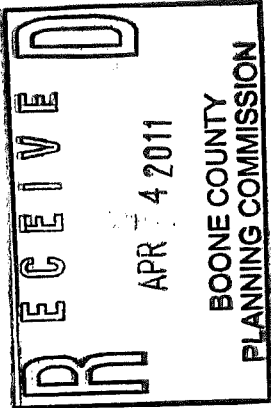


4/4/11

11-WBOK-004-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 XX Walton Union

(Check One)

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

3. Applicant's Name James W. Berling Phone Number 859-331-9191 Fax No. 859-344-7422 Applicant's Address 1671 Park Road, Suite One Ft. Wright, Kentucky 41011 City State Zip

4. Description of Request: To allow automotive repair facility

5. Name of Development Walton Towne Center

6. Location of Development Chestnut Drive Walton, Kentucky 41094

7. Acreage Under Review 0.9428 Acres

8. Lot Number and Name of Subdivision (if part of a subdivision) Lot No. 10 of the Resubdivision of Lot Nos. 9, 10 & 11 of Section No. One, Walton Towne Center

9. Owner of Property Walton Land Dev., LLC

Address of Property Owner 1671 Park Road, #1 Phone No. 859-331-9191 Ft. Wright, Kentucky 41011 City State Zip

10. Proposed Use(s) on Site Tire Discounters Store

12. Total Square Footage of Existing and/or Proposed Buildings 7,311 Sq./Ft.

13. Current Zoning on Property C-2/CD

14. Deed Book Page No. Group No. 2079 + 2082

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: (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

(over)

02540

DB PG 929 635 900 672 900 679

**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 4/4/11 Fee Received 1,082.00 *CK 2638 Rec-4 62540*
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
5/10/11 **Approved with Conditions** (See #6)
_____ **Denial** (See #7)
6. Conditions of Approval: STAFF COMMENTS 3A. - 3J.
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: James W. Berling for Tire Discounters

LOCATION: Lot #10, Walton Towne Center Subdivision, Walton, Kentucky

ZONING: Commercial Two (C-2)

DATE: May 10, 2011

PROPOSAL

The applicant submitted a Conditional Use Permit application to allow a Tire Discounters to be constructed on lot 10 of Walton Towne Center Subdivision. The preliminary Site Plan shows a 7,307 square foot (64'-8" x 113') building, 38 parking stalls, two access points, an outside dumpster/storage area, and perimeter landscaping buffers. The submitted elevation drawings show a brick building with glass store front units for the office and showroom. Eight glass overhead garage bays are shown with keystones and brick arches above the bays. A hipped standing seam metal roof is shown above the showroom.

SITE HISTORY

2005 - The Boone County Planning Commission and City of Walton approve a Zoning Map Amendment request from Industrial One (I-1) to Commercial Two (C-2) for an approximate 130 acre area (Walton Towne Center Subdivision). The following conditions were imposed on the approval: (1) The property owners agree to restrict pawn shops, crematoriums, and funeral homes from the principally permitted use list; and (2) The property owners agree to allow the Zone Change Committee the opportunity to provide input regarding subdivision design (i.e. road network, lot layout, etc.) when the Preliminary Plat is submitted for review.

APPLICABLE REGULATIONS

Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to grant conditional uses permits as specified by the zoning order.

Section 1023 of the Boone County Zoning Regulations permits automotive repair facilities and wash services for vehicles as Conditional Uses within the Commercial Two (C-2) district.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit as stated in Sections 262 & 1023 of the Boone County Zoning Regulations.

Findings listed in Section 262 (Findings for all Conditional Uses):

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 not 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 not 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 not 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.

Section 1023 of the Boone County Zoning Regulations allows an "automotive repair facility and wash services for vehicles" as Conditional Uses in the Commercial Two (C-2) district provided that:

- 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.

Section 3325 of the Boone County Zoning Regulations requires an automotive repair facility to provide 2 parking spaces per service bay and 1 space per company vehicle/tow truck that is kept on site. This section also states that the Zoning Administrator must approve a parking study if the proposed parking is 30% greater than the required minimum number.

Section 4000 of the Boone County Zoning Regulations defines an automotive repair facility as a business establishment that repairs, rebuilds, reconditions, or services automobiles or automotive parts, including but not limited to any of the following activities: body and paint work; engine repair or rebuilding; installation, repair, or reconditioning of tires, brakes, transmissions, mufflers, automotive electrical or air conditioning systems, automotive upholstery, or automotive glass, all on an individual vehicle basis; changing of oil, other fluids, and filters; emissions testing and vehicle inspections.

Section 4000 of the Boone County Zoning Regulations defines a junk yard as the storage, salvaging, and sale of secondhand materials or old dilapidated machinery. Materials include motor vehicles, mobile homes, trailers, machinery, appliances, furniture, rags, rubber, building materials, and scrap iron. The presence of two or more nonoperational motor vehicles on a lot for a time period exceeding thirty (30) days shall constitute evidence regarding the establishment of a junk yard. An automobile wrecking yard is considered a junkyard.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The 2005 Boone County Comprehensive Plan's "2025 Future Land Use Plan" designates the site in question for "Commercial" uses. This designation is defined as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The following Goals & Objectives from the 2005 Boone County Comprehensive Plan apply to the application:

- A. "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas" (Business Activity, Goal).

