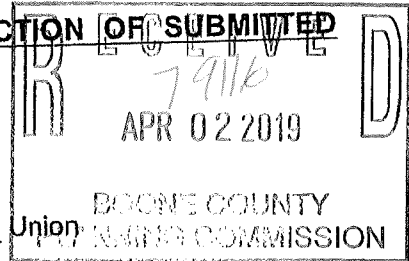


APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations



SECTION A (To be completed by applicant)

- 1. (Check One) Boone Florence [checked] Walton Union
2. (Check One) Conditional Use Permit Variance Appeal
3. Applicant's Name Leo Duymne Dietz
Applicant's Address 257 Old Nicholson Rd 5407 Country Hills Lane
Walton Union KY KY 41094
4. Description of Request: change of non-conforming use of property for Garden Center, and lawn care business/snow removal
5. Name of Development Supreme Lawn Care LLC
6. Location of Development 257 Old Nicholson Rd Walton KY
7. Acreage Under Review 4.14 Acres
8. Lot Number and Name of Subdivision (if part of a subdivision) 243
9. Owner of Property RBS II James T Rose Billy Rose
Address of Property Owner 260 Old Nicholson Rd
Walton KY 41094
10. City State Zip
Phone Number 859-746-9440 Fax No. 859-746-9441 E-Mail roseb@selectegy.com
11. Proposed Use(s) on Site LAWN CARE + Garden Center
12. Total Square Footage of Existing and/or Proposed Buildings
13. Current Zoning on Property C-2
14. Deed Book 588/874 Page No. 186/838 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? NO
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: James T Rose Billy Rose (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 4-2-19 Fee Received \$932.00 Receipt # 79116
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date 5/23/19
5. Board Action:
5/23/19 **Approved**
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: SEE 5/23/19 MEETING MINUTES
AND C.L.U.R.
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: Leo Dwayne Dietz for Supreme Lawn Care

LOCATION: 257 Old Nicholson Road, Walton, Kentucky

ZONING: Commercial Two (C-2)

DATE: May 23, 2019

PROPOSAL

The applicant has submitted a Change in Nonconforming Use application to allow the former Brinkman Oil facility located at 257 Old Nicholson Road to be occupied by a garden sales, landscaping contracting, and grounds keeping business. The submitted plan and written description indicate the following:

- A. The business will have open sales to the public and small businesses. Hours of operation are 8:00 A.M. to 6:00 P.M. Monday - Friday, 8:00 A.M. to 4:00 P.M. on Saturday, and closed on Sunday. Four (4) employees will work on site during business hours.
- B. Plants and shrubs will be kept in display/staging areas and in seven (7) greenhouses. The greenhouses will be constructed with bent tubing and posts which are attached to the ground.
- C. Mulch and gravel will be stored in concrete block storage bins (30' x 100' overall) near the southern property line.
- D. A hard surface handicapped parking area will be provided near the office. All other parking will remain gravel.
- E. Snow removal equipment and fuel tanks will be kept on an existing concrete parking pad that's located to the north of building.
- F. Fleet trucks will be parked to the east of the equipment pad.
- G. The building will be repainted and the garage doors will be replaced.
- H. Landscaping and/or fencing will be installed to screen the storage bins and equipment/fleet vehicle storage areas.

APPLICABLE REGULATIONS

Section 220 of the Boone County Zoning Regulations states that one duty of the Board of Adjustment and Zoning Appeals is to act on changes in non-conforming use applications.

Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming lots, uses or structures 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.

Section 272 of the Boone County Zoning Regulations states "where, at the time of the 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.

KRS 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.

Section 273 of the Boone County Zoning Regulations states that the Board of Adjustments and Zoning Appeals shall have the power to hear and decide on applications to permit a change from one nonconforming use to another.

The Board shall not permit such a change unless the new nonconforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing nonconforming use. Application for change of nonconforming use shall conform to the procedures and requirements for appeals as specified in Sections 245-254, inclusive, of this order and Kentucky Revised Statutes, Section 100.253.

The Board shall not allow any changed nonconforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original nonconforming use. In permitting such change in nonconforming use, the Board may require appropriate conditions and safeguards in accord with other provisions of this order, such as the provision of landscaping and buffering, the improvement of parking areas, and restrictions on the hours of operation.

Section 1133 of the Boone County Zoning Regulations lists business which store explosives, fireworks, gas, biodiesel, or petroleum as a primary activity as a Conditional Use in the Industrial One (I-1) zoning district (applies to former Brinkman Oil operation).

Section 1141 of the Boone County Zoning Regulations lists businesses which manufacture, assemble, process, treat, or store petroleum as a principally permitted use in the Industrial Two (I-2)

zoning district (applies to former Brinkman Oil operation).

Section 1023 of the Boone County Zoning Regulations lists garden and landscaping sales including florists greenhouses, lawn furniture, and the like as a Conditional Use in the Commercial Two (C-2) zoning district (applies to once aspect of the proposed business).

Section 1131 of the Boone County Zoning Regulations lists landscaping contracting, grounds keeping, and wholesale nurseries as a principally permitted use in the Industrial One (I-1) zoning district (applies to once the proposed business).

Section 3620 of the Boone County Zoning Regulations states that when a use adjoins a street, regardless of whether it is public or private, landscaping shall be required from Buffer Yard A (See Table #2). This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the street frontage and not clustered entirely at the ends of the property. This landscaping will provide screening for vehicular use areas, while also allowing flexibility for uses which require high visibility from street frontages. The required shrubs from Plant List C and E can be reduced by 50 percent if the buffer yard width is increased from 10 feet to 20 feet and can be eliminated if the buffer yard area is increased to 30 feet. However, in all cases the trees required from Plant List A, B, C, or D shall still be required.

Buffer Yard Table #2 in the Boone County Zoning Regulations indicates that Buffer Yard A is a minimum of 10 feet in with and the following landscaping is required per 100 linear feet:

- 5 Small Trees - Plant List C or 3 Large Trees / 3 Medium Trees /or 3 Evergreen or any combination from Plant Lists A, B, or D and
- 30 Shrubs - Plant List E or 15 Shrubs - Plant List C

RELEVANT HISTORY

The 1986 Zoning Maps show the subject properties being zoned Commercial Two (C-2).

On March 16, 2015, the Walton Board of Adjustment denied a Change in Nonconforming Use application to allow the former Brinkman Oil facility to be used by an excavating company. The submitted plans showed the following improvements:

257 Old Nicholson - Gravel an approximate 0.86 acre area in the southeastern portion of the site to store heavy excavating equipment. A note on the plan indicated the area could be secured with 6' tall chainlink fencing if the applicant deems it's necessary.

260 Old Nicholson - Demolition of the former tank storage containment walls and an approximate 550 square foot office.

270 Old Nicholson - Demolition of an approximate 1,000 square foot office building (former house).

SITE CHARACTERISTICS

According to Boone County GIS, the property is approximately 3.65 acres in area. The property contains the former Brinkman Oil warehouse/wash building (2,960 square feet), an approximate 38' x 38' concrete parking pad to the north side of the building, a large gravel parking lot to the south and southeast of the building, and a concrete pad which once contained two fuel pumps. Access to the property is provided from two access points on Old Nicholson Road. The northmost access point is approximately 35' wide and the southernmost access point is approximately 250' wide. The northern portion of the site (approximately 1.45 acres) is comprised entirely of grass and mature

deciduous trees. A significant deciduous tree line (60-65' wide) also exists between the gravel parking lot and railroad right-of-way. The topography of the property falls from approximately 928' above sea level at the northern access point to 910' above sea level in the northeastern portion of the site. Overhead utilities exist along Old Nicholson Road.

