

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 2/20/24 Fee Received: \$ 1116 Receipt #: 89969

2. Is application complete: Yes

3. Staff Reviewer: Toad Morgan

4. Scheduled Board Action Date: 3/27/24

5. Board Action: _____

_____ Approved

_____ Approved with Conditions (see #6)

_____ Denial (See #7)

6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

Supplemental Appeal Statement

#9 Current Owner.

PFLP, LLC, (Owner)
7450 Industrial Road
Florence, Kentucky 41042
Telephone: Unknown
Email: Unknown

Bailey Jayne's Bakery & Café, LLC (Tenant)
1430 Dry Ridge Mount Zion Road
Dry Ridge, Kentucky 41035
Telephone: 859-493-4002
Email: customerservice@baileyjaynes.com

#16 Adjacent Property Owners.

10 North Main Street, Walton, Kentucky 41094
Owner: Hopeful Inn, LLC, 1598 Shady Cove, Florence, Kentucky 41042

3 North Main Street, Walton, Kentucky 41094
Owner: HLB Investments, LLC, 895 Stonebridge Drive, Cincinnati, Ohio 45233

18 North Main Street, Walton, Kentucky 41094
Owners: Kelly Fulmer and Frances Wireman, 13 Park Avenue, Walton, Kentucky 41094

19 North Main Street, Walton, Kentucky 41094
Owners: KFF Enterprises, LLC, P.O. Box 149, Walton, Kentucky 41094

5 North Main Street, Walton, Kentucky 41094 (offending property)
Owner: PFLP, LLC, 7450 Industrial Road, Florence, Kentucky 41042

*Asa Mills ROUSE
10 S. Main St.
Walton, KY
41094*

#4 Grounds for Appeal

This appeal to the Walton Board of Adjustment surrounds the zoning permit issued by the Boone County Planning Commission staff, specifically Zoning Enforcement Officer, Robert Krebs, for an encroaching storage building in the rear of 5 North Main Street, Walton.

During the time of this dispute, 5 North Main Street has had two owners and one tenant. The property owners in order of ownership are: Hudson Properties, LLC and PFLP, LLC. The tenant and the party who unlawfully, without permits, is Bailey Jayne's Bakery and Café, LLC.

The bakery first constructed the "storage building" (a/k/a "a shed") without either a building or zoning permits or approval sometime in 2021 or 2022. The storage building encroaches on land to the rear of the building's footprint on land owned by KFF Enterprises, LLC (appellant here). The bakery and its prior landlord and property owner, Hudson Properties, LLC, was placed on notice of this fact

multiple times beginning in spring, 2023. Notices given to the landlord and bakery are attached to this complaint. To prevent the trespass and to show boundary lines, KFF constructed a temporary fence. This fence caught the interest of the building by zoning enforcement officer, Robert Krebs, who did at least one site visit. Mr. Krebs when inspecting the fence could not have missed the storage building.

The failure to obtain a permit before construction of the storage building is a "willful violation" of the city and county zoning regulatory scheme as a matter of law. Ky. Rev. Stat. § 100.243(2) prohibits a zoning official administratively or on appeal to the board of adjustment.

KFF Enterprises, LLC commissioned a boundary survey by Thomas Leach, L.S. (licensed surveyor) completed in April 15, 2023. It was presented to the bakery and the landlords along with the requests to remove the building. A copy of the survey is attached hereto as an exhibit.

The tenant, Bailey Jayne's Bakery & Café, LLC, through its member, Jane Napier, first applied for a zoning permit with the Boone County Planning on August 3, 2023. A copy of the permit is attached hereto as an exhibit. She did not submit any drawings showing setbacks. She could not because the storage building encroaches on KFF property as outlined in the survey she received on 3 separate occasions.

The permit sat and became stale for months. 5 North Main Street was then sold to PFLP, LLC the current owner.

In the meantime, a lawsuit to remove the storage building was filed in Boone Circuit Court in late 2023, KFF Enterprises, LLC v. Bailey Jayne's Bakery & Café, LLC, et al., civil action number 23-CI-1729.

When a motion for an injunction to remove the storage building was filed, then did Ms. Naper then submit drawings to the planning commission staff to complete her application. It is notable the drawing is not a boundary survey and does not conform to the requirements to be relied upon as a survey. It is acknowledged the planning commission rules for building and zoning permits do not require stamped drawings or surveys for the installation of certain structures.

The planning commission staff incorrectly relied on the drawing and issued the permit for the storage building that encroaches five months later.

KFF Enterprises, LLC files this zoning appeal under Ky. Rev. Stat. §§ 100.257 and 100.261 and move the Walton Board of Adjustment to REVERSE the zoning administrator's administrative approval of the zoning permit for the storage

building and staff determination the storage building did not need a building permit under the county's zoning code.

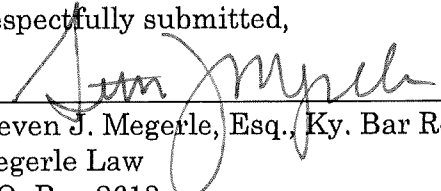
And under Ky. Rev. Stat. § 100.243(2) the board of adjustment must reverse the administrative approval as a matter of law. Ky. Rev. Stat. § 100.243(2) in full states,

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

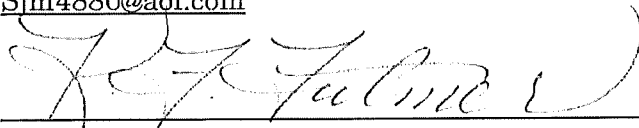
Courts have held it is not an "honest mistake" when a property owner does not "ask the appropriate questions to those with authority to determine what is necessary to act in compliance. It is prima facie a willful violation. As a matter of law, someone seeking a permit who decided to "construct first and ask questions later" can reasonably be found to commit a willful violation of the zoning code requiring denial as a matter of law."¹

KFF further requests a hearing and decision within 60 days as required under Ky. Rev. Stat. § 100.263.

Respectfully submitted,



Steven J. Megerle, Esq., Ky. Bar Reg. No. 90675
Megerle Law
P.O. Box 2613
Covington, Kentucky 41012
859-982-2025
Facsimile: 859-972-0555
Sjm4880@aol.com



Kelly F. Fulmer, member,
KFF Enterprises, LLC, a Kentucky limited liability
company

¹ See *Ball v. Oldham County Planning and Zoning Commission*, 375 S.W.3d 79, 85 (Ky. App. 2012) *Ives v. City County Bd. Of Adjustment*, 2015-CA-001360-MR, 2016 Ky.App. Unpub. LEXIS 749 (Ky.App. 2016), *Huffman v. City of Crescent Springs*, 21-CI-1052 (Ord. 06/30/23), (Kenton Cir. Ct.) All holding that a board of adjustment cannot issue a permit when the property owner "built first, then sought permit after" under Ky. Rev. Stat. § 100.243(2).

SECTION A: (To be completed by applicant)

1. Building or Address Location: 5 North MAIN St.

2. Applicant: BAILEY JAYNE'S BAKERY + CAFE

Address: 5 North MAIN St.

Walton Ky 41094

City State Zip Code

Phone Number: 859-380-0615 Fax Number: _____

Email: Baily Jayne's@gmail.com

NOTICE: I/we certify that what is submitted is true and accurate and I, or we, understand and agree that all construction work will be performed in accordance with this application, the Boone County Zoning Regulations, and the Boone County Subdivision Regulations.

Applicant's Signature: *Jayne Napier* Date: Aug 3 23.

SECTION B: (To be completed by Planning Commission staff)

Zoning:	Date:	Fee:	\$90.00	Farm Exempt
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<u>PC</u>	<input checked="" type="checkbox"/> \$45.00	(no Fee)
Staff Reviewer:	Address:			
Subdivision:				
Lot:	Section:	Block/Phase:	Group No:	Census:

TYPE OF IMPROVEMENT:

Single Family Residence	Detached Garage
Duplex	Garage Addition
Mobile Home	<input checked="" type="checkbox"/> Barn or Shed
Residential Addition	Above Ground Pool
Porch or Deck	In Ground Pool
Other:	

JURISDICTION:

Unincorporated Boone County	City of Florence
City of Walton	City of Union

POST OFFICE (ZIP CODE):

Burlington (41005)	Florence (41042)
Walton (41094)	Union (41091)
Hebron (41046)	Verona (41092)
Petersburg (41080)	Erlanger (41018)
Crittenden (41030)	Independence (41061)

RECEIVED
 88946
 AUG 03 2023
 BOONE COUNTY
 PLANNING COMMISSION

I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED UNDER MY DIRECTION UTILIZING BOTH RECORD DOCUMENTS AND FIELD SURVEY MEASUREMENTS. FIELD INFORMATION WAS PERFORMED BY RTK GPS SURVEY USING ASPECTRA SP 80 BASE AND SPECTRA SP 80 ROVER, THE SERIAL NUMBERS OF WHICH ARE ON FILE IN THE OFFICE OF THE SURVEYOR. THIS SURVEY MEETS THE ACCURACY REQUIREMENTS OF AN RURAL SURVEY AS SPECIFIED IN 201 KAR 18:150 ESTABLISHED BY THE COMMONWEALTH OF KENTUCKY.

W. Thomas Leach 04/15/2023
 W. Thomas Leach, PLS 3407
 Date:

Hudson Properties LLC
 D.B. 1112, Pg. 438

1.8650 Ac
 all of
 D.B. 1171, Pg. 880
 D.B. 1194, Pg. 92 &
 D.B. 1196, Pg. 900
 PIDN # 078-13-12-008.00
 078-13-12-009.00
 078-13-12-010.00
 078-13-12-014.00
 078-13-12-015.00

Hudson Properties LLC
 D.B. 1006, Pg. 682
 HLB Investments LLC
 D.B. 1200, Pg. 846

Pavement or
 Gravel

*encroaching
 building*

Owner
 KFF Enterprises LLC
 13 Park Ave.
 Walton, KY 41094

LEGEND

- These standard symbols will be found in the drawing.
- IRON PIN SET (1/2" X 18" REBAR WITH YELLOW CAP STAMPED LEACH 3407)
 - FOUND 1/2" IRON PIN NO CAP
 - POINT
 - △ 2 1/2" SET MAG NAIL
 - 300' RIGHT OF WAY TO BE DEDICATED

Notes:
 No cemeteries was found during boundary survey.



Tom Leach
 Land Surveying LLC
 P.O. Box 125
 195 Jenni Lane
 Dry Ridge, KY 41035
 859-393-2947
 tomleach18@gmail.com