SURROUNDING LAND USES & ZONING

North: Chestnut Drive, McDonald's, Heritage Bank, and Bank of Kentucky (C-2)

South: Undeveloped Lot in Walton Towne Center Subdivision (C-2)

East: Towne Center Drive and Kroger (C-2)

West: Undeveloped Lot in Walton Towne Center Subdivision (C-2)

SITE CHARACTERISTICS

The 0.9428 acre site is located on the southwest corner of the Towne Center Drive/Chestnut Drive intersection and is currently undeveloped. The topography is relatively flat and there are no trees or shrubs on the property. A water main is located along Chestnut Drive and a sanitary sewer main is located on Towne Center Drive.

STAFF COMMENTS

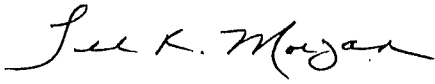
1. Staff has the following questions for the applicant:
 - A. What are the proposed hours of operation?
 - B. Other than tires, what kind of repairs are performed on site?
 - C. Can large trucks or other commercial vehicles be serviced at the facility?
 - D. Will any non-operational vehicles be kept on site?
 - E. Will tow trucks be kept on site?
 - F. Is a 38 stall parking lot needed for this size facility? Please explain the number of employees that will work at the facility at any given time, percentage of customers that wait for repairs, and number of cars that can be anticipated in the lot at any given time.
 - G. Are any vehicle accessories (tires, fluids, etc.) displayed outside during business hours?

- H. An outside storage area is shown behind the building. Is this a trash dumpster or tire storage area?
 - I. The pictures of similar buildings seem to show more brick detailing on the side facades. Can this be incorporated into the proposed building?
 - J. What are the colors of the brick and standing seam metal roofing?
 - K. What type of site lighting is proposed?
 - L. Can the access point on Towne Center Drive be reconfigured as a shared curb cut with lot 11? Staff is concerned that a future lot 11 access point on Towne Center Drive could create safety issues if it is located too close to the proposed curb cut or Service Road.
3. Staff recommends the following conditions if the request is approved:
- A. The approval is based on the submitted plans and elevations, except as modified by the conditions below. Minor changes to the site layout and building elevations may be permitted at Zoning Administrator's discretion.
 - B. Auto body and paint work shall not be performed on site.
 - C. No car repairs shall be performed outside the building.
 - D. No tow trucks shall be kept on site.
 - E. No vehicle shall be stored in the parking lot for more than fourteen days.
 - F. No vehicles shall be stored outside on blocks or in any disassembled state.
 - G. Outside display of car accessories (tires, rims, fluids, wipers, etc.) is prohibited.
 - H. All tires shall be stored inside the building or in the storage area immediately behind the building. Tires kept in the outside storage area shall not be visible from adjoining properties or public right-of-ways.
 - I. The outside storage area/dumpster shall be constructed with matching brick and solid wood gates.
 - J. More brick detailing shall be provided on the side facades of the building.
 - K. The curb cut on Towne Center Drive shall be a shared curb cut with lot 11.
4. The Board needs to analyze the Conditional Use Permit criteria before acting on the request.

Conclusion

KRS 100.237 and Section 220 of the Boone County Zoning Regulations gives the Walton Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/dw