SURROUNDING LAND USES & ZONING

North: Single-Family Residential Dwelling on Old Nicholson Road (SR-1)

South: Undeveloped 1.2 Acre Tract (C-2)

East: Norfolk-Southern Railroad Right-of-Way, Single-Family Residential Lots in North Walton Pointe Subdivision (SR-1), and Industrial Building Fronting on Bessmer Lane (I-1)

West: Old Nicholson Road, Single-Family Residential Dwellings (SR-1 and C-2), and Rose Brothers Electric (C-2)

STAFF COMMENTS

1. The applicant moved onto the site without zoning approval and was made aware that a Change in Nonconforming Use and Site Plan applications would be needed to legally operate the business.
2. Staff has the following questions for the applicant:
 - A. Approximately how many fleet vehicles and/or trailers can be kept on site at any given time? Will an additional area be graveled for these vehicles/trailers. If so, how large will it be?
 - B. The submitted plan shows that the equipment storage and fleet vehicle parking area will be fenced and gated. What type gates and fence are proposed? How tall will they be?
 - C. What color will the building be painted? What color are the proposed garage doors?
 - D. Is any building mounted or freestanding signage proposed? If so, please explain the proposal.
 - E. Is any additional exterior lighting proposed? If so, please explain the proposal?
 - F. The written description indicates that decorative blooming trees are proposed along the street frontage. What type of landscaping is proposed to the sides and rear of the storage bins?
 - G. A portable toilet currently exists between the building and the Old Nicholson Road right-of-way. Staff's understanding is that this portable toilet will be removed once a bathroom is installed in the building. Is this correct?
 - H. Staff's understanding is that the greenhouse buildings will be kept up year around and will be wrapped in plastic in the winter months. Is this correct? Note - Staff has asked the applicant to provide a picture of this. Staff believes these structures have a temporary character and could be aesthetically unpleasing if wrapped in plastic.

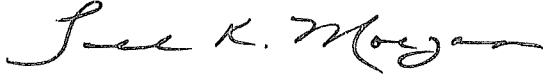
- I. Are any other improvements proposed that are not reflected on the plan or written description?
 - J. Has Boone County Building Department been contacted regarding the Change in Use? If not, they need to be contacted regarding their requirements and approval process.
3. Staff recommends the following conditions if the request is approved:
- A. Except as modified by the conditions below, the approval is based on the plan and written description that were submitted by the applicant. The Zoning Administrator can permit minor changes administratively. Major changes would need to be approved by the Walton Board of Adjustment with another Change in Non Conforming Use application.
 - B. No business activities shall occur in the approximate 1.45 acre area that's located to the north of the proposed equipment/truck parking driveway.
 - C. The parking area in front of the plant display area shall be eliminated and be moved to the back of the island. This change will allow the applicant to put the plants closer to the street and eliminate motorists from backing into the right-of-way.
 - D. The following landscaping and or fencing shall be required:
 - Street frontage landscaping per Section 3620 of the Boone County Zoning Regulations shall be required between the storage bins and Old Nicholson Road right-of-way.
 - Street frontage landscaping per Section 3620 of the Boone County Zoning Regulations shall be required between the truck/equipment parking driveway and the existing deciduous tree line in the northern portion of the site.
 - Buffer Yard A plantings shall be required along the southern property line.
 - The western side of the equipment parking pad shall be screened with a 6' tall privacy fence and a continuous hedge row. The shrub species shall be selected from Plant List C of the Boone County Zoning Regulations.
 - E. The entire building shall be painted one natural earth tone color. Doors can be painted or finished white or another complimentary color.
 - F. Signage on the site shall be limited to a 4' tall, 32 square foot monument sign. The sign shall not be internally illuminated.

The Board needs to analyze the request in terms of Sections 270, 272, and 273 of the Boone County Zoning Regulations. The Board can also analyze if the proposed change in non-conforming use is more objectionable than the established condition.

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 act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

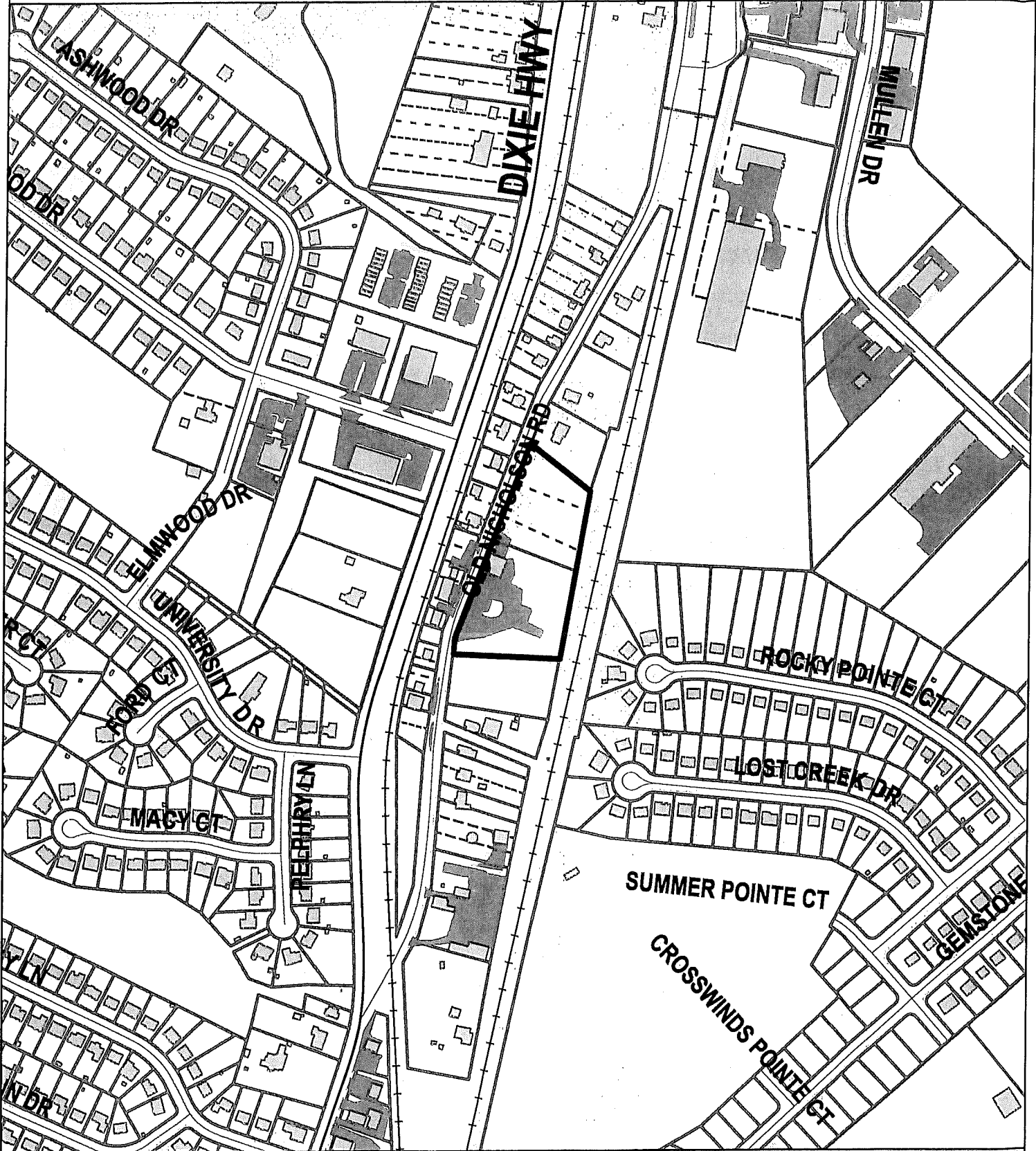
TKM/ss

Attachments

- *Site Vicinity Map
- *Applicant's Written Description
- *2016 Aerial With Proposed Improvements
- *2016 Aerial (Subject Property and Adjoining)
- *Zoning Map
- *Topographical Map
- *3/16/15 Walton Board of Adjustment Meeting Minutes
- *Application

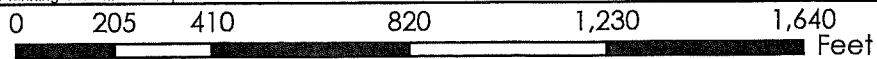
SITE VICINITY MAP

www.boonecountygis.com



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1 Inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map

Supreme Lawn Care

Plans of operations

Open sales to public and small businesses

Selling Mulch, gravels, plants, and floral.