RETRACEMENT
 SURVEY
 KFF
 ENTERPRISE
 LLC

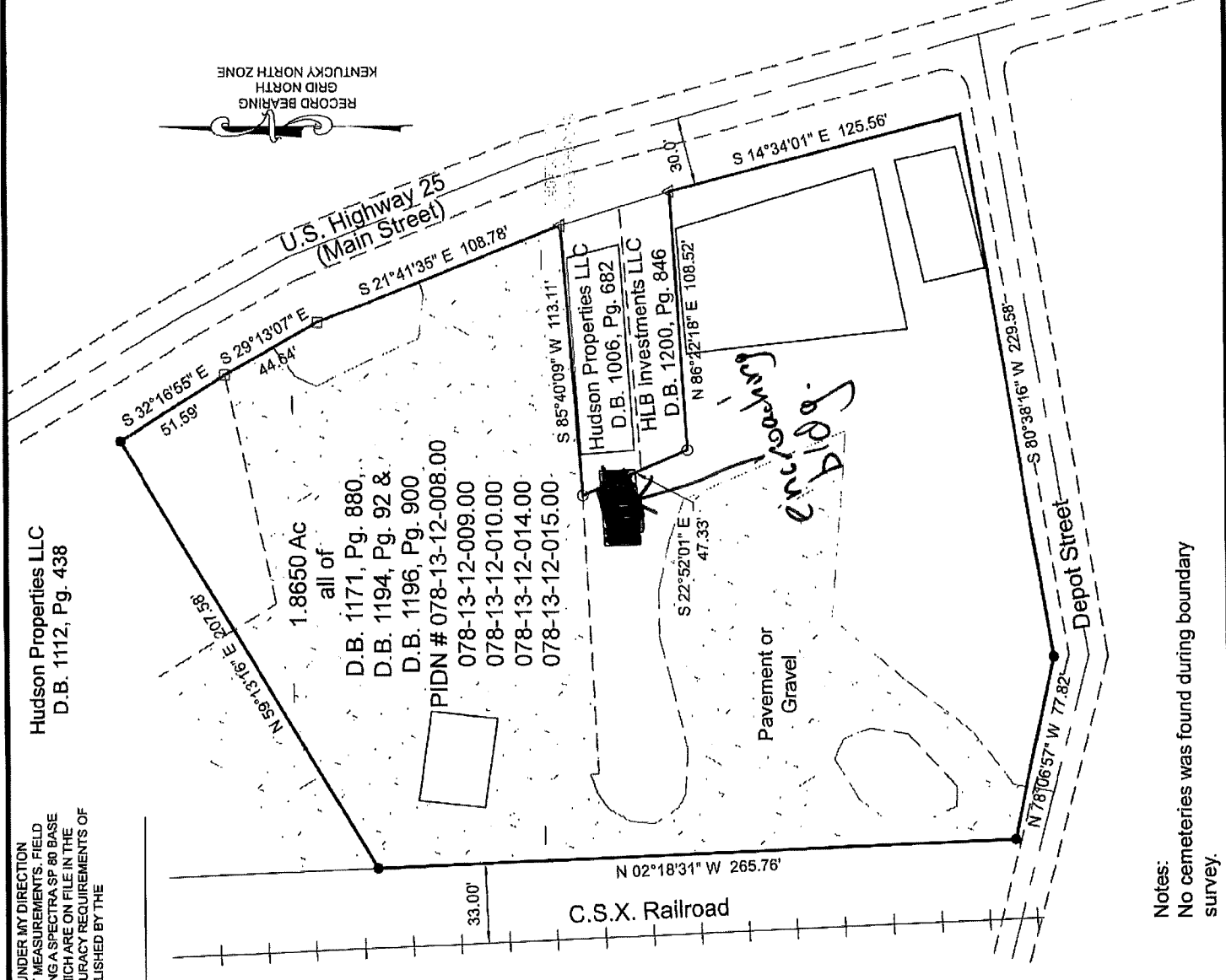
PROPERTY
 ON THE WEST SIDE OF
 U.S. HIGHWAY 25 AND
 THE NORTH SIDE OF
 DEPOT STREET
 IN THE CITY OF
 WALTON
 BOONE COUNTY,
 KENTUCKY
 This plat represents a
 boundary survey and
 complies with 201 KAR
 18:150

SCALE: 1" = 60'
 0' 30' 60'

STATE OF KENTUCKY
 W. THOMAS LEACH
 3407
 LICENSED
 PROFESSIONAL
 LAND SURVEYOR

Date: 04/15/2023
 Dwn By: W.T. Leach
 Job No.: 23-53
 Surveyed: 04/13/2023
 Filename: KFF Enterprises LLC

RECORD BEARING
 GRID NORTH
 KENTUCKY NORTH ZONE



NOT ORIGINAL

DOCUMENT

02/05/2024 04:56:50

PM

Kelly F. Fulmer

90675

AQW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

March 21, 2023

Balley Jayne's Bakery & Café
Attn: Jayne Napier
5 North Main Street
Walton, Kentucky 41094

RE: License

Dear Jayne,

After a lengthy period of time waiting I've finally obtained the updated survey for the consolidated real estate I own through KFF Enterprises, LLC which consists of 11-15 South Main; 7-13 North Main; and 19 North Main Street Walton, Boone County, Kentucky 41094.

I've enclosed a notice extinguishing the license that heretofore existed or was believed to have existed for the usage (as described in the notice which is wholly incorporated herein by reference thereto and wholly affirmed and ratified hereby) of said property.

Please consider this letter as an invitation to meet with me to discuss favorable terms of use for a new license to utilize the real estate for the continued benefit of your business. I am setting Monday, March 27, 2023 aside to meet with interested parties. Please call to schedule an appointment between 10:00 a.m. and 4:00 p.m.

Thank you for your anticipated cooperation.

Regards,



K.F. Fulmer

CC: File

KFF/mm

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000022 of 000029

EXH : 000001 of 000004

NOT ORIGINAL

DOCUMENT

02/05/2024 04:56:50

PM

Prepared By:
K.F. Fulmer
18 N. Main Street
POB 149
Walton, Kentucky 41094

90675

C9F842C1-ADA5-4CE3-A4A7-D661E603FE25 : 000023 of 000029

**DECLARATION EXTINGUISHING LISCENSE
OF THE RIGHT OF INGRESS AND EGRESS**

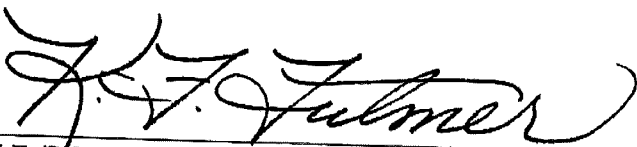
THIS DECLARATION is made by KFF Enterprises LLC and its wholly owned subsidiary the Dixie State Development Company LLC (herein referenced as the "Company") both Kentucky corporations whose mailing address is 19 North Main Street, POB 149, Walton, KY 41094.

BE IT KNOWN TO ALL WHOM THESE PRESENTS MEET: That the Company owns real estate in Walton, Boone County, Kentucky and has made the decision with immediate force and effect to extinguish any liscense that heretofore existed or was believed by interested parties to have existed at 11-15 South Main Street; 7-18 North Main Street; or 19 North Main Street.

Upon consideration the Company has determined that any further use of the subject property for the purpose of ingress, egress, employee parking, loading/unloading trucks or trailers, maintaining refuse receptacles commonly referred to as dumpsters, customer parking, or outdoor seating and planters is hereby withdrawn and terminated nunc pro tunc.

This Declaration will be strictly enforced by the Company in consideration of its fee simple ownership of the subject real estate and under the authority of Kentucky Revised Statutes.

Dated this 21st day of March, 2023 by:



K.F. Fulmer, Proprietor

EXH : 000002 of 000004

NOT ORIGINAL

DOCUMENT

02/05/2024 04:56:50

PM

Kelly F. Fulmer

90675

AQW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

March 21, 2023

Hudson's Eye Center
Attn: Drs. Tyler & Kim Hudson
27 North Main Street
Walton, Kentucky 41094

RE: License

Dear Drs. Hudson,

After a lengthy period of time waiting I've finally obtained the updated survey for the consolidated real estate I own through KFF Enterprises, LLC which consists of 11-15 South Main; 7-13 North Main; and 19 North Main Street Walton, Boone County, Kentucky 41094.

I've enclosed a notice extinguishing the license that heretofore existed or was believed to have existed for the usage (as described in the notice which is wholly incorporated herein by reference thereto and wholly affirmed and ratified hereby) of said property.

Please consider this letter as an invitation to meet with me to discuss favorable terms of use for a new license to utilize the real estate for the continued benefit of your business. I am setting Monday, March 27, 2023 aside to meet with interested parties. Please call to schedule an appointment between 10:00 a.m. and 4:00 p.m.

Thank you for your anticipated cooperation.

Regards,



K.F. Fulmer

CC: File

KFF/mm

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000024 of 000029

EXH : 000003 of 000004

NOT ORIGINAL

DOCUMENT

02/05/2024 04:56:50

PM

Prepared By:
K.F. Fulmer
18 N. Main Street
POB 149
Walton, Kentucky 41094

90675

**DECLARATION EXTINGUISHING LISCENSE
OF THE RIGHT OF INGRESS AND EGRESS**

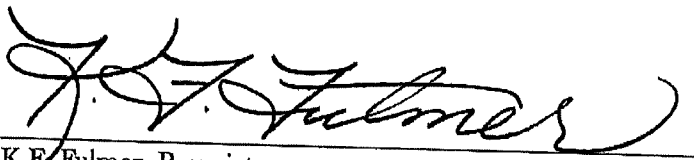
THIS DECLARATION is made by KFF Enterprises LLC and its wholly owned subsidiary the Dixie State Development Company LLC (herein referenced as the "Company") both Kentucky corporations whose mailing address is 19 North Main Street, POB 149, Walton, KY 41094.

BE IT KNOWN TO ALL WHOM THESE PRESENTS MEET: That the Company owns real estate in Walton, Boone County, Kentucky and has made the decision with immediate force and effect to extinguish any liscense that heretofore existed or was believed by interested parties to have existed at 11-15 South Main Street; 7-13 North Main Street; or 19 North Main Street.

Upon consideration the Company has determined that any further use of the subject property for the purpose of ingress, egress, employee parking, loading/unloading trucks or trailers, maintaining refuse receptacles commonly referred to as dumpsters, customer parking, or outdoor seating and planters is hereby withdrawn and terminated nunc pro tunc.

This Declaration will be strictly enforced by the Company in consideration of its fee simple ownership of the subject real estate and under the authority of Kentucky Revised Statutes.

Dated this 21st day of March, 2023 by:



K.F. Fulmer, Proprietor

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000025 of 000029

EXH : 000004 of 000004

NOT ORIGINAL

DOCUMENT

02/05/2024 04:54:29

PM

Kelly F. Fulmer

90675

AQW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

April 17, 2023

Bailey Jayne's Bakery & Café
5 North Main Street
Walton, Kentucky 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

RE: License

Dear Bailey & Jayne,

I am writing once again regarding the real estate at 11-15 South Main Street and 7-13 North Main Street in Walton, Boone County, Kentucky. Enclosed please find an updated survey plat that clearly shows the property boundaries of KFF Enterprises LLC. Also incorporated herein is the previously served on 21 March 2023 Declaration Extinguishing License of the Right of Ingress and Egress which is once again wholly affirmed and ratified hereby.

As you are aware I've been attempting for close to a month to negotiate an amicable solution to your continued use/encroachment on my property for the operation of the bakery and café. Unfortunately, and regrettably not only have you not acted in good faith toward coming to an agreement you have taken the path of whipping up public opinion on social media using untruth, half-truth, and convenient omission of relevant facts to garner support for what is an untenable position of continued unfettered free use of private property for your business. Even in light of the current state of affairs I remain hopeful that a solution can be reached to resolve the immediate situation here on Main Street and alleviate the inconvenience to all other business owners here in the historic Walton business corridor.

I'm providing a copy of this letter to your landlord, Drs. Tyler & Kim Hudson, as I believe that time is of the essence for all four (4) of you to come and sit down at the negotiating table to reach a solution otherwise I'll be forced to take the next necessary legal steps (after closing the lot) to protect both my personal and property rights. I suggest meeting at 9:00 a.m. on Wednesday, April 19, 2023.

Thank you in advance for your anticipated cooperation.

Regards,

K.F. Fulmer
Enclosure: 2

CC: File
/KFF

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000026 of 000029

EXH : 000001 of 000002

DOCUMENT

PM



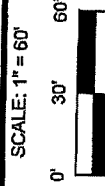
Tom Leach
 Land Surveying LLC
 P.O. Box 125
 195 Jenni Lane
 Dry Ridge, KY 41035
 859-395-2947
 tomleach18@gmail.com