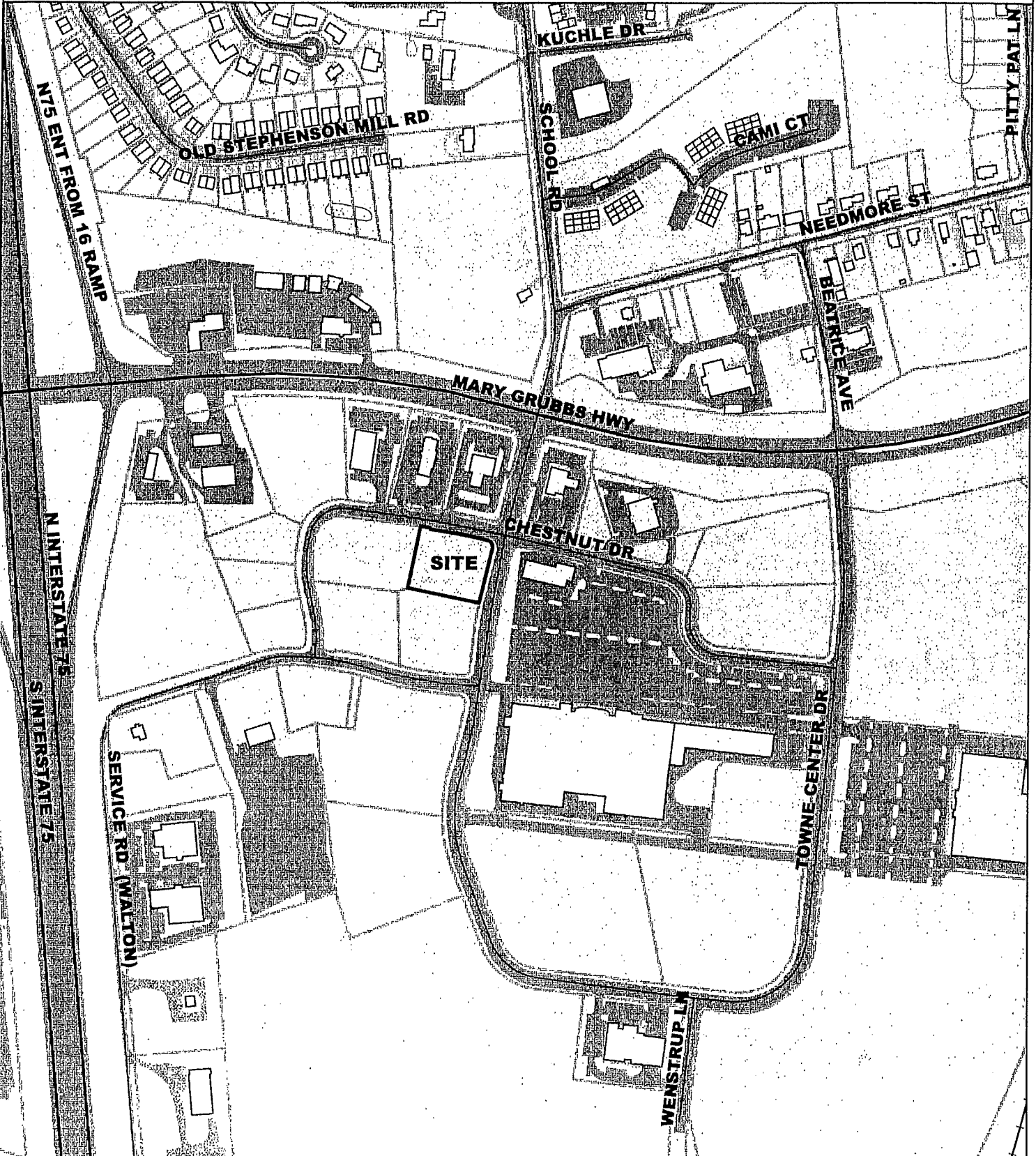
Attachments

- *Site Vicinity Map
- *Preliminary Site Plan
- *Building Elevations
- *Pictures of a Similar Facility
- *2009 Aerial Map
- *Zoning Map
- *Future Land Use Map
- *Walton Towne Center Final Plat
- *Application

SITE VICINITY MAP

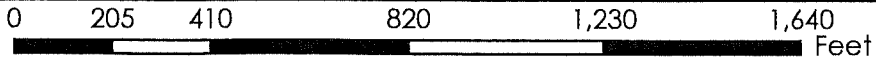
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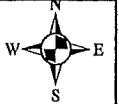


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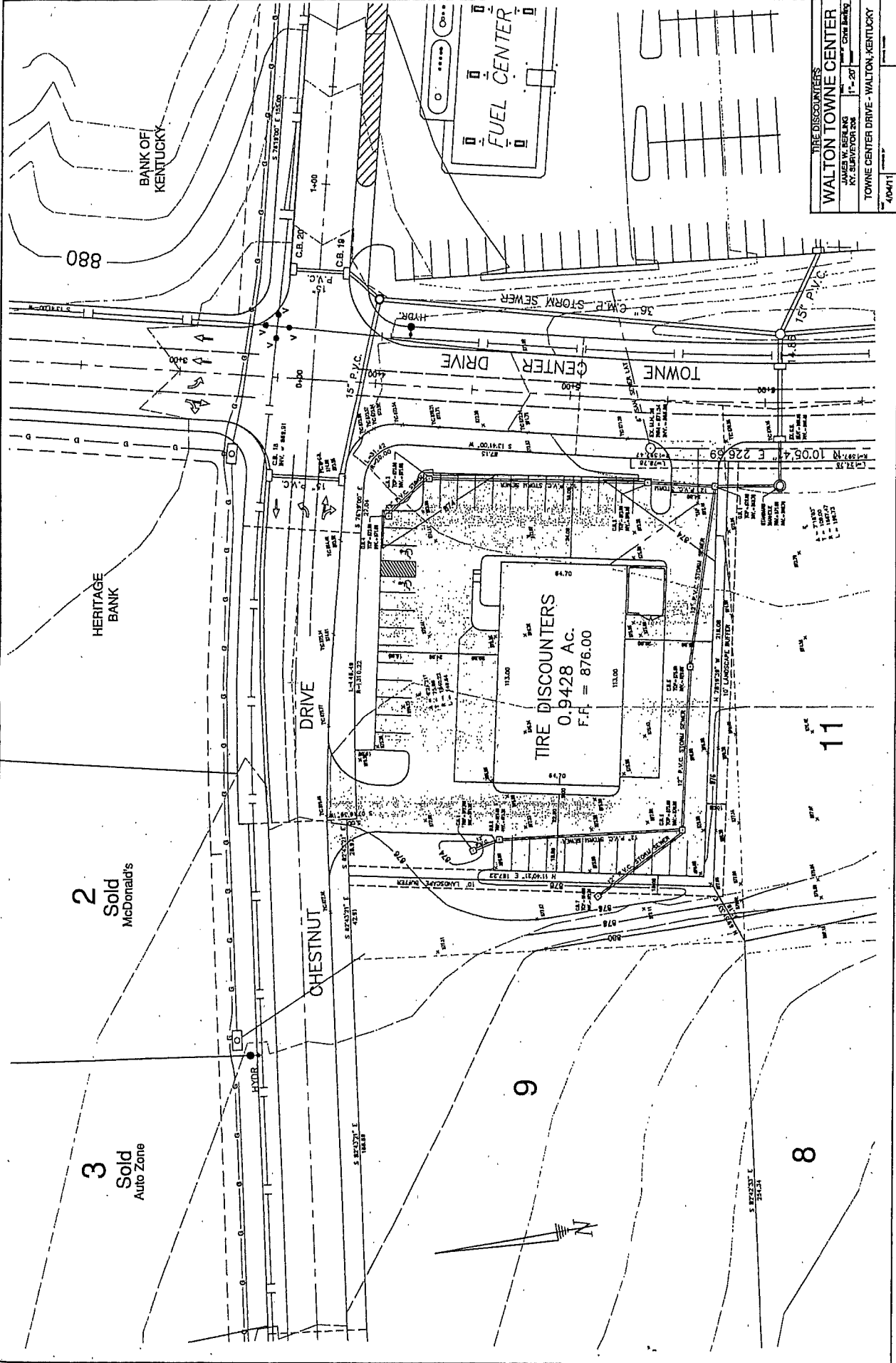
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1 inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map