Providing Landscaping, mowing, snow removal services

Hours 8-6 M-F Saturday 8-4 closed Sunday

Deliveries 1-2 monthly during business hours

4 employees during business hours

Property specs

All green houses are made of 2 ½ tubing bent with t post attached in ground

Stabilizer 1 ½ inch bar down center for stabilizing

Handicap parking outside front door will be concreted

All other parking gravel as drive is gravel

Arrangement of plants and floral on display in front of building and circle of drive area

Trees along storage bins as shown on drawing

Equipment kept inside nightly and always parked on rear parking pad

Fleet trucks kept in rear of building where proposed fence area will be with locked gate .

Future Improvements

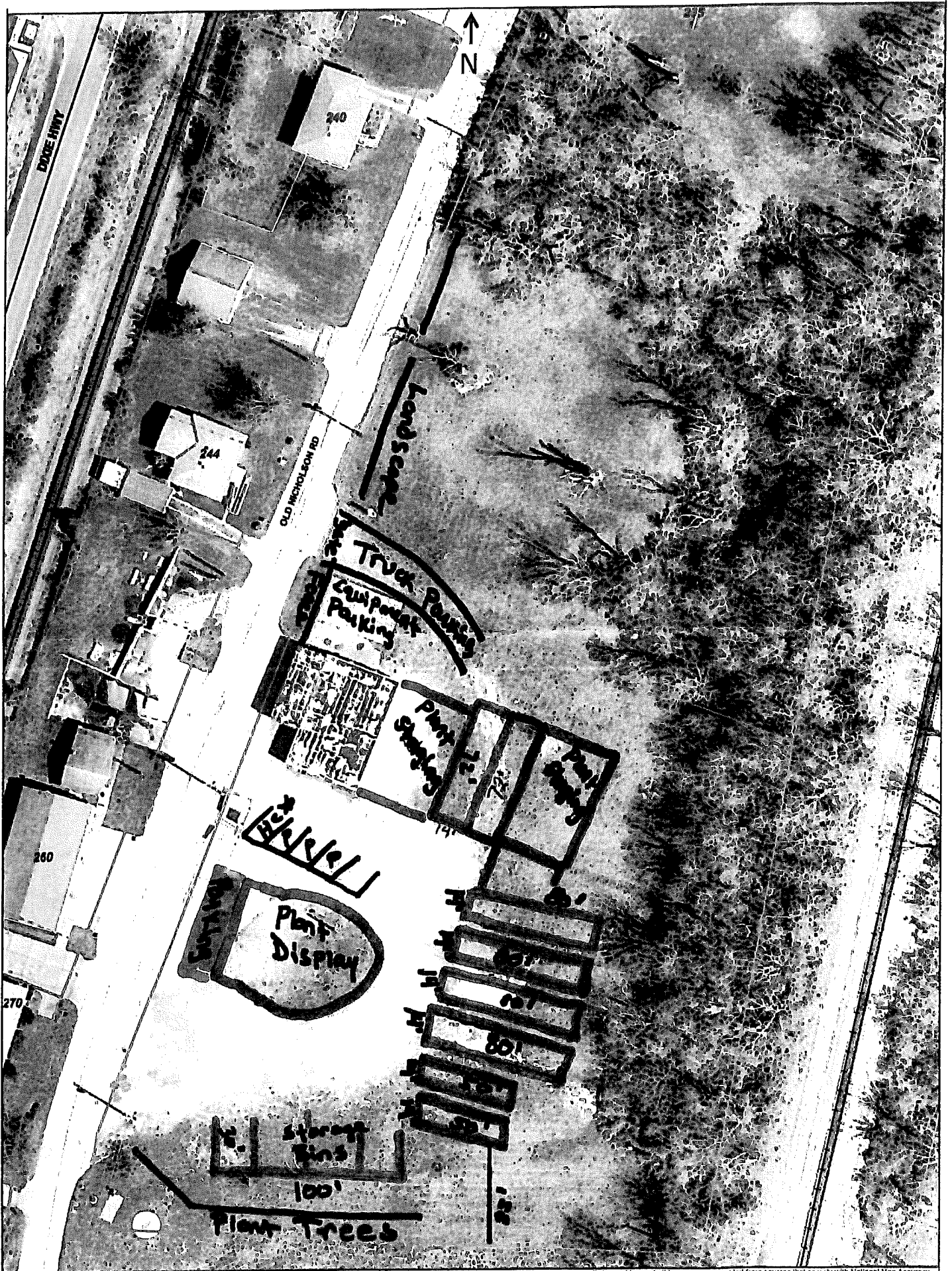
Paint Building and replace garage doors.

Landscape front of office building

And plant trees across property line near street frontage across property line with decorative blooming trees

Any questions please contact Dwayne Dietz 859-743-6459

Dwayne.dietz@yahoo.com



DAVE HINT

240

244

OLD MICHELEON RD

Landscape

Truck Parking
Campment
Parking

Plant Displays

Plant Displays

Box Walk

Plant Display

60'
60'
80'
60'

Storage Bins
100'

