

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: William and Addie King Owner
 Agent
 Address: 16 Bearer Rd Walton, Ky 41094
 Telephone: 485-4597

Location: 104 North Main Street Walton, Ky 41094
 Name of Property Owner: William and Addie King
 Address of Property Owner: 16 Beaver Rd. Walton, Ky 41094
 Zoning District: C-2 Area in Acres: ± 0.69
 Deed Book: 151 / 325 Page Number: 85 / 162 Group Number: 2080 / 2080

Description of Request: _____
(Variance from C-2 to C-3)
Conditional Use to allow automobile sales

Applicant's Signature: William King - Addie King
 Property Owner's Signature: William King - Addie King

FOR PLANNING COMMISSION USE ONLY
 Application Fee: \$235 Date Received: 10-19-87 By: TWB
 Referred To: TWB Meeting Date: 10-5-87
 Action Taken: _____ Date of Action: _____

150
85
235

STAFF REPORT

APPLICANT: William and Addie King
DEVELOPMENT: Automobile Sales
LOCATION: Northeast corner of North Main Street and Locust Street, Walton, Kentucky.
ZONE: Commercial Two (C-2)
DATE: November 5, 1987; 7:30 p.m.
REMARKS:

The applicant is requesting a Conditional Use Permit to allow the retail sales of automobiles. The 0.69 acre site, located at 104 North Main Street, Walton, is zoned Commercial Two (C-2) and is owned by William and Addie King. The subject property is currently being used as King's Family Restaurant. The proposed car lot will be south of and behind the restaurant itself. Surrounding land uses and zoning include:

North: SR-1; Brooks Meats and single-family residences
South: C-2; vacant lot across Locust Street, Hudson Woodworking across North Main Street
East: SR-1; single-family houses; farmland at the end of Locust Street
West: SR-1; single-family houses

Article 2, Section 263 of the Boone County Zoning Regulations outlines seven general standards which the Boards of Adjustment must use when considering applications for Conditional Use Permits. A copy of these standards is attached. The following is staff's review of these seven criteria:

1. The 1986 Boone County Comprehensive Plan Future Land Use Map indicates that the future use of the property will be commercial. The text of the Plan states: "Commercial development should be encouraged at two scales. Around the interchange more intense commercial development can occur while commercial/retail establishments should continue to develop along the Main Street area." (p. L-22)

One specific objective of the Business Activity element of the Plan is that "Commercial uses shall be developed at strategic locations relative to their trade areas with direct access and ample parking." (p. G-3)

2. A site plan has not been submitted with this request. Therefore, the design of the car lot cannot be evaluated in terms of its harmony and appropriateness in appearance with the general vicinity.
3. An automobile sales lot will not be hazardous to existing or future neighboring uses.
4. The site is adequately served by essential public facilities and services. Special consideration will need to be given to existing or proposed storm water drainage structures.
5. Excessive additional requirements at public cost for public facilities and services will not be created.
6. An automobile sales lot does not involve activities or conditions of operation that will be detrimental to any persons, property, or the general welfare.
7. Since no site plan has been submitted, the vehicular approaches to the property are unknown.

The Board must use another set of specific criteria when judging Conditional Uses in the Commercial Two zoning district (see attachment). Following is staff's review of these more specific criteria:

- a) Small scale retail automobile sales is an integral function of permitted commercial uses.
- b) Again, since no site plan was submitted, the arrangement of uses, buildings, or structures cannot be evaluated in terms of their compatibility with the organization of permitted uses to be protected.

In most cases, applicants submit a site plan with their application for Conditional Use Permits so that the Board can visualize how their property will be developed. In this case, the applicant is asking the Board to decide whether or not they feel the retail sale of automobiles is appropriate at the corner of North Main and Locust. They did not want to incur the cost of a professional engineer, architect, or surveyor unless the use has been approved. If the Permit is issued, staff would recommend, as a condition of approval, that the applicant, or subsequent property owners, be required to submit a formal Site Plan to the Boone County Planning Commission for the development of the property. During this review, the following special concerns of staff should be addressed:

1. The impact of any new office building required for the sale of automobiles (setback Variances may be required).
2. Access to the site, especially from North Main Street.
3. The impact on the restaurant's parking area.
4. The effects of lot lights on surrounding thoroughfares and residences.
5. Increased storm water runoff from additional paved areas.
6. The appropriateness of any signage.