THE DISCOUNTERS
WALTON TOWNE CENTER
 JAMES W. BEELING
 KY. SURVEYOR 208
 1" = 20'
 DATE: 08/20/00
 TOWNE CENTER DRIVE - WALTON, KENTUCKY
 ADM11

2
 Sold
 McDonald's

3
 Sold
 Auto Zone

9

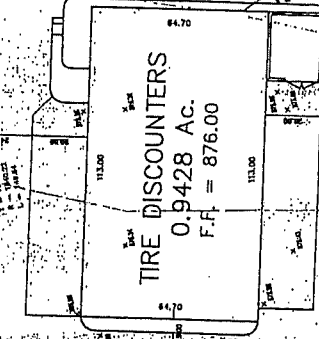
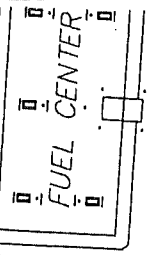
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11



BANK OF KENTUCKY

HERITAGE BANK



TOWNE CENTER DRIVE

CHESTNUT DRIVE

36" CH.P. STORM SEWER

HYDR.

C.B. 20

C.B. 18

15" P.V.C.

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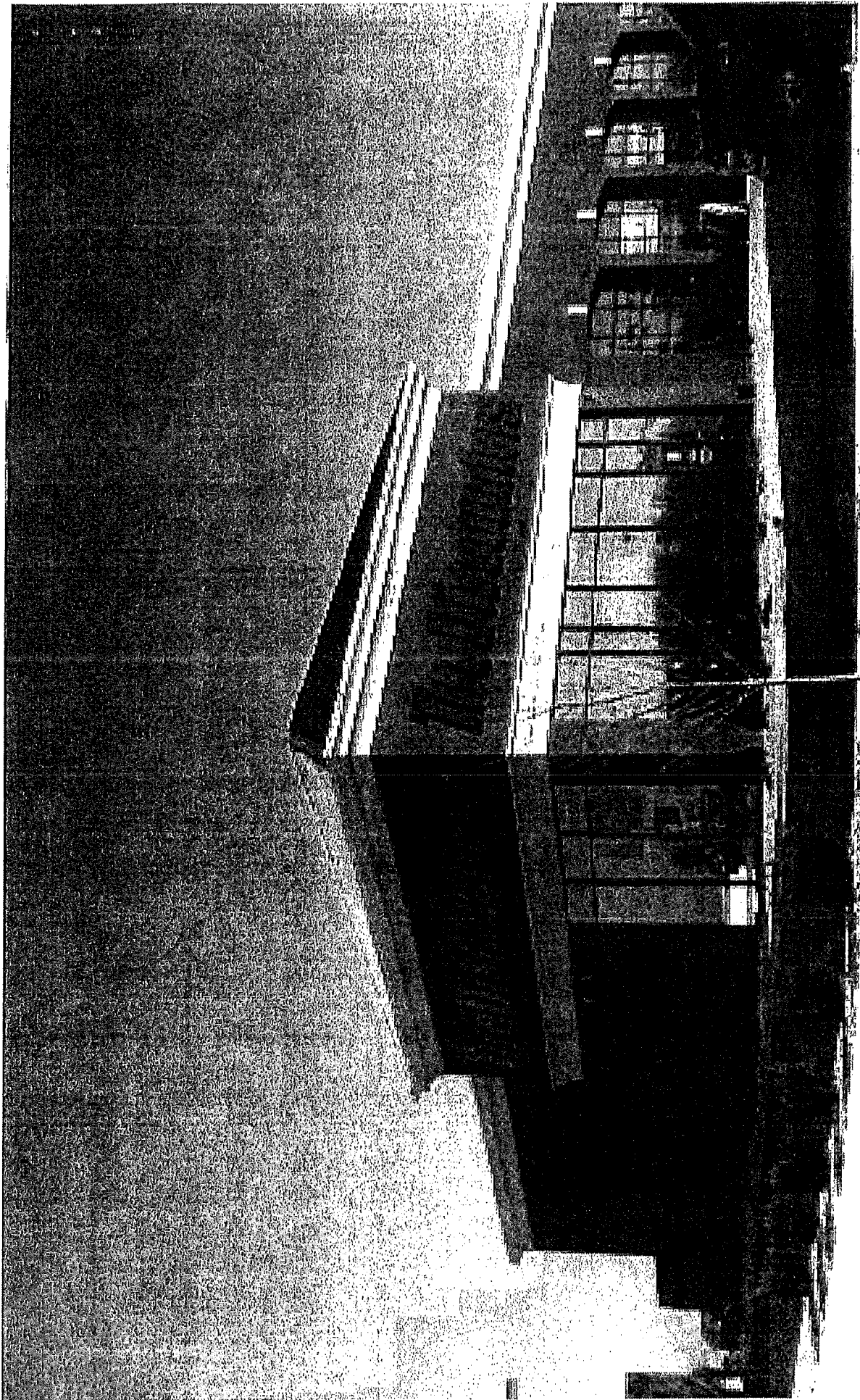
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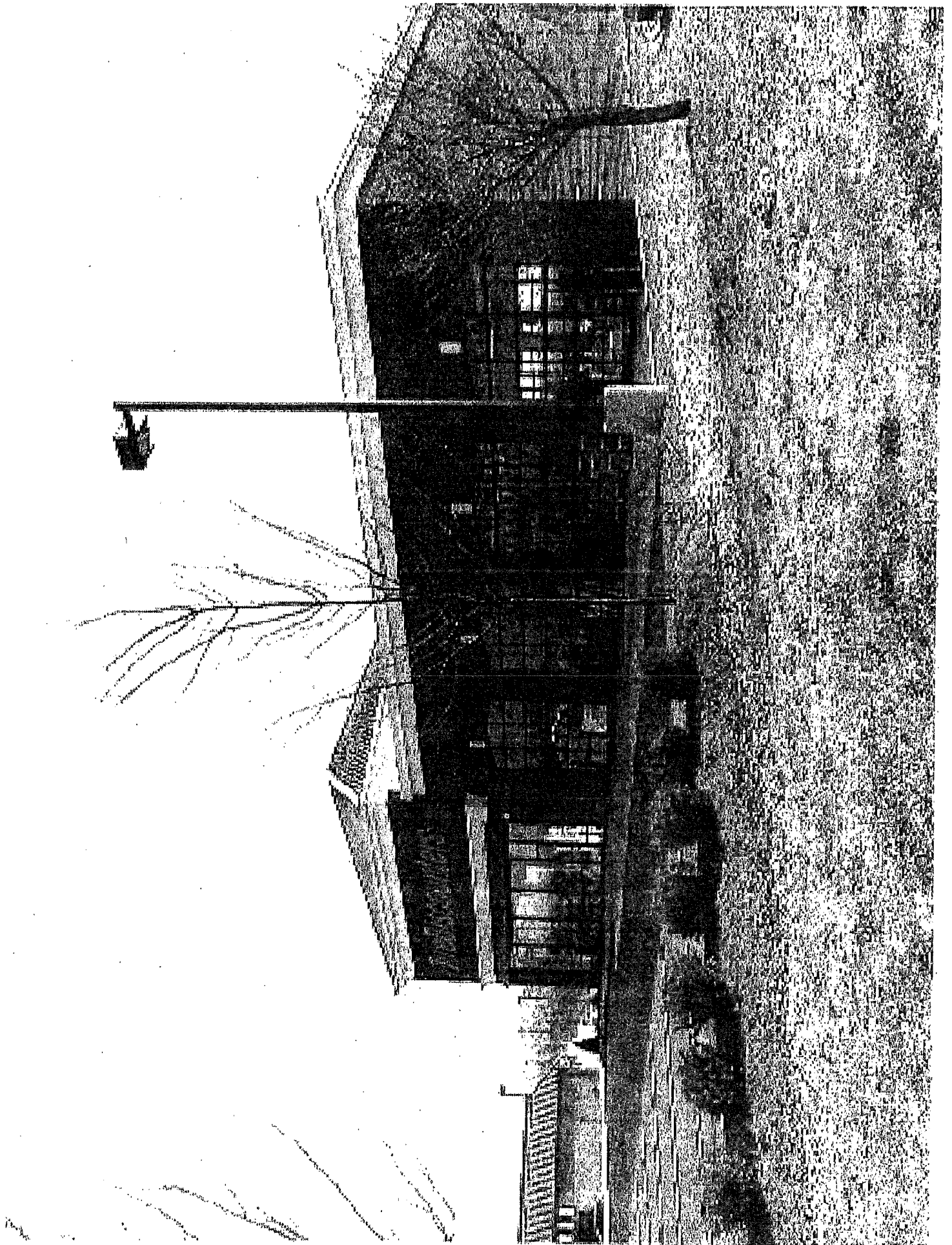
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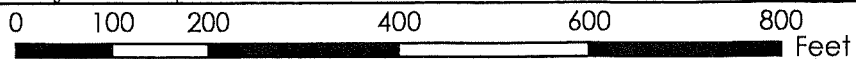
2009 AERIAL MAP