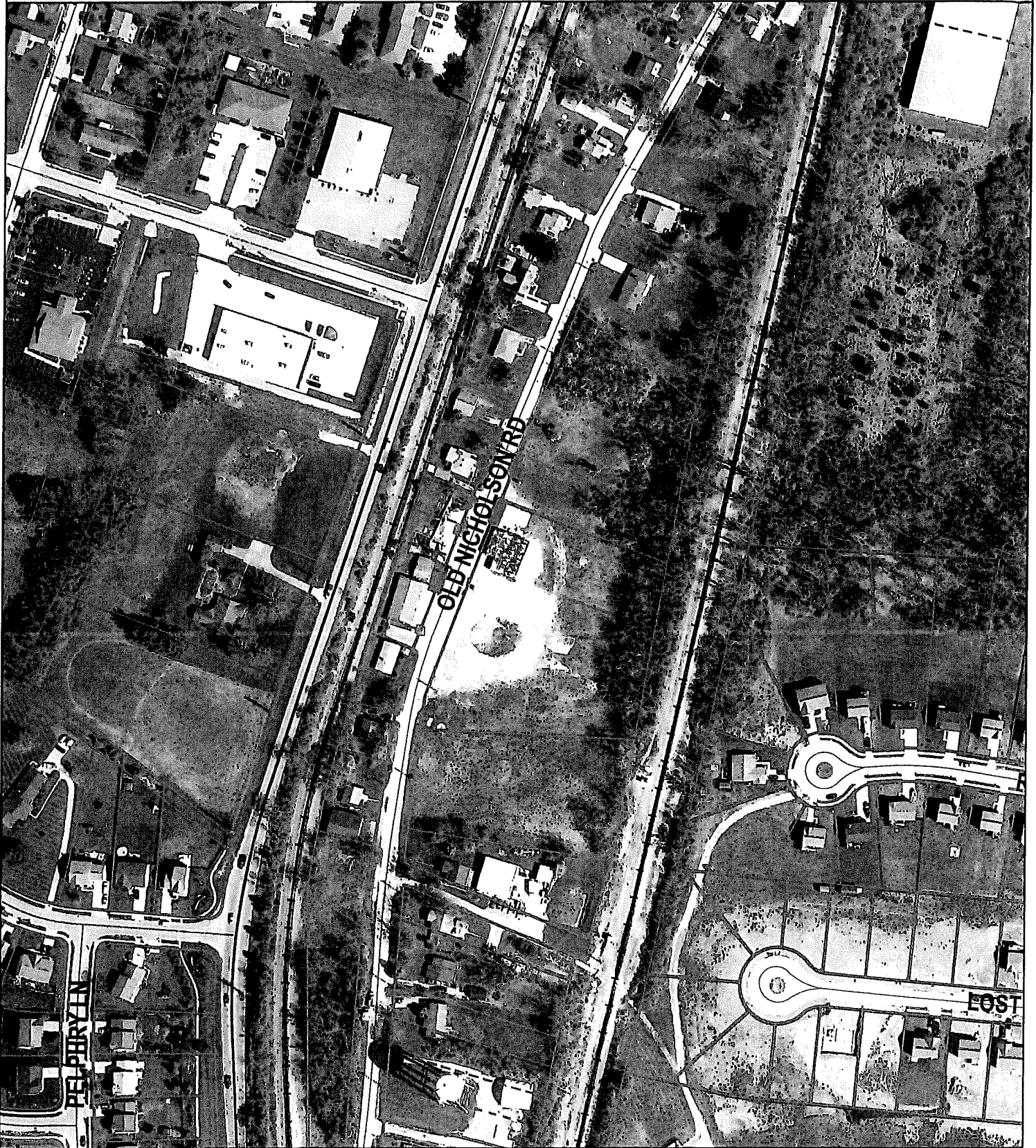
Plant Trees

280

270

2016 AERIAL MAP

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0 100 200 400 600 800 Feet

1 inch = 200 feet



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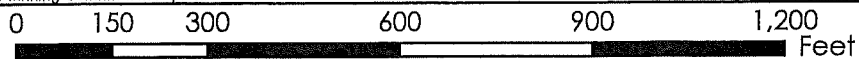
ZONING MAP

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1 Inch = 300 feet



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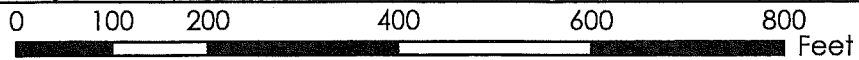
TOPOGRAPHICAL MAP

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1 Inch = 200 feet



Boone County GIS - Putting Northern Kentucky on the Map



**WALTON BOARD OF ADJUSTMENT
WALTON SENIOR CENTER
BUSINESS MEETING
March 16, 2015
6:30 P.M.**

Mr. Turner, Chairman, called the meeting to order at 6:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Steve Turner, Chairman
Mr. Jim Bridges
Mr. Thomas Luebbe

BOARD MEMBERS NOT PRESENT

Mr. Robin Baker
Mr. Edward Sedor

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

APPROVAL OF MINUTES:

Mr. Turner stated that the Board members received copies of the minutes of the Walton Board of Adjustment meeting of December 4, 2014. Mr. Luebbe moved that they be approved and Mr. Bridges seconded the motion. Mr. Turner asked for a vote and it carried unanimously.

AGENDA ITEMS:

1. **Request of John and Susan Pittman for a Change in Non-Conforming Use to allow an excavating business to occupy the former Brinkman Oil properties. The approximate 4.27 acre site is located at 257, 260, and 270 Old Nicholson Road, Walton, Kentucky and is currently zoned Commercial Two (C-2).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report).

Mr. Luebbe asked if Tuemler Gas was also zoned Commercial Two (C-2)? Mr. Morgan replied that Tuemler Gas was zoned C-2 and was also a non-conforming use.

Mr. Turner asked if the applicant would like to make a presentation?

Mr. John Pittman asked about the last Staff recommendation regarding no heavy equipment, semi-trucks, or trailers being parked outside. Mr. Morgan said that was his recommendation for the properties at 260 and 270 Old Nicholson Road only.

Mr. Pittman said he wanted to address one of his emails, which is included in the Staff Report. His proposal is to demolish the two buildings, change the grade, and pour concrete for employee or visitor parking. He added that the building slabs would be removed. Mr. Luebbe asked for confirmation that the two buildings would be demolished, the slabs would be removed, the associated parking lots would be removed, and new concrete would be poured to create new parking lots. Mr. Pittman agreed. Mr. Luebbe asked what types of vehicles would be parked on that side of the road? Mr. Pittman responded pickup trucks and cars (nothing over 8' in length). Mr. Morgan asked if the parking lots at 260 Old Nicholson and 270 Old Nicholson would be repoured? Mr. Pittman said he wasn't sure because it would depend on the grades. He said he would probably use 270 Old Nicholson for parking unless there was a lot of cutting or utility work that needed to be done. If, so he would move the parking down to 260 Old Nicholson Road.

Mr. Pittman addressed the Staff questions found in the Staff Report.

- A. Explain how both of the remaining buildings would be used?

Mr. Pittman said the two remaining buildings would be used for storage and maintenance. He said they do their own maintenance on the equipment if it's light duty maintenance. They send out heavy duty maintenance jobs.

- B. The submitted plan shows that two existing office buildings and the filling area containment wall will be demolished. Will the associated parking lots be removed or will they remain?

He said he just answered that question.

- C. Approximately how many company vehicles (cars, trucks, tractor trailers) or trailers would be kept on site? Where would these vehicles be parked?

Mr. Pittman said he would like the option to have between 1 and 20 on site at any time. They normally only have 2 to 3 trucks outside and maybe 1 or 2 machines. Their equipment is usually on job sites or at the shop for maintenance. The trucks that are out there are dump trucks and drags, which are used to move equipment. They also have a couple service trucks but they stay inside the shop at night because they are loaded with tools.

- E. Other than heavy equipment, vehicles, or trailers, will anything be stored outside (scrap material, lumber, fill dirt, stone, etc.)?

He said he would like to keep some material outside temporarily until it goes to a job site. This occurs maybe two or three times a year. It would be less than a semi load of pipe. This doesn't have to occur but he would like to have it as an option. Mr. Bridges asked where this would occur? Mr. Pittman responded that it could take place in the heavy equipment compound or behind the warehouse/wash building.

Mr. Luebbe asked for clarification that his proposal wasn't to fence the heavy equipment gravel storage lot initially? Mr. Pittman said he doesn't want to fence the area unless he has vandalism or theft problems. Mr. Luebbe asked if the heavy equipment that was kept at the back of the site between jobs would be visible from the road? Mr. Pittman replied that it would be visible. Mr. Morgan asked for clarification that his light trucks would not be kept in the back of the site. Mr. Pittman responded that the big trucks and heavy equipment would be kept in the back of the site (red rectangle area).

F. How many people could work from this facility?

Mr. Pittman said most days only one person would be on site. This person would get his truck ready and leave. There are other times when they receive materials and supplies and perform equipment maintenance. There are also times when they could have an employee meeting and have 10 people on site. Mr. Luebbe asked if this would be his main business headquarters? Mr. Pittman said it would.