Respectfully submitted,

Thomas W. Breidenstein

Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Attachments

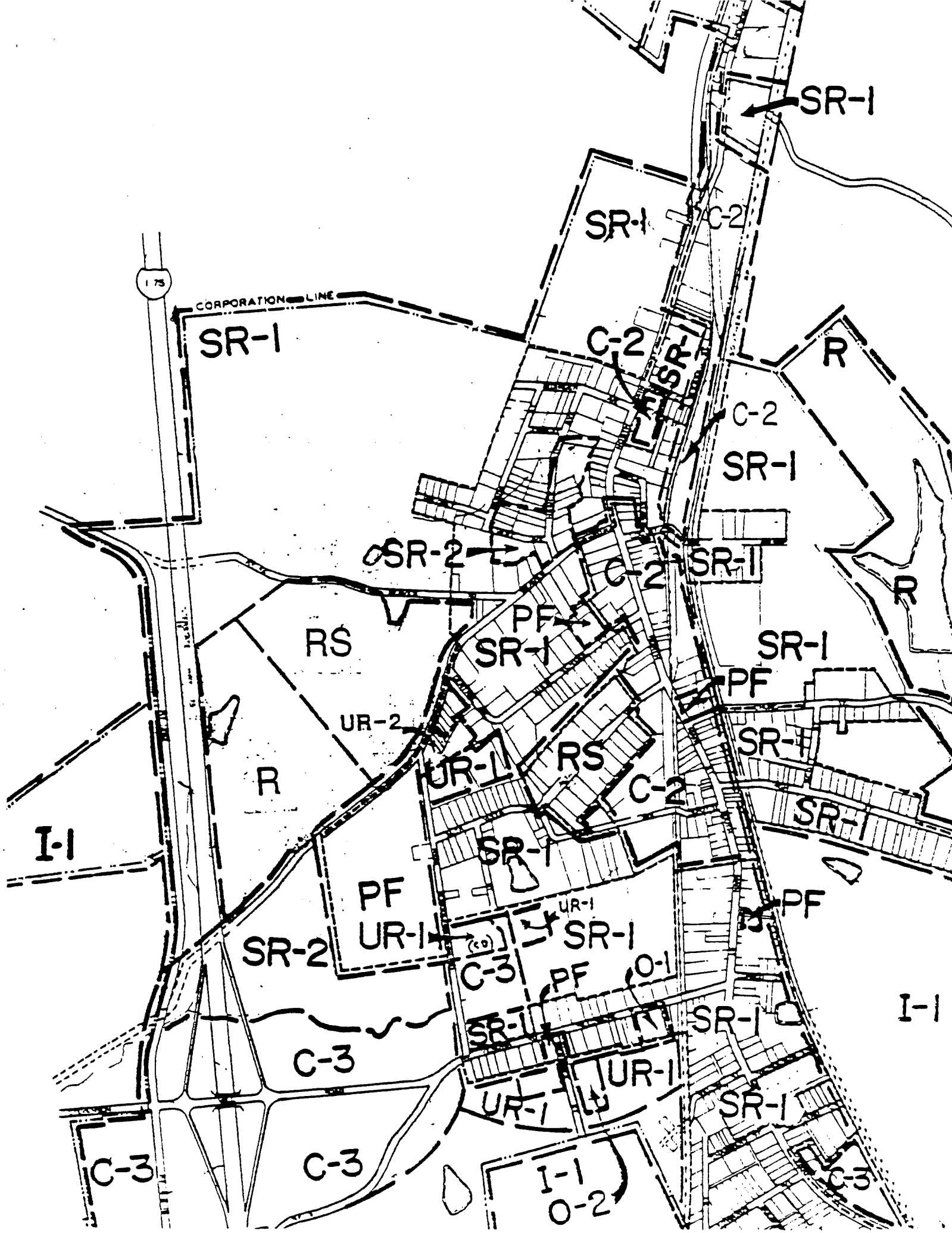
General Standards Applicable to All Conditional Uses

In addition to any specific requirements for conditionally permitted uses deemed appropriate by the Board of Adjustment and Zoning Appeals, the Board shall review the particular facts and circumstances of each proposed use and determine that the use is in fact a conditional use as established under the provisions of Articles 6-12 or 16. The Board may consider whether such use at the proposed location:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's comprehensive 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 any such services;
5. Will create excessive additional requirements at public cost for public facilities and services and will 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, fumes, glare or odors.
7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