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1 inch = 200 feet

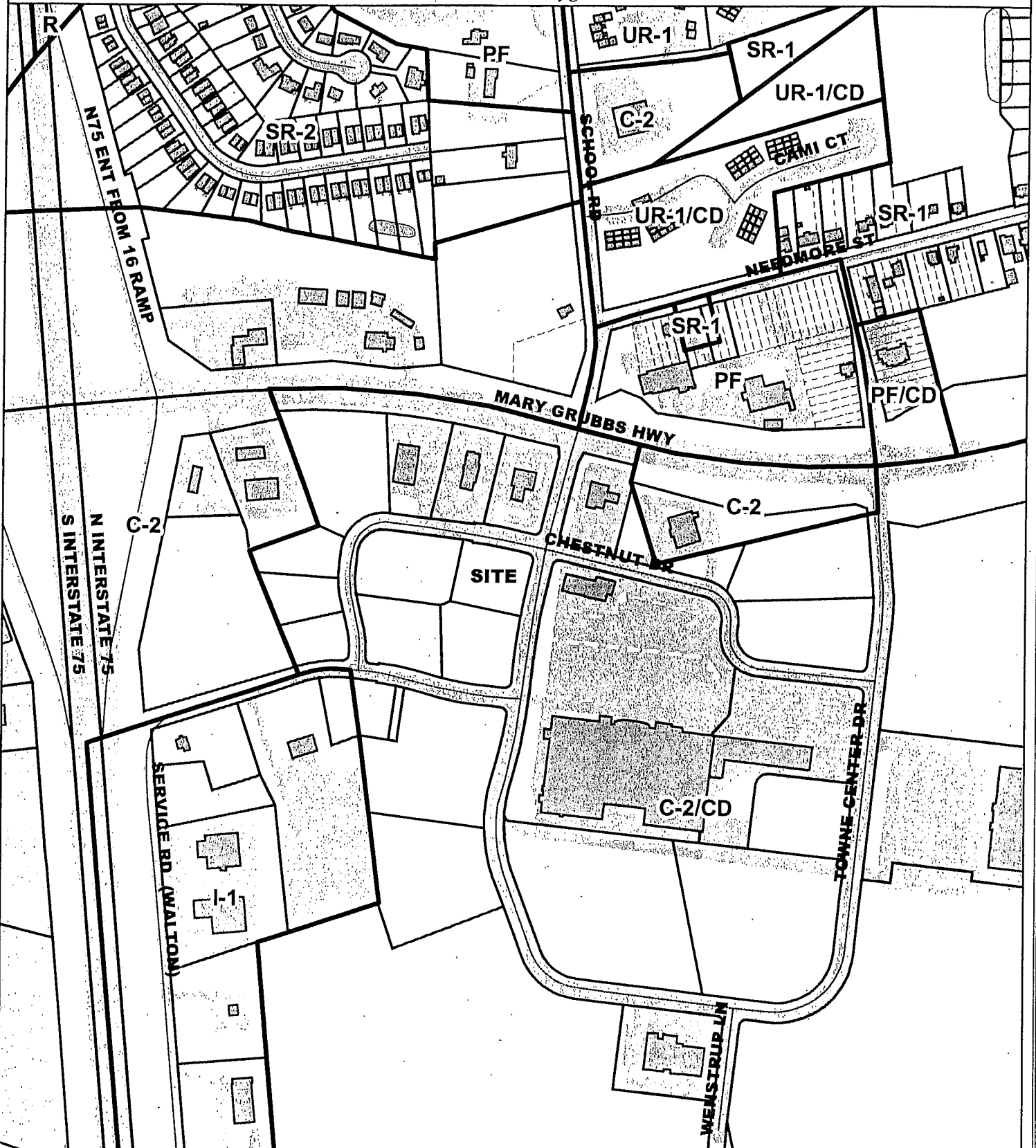


Boone County GIS - Putting Northern Kentucky on the Map



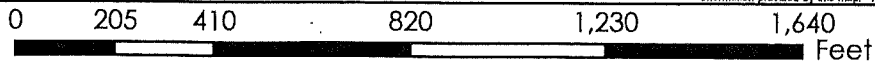
ZONING MAP

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1 inch = 400 feet

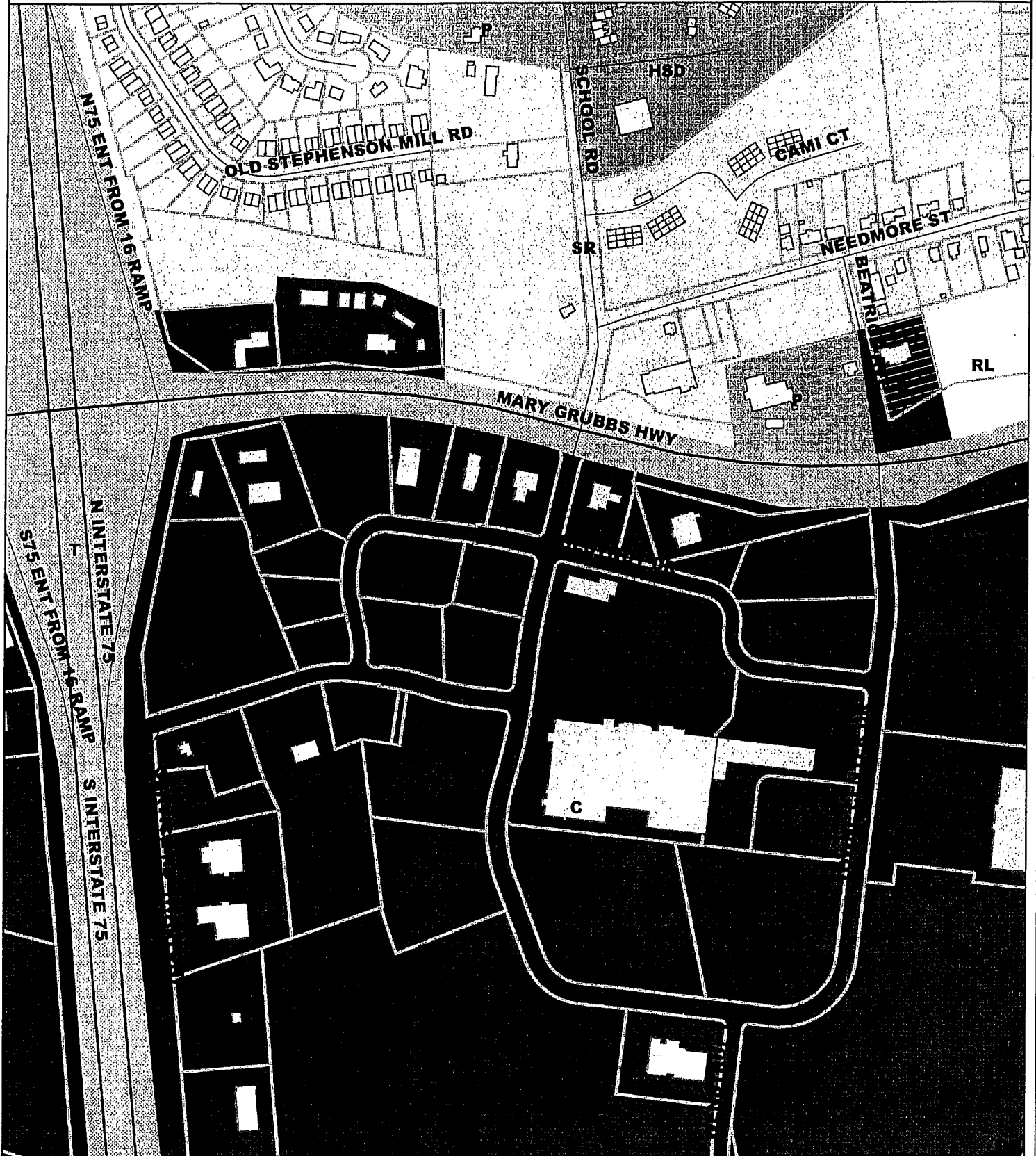


Boone County GIS - Putting Northern Kentucky on the Map



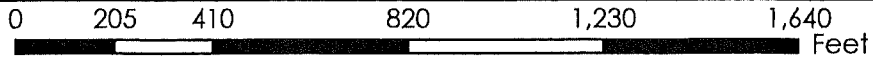
FUTURE LAND USE MAP

www.boonecountygis.com



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Boone County GIS - Putting Northern Kentucky on the Map



PENDULUM CERTIFICATE

(1) We hereby certify that (1) we are the owner(s) of the property shown and described hereon and (2) the property shown and described hereon and (3) the property shown and described hereon is in compliance with the Boone County Zoning and Subdivision Regulations and is being submitted for recording in the office of the Boone County Clerk.

WALTON LAND DEVELOPMENT, LLC