G. What are the proposed hours of business operation?

Mr. Pittman said it depends on several things. They may not open at all if it's a rainy day. On a typical day one or two guys will get there from 6:00 to 8:00 AM and arrive back on site sometime between 2:00 and 7:00 PM. 7:00 PM would be a really late day for them. Mr. Luebbe asked what time would heavy equipment leave or arrive back at the site? Mr. Pittman said it could be anytime throughout the day (6:00 AM - 7:00 PM). Mr. Morgan asked if they work on Sundays? Mr. Pittman said they did not. Mr. Luebbe asked if they work on Saturdays? Mr. Pittman replied not if they could help it.

H. Is any additional security lighting being proposed?

Mr. Pittman said he plans on installing more security lighting. Mr. Morgan said he wanted Mr. Pittman to address lighting because it could have an impact on the neighbors. Mr. Pittman said he does not know if the shop has adequate lighting or not. He would put up new steel pole lighting with concrete piers to deter theft and vandalism on the heavy equipment storage lot.

I. Will the fuel pumps be restored?

Mr. Pittman said he doesn't know much about the fuel pumps. He knows the underground storage tanks are still there but doesn't know what condition they are in. His plan is to remove the tanks and replace them with two small above ground tanks. They would be certified and contained storage tanks. Mr. Morgan asked if they would be gasoline or diesel tanks? Mr. Pittman responded they would both store diesel fuel. Mr. Bridges asked if he could clarify what he meant by small tanks? Mr. Pittman responded the new tanks would be 1,000 to 2,000 gallon tanks. The existing underground tanks could be 5,000 gallons and could be leaking into the ground.

Mr. Bridges asked Mr. Pittman if he had purchased the subject properties? Mr. Pittman said he had not because he was awaiting the outcome of this meeting and a report concerning the condition of the tanks.

Mr. Morgan asked where the new above ground tanks would be kept? Mr. Pittman said they would probably be located next to the old warehouse and wash building. Mr. Morgan asked if they would be located to the side or rear of the building? Mr. Pittman said he thinks he would locate them to the side of the building but really doesn't know for sure. He said the tanks are really not that big. They are approximately the size of a small car. He said he really wouldn't want them reconstructed where they are now because they are located in the front parking lot. He would like to locate them close to a structure. Mr. Luebbe asked if two 1,500 gallon tanks are proposed? Mr. Pittman said there would probably be a 2,000 gallon tank and a 1,000 gallon tank. Mr. Pittman said a 2,000 gallon tank is approximately 10' long, 6' wide, and 6' tall.

Mr. Turner stated that major heavy equipment maintenance usually takes place wherever the piece of equipment is and does not get taken to a shop. He asked if someone would be coming to tear machines down and repair them on the subject site? Mr. Pittman responded no and indicated that the equipment would be fixed where it breaks down. It would not be brought back to the subject site.

Mr. Bridges asked how the oil, hydraulic fluid, antifreeze would be handled? Mr. Pittman responded that they have disposal tanks and someone would come and pump them out as needed. The tanks would be kept inside and have dikes associated with them to contain leaks for the full capacity of the tanks.

Mr. Turner asked if the maintenance of equipment is a permitted use? Mr. Morgan said the application is for a Change in Non-Conforming Use. Mr. Pittman's proposal needs to be on the record and the Board needs to act on it and determine if it's appropriate. Mr. Turner said the existing non-conforming use was basically the storage of and distribution of petroleum products (Principally Permitted Use #16 in the I-2 zone) and the proposal is to go to the heavy machinery, transportation vehicles and heavy equipment use (Principally Permitted Use #13 in the I-2 zone). The heading for these two uses does not say anything about the maintenance of vehicles. Mr. Morgan said he believes Staff would treat the maintenance of vehicles as an accessory use if a heavy equipment operator was permitted and was simply maintaining their own fleet. It would be an accessory use to the overall business. However, the maintenance of equipment is part of Mr. Pittman's Change in Non-Conforming Use application and needs to be evaluated by the Board.

Mr. Wilson said even if the Board views the maintenance as an accessory use to the overall business operation, they still need to analyze if the proposed business operation goes beyond the nature and scope of the previous business and if it's more objectionable. The Board can impose conditions on an approval. So even if equipment maintenance is an accessory use, the Board does not have to approve it unless they determine it does not go beyond what was there before. Mr. Turner said they way he reads it is if the scope goes beyond what previously existed then they should not approve it by statute. He asked if that was correct? Mr. Wilson said what the Board has to remember is that Brinkman Oil's operation was allowed because it was preexisting non-conforming. Under

Kentucky law if something is preexisting non-conforming it is protected and can continue on forever. When someone comes in that owns that land and says that they want to have a new non-conforming use then they have to convince the Board that it is no more objectionable than what was there and protected before.

Ms. Judy Moses said she lives at 244 Old Nicholson Road, Walton, KY and her property is right next door. She wants to know why Mr. Pittman is coming to a residential street and is proposing to put all this heavy equipment on the lot? She asked what was wrong with his current location? Mr. Pittman responded that the property is for sale and they are seeking the change. Ms. Moses asked who is going to want to come to the Gaines House with all this stuff sitting around? She indicated that the roads and railroad crossing would be torn up by his vehicles. She asked if the City of Walton was giving him a tax break? Mr. Pittman said he would not be receiving a tax break. She said the big problem is that he would be destroying everybody's property value on the street. Mr. Pittman asked what would be any different than what is there now? Ms. Moses said the property is fine the way it is now. She has lived there 58 years and has seen everything. The property went from one or two gas tanks and a truck to a big company. The property is now vacant and it is quiet. Mr. Pittman asked if her property value went up after Brinkman Oil moved out of the facility? Ms. Moses said her property value has not changed. Mr. Pittman said his operation would look nicer and have less traffic and noise than Brinkman Oil's operation. Ms. Moses questioned how there could be less noise? Mr. Pittman said he believes Brinkman Oil had 15 to 20 trucks coming in and out of there each day and they will have 1 or 2. Ms. Moses said there are already trains in the area and noise isn't a real big deal. Mr. Pittman said he is sure they will not be as loud as the trains. He said if property values didn't go up when Brinkman Oil moved out then how could they decrease when his business moves in and they are less obtrusive? Ms. Moses said because they are bringing in bigger equipment. Mr. Pittman said that is only periodically. Ms. Moses said she understands the people that work there will park their vehicles. She asked if the big trailers that haul the equipment will be parked there. Mr. Pittman said he has trucks and drag equipment.