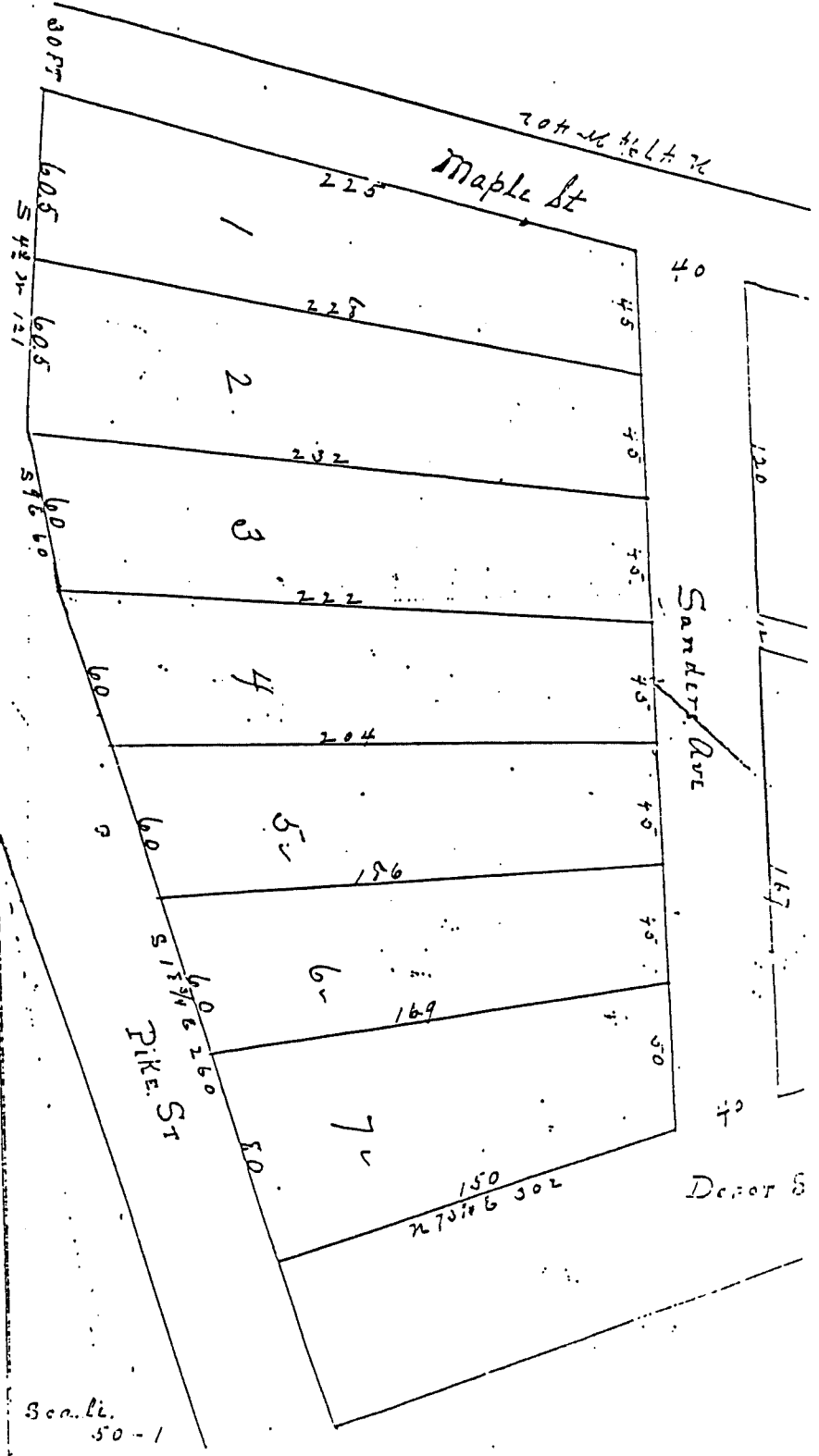
Specific Standards Applicable to Conditional Uses in Commercial Two (C-2)

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:



Subdivision of J. A. Sanders Lots Adjacent

King
lots
5, 6, & 7



CITY OF WALTON
BOARD OF ADJUSTMENT

November 5, 1987 - 7:30 P.M.