RETRACEMENT
 SURVEY
 KFF

ENTERPRISE
 LLC

PROPERTY
 ON THE WEST SIDE OF
 U.S. HIGHWAY 25 AND
 THE NORTH SIDE OF
 DEPOT STREET
 IN THE CITY OF
 WALTON

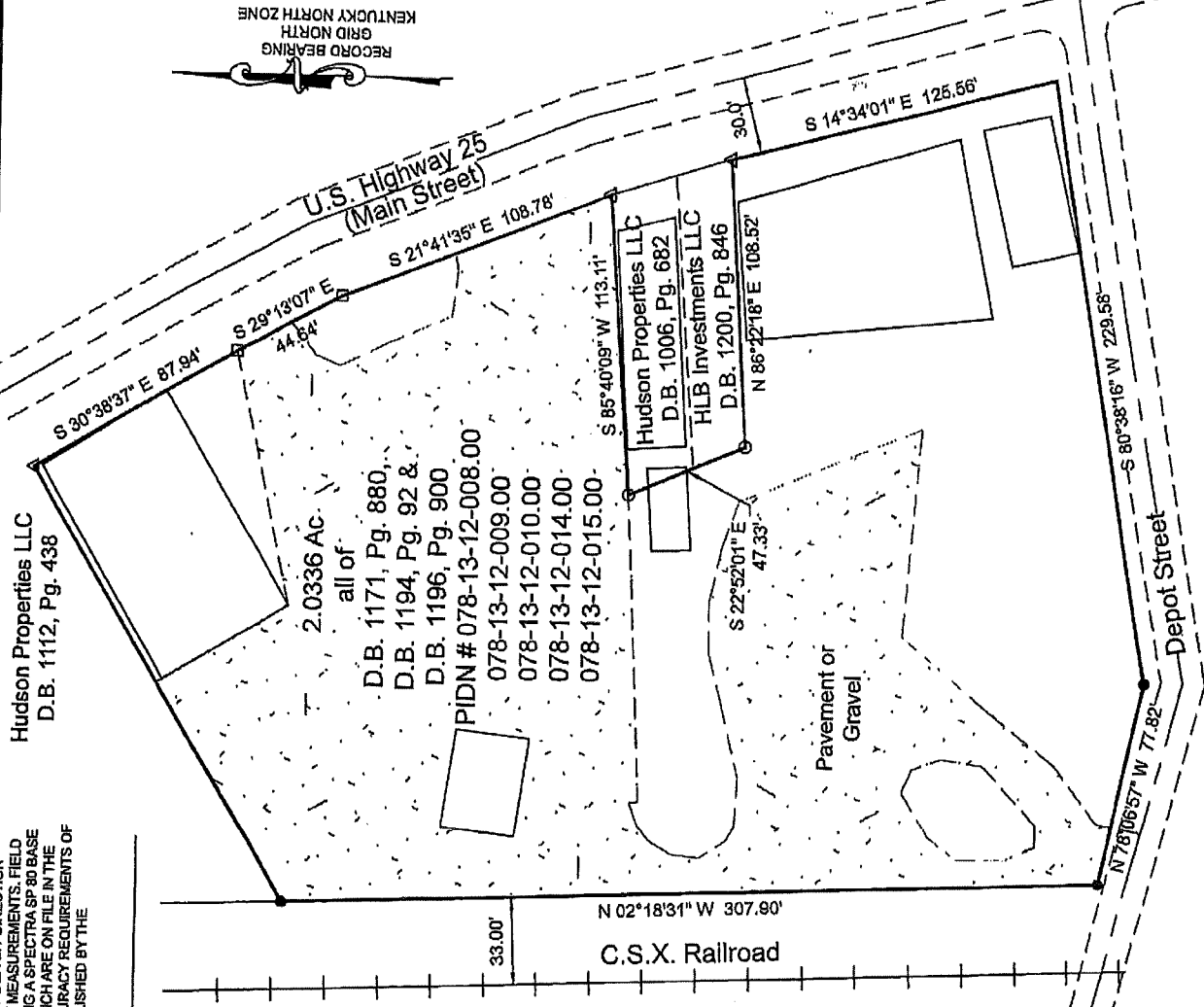
BOONE COUNTY,
 KENTUCKY
 This plat represents a
 boundary survey and
 complies with 201 KAR
 18:150



STATE OF KENTUCKY
 W. THOMAS LEACH
 3407
 LICENSED
 PROFESSIONAL
 LAND SURVEYOR

Date: 04/15/2023
 Dwn By: W.T. Leach
 Job No.: 23-53
 Surveyed: 04/13/2023
 Filename: KFF Enterprises LLC

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000027 of 000029



Hudson Properties LLC
 D.B. 1112, Pg. 438

2.0336 AC
 all of
 D.B. 1171, Pg. 880,
 D.B. 1194, Pg. 92 &
 D.B. 1196, Pg. 900
 PIDN # 078-13-12-008.00
 078-13-12-009.00
 078-13-12-010.00
 078-13-12-014.00
 078-13-12-015.00

Hudson Properties LLC
 D.B. 1006, Pg. 682
 HLB Investments LLC
 D.B. 1200, Pg. 846

Pavement or
 Gravel

"I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED UNDER MY DIRECTION UTILIZING BOTH RECORD DOCUMENTS AND FIELD SURVEY MEASUREMENTS. FIELD INFORMATION WAS PERFORMED BY RTK GPS SURVEY USING A SPECTRA SP 80 BASE AND SPECTRA SP 80 ROVER. THE SERIAL NUMBERS OF WHICH ARE ON FILE IN THE OFFICE OF THE SURVEYOR. THIS SURVEY MEETS THE ACCURACY REQUIREMENTS OF AN RURAL SURVEY AS SPECIFIED IN 201 KAR 18:150 ESTABLISHED BY THE COMMONWEALTH OF KENTUCKY"

W. Thomas Leach 04/15/2023
 W. Thomas Leach PLS 3407

Owner
 KFF Enterprises LLC
 13 Park Ave.
 Walton, KY 41094

LEGEND

- These standard symbols will be found in the drawing.
- IRON PIN SET (1/2" X 18" REBAR WITH YELLOW CAP STAMPED LEACH 3407)
 - FOUND 1/2" IRON PIN NO CAP
 - POINT
 - △ 2" SET MAG NAIL
 - 30.0' RIGHT OF WAY TO BE DEDICATED

Notes:
 No cemeteries was found during boundary survey.

EXH : 000002 of 000002

DOCUMENT

Kelly F. Fulmer

9067⁵ AOW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

NOTICE OF EVICTION

DATE: 18 APRIL 2023

**TO: BAILEY JAYNE'S BAKERY & CAFÉ'
ATTN: JAYNE NAPIER**

FROM: KFF ENTERPRISES, LLC.

**RE: REMOVAL OF BUILDING FROM PROPERTY AT
11-15 SOUTH MAIN STREET**

****HAND DELIVERED** AND SENT VIA US MAIL
POSTAGE PREPAID**

TO ALL WHOM THESE PRESENTS SHALL MEET:

**YOU HAVE THIRTY DAYS FROM TODAY TO REMOVE
YOUR STORAGE BUILDING ENCROACHING ON THE
ABOVE REFERENCED REAL ESTATE. IF NOT
REMOVED BY 18 MAY 2023 THE BUILDING WILL BE
REMOVED AND IMPOUNDED AT YOUR EXPENSE PER
KRS 189.725**

K.F. FULMER

NOT ORIGINAL

THESE CERTIFY THAT THIS SURVEY WAS PERFORMED UNDER MY DIRECTION UTILIZING BOTH RECORD DOCUMENTS AND FIELD SURVEY MEASUREMENTS. FIELD INFORMATION WAS PERFORMED BY RTK GPS SURVEY USING A SPECTRA SP 80 BASE AND SPECTRA SP 80 ROVER. THE SERIAL NUMBERS OF WHICH ARE ON FILE IN THE OFFICE OF THE SURVEYOR. THIS SURVEY MEETS THE ACCURACY REQUIREMENTS OF AN RURAL SURVEY AS SPECIFIED IN 201 KAR 18:150 ESTABLISHED BY THE COMMONWEALTH OF KENTUCKY.

W. Thomas Leach 04/15/2023
 W. Thomas Leach, PLS 3407
 Date:

Hudson Properties LLC
 D.B. 1112, Pg. 438

2.0336 AC
 all of
 D.B. 1171, Pg. 880,
 D.B. 1194, Pg. 92 &
 D.B. 1196, Pg. 900
 PIDN # 078-13-12-008.00
 078-13-12-009.00
 078-13-12-010.00
 078-13-12-014.00
 078-13-12-015.00

Hudson Properties LLC
 D.B. 1006, Pg. 682
 HLB Investments LLC
 D.B. 1200, Pg. 846

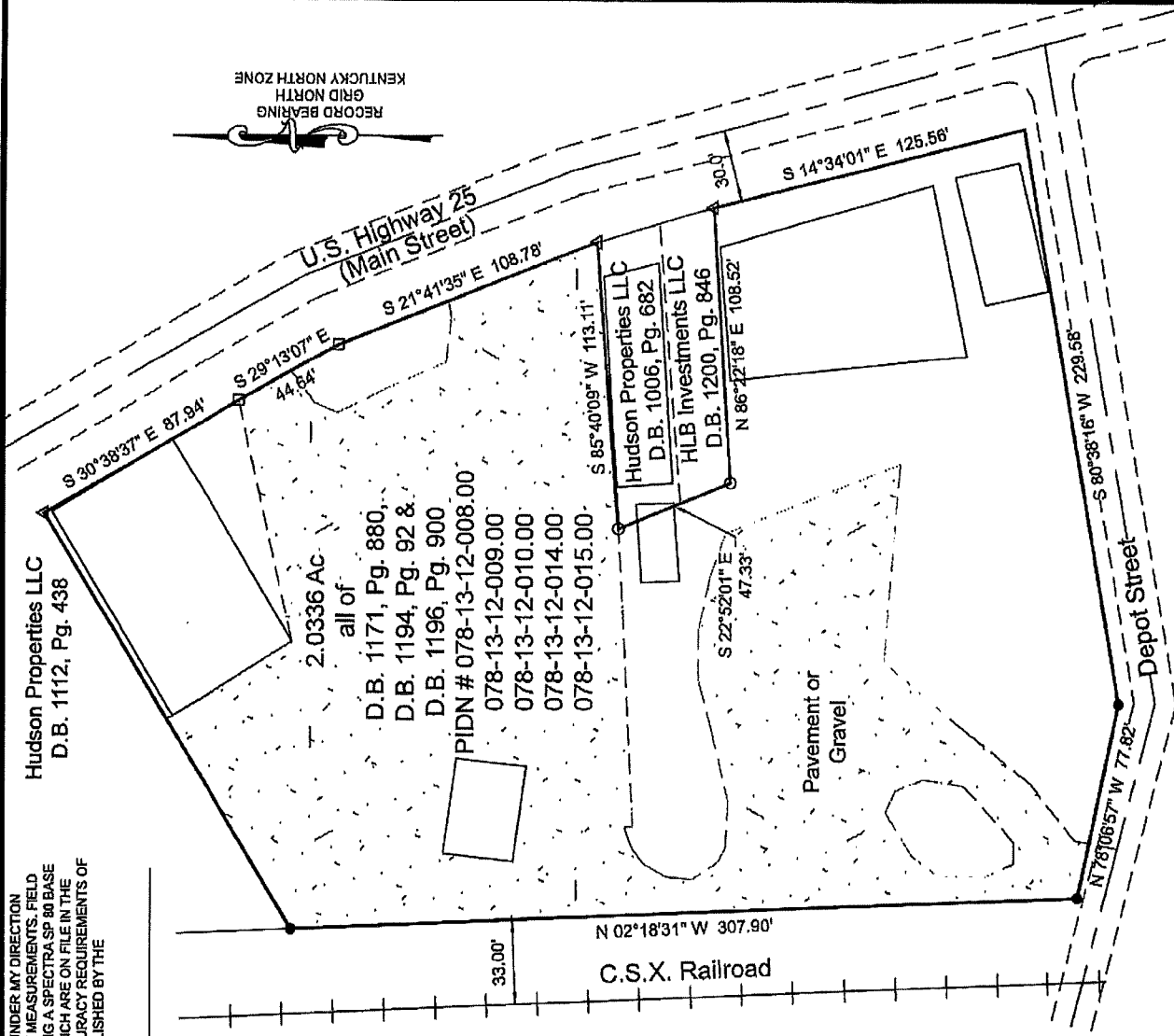
C.S.X. Railroad
 N 02°18'31" W 307.90'

Owner
 KFF Enterprises LLC
 13 Park Ave.
 Walton, KY 41094

LEGEND

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Notes:
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Tom Leach
 Land Surveying LLC
 P.O. Box 125
 195 Jemal Lane
 Dry Ridge, KY 41085
 859-393-2947
 tomleach19@gmail.com

RETRACEMENT
 SURVEY
 KFF
 ENTERPRISE
 LLC

PROPERTY
 ON THE WEST SIDE OF
 U.S. HIGHWAY 25 AND
 THE NORTH SIDE OF
 DEPOT STREET
 IN THE CITY OF
 WALTON

BOONE COUNTY,
 KENTUCKY
 This plat represents a
 boundary survey and
 complies with 201 KAR
 18:150

SCALE: 1" = 60'
 0' 30' 60'

STATE OF KENTUCKY
 W. THOMAS LEACH
 3407
 LICENSED
 PROFESSIONAL
 LAND SURVEYOR

Date: 04/15/2023
 Dwn By: W.T. Leach
 Job No.: 23-53
 Surveyed: 04/13/2023
 Filename: KFF Enterprises LLC

DOCUMENT

PM

**BOONE COUNTY
D1206 PG897**

EXHIBIT A

LEGAL DESCRIPTION

Situate in the City of Walton, Boone County, Kentucky, on the west side of Main Street, and bounded thus:

Beginning at a corner with Vallindingham Brothers' lot on Main Street; thence with their line in a westerly direction to a point in the line of William Norman, now Wallace and Edwards; thence with their line in a southerly direction twenty-five (25) feet to the corner of a lot now owned by R. D. Stamler; thence with his line in an easterly direction and parallel with, and twenty-five (25) feet from the first mentioned line to Main Street; thence in a northerly direction with Main Street to the place of beginning.