James B. Wenstrup
 Owner
 James B. Wenstrup
 1119-11

James B. Wenstrup
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 James B. Wenstrup
 1119-11

NOTES:

- FRONT LOT CORNERS CAN BE LOCATED FROM STREET CENTERLINE CONTROL.
- PLANNING SETBACKS WILL BE DETERMINED BY ZONING REGULATION OR DISTRICTS.
- THIS PLAT SHALL BE VOID WITH THE RECORDING PURPOSES WITHIN TWO (2) YEAR OF PLANNING COMMISSION APPROVAL.
- NO NEW PUBLIC IMPROVEMENTS OR EASEMENTS WILL BE CONSTRUCTED PER THIS PLAT. SEE PLAT CABINET 5, PAGE 301, FOR ORIGINAL APPROVALS.
- ALL STREET RIGHT OF WAYS HAVE BEEN PREVIOUSLY DEDICATED.

CERTIFY THAT THIS PLAT HAS BEEN PREPARED BY ME OR UNDER MY SUPERVISION IN ACCORDANCE WITH THE KENTUCKY UNIFORM SURVEYING ACT AND THE BOONE COUNTY ZONING AND SUBDIVISION REGULATIONS AND THAT DEDICATED AREAS ARE PUBLIC WAYS OR STREETS ARE CURRENTLY OWNED BY THE COUNTY OR STATE.

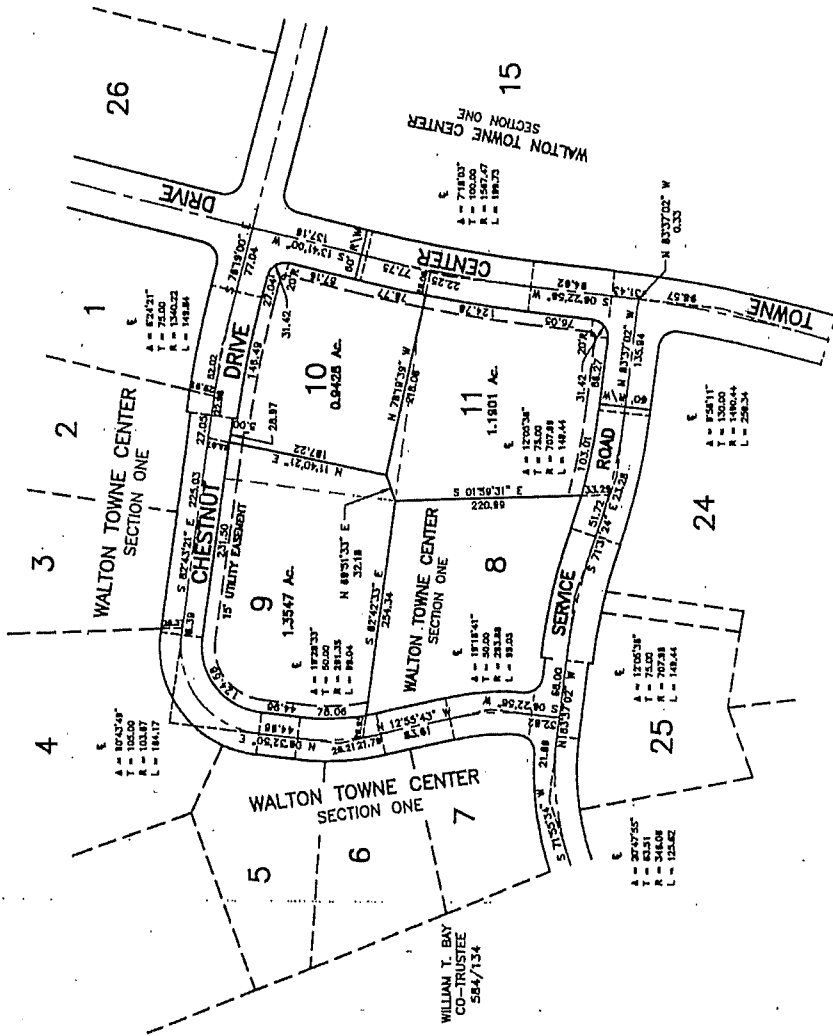
James W. Berling
 Licensed Land Surveyor
 James W. Berling
 1119-11