BOARD MEMBERS PRESENT

Mr. Ed Berkemeier
Mr. Wally Wireman

BOARD MEMBERS NOT PRESENT

Mr. Roscoe Denney, Chairman

LEGAL COUNSEL PRESENT

Mr. Dale T. Wilson

In the absence of Chairman Roscoe Denney, Mr. Wally Wireman presided over the meeting as Acting Chairman.

Acting Chairman Wireman called the meeting to order.

AGENDA ITEMS

1. A request of Sign Design, Inc., agent for Mills Fence, for a variance in order to erect a 77 foot high highway identification sign. The 5.0 acre site, located between KY 14/16 and I-75, is zoned Commercial Services (C-3) and is owned by Ken and Al Mills.

Staff member, Tom Breidenstein, presented the Staff Report (see Staff Report) and a slide presentation. This presentation included scenes of the approximate area for the sign to be placed; the rear portion of the Mills Fence site (storage area); the tree line that the sign is to extend above; and the existing signs along I-75 in the same direction and on the same side as Mills Fence is requesting their sign be located.

Acting Chairman Wireman inquired about the size of the Union 76 sign.

Mr. Breidenstein stated that he did not measure the 76 sign, however, he would guess it to be approximately 65-70 feet high.

Acting Chairman Wireman inquired how a sign can alter "public health, safety, and welfare" of the area. He further inquired why hotels and fast food restaurants can benefit from these signs along the freeway and not a business such as Mills Fence.

Staff member, Jim Sturdevant, stated that the State and Highway Administration is trying to develop policies discouraging billboards and similar advertising along the freeway system itself and as a compromise and as a service to motorists who are dependent on information that this is one system of developing a compromise identifying establishments and trying to cut down on the number of billboards and other signs.

Acting Chairman Wireman again inquired how a sign can effect the "public health, safety, and welfare" of the area.

Mr. Sturdevant stated that the primary idea behind that statement is that the City of Walton has a strong interest to attract developments that will help the city economically and to help create an image for the city to the motorists who pass by on the freeway. Right now there are certain types of businesses, that due to the past economic attractiveness or property values in the area had not been such as they would attract high price businesses so to speak. The City is hoping to attract higher price businesses in the future to help in the overall development and to spur growth of the City. Controlling signage is one step in trying to create the types of development and environment that the city is hoping to attract in the area. Sign control is just one element that is a necessary element.

Counselor Wilson stated that the comments of the staff are for informational purposes only and that the Board does not have to agree.

Acting Chairman Wireman stated that he does not agree. He does not feel that this sign should have any detraction to the area. He stated that there are certainly signs existing that should be removed in order to improve the appearance of the area.

Mr. Sturdevant stated that over time and as property values go up, certain uses can be pressured out by people who would purchase out existing property owners and develop sites of greater attractiveness.

Mr. Kenneth Mills, co-owner of Mills Fence Co., stated that there are 15 private homes behind their site in Cincinnati and have not had any problems in the eight (8) years they have been in business. Regarding maintaining a good environment, Mr. Mills feels that their business is one of the best. It is necessary that their business reach two (2) million people in order for the business to survive. It is their desire, with this sign, to reach the Lexington and Louisville market and other surrounding and distant areas. Mr. Mills feels that without the sign, their business would be cut down 60-70 percent. He finally stated that the business is a competitive business and it is their desire to be an asset to the community of Walton.

Mr. Al Mills, co-owner of Mills Fence, stated that the business must cover at least 50 square miles in order to maintain their business.

Mr. George Limke of Sign Design presented a drawing of the proposed sign showing its relationship to the existing trees. He does not feel that the sign would create any less of an environmental effect. Mr. Limke stated that he had spoken to Mr. Michael Schneider of the Kentucky Department of Transportation in regard to the removal or trimming of the trees in the state right-of-way. Mr. Limke was informed that unless a safety hazard is present caused by the trees, no one would be allowed to cut or trim any trees in the right-of-way to allow a sign to be more visible.

Mr. Phil Trzop, Walton Building Inspector, inquired whether or not the sign would come down on the interstate if it were to fall.

Mr. Al Mills stated that the sign is such a distance that the sign would not hit the freeway. There is an estimated 80-90 feet between the sign and the freeway.

Mr. Breidenstein stated that a building permit would be required to erect the sign and that through that process the setback requirements would have to be met.