Subject to easements and restrictions of record.

PIDN: 078.13-12-012.00

Group: 2079 °

Property Address: 5 North Main Street, Walton, Kentucky 41094

STAFF REPORT

#1

APPLICANT: KFF Enterprises, LLC c/o Megerle Law

LOCATION: 5 N. Main Street, Walton, Kentucky

ZONING: Walton Downtown District (WD)

DATE: March 27, 2024

DESCRIPTION OF REQUEST AND ISSUE

1. On February 6, 2024, Robert Krebs, Zoning Enforcement Officer with Boone County Planning Commission, approved a zoning permit application allowing a shed behind Bailey Jayne's Bakery and Cafe. The submitted plan showed the shed was approximately 0.7 feet from western property line and approximately 4' from the northern property line.
2. The applicant is appealing Boone County Planning Commission's approval of the Zoning Permit.

PERTINENT REGULATIONS

1. Section 200 of the Boone County Zoning Regulations states that one duty of the Zoning Administrator is to "take any other action authorized by these regulations to ensure compliance with or to prevent violation(s) of these regulations. This may include the issuance of and action on zoning and certificate of occupancy permits and such similar administrative duties as are permissible under provisions of Kentucky Revised Statutes (KRS), Section 100.271."
2. Section 200 of the Boone County Zoning Regulations also states "the Zoning Administrator may delegate any portion or portions of his/her duties to a Zoning Enforcement Officer. The Zoning Enforcement Officer shall carry out duties assigned by the Zoning Administrator. Such duties may include, but are not limited to: site inspections regarding complaints of violations of these regulations; site inspections of developments for compliance with plans approved under these regulations; issuance of "Notice of Violations" citations; and review of development plans for compliance with the rules, regulations and standards of these regulations."
3. Section 202 C. of the Boone County Zoning Regulations states that one duty of the Board of Adjustment is "to hear and decide on applications where it is alleged by an applicant that there is an error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulations."
4. Section 203 A. (3.) of the Boone County Zoning Regulations states that "appeals to the Board of Adjustment may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of any zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or their agent receives notice of the action of the

official by filing with said officer and with the Board of Adjustment, a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board, any interested person may appear and enter their appearance, and shall be given an opportunity to be heard.”

5. Section 400 of the Boone County Zoning Regulations states that “no building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use or character without a permit that has been issued by the Zoning Administrator or designee. Zoning Permits are required for single family dwelling units, duplex dwelling units, residential additions and accessory structures except when Site Plan Review is otherwise required by these regulations. Zoning Permits are also required for tenant finishes for previously occupied, non-residential structures and where tenants or users were not known at the time when Site Plan Review was conducted by the Boone County Planning Commission for a completed structure. Site Plan Review is required when specified by individual zoning districts or ARTICLE 30.”
6. Section 401 of the Boone County Zoning Regulations states that “the owner or applicant seeking approval of a Zoning Permit shall obtain and complete the application provided for this purpose. The application for a Zoning Permit shall be completed in full and signed by the owner or applicant attesting to the accuracy of all information supplied on the application and all supplemental plans and materials required by said application. A copy of the approved Demolition Permit shall be submitted with any Zoning Permit application that includes demolition work.”
7. Section 404 of the Boone County Zoning Regulations states “Zoning Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize the use, arrangement and construction set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized by the approved Zoning Permit shall be deemed a violation of these regulations, and is punishable as provided in SECTION 406.”
8. The Boone County Zoning Map identifies the property located at 5 N. Main Street, Walton, KY as being zoned Walton Downtown District (WD).
9. Section 505.5 and Table 5-6 of the Boone County Zoning Regulations identify the following uses as being principally permitted uses or accessory uses in the WD district:
 - Eating and drinking establishments – Principally Permitted Use
 - Customary Accessory Buildings and Use – Accessory Use – Subject to Section 3153 of the Zoning Regulations.

10. Section 2401 of the Boone County Zoning Regulations identifies “eating establishments which may include alcoholic beverages” as a principally permitted use in the WD zone.
11. Section 2402 of the Boone County Zoning Regulations identifies accessory uses and buildings which are permitted in the WD zone. The list does not specifically identify sheds.

Note – The Zoning Administrator determined that a shed is a customary accessory building to an eating and drinking establishment and is permitted per Section 505.5 and Table 5-6 of the Boone County Zoning Regulations.

12. Section 2405 D. of the Boone County Zoning Regulations states “the Walton Downtown District shall have no minimum front, side, or rear yard setback requirements for buildings that are used for principally permitted or conditional uses. Accessory use structures shall be required to be placed behind principal structures. It is suggested that new building construction generally conform with the front yard setbacks of adjacent existing buildings or structures. Buildings shall not be permitted to be located on lots in such a manner as to cause driver visibility impairment and shall meet adequate site distances of SECTION 3217 of ARTICLE 32. This shall be determined during the Site Plan Review or Zoning Permit process.
13. Section 3153 of the Boone County Zoning Regulations states that accessory structures or uses, as defined in ARTICLE 40 of this order (ordinance), shall be placed in the side or rear yard only, but not the corner side yard, and shall be no closer than five (5) feet to any property line in all zoning districts (refer to SECTION 3122 for setbacks along freeway, expressway, arterial, or collector roads). Accessory structures or uses may be located in the front yard area or corner side yard area in Agricultural zones or for agricultural uses located in other districts provided the respective front yard or corner side yard setback is met. (THE FOLLOWING PASSAGE APPLIES TO UNINCORPORATED BOONE COUNTY ONLY). Roof structures that are open at the sides and/or partially enclosed structures that are used solely to house farmers marts may also be located in the front yard area or corner side yard area provided the respective front yard or corner side yard setback is met.

Note – The Zoning Administrator determined that the 5’ accessory structure setback does not pertain to the WD District. See Section 2405 D. of the Boone County Zoning Regulations.

14. Article 40 of the Boone County Zoning Regulations defines an accessory use or structure, customary as follows: “a customary accessory structure or use is one that: (1) is subordinate to and serves the principal structure or principal use; (2) is subordinate in area, extent, or purpose to the principal structure or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principal structure or principal use served; and (4) is located on the same lot as the principal structure or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the structure or use served.”

BOONE COUNTY PLANNING COMMISSION TIMELINE FOR SUBJECT PROPERTY

1. On April 18, 2023, the City of Walton's Zoning Enforcement Officer, Robert Krebs, received a complaint about a shed being located on the property.
2. On May 23, 2023, Mr. Krebs sent the property owner a violation notice that a storage building had been located on the property without proper approvals.
3. On July 13, 2023, Mr. Krebs sent the property owner a second violation notice regarding the storage building. The letter informs the property owner that a citation will be issued to the Walton Code Enforcement Board if the issue is not resolved by July 31, 2023.
4. On August 3, 2023, a Zoning Permit application is submitted by Bailey Jayne's Bakery & Café to allow a storage building (shed) to be located at the rear of the property. Mr. Krebs and the applicant communicated with each other many times over many months. The issue was that a plot plan or survey was needed to verify the shed was fully located on the subject property before the Zoning Permit application could be approved.
5. Middle of January 2024, Mr. Krebs drove out to the site and analyzed the pipes that had been placed over Tom Leach's property monuments (see #4 below). He believed the shed would fit on the subject property based on these monuments but was waiting on the applicant to submit their survey from Andrew R. Ament.
6. On February 6, 2024, the Zoning Permit application was approved by Mr. Krebs after he received a copy of the survey from Andrew R. Ament. It shows the subject shed is fully located on the subject property and is 0.7' +/- from the western property line and 4' +/- from the northern property line.

BOONE COUNTY PLANNING COMMISSION TIMELINE FOR ADJOINING PROPERTY - 19 N. MAIN STREET, WALTON, KY

1. On June 2, 2023, the City of Walton's Zoning Enforcement Officer, Robert Krebs, sent the property owner a violation notice indicating that a fence had been located on the property without approvals. Note – The sectional chain link fence that was constructed did not meet code (Section 3655 of the Boone County Zoning Regulations) and could not be approved.
2. On July 13, 2023, Mr. Krebs sent the property owner a second violation notice regarding the fence. The letter informs the property owner that a citation will be issued to the Walton Code Enforcement Board if the issue is not resolved by July 31, 2023.
3. On July 19, 2023, a Zoning Permit application was submitted to allow the construction of a fence on the property.
4. On July 29, 2023, the Zoning Permit application to allow an 8' tall decorative fence on the property was approved by Boone County Planning Commission Staff. The fence location is shown on a survey, which was prepared by W. Tom Leach. The survey also

shows the shed located at 5 N. Main Street crosses the property line and is largely located on property owned by KFF Enterprises.

5. On August 4, 2023, Mr. Krebs contacted the property owner and asked him when the approved fence would be constructed since the temporary fence remained. The property owner responded that Mills Fence was scheduled to start the work on August 14, 2023.
6. On August 15, 2023, Mr. Krebs issues a Walton Code Enforcement Board Citation for the temporary fence that remained on the property.
7. On September 7, 2023, Mr. Krebs issues a second Walton Code Enforcement Citation for the temporary fence that remained on the property.
8. On September 29, 2023, Mr. Krebs received an email from Jack Gatlin, Attorney at Law, indicating that the temporary fence had been removed. He indicated the Mayor of Walton asked to dismiss both citations and waive all fines. Mr. Krebs agreed.

STAFF COMMENTS

1. The applicant/appellant included a supplemental appeal statement and exhibits with the application. These are included as attachments to the Staff Report.

Boone County Planning Commission Staff has the following comments regarding the “grounds for appeal” section of the appeal statement:

- A. The fourth paragraph of this section states that “the failure to obtain a permit before construction of the storage building is a willful violation of the city and county regulatory scheme as a matter of law. KY Rev. Stat. 100.243(2) prohibits a zoning official administratively or on appeal to the board of adjustment.”

Staff comment – KRS 100.243(2) says the “board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from relief is sought.” Staff does not believe this passage is applicable because the applicant is not seeking a Variance from the Board. The shed meets the building setback requirements found in Section 2405 D. of the Boone County Zoning Regulations.

- B. The fifth paragraph of this section states that “KFF Enterprises, LLC commissioned a boundary survey by Thomas Leach, L.S. (licensed surveyor) completed in April 15, 2023. It was presented to the bakery and the landlords along with the requests to remove the building. A copy of the survey is attached as an exhibit.”

Staff comment – Boone County Planning Commission Staff was aware of this survey and concluded there was a discrepancy between the property line shown

on the Leach survey and the property monuments and pipes he located in the field. The bakery owner, Jayne Napier, supplied a mortgage inspection survey prepared by Andrew R. Ament, L.S., before Mr. Krebs acted on her Zoning Permit application for the subject shed. Mr. Krebs drove out to the site and concluded the subject shed was located fully on the subject property by visualizing the structure and the survey monuments/pipes that were placed by Mr. Leach.

- C. The ninth paragraph of this section states “when a motion for injunction to remove the storage building was filed, then did Ms. Naper then submit drawings to the planning commission staff to complete her application. It is notable the drawing is not a boundary survey and does not conform to the requirements to be relied upon as a survey. It is acknowledged the planning commission rules for building and zoning permits do not require stamped drawings or surveys for the installation of certain structures.”

Staff comments – As mentioned, the Boone County Zoning Regulations do not require a boundary survey to approve a Zoning Permit application. The timeline for the subject property references that Mr. Krebs performed a site evaluation and waited on Ms. Napier to supply a survey before he acted on the Zoning Permit application.

While it was not analyzed by Mr. Krebs in his approval of the Zoning Permit, Ms. Napier's attorney, Scott R. Thomas, did provide Boone County Planning Commission Staff with a copy of a boundary (retracement) survey prepared by Andrew R. Ament on 3/7/24. The shed location and setbacks shown on this survey match the drawing that was approved by Mr. Krebs.

