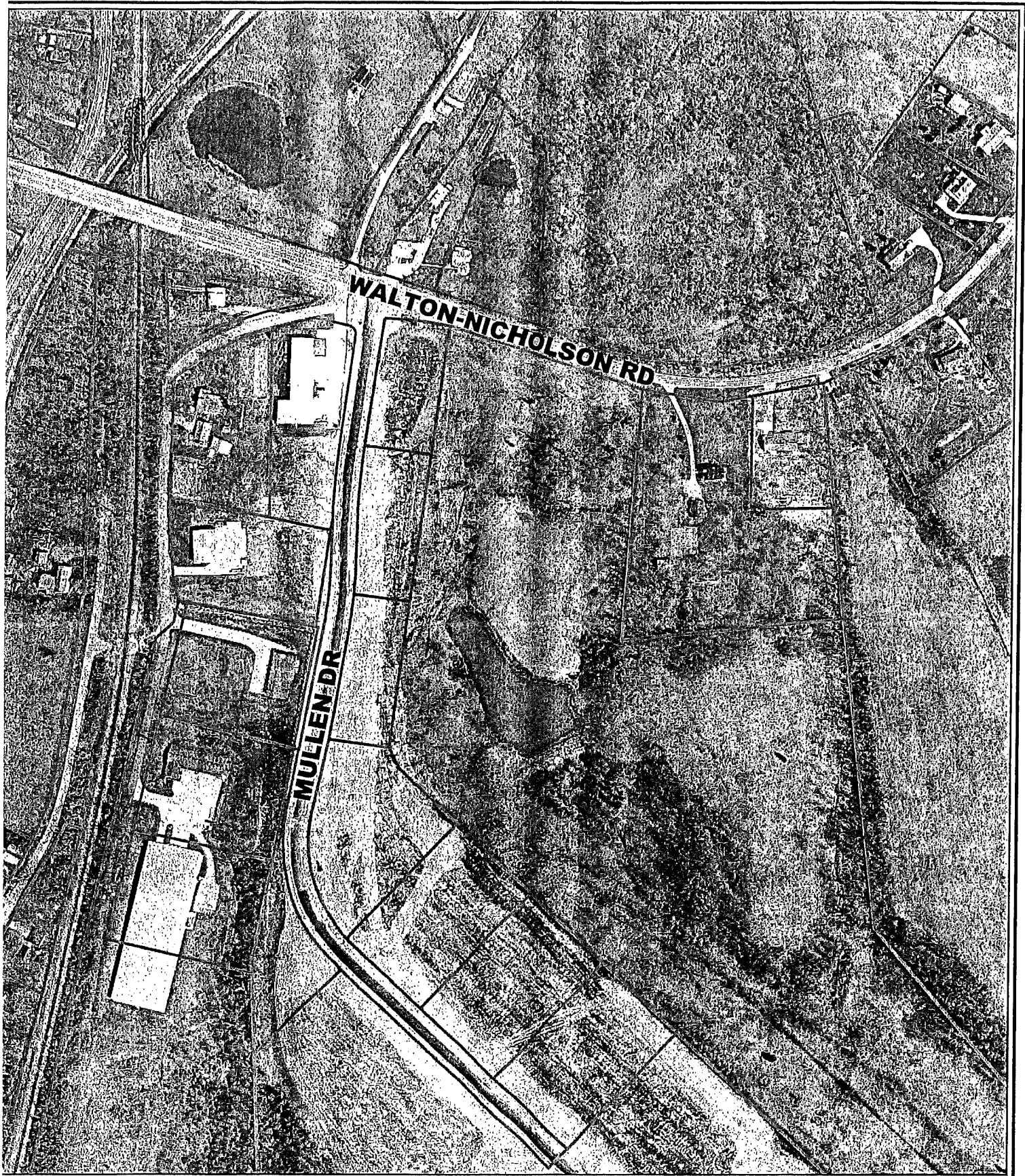
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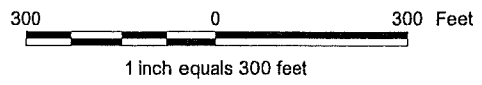
1 inch equals 400 feet

Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 November 10, 2004





**North Walton Commerce Park**  
**Lots 1, 2, and 3**  
**Aerial Map**

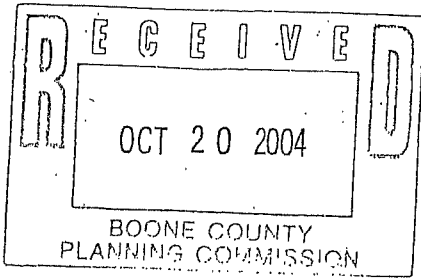


Produced by the  
Boone County Planning Commission  
GIS Services Division  
November 10, 2004



10/20/04

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)

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(Check One)

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6. Location of Development Mullen Drive, Walton, Kentucky

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8. Lot Number and Name of Subdivision (if part of a subdivision) Lot Nos. 1, 2 & 3 - North Walton Commerce Park

9. Owner of Property Bessmer Lane, L.L.C.

Phone Number of Owner 282-6900

10. Address of Property Owner 8080 Steilen Drive

City Florence State Kentucky Zip 41042

11. Proposed Use(s) on Site Wholesale distribution, storage, manufacturing and assembly of industrial products.

12. Total Square Footage of Existing and/or Proposed Buildings N/A

13. Current Zoning on Property I-1

14. Deed Book 787 - 792 Page No. 708 - 449 Group No. 2084

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: [Signature]

Property Owner's Signature: [Signature]

(over)

COPY

CLUR #04-WBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Bessmer Lane, L.L.C.  
8080 Steilen Drive  
Florence, KY 41042
2. ADDRESS OF PROPERTY  
Mullen Drive  
Walton, KY 41094
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
North Walton Commerce Park, Lots 1, 2, & 3
4. DEED BOOK 787 PAGE NO. 708 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 (Not Recorded)  Other:
- Variances (3)
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

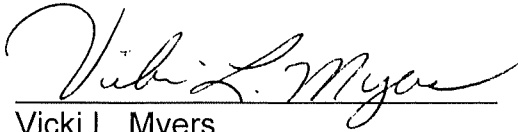
Todd K. Morgan  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

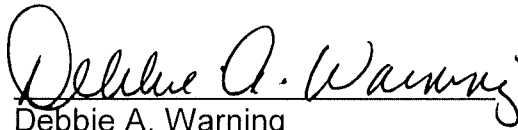
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 29 day of November, 2004.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2007

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 Variances (3) approved by the Walton Board of Adjustments and in accordance with the current zoning in effect as of November 22, 2004 Certificate of Land Use Restriction (#04-WBOA-001-A), for Bessmer Lane, L.L.C.

Property Owner(s).

The following conditions will apply:

- 1) The rear yard buffers are to be 20 feet wide with 10 small trees (Plant List C) and 10 large trees (Plant List A, B, or D) required per 100 linear feet and at least half of the plantings are required to be evergreen species.

The approved Variances (3) as well as the preceding conditions apply to the property described in:

DEED BOOK 787

PAGE NO. 708

GROUP NO. 2080