BOONE COUNTY PLANNING COMMISSION APPROVAL CERTIFICATE

This plat has been found to be in compliance with the Boone County Zoning and Subdivision Regulations and is being submitted for recording in the office of the Boone County Clerk.

Chairman's Signature

Date



BACK REFERENCE:
 DEED BOOK 900, PG. 672
 DEED BOOK 900, PG. 679
 DEED BOOK 900, PG. 685
 GROUP NO. 4893

OWNER & DEVELOPER

WALTON LAND DEVELOPMENT, LLC
 3050 STELLON DRIVE
 FLORENCE, KENTUCKY
 41042
 PHONE NO: (606) 202-4900

SURVEYOR

JAMES W. BERLING ENGINEERING P.L.L.C.
 1871 PARK ROAD - SUITE 1
 FT. WRIGHT, KY.
 41011
 PH: (606) 331-9191

AREA = 3.4876 AC.

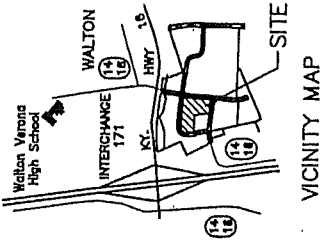


RESUBDIVISION OF LOTS 9, 10 & 11
 SECTION ONE

WALTON TOWNE CENTER

WALTON BOONE CO., KENTUCKY
 SCALE: 1" = 100' MARCH 2011

JAMES W. BERLING
 KY. SURVEYOR 206



VICINITY MAP

4/4/11

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED APR 4 2011 BOONE COUNTY PLANNING COMMISSION

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

- 1. (Check One) Boone Florence XX Walton Union
2. (Check One) XX Conditional Use Permit Variance Appeal
3. Applicant's Name James W. Berling
4. Description of Request: To allow automotive repair facility
5. Name of Development Walton Towne Center
6. Location of Development 715 Chestnut Drive
7. Acreage Under Review 0.9428 Acres
8. Lot Number and Name of Subdivision (if part of a subdivision) Lot No. 10 of the Resubdivision of Lot Nos. 9, 10 & 11 of Section No. One, Walton Towne Center
9. Owner of Property Walton Land Dev., LLC
10. Address of Property Owner 1671 Park Road, #1
11. Proposed Use(s) on Site Tire Discounters Store
12. Total Square Footage of Existing and/or Proposed Buildings 7,311 Sq./Ft.
13. Current Zoning on Property C-2/CD
14. Deed Book Page No. Group No. 2079 + 2082
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.

02540

DB PG 729 635 900 672 900 679

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

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

(over)

COPY

CLUR #11-WBOA-004-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Walton Land Development, LLC
1671 Park Road, #1
Ft. Wright, KY 41011

2. ADDRESS OF PROPERTY
Chestnut Drive
Walton, KY 41094
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Tire Discounters

4. DEED BOOKS & PAGE NOS. 929/635, 900/672, 900/679
GROUP NOS. 2079 & 2082

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

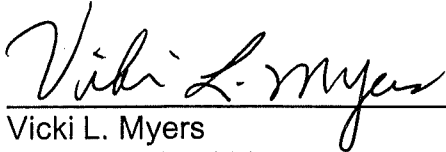
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

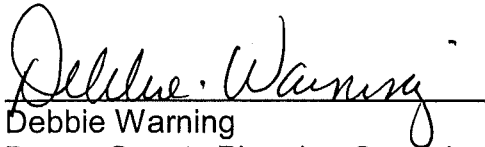
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 11 day of May, 2011.



Vicki L. Myers
Notary ID 438411
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2015

This instrument was prepared for recording purposes only by:



Debbie 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.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Walton Board of Adjustments and in accordance with the current zoning in effect as of May 10, 2011 Certificate of Land Use Restriction (#11-WBOA-004-A), for Walton Land Development, LLC, Property Owner(s).

The following conditions will apply:

- 1) The approval is based on the submitted plans and elevations, except as modified by the conditions below. Minor changes to the site layout and building elevations may be permitted at Zoning Administrator's discretion.
- 2) Auto body and paint work shall not be performed on site.
- 3) No car repairs shall be performed outside the building.
- 4) No tow trucks shall be kept on site.
- 5) No vehicle shall be stored in the parking lot for more than fourteen days.
- 6) No vehicles shall be stored outside on blocks or in any disassembled state.
- 7) Outside display of car accessories (tires, rims, fluids, wipers, etc.) is prohibited.
- 8) All tires shall be stored inside the building or in the storage area immediately behind the building. Tires kept in the outside storage area shall not be visible from adjoining properties or public right-of-ways.
- 9) The outside storage area/dumpster shall be constructed with matching brick and solid wood gates.
- 10) More brick detailing shall be provided on the side facades of the building.

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

DEED BOOKS & PAGE NOS. 929/635, 900/672, 900/679