CONCLUSION

Section 202 C. of the Boone County Zoning Regulations give the Walton Board of Adjustment the authority to act on this request. In order for an appeal to be granted, the Board must determine that the administrative decision in question is in error.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

Attachments

- *Application and Supplemental Appeal Statement and Exhibits Submitted by Applicant
- *Site Vicinity Map
- *Zoning Map
- *5/23/23 Letter to Hudson Eye Center (See Subject Property Timeline 2.)
- *7/13/23 Letter to Hudson Eye Center (See Subject Property Timeline 3.)
- *2/6/24 Approved Zoning Permit (See Subject Property Timeline 6.)
- *6/2/23 Letter to KFF Enterprises (See Adjoining Property Timeline 1.)
- *7/13/23 Letter to KFF Enterprises (See Adjoining Property Timeline 2.)
- *7/29/23 Approved Zoning Permit (See Adjoining Property Timeline 4.)
- *8/4/23 Email from Kelly Fulmer to Robert Krebs (See Adjoining Property Timeline 5.)
- *8/15/23 City of Walton Uniform Code Citation (See Adjoining Property Timeline 6.)
- *9/7/23 City of Walton Uniform Code Citation (See Adjoining Property Timeline 7.)
- *9/29/23 Email from Jack Gatlin to Robert Krebs (See Adjoining Property Timeline 8.)
- *3/12/24 Email from Scott R. Thomas

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 2/20/24 Fee Received: \$ 1116 Receipt #: 89969

2. Is application complete: _____

3. Staff Reviewer: _____

4. Scheduled Board Action Date: _____

5. Board Action: _____

- _____ Approved
- _____ Approved with Conditions (see #6)
- _____ Denial (See #7)

6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

Supplemental Appeal Statement

#9 Current Owner.

PFLP, LLC, (Owner)
7450 Industrial Road
Florence, Kentucky 41042
Telephone: Unknown
Email: Unknown

Bailey Jayne's Bakery & Café, LLC (Tenant)
1430 Dry Ridge Mount Zion Road
Dry Ridge, Kentucky 41035
Telephone: 859-493-4002
Email: customerservice@baileyjaynes.com

#16 Adjacent Property Owners.

10 North Main Street, Walton, Kentucky 41094

Owner: Hopeful Inn, LLC, 1598 Shady Cove, Florence, Kentucky 41042

3 North Main Street, Walton, Kentucky 41094

Owner: HLB Investments, LLC, 895 Stonebridge Drive, Cincinnati, Ohio 45233

18 North Main Street, Walton, Kentucky 41094

Owners: Kelly Fulmer and Frances Wireman, 13 Park Avenue, Walton, Kentucky 41094

19 North Main Street, Walton, Kentucky 41094

Owners: KFF Enterprises, LLC, P.O. Box 1490, Walton, Kentucky 41094

5 North Main Street, Walton, Kentucky 41094 (offending property)

Owner: PFLP, LLC, 7450 Industrial Road, Florence, Kentucky 41042

*Asa Mills Rouse
10 S. Main St.
Walton, KY
41094*

#4 Grounds for Appeal

This appeal to the Walton Board of Adjustment surrounds the zoning permit issued by the Boone County Planning Commission staff, specifically Zoning Enforcement Officer, Robert Krebs, for an encroaching storage building in the rear of 5 North Main Street, Walton.

During the time of this dispute, 5 North Main Street has had two owners and one tenant. The property owners in order of ownership are: Hudson Properties, LLC and PFLP, LLC. The tenant and the party who unlawfully, without permits, is Bailey Jayne's Bakery and Café, LLC.

The bakery first constructed the "storage building" (a/k/a "a shed") without either a building or zoning permits or approval sometime in 2021 or 2022. The storage building encroaches on land to the rear of the building's footprint on land owned by KFF Enterprises, LLC (appellant here). The bakery and its prior landlord and property owner, Hudson Properties, LLC, was placed on notice of this fact

multiple times beginning in spring, 2023. Notices given to the landlord and bakery are attached to this complaint. To prevent the trespass and to show boundary lines, KFF constructed a temporary fence. This fence caught the interest of the building by zoning enforcement officer, Robert Krebs, who did at least one site visit. Mr. Krebs when inspecting the fence could not have missed the storage building.

The failure to obtain a permit before construction of the storage building is a "willful violation" of the city and county zoning regulatory scheme as a matter of law. Ky. Rev. Stat. § 100.243(2) prohibits a zoning official administratively or on appeal to the board of adjustment.

KFF Enterprises, LLC commissioned a boundary survey by Thomas Leach, L.S. (licensed surveyor) completed in April 15, 2023. It was presented to the bakery and the landlords along with the requests to remove the building. A copy of the survey is attached hereto as an exhibit.

The tenant, Bailey Jayne's Bakery & Café, LLC, through its member, Jane Napier, first applied for a zoning permit with the Boone County Planning on August 3, 2023. A copy of the permit is attached hereto as an exhibit. She did not submit any drawings showing setbacks. She could not because the storage building encroaches on KFF property as outlined in the survey she received on 3 separate occasions.

The permit sat and became stale for months. 5 North Main Street was then sold to PFLP, LLC the current owner.

In the meantime, a lawsuit to remove the storage building was filed in Boone Circuit Court in late 2023, KFF Enterprises, LLC v. Bailey Jayne's Bakery & Café, LLC, et al., civil action number 23-CI-1729.

When a motion for an injunction to remove the storage building was filed, then did Ms. Naper then submit drawings to the planning commission staff to complete her application. It is notable the drawing is not a boundary survey and does not conform to the requirements to be relied upon as a survey. It is acknowledged the planning commission rules for building and zoning permits do not require stamped drawings or surveys for the installation of certain structures.

The planning commission staff incorrectly relied on the drawing and issued the permit for the storage building that encroaches five months later.

KFF Enterprises, LLC files this zoning appeal under Ky. Rev. Stat. §§ 100.257 and 100.261 and move the Walton Board of Adjustment to REVERSE the zoning administrator's administrative approval of the zoning permit for the storage

building and staff determination the storage building did not need a building permit under the county's zoning code.

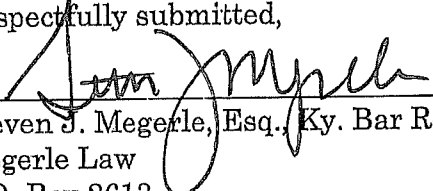
And under Ky. Rev. Stat. § 100.243(2) the board of adjustment must reverse the administrative approval as a matter of law. Ky. Rev. Stat. § 100.243(2) in full states,

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

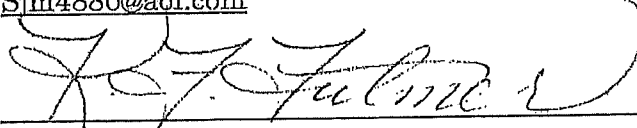
Courts have held it is not an "honest mistake" when a property owner does not "ask the appropriate questions to those with authority to determine what is necessary to act in compliance. It is prima facie a willful violation. As a matter of law, someone seeking a permit who decided to "construct first and ask questions later" can reasonably be found to commit a willful violation of the zoning code requiring denial as a matter of law.¹"

KFF further requests a hearing and decision within 60 days as required under Ky. Rev. Stat. § 100.263.

Respectfully submitted,



Steven J. Megerle, Esq., Ky. Bar Reg. No. 90675
Megerle Law
P.O. Box 2618
Covington, Kentucky 41012
859-982-2025
Facsimile: 859-972-0555
Sjm4880@aol.com



Kelly F. Fulmer, member,
KFF Enterprises, LLC, a Kentucky limited liability
company

¹ See *Ball v. Oldham County Planning and Zoning Commission*, 375 S.W.3d 79, 85 (Ky. App. 2012) *Ives v. City County Bd. Of Adjustment*, 2015-CA-001360-MR, 2016 Ky.App. Unpub. LEXIS 749 (Ky.App. 2016), *Huffman v. City of Crescent Springs*, 21-CI-1052 (Ord. 06/30/23), (Kenton Cir. Ct.) All holding that a board of adjustment cannot issue a permit when the property owner "built first, then sought permit after" under Ky. Rev. Stat. § 100.243(2).

SECTION A: (To be completed by applicant)

1. Building or Address Location: 5 North MAIN St.

2. Applicant: BAILEY JAYNE'S BAKERY + CAFE

Address: 5 North MAIN St.

Walton Ky 41094

City 859-380-0615 State Zip Code

Phone Number: 859-428-4002 Fax Number: _____

Email: Bailey Jayne's@gmail.com

NOTICE: I/we certify that what is submitted is true and accurate and I, or we, understand and agree that all construction work will be performed in accordance with this application, the Boone County Zoning Regulations, and the Boone County Subdivision Regulations.

Applicant's Signature: *Janice Napier* Date: Aug 3 23.

SECTION B: (To be completed by Planning Commission staff)

Zoning:	Date:	Fee:	\$80.00	Farm Exempt
Approved	Denied	PC	✓ \$45.00	(no Fee)
Staff Reviewer:	Address:			
Subdivision:				
Lot:	Section:	Block/Phase:	Group No:	Census:

TYPE OF IMPROVEMENT:

Single Family Residence	Detached Garage
Duplex	Garage Addition
Mobile Home	Barabar Shed ✓
Residential Addition	Above Ground Pool
Porch or Deck	In Ground Pool
Other:	

JURISDICTION:

Unincorporated Boone County	City of Florence
City of Walton	City of Union

POST OFFICE (ZIP CODE):

Burlington	(41005)	Florence	(41042)
Walton	(41084)	Union	(41081)
Hebron	(41048)	Verona	(41082)
Petersburg	(41080)	Erlanger	(41018)
Critchfield	(41030)	Independence	(41051)

RECEIVED
 88946
 AUG 03 2023
 BOONE COUNTY
 PLANNING COMMISSION

DOCUMENT

PM

NOT FOR FILING

02/05/2024 03:56:30

Kelly F. Fulmer

90675

AQW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

March 21, 2023

Balley Jayne's Bakery & Café
Attn: Jayne Napier
5 North Main Street
Walton, Kentucky 41094

RE: License

Dear Jayne,

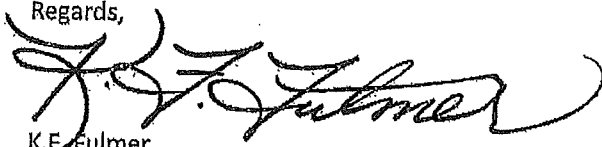
After a lengthy period of time waiting I've finally obtained the updated survey for the consolidated real estate I own through KFF Enterprises, LLC which consists of 11-15 South Main; 7-13 North Main; and 19 North Main Street Walton, Boone County, Kentucky 41094.

I've enclosed a notice extinguishing the license that heretofore existed or was believed to have existed for the usage (as described in the notice which is wholly incorporated herein by reference thereto and wholly affirmed and ratified hereby) of said property.

Please consider this letter as an invitation to meet with me to discuss favorable terms of use for a new license to utilize the real estate for the continued benefit of your business. I am setting Monday, March 27, 2023 aside to meet with interested parties. Please call to schedule an appointment between 10:00 a.m. and 4:00 p.m.

Thank you for your anticipated cooperation.

Regards,


K.F. Fulmer

CC: File

KFF/mm

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EXH : 000001 of 000004

NOT ORIGINAL

02/05/2024 04:56:50

90675

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000023 of 000029

EXH : 000002 of 000004

DOCUMENT

PM

Prepared By:
K.F. Fulmer
18 N. Main Street
POB 149
Walton, Kentucky 41094

**DECLARATION EXTINGUISHING LISCENSE
OF THE RIGHT OF INGRESS AND EGRESS**

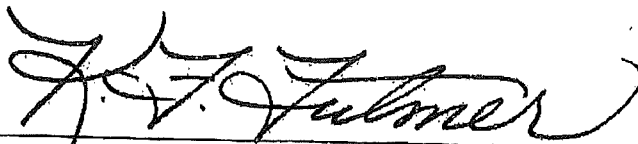
THIS DECLARATION is made by KFF Enterprises LLC and its wholly owned subsidiary the Dixie State Development Company LLC (herein referenced as the "Company") both Kentucky corporations whose mailing address is 19 North Main Street, POB 149, Walton, KY 41094.

BE IT KNOWN TO ALL WHOM THESE PRESENTS MEET: That the Company owns real estate in Walton, Boone County, Kentucky and has made the decision with immediate force and effect to extinguish any liscense that heretofore existed or was believed by interested parties to have existed at 11-15 South Main Street; 7-18 North Main Street; or 19 North Main Street.

Upon consideration the Company has determined that any further use of the subject property for the purpose of ingress, egress, employee parking, loading/unloading trucks or trailers, maintaining refuse receptacles commonly referred to as dumpsters, customer parking, or outdoor seating and planters is hereby withdrawn and terminated nunc pro tunc.