Mr. Dan Simpson said he lives at 236 Old Nicholson Road. His property is kind of caddy corner with the subject property. He built his house about 15 years ago. He is familiar with the subject property. His grandfather built one of the first houses on that part of the road over 50 years ago when it was a main thoroughfare. At that time, some businesses made sense because there was a constant traffic flow. It hasn't been that way for approximately 50 years. Slowly but surely, the businesses are moving out and the residents are making an effort to reclaim the road. It is a residential dead end street now. He understands that Mr. Pittman is a businessman and is looking for a place to store his equipment. It has been kind of refreshing since Brinkman Oil moved out. He believes the value of his property has unquestionably went up. In addition to Brinkman Oil leaving, a couple of old houses have been torn down and others have been upgraded. It is nice to see people from other cities driving down the street to see the Old Gaines House. Putting heavy equipment on this site will certainly lower his property values. He believes he has a nice house and he will be able to look out his living room windows at the site. He believes the new use will be a hell of a lot worse than it was before. In addition, anybody that goes to buy his house in the future will see the business as well. The business will also give the City of Walton a black eye. Many people will drive past the site as events are held at the Gaines House. He stated that

they did not like the Brinkman Oil operation and were glad when it moved out. They moved out because the site is not a good place for a business. It is a dead end residential street and it has changed significantly over the last 50 to 60 years. He said the only thing that could be put on the site to make it look nicer than it is now is a park. He asked Mr. Pittman if he would be willing to buy the property and donate it as a park to the City of Walton? Mr. Pittman responded that he couldn't do that. Mr. Simpson asked Mr. Pittman if he thought locating a park there would be nicer than a business? Mr. Pittman responded that parks are great but he wouldn't put one between two railroad tracks. Mr. Simpson said the conditions have changed and a business like Mr. Pittman's, with all the heavy equipment and noise pollution, would cause impacts. He said he has been around this type of equipment for years and he understands that it has to be started up from time to time. It is noisy. He said the proposed business is just not a fit. Mr. Pittman said he doesn't see it that way. He sees the area as being blighted when he drives past it. He said all of their equipment is late model and is nice looking stuff. He doesn't have old, junky, broken down equipment. Mr. Simpson said he is a General Contractor and is around the stuff all the time. He said Mr. Pittman is a businessman and eventually he will want to expand. He sees scenarios where Mr. Pittman will need more room and will park something where it doesn't belong. The neighbors will have to complain and it could take weeks or legal matters for issues to be resolved. Mr. Pittman said one of the reasons they are interested in the property is that it is bigger than what they will ever need. There will be no future expansion. They are looking to move because they have outgrown their current facility. Mr. Simpson said he is trying to protect the property values of his home and all the people that live on the street. Mr. Pittman said he doesn't mean any disrespect to anyone but it is just a business decision on their part. Mr. Simpson said it is a dead end residential street that they are trying to reclaim. He doesn't believe it should be a place where heavy equipment is stored.

Ms. Vonda Simpson said she lives at 236 Old Nicholson Road. She has lived in the area all her life and has put up with a lot of stuff. Her main concern is that Mr. Pittman has heavy equipment and trucks coming in and out and there are people in the neighborhood with small children. Some of these children play on the road. Her second concern is with fires because they are a dead end road and have one way in and one way out. They have propane tanks on end of the road and are now looking at heaving diesel fuel at this site. Another concern is property values. She asked how they will be able to sell their homes? These homes may not be worth much but they have worked for them all of their lives. Someday they or their children will want to sell out. She questioned how tall the equipment and machines will be? Mr. Pittman said he doesn't have anything that is over 11' tall. She asked if he was considering a 6' or 8' tall fence? Mr. Pittman responded that he was hoping not to construct a fence. Mr. Morgan responded that Mr. Pittman's proposal doesn't include a fence unless he deems it's necessary. He drafted a potential condition which would require a wood fence and landscaping if the Board approves the request and imposes the condition. Mrs. Simpson asked Mr. Pittman where his business was located now? Mr. Pittman responded on Production Drive in Florence. She asked if that area was all commercial? Mr. Pittman responded that it was. Although the subject property is zoned commercial, she doesn't understand why he would want to bring his business there. She asked Mr. Pittman if he would want such a business located across the street from his house? Mr. Pittman said he lives in the country and has farms so it doesn't matter what people park across from him. Mrs. Simpson asked if he would be concerned if a scrap yard

went in across from his home and the only thing that screened it was a fence? Mr. Pittman said he would not be concerned because of where he lives. He said he wasn't sure if he would be concerned if he lived in one of the houses on Old Nicholson Road. He said he couldn't speak to that. Mrs. Simpson said she does not see the proposed business as being equal or more compatible with what was there before. Mr. Pittman said he sees it being very compatible because it is smaller in scale than what was there before. He added that Brinkman Oil sold thousands of gallons of gasoline and diesel fuel and grease and was a fire hazard. Mrs. Simpson said she understood that and indicated that they are not there any longer. She understands from other people that when heavy equipment is worked on and is started that it's very noisy. His proposal is to come in at 6:00 AM and leave at 7:00 PM. Mr. Pittman responded the noise from the equipment is comparable to a diesel pickup truck. Mrs. Simpson said one of her neighbor works on this type of equipment and he indicated that it's as noisy at the trains when it is first started. Mr. Pittman said they only bring the machines there for maintenance. A machine may be there once every 2 or 3 weeks. There may be a circumstance where 2 or 3 machines are there. When Brinkman Oil was there they had 15 or 20 trucks they left there every day and they would come back to get more fuel and go back out again. His business will not be even remotely close to Brinkman Oil in this regard. Mrs. Simpson asked if he brought any pictures of his current business establishment? Mr. Pittman responded that he had not. Mrs. Simpson said she believes their street already has enough issues with it being a dead end and the propane company.

Ms. Donna Rosenstiel said she lived at 200 Old Nicholson Road. She said she wanted to ask a couple of questions for clarification. First, how many pieces of equipment were going to be kept there? Mr. Pittman said there will usually be 2 trucks with drag trailers on site every day, there will also be a couple of service trucks but those will be kept inside at night. Ms. Rosenstiel asked if only a couple of people would be working there? Mr. Pittman responded that on a given day there will be 1 to 3 people show up at the shop and they will get in their trucks and leave. They will be gone all day long and will come back to park and leave. That is a typical day. Ms. Rosenstiel said if it's only a couple of pieces of equipment and a couple of employees then why does he want to buy the property, tear down 2 buildings and a retaining wall, and put in tanks in a residential area. She asked why the location he was at now wouldn't contain two pieces of equipment? Mr. Pittman said both buildings fit their needs very well and they like the parking area. The parking area to pull in an out is larger than they have now. As far as the two buildings, they do not have to tear them down. There is sufficient room to park on the other side of the street. He believes the structures that would be torn down are blighted and are of no use to him. The old tanks are just an eye sore and he would like to turn the area into a green space. She said it still seems like a lot of work to her for him to keep a few pieces of heavy equipment. A couple pieces of equipment does not sound all that terribly bad but she doesn't understand why he would want that property. If two trucks with trailers and a couple of service trucks are the only things that will be kept on site than it sounds like his this could be accommodated where he is now. Mr. Pittman said they just want more room. It is hard to find property in Boone County that meets their needs. It is more than they need but it fits their needs. Ms. Rosenstiel asked if they have any other property in Boone County. Mr. Pittman said they do and it is a vacant lot. They also have a commercial building in Boone County but it is a rental warehouse. Ms. Rosenstiel asked if he could use the vacant lot for his business purposes? Mr. Pittman responded he could if he went through planning and zoning and constructed a building. However, these buildings already exist and they fit their needs. Ms. Rosenstiel said this area contains their homes and they are getting selective about who they want coming in. With the process they have a voice and they can speak out against what they do not want on their street. It is nothing against him personally.

Mr. Morgan asked Mr. Pittman to clarify something. Earlier he said there could be a couple pieces of heavy equipment on site quite frequently. However, on rare occasions there could be up to 20 pieces of heavy equipment on site. He asked if he heard that correctly? Mr. Pittman said he would like to have that option but he does not see it happening.

Mr. Turner asked what happens during the winter when they are not doing construction? He asked if all of his equipment would be stored on the lot? Mr. Pittman said it would not because they work year round. The equipment would be sitting out on job sites in the snow if they are not working. His trucks would come back to the shop.

Mr. Luebbe said his question is regarding the fuel tanks that he wants to have. If the equipment is not routinely coming in and out then why are the fuel tanks needed? Mr. Pittman said they transfer fuel to the job sites. One of the guys that comes in fills up a tanker truck and leaves to fill up the equipment. This employee also greases the equipment and takes care of other light duty maintenance. His truck will come back to the shop and be parked inside.