Acting Chairman Wireman inquired about lighting of the sign and whether any glare could be possible to motorists.

Mr. Limke stated that the sign would be internally lit and that no glare would be possible.

Mr. Berkemeier stated that if the sign is granted, then every business that comes in will request signs such as this.

Acting Chairman Wireman agreed to the possibility, however, stated that this would not mean that every sign request has to be granted. Each one would be treated on a case by case method.

Mr. Berkemeier made a motion that the sign be granted as requested. Acting Chairman Wireman seconded the motion. The motion carried by unanimous vote.

2. A request of William and Addie King for a Conditional Use Permit to allow the retail sales of automobiles. The 0.69 acre site, located at 104 North Main Street, Walton, is zoned Commercial Two (C-2) and is owned by William and Addie King. The subject property is currently being used as King's Family Restaurant. The proposed car lot will be south of and behind the restaurant itself.

Staff member, Tom Breidenstein, presented the Staff Report and a slide presentation (see Staff Report).

Acting Chairman Wireman inquired if this is a method done often to obtain a Conditional Use Permit before the submittal of a Site Plan.

Mr. Breidenstein stated that this practice is fairly common.

Mayor King stated that he has the opportunity to sell the property and was asked by the possible buyers to apply for the conditional use permit. They would not be interested in the property if the use would not be allowed. Mayor King further stated that he does expect the proposed buyer to abide by all the requirements of the Zoning Regulations.

Acting Chairman Wireman inquired if anyone objected to the use.

Mrs. Falls, an adjoining property owner, stated that she is in favor of the use.

Acting Chairman Wireman stated that he had received some written complaints.

Mr. Berkemeier inquired as to who was notified by mail of the proposed use.

Mr. Breidenstein stated that all of the adjoining property owners were notified as required by law.

Mr. Maynard Meadows, 13 Old Stephenson Mill Road, stated that he has no objections.

Mr. Bill Wethington stated that he would like a better idea of who would be developing the lot before a use would be permitted. If the Board could know who the possible buyers are, they could check on other sites, if they exist, to see if the developers maintained a reputable site. Mr. Wethington inquired of Mayor King whether or not he would continue to run the restaurant.

Mayor King stated that he would not run the restaurant. The entire property is for sale.

Mr. Wethington inquired of the location of the office building. He stated that he felt that water runoff, paving of the parking lot, access and exit off of Sanders Drive, the effect of lighting, and the hours the business would be open are all issues that need to be addressed. Mr. Wethington stated that he felt there was not enough information submitted to properly address the request. Mr. Wethington suggested that at least some of these issues be conditions to the request.

Acting Chairman Wireman stated his concern regarding not knowing who the developer is or who subsequent buyers would be.

Mayor King stated that the people buying the property are reputable people.

Mr. Wethington stated that he feels the people of Walton are looking for communication and inquired if the proposed buyers couldn't at least draw a rough draft of their intended use and give the people some idea.

Acting Chairman Wireman stated that he would like to have more information also (e.g. What kind of office building would be built).

Mr. Wethington inquired if the prospective buyers would do any repair or body work on the site.

Mayor King stated that they would not be doing any repair or body work on this site.

Acting Chairman Wireman stated again that he had received several complaints by mail opposing the use of the lot as a used car lot.

Mrs. Falls inquired why these people were not at the meeting.

Mr. Phil Trzop, Walton Building Inspector, inquired of staff member, Jim Sturdevant, whether this request, if approved by the Board of Adjustment, would have to go through the Planning and Zoning process and what review would take place.

Mr. Sturdevant stated that the applicant would have to go through Site Plan Review. The applicant would have to address buffering along the adjoining property line, paving the lot, properly designing the drainage, lighting of the lot so as not to have any glare or nuisance to adjoining property owners and motorists, access, the office building setback requirements, and the number of cars allowed on the lot (50 maximum in the current zoning). These are some of the issues that would have to be addressed.

Mr. Wethington again inquired whether the proposed use would include auto body repair.

Mr. Sturdevant stated that auto body repair would not be allowed in the current zone.

Mr. Sturdevant further stated that a Conditional Use Permit is a binding document that is recorded with the deed to the property. This Permit will follow the deed to every purchaser unless a new request is brought before the Board of Adjustment.