This Declaration will be strictly enforced by the Company in consideration of its fee simple ownership of the subject real estate and under the authority of Kentucky Revised Statutes.

Dated this 21st day of March, 2023 by:



K.F. Fulmer, Proprietor

DOCUMENT

PM

NOT ORIGINAL

02/05/2024 04:56:50

Kelly F. Fulmer

90675

AQW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

March 21, 2023

Hudson's Eye Center
Attn: Drs. Tyler & Kim Hudson
27 North Main Street
Walton, Kentucky 41094

RE: License

Dear Drs. Hudson,

After a lengthy period of time waiting I've finally obtained the updated survey for the consolidated real estate I own through KFF Enterprises, LLC which consists of 11-15 South Main; 7-13 North Main; and 19 North Main Street Walton, Boone County, Kentucky 41094.

I've enclosed a notice extinguishing the license that heretofore existed or was believed to have existed for the usage (as described in the notice which is wholly incorporated herein by reference thereto and wholly affirmed and ratified hereby) of said property.

Please consider this letter as an invitation to meet with me to discuss favorable terms of use for a new license to utilize the real estate for the continued benefit of your business. I am setting Monday, March 27, 2023 aside to meet with interested parties. Please call to schedule an appointment between 10:00 a.m. and 4:00 p.m.

Thank you for your anticipated cooperation.

Regards,



K.F. Fulmer

CC: File

KFF/mm

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000024 of 000029

EXH : 000003 of 000004

DOCUMENT

PM

Prepared By:
K.F. Fulmer
18 N. Main Street
POB 149
Walton, Kentucky 41094

**DECLARATION EXTINGUISHING LISCENSE
OF THE RIGHT OF INGRESS AND EGRESS**

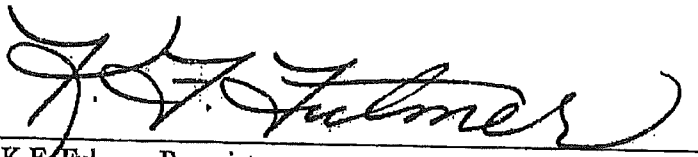
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Upon consideration the Company has determined that any further use of the subject property for the purpose of ingress, egress, employee parking, loading/unloading trucks or trailers, maintaining refuse receptacles commonly referred to as dumpsters, customer parking, or outdoor seating and planters is hereby withdrawn and terminated nunc pro tunc.

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Dated this 21st day of March, 2023 by:



K.F. Fulmer, Proprietor

NOT ORIGINAL

DOCUMENT

02/05/2024 04:54:29

PM

Kelly F. Fulmer

90675

AQW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

April 17, 2023

Bailey Jayne's Bakery & Café
5 North Main Street
Walton, Kentucky 41094

RE: License

Dear Bailey & Jayne,

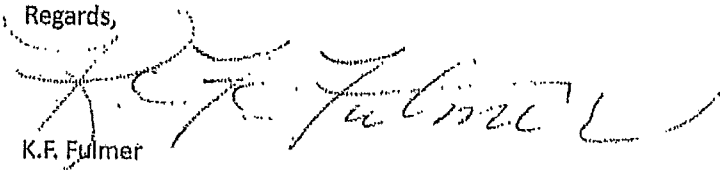
I am writing once again regarding the real estate at 11-15 South Main Street and 7-13 North Main Street in Walton, Boone County, Kentucky. Enclosed please find an updated survey plat that clearly shows the property boundaries of KFF Enterprises LLC. Also incorporated herein is the previously served on 21 March 2023 Declaration Extinguishing License of the Right of Ingress and Egress which is once again wholly affirmed and ratified hereby.

As you are aware I've been attempting for close to a month to negotiate an amicable solution to your continued use/encroachment on my property for the operation of the bakery and café. Unfortunately, and regrettably not only have you not acted in good faith toward coming to an agreement you have taken the path of whipping up public opinion on social media using untruth, half-truth, and convenient omission of relevant facts to garner support for what is an untenable position of continued unfettered free use of private property for your business. Even in light of the current state of affairs I remain hopeful that a solution can be reached to resolve the immediate situation here on Main Street and alleviate the inconvenience to all other business owners here in the historic Walton business corridor.

I'm providing a copy of this letter to your landlord, Drs. Tyler & Kim Hudson, as I believe that time is of the essence for all four (4) of you to come and sit down at the negotiating table to reach a solution otherwise I'll be forced to take the next necessary legal steps (after closing the lot) to protect both my personal and property rights. I suggest meeting at 9:00 a.m. on Wednesday, April 19, 2023.

Thank you in advance for your anticipated cooperation.

Regards,



K.F. Fulmer
Enclosure: 2

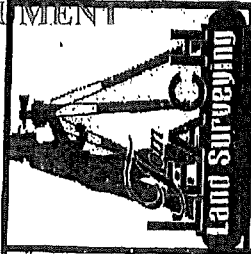
CC: File
/KEF

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000026 of 000029

EXH : 000001 of 000002

DOCUMENT

PM



Tom Leach
 Land Surveying LLC
 P.O. Box 125
 155 Jerald Lane
 Dry Ridge, KY 41035
 859-393-2847
 tomleach18@gmail.com

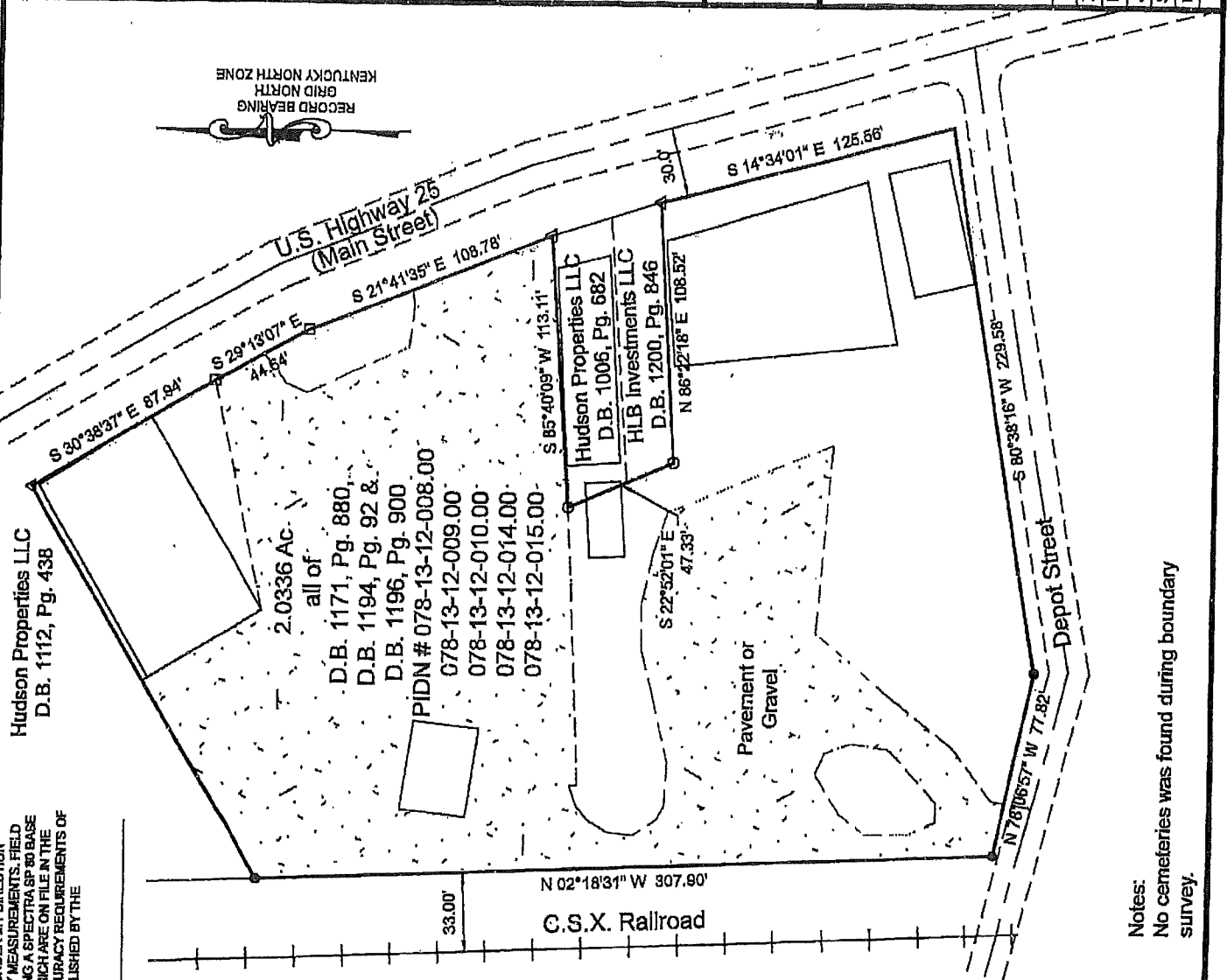
RETRACEMENT
 SURVEY
 KFF
 ENTERPRISE
 LLC
 PROPERTY
 ON THE WEST SIDE OF
 U.S. HIGHWAY 25 AND
 DEPOT STREET
 IN THE CITY OF
 WALTON
 BOONE COUNTY,
 KENTUCKY
 This plat represents a
 boundary survey and
 complies with 201 KAR
 18:150

SCALE: 1" = 60'
 0' 30' 60'

STATE OF KENTUCKY
 W. THOMAS LEACH
 3407
 LICENSED
 PROFESSIONAL
 LAND SURVEYOR

2024
 Date: 04/15/2024
 Drawn By: W.T. Leach
 Job No.: 23-53
 Surveyed: 04/13/2023
 Filename: KFF Enterprises-LLC

04:54:29



I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED UNDER MY DIRECTION UTILIZING BOTH RECORD DOCUMENTS AND FIELD SURVEY MEASUREMENTS. FIELD INFORMATION WAS PERFORMED BY RTK GPS SURVEY USING A SPECTRA SP 80 BASE AND SPECTRA SP 80 ROVER, THE SERIAL NUMBERS OF WHICH ARE ON FILE IN THE OFFICE OF THE SURVEYOR. THIS SURVEY MEETS THE ACCURACY REQUIREMENTS OF AN RURAL SURVEY AS SPECIFIED IN 201 KAR 18:150 ESTABLISHED BY THE COMMONWEALTH OF KENTUCKY

W. Thomas Leach 04/15/2023
 Date:
 W. Thomas Leach PLS 3407

Owner
 KFF Enterprises LLC
 13 Park Ave.
 Walton, KY 41094

LEGEND

- These standard symbols will be found in the drawing.
 - IRON PIN SET (1/2" X 18" REBAR WITH YELLOW CAP STAMPED LEACH 3407)
 - FOUND 1/2" IRON PIN NO CAP
 - POINT
 - △ 2" SET MAG NAIL
 - 30.0' RIGHT OF WAY TO BE DEDICATED
- Notes:
 No cemeteries was found during boundary survey.

CF842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000027 of 000029

EXH : 000002 of 000002

DOCUMENT

PAID

Kelly F. Fulmer

9067⁵QW Building
18 N. Main St.
P.O. Box 149
Walton, KY 41094

859-485-6273 T
859-485-1122 F
aqwincl@fuse.net

NOTICE OF EVICTION

DATE: 18 APRIL 2023

**TO: BAILEY JAYNE'S BAKERY & CAFÉ'
ATTN: JAYNE NAPIER**

FROM: KFF ENTERPRISES, LLC.

**RE: REMOVAL OF BUILDING FROM PROPERTY AT
11-15 SOUTH MAIN STREET**

****HAND DELIVERED** AND SENT VIA US MAIL
POSTAGE PREPAID**

TO ALL WHOM THESE PRESENTS SHALL MEET:

**YOU HAVE THIRTY DAYS FROM TODAY TO REMOVE
YOUR STORAGE BUILDING ENCROACHING ON THE
ABOVE REFERENCED REAL ESTATE. IF NOT
REMOVED BY 18 MAY 2023 THE BUILDING WILL BE
REMOVED AND IMPOUNDED AT YOUR EXPENSE PER
KRS 189.725**

K.F. FULMER

C9F842C1-ADA5-4CE3-A4A7-D561E603FE25 : 000028 of 000028

EXH : 000001 of 000002

BOONE COUNTY
D1206 PG897

EXHIBIT A

LEGAL DESCRIPTION

Situate in the City of Walton, Boone County, Kentucky, on the west side of Main Street, and bounded thus:

Beginning at a corner with Vallindingham Brothers' lot on Main Street; thence with their line in a westerly direction to a point in the line of William Norman, now Wallace and Edwards; thence with their line in a southerly direction twenty-five (25) feet to the corner of a lot now owned by R. D. Stamler; thence with his line in an easterly direction and parallel with, and twenty-five (25) feet from the first mentioned line to Main Street; thence in a northerly direction with Main Street to the place of beginning.