Mr. Bridges asked if a drag trailer is the same thing as a lowboy trailer? Mr. Pittman said there are different definitions of lowboy trailers. Drag trailers are typically pulled behind pickup trucks or dump trucks. Mr. Bridges asked what was the largest dozer or piece of equipment he has and would it be hauled on a lowboy? His concern is those trailers sit very low to the ground. He asked Mr. Pittman if he has taken any of his equipment over the railroad tracks. His concern is that a lowboy trailer could dig right into the tracks. Mr. Pittman said his trailers do not sit low to the ground like that so they do not have that problem. Mr. Morgan asked how long his trailers are? Mr. Pittman said the trailers are 34' long. Mr. Morgan asked how many trailers he had? Mr. Pittman responded 2.

Mr. Jerry Treadway asked Mr. Pittman if his trailers would clear the tracks? Mr. Pittman responded that his equipment sits above the trailer tires so it is not an issue.

Mr. Bridges asked if someone from Walton Fire Department could address the fuel tanks and their comfort level with them? Chief Tom Ollier said the proposed tanks would be above ground and would have to be permitted through the Fire Marshal's office. They will have be double walled tanks with emergency shut offs. This is the same thing the fuel stations have to have. The proposed fuel tanks would not be that bad. Brinkman Oil used to have old metal tanks in the ground that tended to leak. Today's tanks are doubled walled and have indicators if there is a leak. There biggest concern was lowboy trailers and the possibility of them getting stuck on the tracks. He said he hopes it never happens but they have a preplanned emergency evacuation area in the event that a propane or other fuel truck gets hit at the tracks. At the end of the road, near the Gaines House, there is a emergency gate and the Fire Department has a key for it. This would allow them to get the residents out. He said this crossing at Dixie Highway and Old Nicholson is an unguarded crossing. He has seen trucks hit at the Mt. Zion Road guarded crossing. He said in the next 2 or 3 weeks they are going to have a national railroad company come in and give them a class so they can stay up on these kind of issues.

Mr. Turner asked if Walton Fire had any comment regarding the short distance between the railroad tracks and the stop sign on Dixie Highway. He said he has measured the distance and there is 66' between the stop sign and the tracks. Chief Ollier said that is where they have run into problems in Richwood. If a truck is sitting behind a car at the traffic light then the tail end of the tractor trailer will cross the tracks. Mr. Turner said a large tractor trailer is more than 66' long and would cross the tracks on Old Nicholson Road.

Ms. Margie Stewart said she lives on Edwards Avenue. She said Mr. Pittman's proposal does not include fencing and the equipment would draw the interest of children. The kids will look at it, get closer to it, and eventually get on it. She has seen machinery left at Cauthen Run and the kids were all over it. Mr. Pittman said he would rather not do the fencing because of the cost. However, he is willing to put a fence up if there is a problem. Ms. Stewart said the facility will also attract kids on skateboards if he paves the lots. She said he may want to consider putting the lights on the buildings to keep it lower off the ground if the request is approved. This would have less impacts than light poles on the residential neighbors. She also has concerns about him stating that he wouldn't expand and the railroad track. She has noticed over the years that they have been raising the railroad tracks with blacktop. She asked what will happen to his trailers when the blacktop got too high. Mr. Pittman said they do not have lowboy trailers. Ms. Stewart said she is familiar with dump trucks trailers because of her brother. She said that there can be problems with these trailers going up and over tracks. Mr. Pittman said his trailers will clear the railroad crossing.

Mr. Jim Moses asked if the business was definitely going in. Mr. Turner said it depends on the outcome of this meeting and Mr. Pittman. Mr. Pittman will need to purchase the property if the Board approves the request.

Mrs. Simpson said a lot of Mr. Pittman's answers to the questions are kind of iffy. For example, how many pieces of equipment will be there, how many employees will there be, will there be 2 pieces of equipment or 20. It just makes sense that the business will continue to grow. Mr. Pittman said the nature of his business is that if a machine isn't on a job site it's not making money. There is no benefit if a machine is sitting in their yard. Ms. Simpson said they will be working on the machines and be turning them off and on. She said this will create a lot of noise. Mr. Pittman said it will create a lot less than the trains that go by. Mrs. Simpson said they do have train noise but this will add another thing. She said Mr. Treadway will be greatly impacted because he lives across the street.

Mr. Bridges asked Mr. Morgan to show the PowerPoint slide of the eastern side of the property. Mr. Pittman indicated earlier that his tallest piece of equipment was 11' tall and the highest you can go on the highway is 13'-6". If the request is approved, he recommends that Staff should contact the proper utility companies to make sure that there is proper safety clearance.

Mr. Luebbe said his concern is that the cat is kind of out of the bag if they approve the application. Mr. Pittman has intentions of what he would like to do with his company and he fully believes that his intentions are genuine. He will have a couple of pieces of equipment and trailers in the back of the lot and the business will be run out of the shop. That proposal has a certain degree of impact on the people that live on the street or travel to the Gaines House. This is a concern to him because as a City they are trying to draw people in and make the Gaines House a tourist attraction. This impact would be minimal the way he is describing his plan. However, once the Board allows the use and he has this big area to work with, he sees a scenario where additional pieces of equipment or decommissioned equipment will go there. Over time, he believes the use will build up. He feels that his job is not only to look at what Mr. Pittman says the plan will be but also what potential impacts could be placed on the community. It is very difficult for the Board to reel something back in if it is not being used exactly as presented. He knows that Brinkman Oil was there before and it is a good thing that they gone now. His business may not have a big impact the way he is describing it but things change. Over the last couple of years a property was permitted to store heavy equipment and it now looks like a junk yard. It is a

rusting pile of heavy equipment that hasn't been used for years and it continues to deteriorate. He would hate to see the subject property turn into something like that because it is located in a residential community and is on the way to the Gaines House. The other property he is talking about is more of an agricultural area and not a residential area. It is across from a farm on the way to his house. He said he does not know Mr. Pittman personally and does not believe he has the intentions of doing that. However, the Board would have a hard time controlling what went on if they grant application. The impacts could be detrimental to a lot of members of their community and to the Gaines House. Mr. Luebbe said he would need to have these concerns alleviated. He is not sure if they can be alleviated because they concern what can happen down the road. Mr. Pittman said the Board could impose conditions like there couldn't be broken down machines sitting on site for more than 2 weeks or 2 months. Mr. Luebbe asked what would the happen if the condition wasn't followed? It would become a legal nightmare to get those machines removed. He added that he liked some of the recommendations regarding large privacy fencing and evergreen landscaping in front of the fence so even if more equipment was added it wouldn't be seen by anyone. He asked Mr. Pittman if he would be willing to incur the expense to put up a 12' tall high privacy fence and 200 fir trees in front of the fence? Mr. Pittman said he wouldn't want to do a 12' tall fence because of the wind load. Mr. Luebbe indicated that Mr. Pittman didn't want to put up a 6' tall chainlink fence to keep people away from the equipment because of the cost and he understands that. He asked if he would be willing to incur the cost of doing the privacy fence and landscaping to screen the equipment from public view. Mr. Pittman said he didn't want to construct and pay for the fence because he doesn't plan on keeping equipment there. Mr. Luebbe said he cannot look into the future and know for sure that he will not keep equipment there. The Board needs to make plans based on what he could potentially do. If the fence and trees are installed they will screen any equipment that is kept there. Mr. Pittman said the Staff recommendation was for an 8' tall privacy fence to be constructed with 6' tall evergreen every 20' feet on center. Mr. Pittman asked if there could be a stipulation that they just have to do a certain area of that. Mr. Wilson stated that Mr. Pittman is the applicant and he needs to come in with an application and say what he is willing to do. He shouldn't be looking at the Board to come up with conditions so he can do what he wants to do. It is Mr. Pittman's burden to come in with an application and say what he is willing to do. Mr. Luebbe said with what Mr. Pittman is proposing today he doesn't know if he can support the application because he believes it will have too big of an impact on the community.