Mr. Breidenstein verified that a Conditional Use Permit goes with a deed every time the property is sold.

Counselor Wilson suggested that if the Board would decide they would like to permit this use, they could state as a condition that no major auto repair or auto body work be allowed and that Site Plan Review be approved.

Mr. Wethington inquired of the definition of a "used car." Could a semi-truck be sold on this lot or even a pick-up truck?

Mr. Breidenstein stated that the Zoning Regulations allow "small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises." Therefore, vehicles is a general term used in the use allowed.

Counselor Wilson inquired if the Zoning Regulations stated a definition in Article 20 for "vehicles."

Mr. Breidenstein stated that the definition is not stated in the Zoning Regulations.

Acting Chairman Wireman inquired if the approval could be contingent on the approval of the Site Plan.

Counselor Wilson stated that if the Board wanted the reserve the right to give final approval after Site Plan Review, they could defer action tonight and meet after the Site Plan Review process is finished.

Mayor King stated the prospective buyers have discussed the request with staff from the Planning and Zoning office. They know what is expected if the use is allowed.

Mr. Wethington stated that he thinks he knows the people that would be buying the property and that they are fine reputable people. He would still like to know that the type of vehicle allowed to be sold would be defined. He has seen "used car lots" that sell camper tops, recreational vehicles, pick-up trucks, etc.

Acting Chairman Wireman suggested that a motion be made that the permit be approved with conditions.

Mr. Berkemeier referred to the suggestion of legal counsel as mentioned earlier.

Counselor Wilson stated that the use could be approved as a concept that requires Site Plan Review or it could be a conditional approval requiring the applicant to come back for further review from the Board. The second suggestion would be similar to a deferral and would require the applicant to submit more information.

Mayor King stated that he wanted to know for sure if the use would be allowed. The prospective buyers would not conclude the transaction unless they are certain that their intended use would be allowed.

Acting Chairman Wireman stated that he felt it was the Board's position to protect the City of Walton.

Acting Chairman Wireman stated that if the meeting was to be extended for more information that the record show that there was no one in opposition of the use present at tonight's meeting.

Mayor King stated that he did not see the need for a deferral. Either the permit be granted or it not be granted.

Acting Chairman Wireman stated again that he had received some complaints in the mail. He felt that the potential buyers should have been willing to attend the meeting and present some plans.

Acting Chairman Wireman inquired of Mr. Breidenstein who was notified for this request.

Mr. Breidenstein stated that all adjoining property owners (5) were notified plus a legal notice was placed in the Boone County Recorder.

Mr. Trzop stated that people would still have the opportunity to oppose the Site Plan at the Boone County Planning Commission meetings if they so desire.

Mr. Berkemeier stated that he feels that the people of Walton have the right to know about the request. They have been notified either by letter or advertisement in the local paper and have chosen not to attend to oppose or show favor with the exception of three people.

Mr. Berkemeier made a motion to allow the Conditional Use Permit, however, to have the condition that something come back to this Board so that the process can be followed through by the Board as it progresses.

Mr. Breidenstein suggested that the Site Plan could have to meet the approval of the Board rather than the Planning Commission.

Counselor Wilson stated the Board of Adjustment has the power to review Site Plans. He stated that no further notice would be required if a meeting would follow within a month. The action taken at tonight's meeting would meet the requirements. If, however, the meeting does not take place for weeks, then additional notice should be required.

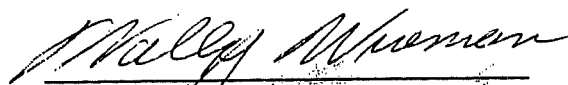
Mr. Berkemeier made the motion the Conditional Use Permit be allowed with the condition that the review comes back through the Board of Adjustment.

Mr. Berkemeier added to his motion that a meeting be scheduled with the Walton Board of Adjustment to review this request further, but that no date be set tonight. The Board members would be notified to agree upon a date.

Mr. Breidenstein stated that the review would be done by the Board of Adjustment along with staff.

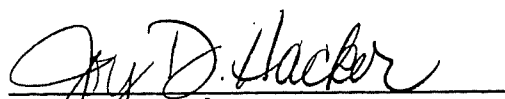
Acting Chairman Wireman seconded the motion. The request carried unanimously.

APPROVED:



Wally Wireman
Acting Chairman

ATTEST:



Joy D. Hacker
Administrative Secretary