Subject to easements and restrictions of record.

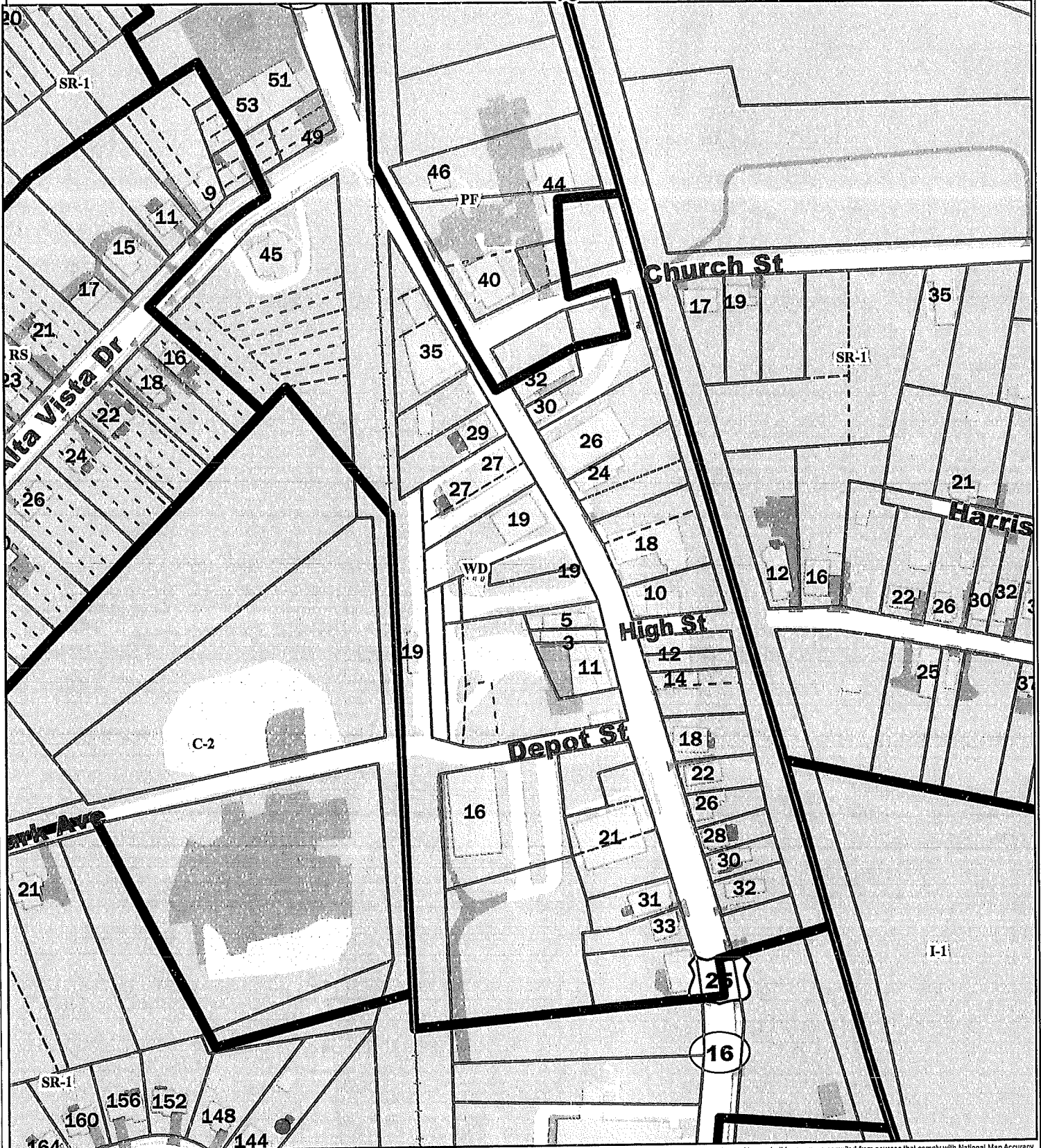
PIDN: 078.13-12-012.00

Group: 2079 °

Property Address: 5 North Main Street, Walton, Kentucky 41094

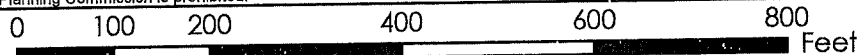
ZONING MAP

www.boonecountygis.com



Copyright 2020 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



1 inch = 200 feet

Boone County GIS - Putting Northern Kentucky on the Map





BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

May 23, 2023

Hudson Eye Center
14450 Worchester Rd
Crittenden, KY 41030

RE: Violation of the *Boone County Zoning Regulations*, 5 North Main St, Boone County, Kentucky, PIDN 078.13-12-012.00

Dear Sir(s):

The Zoning Services Division of the Boone County Planning Commission has observed site improvements (storage building) to your property that have occurred without proper approvals. Either remove the structure or contact our office as soon as possible so we can discuss the proper plans and process to have this on the property.

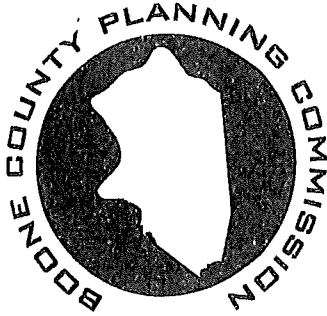
Thank you for your prompt attention to resolving this matter.

Sincerely,

Robert Krebs
Zoning Enforcement Officer

RK/ss

Cc: Bailey Jaynes Bakery



BOONE COUNTY PLANNING COMMISSION

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www.boonecountygis.com

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2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

July 13, 2023

Hudson Eye Center
14450 Worchester Rd
Crittenden, KY 41030

RE: Violation of the *Boone County Zoning Regulations*, 5 North Main St, Boone County, Kentucky, PIDN 078.13-12-012.00

Dear Sir(s):

The Zoning Services Division of the Boone County Planning Commission has observed site improvements (storage building) to your property that have occurred without proper approvals. Either remove the structure or apply for a permit for the structure to remain. If not resolved by 7/31/2023 a citation will be issued to the Walton Code Enforcement Board

Sincerely,

Robert Krebs
Zoning Enforcement Officer

RK/ss

Cc: Bailey Jaynes Bakery

SECTION A: (To be completed by applicant)

1. Building or Address Location: 5 North MAIN St.
 2. Applicant: BAILEY JAYNE'S BAKERY & CAFE
 Address: 5 North MAIN St.
Walton Ky 41094
 City State Zip Code
 Phone Number: 859. 428-4002 Fax Number: _____
 Email: Baily Jayne's@gmail.com

NOTICE: I/we certify that what is submitted is true and accurate and I, or we, understand and agree that all construction work will be performed in accordance with this application, the Boone County Zoning Regulations, and the Boone County Subdivision Regulations.

Applicant's Signature: *Bayne Jayne* Date: Aug 3 23.

SECTION B: (To be completed by Planning Commission staff)

Zoning: <u>WD</u>	Date: <u>7-6-24</u>	Fee: <u>PD</u> ✓	\$90.00	Farm Exempt
<u>l</u> Approved	Denied		\$45.00	(no Fee)
Staff Reviewer: <u><i>[Signature]</i></u>	Address: <u>5 N Main</u>			
Subdivision: <u>NIA</u>				
Lot:	Section:	Block/Phase:	Group No: <u>2079</u>	Census:

TYPE OF IMPROVEMENT:

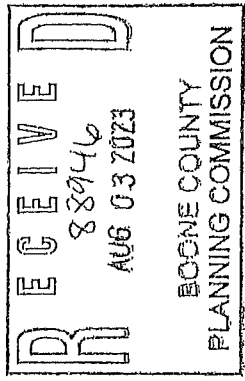
Single Family Residence	Detached Garage
Duplex	Garage Addition
Mobile Home	<input checked="" type="checkbox"/> Barn or Shed
Residential Addition	Above Ground Pool
Porch or Deck	In Ground Pool
Other:	

JURISDICTION:

<input checked="" type="checkbox"/> Unincorporated Boone County	City of Florence
City of Walton	City of Union

POST OFFICE (ZIP CODE):

Burlington (41005)	Florence (41042)
<input checked="" type="checkbox"/> Walton (41094)	Union (41091)
Hebron (41048)	Verona (41092)
Petersburg (41080)	Erlanger (41018)
Crittenden (41030)	Independence (41051)





BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

June 2, 2023

KFF Enterprises
PO Box 149
Walton, KY 41094

RE: Violation of the *Boone County Zoning Regulations*, 19 North Main St, Boone County, Kentucky, PIDN 078.13-12-009.00

Dear Sir(s):

The Zoning Services Division of the Boone County Planning Commission has observed site improvements (addition of a fence) to your property that have occurred without proper approvals. Either remove the fence or contact our office as soon as possible so we can discuss the proper plans and process to have a fence on the property.

Thank you for your prompt attention to resolving this matter. If this is not resolved in a timely manner enforcement action will be taken.

Sincerely,

Robert Krebs
Zoning Enforcement Officer

RK/ss



BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

July 13, 2023

KFF Enterprises
PO Box 149
Walton, KY 41094

Final Notice

RE: Violation of the *Boone County Zoning Regulations*, 19 North Main St, Boone County, Kentucky, PIDN 078.13-12-009.00

Dear Sir(s):

The Zoning Services Division of the Boone County Planning Commission has observed site improvements (addition of a fence) to your property that have occurred without proper approvals. Either remove the fence or apply for a permit to install a fence. If not resolved by 7/31/2023 a citation will be issued to the Walton Code Enforcement Board.

Sincerely,

Robert Krebs
Zoning Enforcement Officer

RK/ss

SECTION A: (To be completed by applicant) 19 N. MAIN STREET +

1. Building or Address Location: 7-13 N. MAIN STREET WALTON, KY

2. Applicant: KFF ENTERPRISES LLC

*Address: P.O. BOX 149

WALTON City KENTUCKY State 41094 Zip Code

Phone Number: 859-485-6263 Fax Number: 859-485-1122

Email: KFULMER@AGWIK.COM

NOTICE: I/we certify that what is submitted is true and accurate and I, or we, understand and agree that all construction work will be performed in accordance with this application, the Boone County Zoning Regulations, and the Boone County Subdivision Regulations.

Applicant's Signature: J.F. Fulmer Mgr. Date: July 19, 2023

SECTION B: (To be completed by Planning Commission staff)

Zoning: <u>WD</u>	Date: <u>7/29/23</u>	Fee: <input type="checkbox"/> \$90.00	Farm Exempt
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Pd \$45.00	(no Fee)
Staff Reviewer: <u>SC</u>	Address: <u>19 N Main St.</u>		
Subdivision:			
Lot:	Section:	Block/Phase:	Group No: <u>2079</u> Census:

TYPE OF IMPROVEMENT:

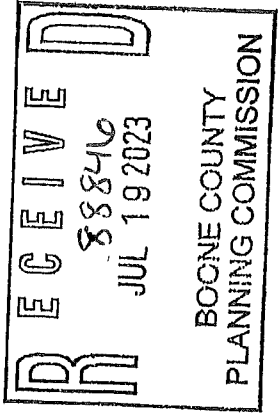
<input type="checkbox"/> Single Family Residence	<input type="checkbox"/> Detached Garage
<input type="checkbox"/> Duplex	<input type="checkbox"/> Garage Addition
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Barn or Shed
<input type="checkbox"/> Residential Addition	<input type="checkbox"/> Above Ground Pool
<input type="checkbox"/> Porch or Deck	<input type="checkbox"/> In Ground Pool
<input checked="" type="checkbox"/> Other: <u>WOOD Fence</u>	

JURISDICTION:

<input type="checkbox"/> Unincorporated Boone County	City of Florence
<input checked="" type="checkbox"/> City of Walton	City of Union

POST OFFICE (ZIP CODE):

<input type="checkbox"/> Burlington (41005)	Florence (41042)
<input checked="" type="checkbox"/> Walton (41094)	Union (41091)
Hebron (41048)	Verona (41092)
Petersburg (41080)	Erlanger (41018)
Crittenden (41030)	Independence (41051)



I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED UNDER MY DIRECTION UTILIZING BOTH RECORD DOCUMENTS AND FIELD SURVEY MEASUREMENTS. FIELD INFORMATION WAS PERFORMED BY RTK GPS SURVEY USING A SPECTRA SP 80 BASE AND SPECTRA SP 80 ROVER. THE SERIAL NUMBERS OF WHICH ARE ON FILE IN THE OFFICE OF THE SURVEYOR. THIS SURVEY MEETS THE ACCURACY REQUIREMENTS OF AN RURAL SURVEY AS SPECIFIED IN 201 KAR 18:150 ESTABLISHED BY THE COMMONWEALTH OF KENTUCKY"

W. Thomas Leach 04/15/2023

Date: _____

Fencing provided by Mills Fence

8' Tall No Final Aluminum Decorative

Hudson Properties LLC
D.B. 1112, Pg. 438

1.8650 Ac Gde. →
all of
D.B. 1171, Pg. 880,
D.B. 1194, Pg. 92 &
D.B. 1196, Pg. 900
PIDN # 078-13-12-008.00
078-13-12-009.00
078-13-12-010.00
078-13-12-014.00
078-13-12-015.00

C.S.X. Railroad

Pavement or Gravel

Owner
KFF Enterprises LLC
13 Park Ave.
Walton, KY 41094

LEGEND

These standard symbols will be found in the drawing.