Mr. Turner said the problem he has is Section 273 of the Boone County Zoning Regulations. This sections reads that the Board shall not permit such a change unless the new nonconforming use is as equally or more compatible. He said he doesn't know if the proposal is less, more, or equally compatible. However, the second part of this section states that the Board shall not allow a changed nonconforming use to be increased or enlarged. He sees this proposal as in increase in usage. Brinkman Oil stored and distributed fuel and Mr. Pittman would be storing and repairing equipment and storing fuel. As a result, it more of a non-conforming use. Regardless of how he feels about the area around the site, that is part he is having trouble getting beyond. It does not fall in the category of being less of a non-conforming use and that it what the Board is bound by to uphold. Mr. Pittman replied that Brinkman Oil clearly occupied all the buildings and he is proposing to do away with 2 of them. As a result, he will be occupying less space. Brinkman Oil had 15 to 20 trucks and they have 2. Brinkman Oil had the whole garage full of cases of grease and oil and they will have none of that. He believes his use would be a lesser use.

Someone from the audience said Brinkman Oil did not perform their own maintenance on their trucks. Mr. Pittman said they did and that is why they constructed the new garage.

Mr. Simpson said his experience with Brinkman Oil was there was never more than 6 trucks on site at a time. The pictures in the PowerPoint show that. Mr. Pittman said he was guessing at the number. He said they would still have less trucks than Brinkman if they had 6 because they have 2.

Mr. Bridges said he concurs with Mr. Turner's appraisal of Section 273 and if due process has been given he would like to make a motion.

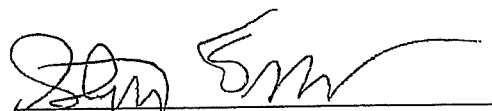
Mr. Turner asked if anybody else wanted to speak? There was no response.

Mr. Bridges made a motion to deny the request based on Section 273 of the Boone County Zoning Regulations. Mr. Turner seconded the motion. Mr. Turner called for the vote and it carried unanimously.

ADJOURNMENT


Mr. Turner asked for a motion to adjourn. Mr. Luebbe so moved and Mr. Bridges seconded the motion. The motion carried by unanimous consent and the meeting adjourned at 7:49 P.M.

APPROVED



Steve Turner
Chairman

Attest:



Todd K. Morgan, AICP
Senior Planner, Zoning Services

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

RECEIVED
79116
APR 02 2019
BOONE COUNTY
PLANNING COMMISSION

SECTION A (To be completed by applicant)

1. (Check One) Boone _____ Florence Walton _____ Union _____
2. (Check One) Conditional Use Permit _____ Variance _____ Appeal _____
Change in Non-Conforming Use
3. Applicant's Name Leo Duwayne Dietz
Applicant's Address 257 Old Nicholson Rd 5402 Country Hills Lane
Walton Union KY 41094
City State Zip
4. Phone Number 859-743-6459 Fax No. _____ E-Mail duwayne.dietz@ychoop.com
Description of Request: change of non-conforming use of property for garden center and lawn care business/snow removal
5. Name of Development Supreme Lawn Care LLC
6. Location of Development 257 Old Nicholson Rd Walton KY
7. Acreage Under Review 4.14 Acres
8. Lot Number and Name of Subdivision (if part of a subdivision)
243
9. Owner of Property RBS II James T Rose Billy Rose
Address of Property Owner 260 Old Nicholson Rd
Walton KY 41094
City State Zip
10. Phone Number 859-746-9440 Fax No. 859-746-9441 E-Mail roseb@selectegy mail.com
11. Proposed Use(s) on Site LAWN CARE & Garden Center
12. Total Square Footage of Existing and/or Proposed Buildings _____
13. Current Zoning on Property C-2
14. Deed Book 588/874 Page No. 186/838 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? NO
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: James T Rose Billy Rose
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

RBS II
260 Old Nicholson Road
Walton, KY 41094

2. ADDRESS OF PROPERTY

257 Old Nicholson Road
Walton, KY 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Supreme Lawn Care

4. DEED BOOK 588
DEED BOOK 874

PAGE NO. 186
PAGE NO. 838

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
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005

Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL


Todd K. Morgan, AICP – Senior Planner
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan

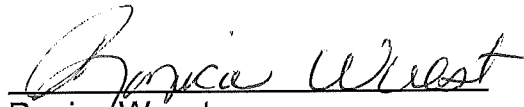
on behalf of the Boone County Planning Commission this 28 day of May, 2019.



Treva L. Beagle
Notary ID 588897
NOTARY PUBLIC, State at Large

My commission Expires:
November 12, 2021

This instrument was prepared for recording purposes only by:



Ronica Wuest
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 change in non-conforming use approved by the Walton Board of Adjustment and in accordance with the current zoning in effect as of May 23, 2019 Certificate of Land Use Restriction (#19-WBOA-003-A), for RBS II, Property Owner(s).

The following conditions will apply:

1. Except as modified by the conditions below, the approval is based on the plan and written description that were submitted by the applicant. The Zoning Administrator can permit minor changes administratively. Major changes would need to be approved by the Walton Board of Adjustment with another Change in Non- Conforming Use application.
2. A carport can be constructed to cover the equipment parking pad that is located immediately to the north of the building. The carport shall have a finish that complements the rest of the building.
3. No business activities shall occur in the approximate 1.45 acre area that's located to the north of the proposed equipment/truck parking driveway.
4. The parking area in front of the plant display area shall be eliminated and be moved to the back or side of the island. This change will allow the applicant to put the plants closer to the street and eliminate motorists from backing into the right-of-way.
5. The following landscaping and or fencing shall be required:
 - A. Street frontage landscaping per Section 3620 of the Boone County Zoning Regulations shall be required between the storage bins and Old Nicholson Road right-of-way.
 - B. Street frontage landscaping per Section 3620 of the Boone County Zoning Regulations shall be required between the truck/equipment parking driveway and the existing deciduous tree line in the northern portion of the site.
 - C. Buffer Yard A plantings shall be required along the southern property line.

- 1000
- D. The western side of the equipment parking pad shall be screened with a 6' tall privacy fence and a continuous hedge row. The shrub species shall be selected from Plant List C of the Boone County Zoning Regulations.
6. The building shall be painted a beige/sand color. A 6" tall hunter green stripe may be painted around the top of the entire building as an accent. Doors can be painted or finished white or another complimentary color.
 7. Signage on the site shall be limited to a 4' tall, 32 square foot monument sign. The sign shall not be internally illuminated.
 8. All trash shall be kept inside the building or in a dumpster that is located behind the mulch and stone bins. A dumpster enclosure shall not be required if the dumpster isn't viewable from Old Nicholson Road.
 9. The applicant will work with Boone County Planning Commission to resolve any lighting impacts on Old Nicholson.
 10. Any tractor trailer that unloads on site shall be parked in the truck area and shall not remain on site for more than 5 days.

The approved change in non-conforming use as well as the preceding conditions apply to the property described in:

DEED BOOK 588
DEED BOOK 874

PAGE NO. 186
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GROUP NO. 2080