- IRON PIN SET (1/2" X 18" REBAR WITH YELLOW CAP STAMPED LEACH 3407)
- FOUND 1/2" IRON PIN NO CAP
- POINT
- △ 2" SET MAG NAIL
- 30.0' RIGHT OF WAY TO BE DEDICATED

Notes:
No cemeteries was found during boundary survey.



Tom Leach
Land Surveying LLC
P.O. Box 125
195 Jemmi Lane
Dry Ridge, KY 41035
859-383-2947
tomleach18@gmail.com

RETRACEMENT SURVEY KFF

ENTERPRISE LLC

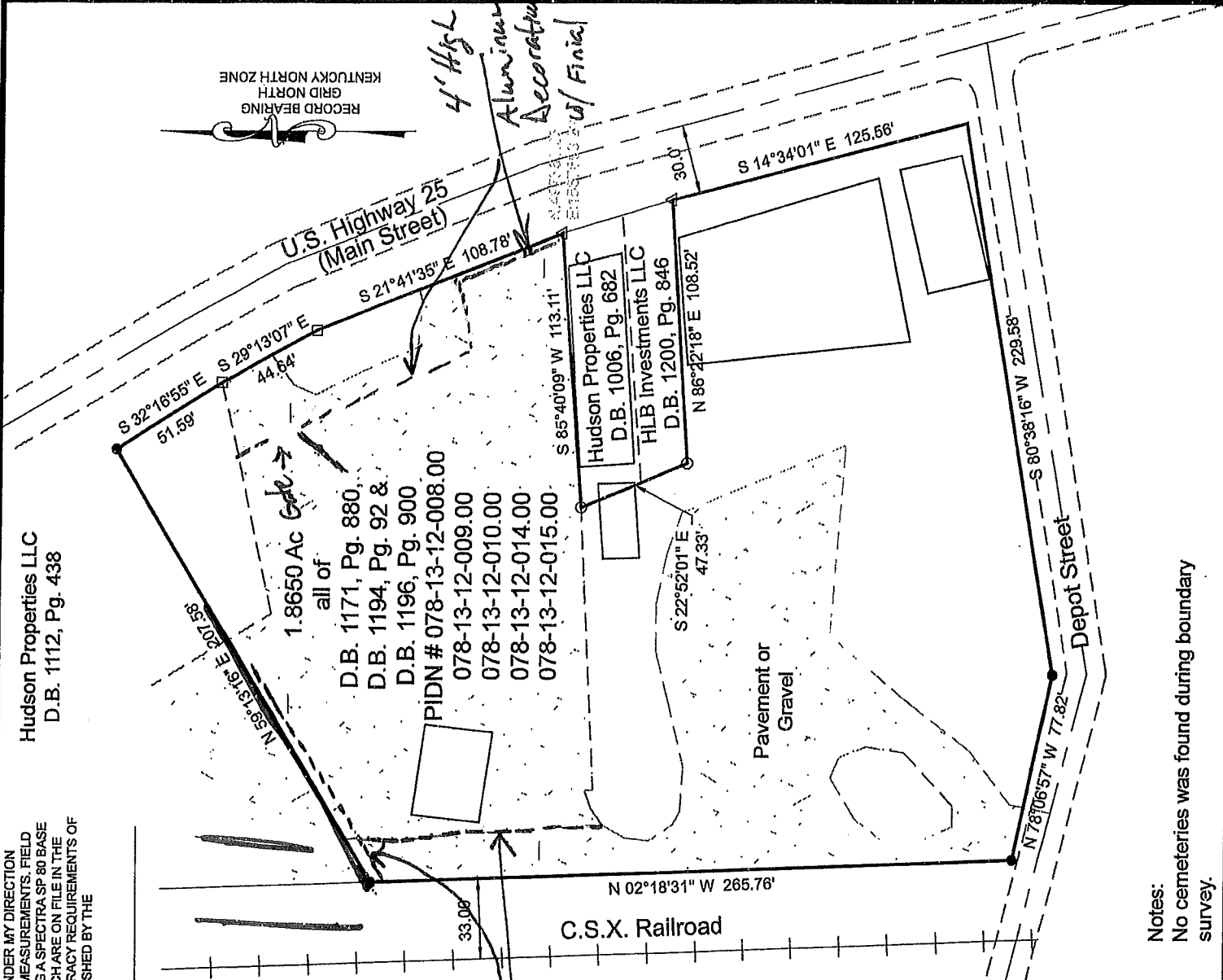
PROPERTY ON THE WEST SIDE OF U.S. HIGHWAY 25 AND THE NORTH SIDE OF DEPOT STREET IN THE CITY OF WALTON

BOONE COUNTY, KENTUCKY
This plat represents a boundary survey and complies with 201 KAR 18:150

SCALE: 1" = 60'
0' 30' 60'

STATE OF KENTUCKY
W. THOMAS LEACH
3407
LICENSED PROFESSIONAL LAND SURVEYOR

Date: 04/15/2023
Dwn By: W.T. Leach
Job No.: 23-53
Surveyed: 04/13/2023
Filename: KFF Enterprise LLC



RECORD BEARING
GRID NORTH
KENTUCKY NORTH ZONE

Robert Krebs

From: Kelly Fulmer <kfulmer@aqwinc.com>
Sent: Friday, August 4, 2023 8:50 AM
To: Robert Krebs
Subject: RE: 19 Main Street, Walton - Fence Permit

EXTERNAL MESSAGE

Yes, Mills Fence is scheduled to start August 14

From: Robert Krebs <rkrebs@boonecountyky.org>
Sent: Friday, August 4, 2023 8:39 AM
To: Steve Lilly <steve.lilly@boonecountyky.org>; Kelly Fulmer <kfulmer@aqwinc.com>
Subject: RE: 19 Main Street, Walton - Fence Permit

Do we have a installation date scheduled for the approved fence?

Robert Krebs

Zoning Enforcement
Boone County Planning Commission
2950 Washington Street
Burlington, KY 41005
Phone 859-334-2196

From: Steve Lilly <steve.lilly@boonecountyky.org>
Sent: Wednesday, July 19, 2023 4:08 PM
To: kfulmer@aqwinc.com
Cc: Robert Krebs <rkrebs@boonecountyky.org>
Subject: 19 Main Street, Walton - Fence Permit

Please find the attached fence permit approval.

Mr. Krebs let me know that he recently sent out an enforcement letter. He said he could work with you as long as the fence has been scheduled to be installed. Please let him know when the fence is scheduled to be installed.

Thanks,

Steven Lilly, PLS
Planner, Zoning Services



BOONE COUNTY
PLANNING COMMISSION

2950 Washington Street, Room 317
Burlington, Kentucky 41005
(P) 859-334-2196 (F) 859-334-2264

City of Walton, Kentucky

Uniform Code Citation

Citation #2023-PZ-1

The Undersigned Code Enforcement Officer of the City of Walton Certifies that He/She has just and reasonable grounds to believe, and does believe that on:

Day of week: Tuesday Month: August Day: 15 Year: 2023 Time: 1300

The Following Person:

Name: **KFF Enterprises LLC**

Street Address: **PO Box 1499**

City: **Walton** State: **KY** Zip: **41094**

Telephone: _____ DOB: _____ Race: _____ Sex: _____

Identification: Driver's License, Social Security or Other

State: _____ Type of Identification: _____

Vehicle Make/Type: _____ Year: _____ Color: _____

Vehicle License: _____

Did Unlawfully Commit The Following Offense

Ordinance/Code No: This citation is for the property you own/occupy at 19 N Main Street and adjoining properties.

PIDN#'s: 078.13-12-009.00, 078.13-12-010.00, 078.13-12-018.01, 078.13-12-008.00

155.01 Adoption of the Boone County Zoning Regulations: Article 36 Section 3655

No permit has been obtained for the currently installed temporary fence for the site.

Offense: 1st

There will be a civil fine imposed of \$50.00 if you do not contest the citation. And correct the violations. If you chose to contest the citation and have a hearing before the board, the maximum fine would be \$200, per day, per violation.

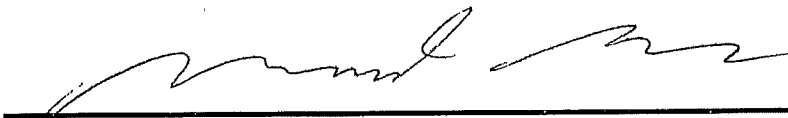
Each section of the Zoning Ordinance violated shall be considered a separate finable offense. If two or more sections of the Nuisance Ordinance are violated, the fines shall be cumulative and be enforced under the same citation. **Each day a violation exists shall be considered a separate offense without issuance of a separate citation.**

Any fines that would be imposed are to be paid to the City of Walton PO Box 95 Walton, KY 41094.

If you fail to pay the set fine, charges and fees their will be a lien place against your property.

The person to whom the citation is issued shall respond to the citation within seven days of the date of issuance by either paying the civil fine as set forth in the citation or requesting, in writing, a hearing before the Code Enforcement Board to contest the citation. The request for a hearing shall be delivered to the City Clerk's office. The request shall include the name and address of the person requesting the hearing so Walton may notify the person of the hearing. If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final.

If you fail to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the code enforcement board or hearing officer to contest the citation and that the determination that a violation was committed shall be final, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.



Robert Krebs, Zoning Enforcement Officer

City of Walton, Kentucky

Uniform Code Citation

Citation #2023-PZ-2

The Undersigned Code Enforcement Officer of the City of Walton Certifies that He/She has just and reasonable grounds to believe, and does believe that on:

Day of week: Thursday Month: September Day: 7 Year: 2023 Time: 1230

The Following Person:

Name: **KFF Enterprises LLC**

Street Address: **PO Box 149**

City: **Walton** State: **KY** Zip: **41094**

Telephone: _____ DOB: _____ Race: _____ Sex: _____

Identification: Driver's License, Social Security or Other

State: _____ Type of Identification: _____

Vehicle Make/Type: _____ Year: _____ Color: _____

Vehicle License: _____

Did Unlawfully Commit The Following Offense

Ordinance/Code No: This citation is for the property you own/occupy at 19 N Main Street and adjoining properties.

PIDN#'s: 078.13-12-009.00, 078.13-12-010.00, 078.13-12-018.01, 078.13-12-008.00

155.01 Adoption of the Boone County Zoning Regulations: Article 36 Section 3655

No permit has been obtained for the currently installed temporary fence for the site.

Offense: 2nd

There will be a civil fine imposed of \$50.00 if you do not contest the citation. And correct the violations. If you chose to contest the citation and have a hearing before the board, the maximum fine would be \$200, per day, per violation.

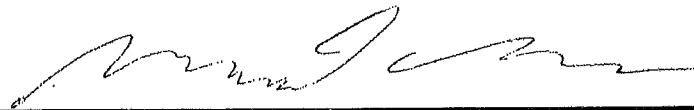
Each section of the Zoning Ordinance violated shall be considered a separate finable offense. If two or more sections of the Nuisance Ordinance are violated, the fines shall be cumulative and be enforced under the same citation. **Each day a violation exists shall be considered a separate offense without issuance of a separate citation.**

Any fines that would be imposed are to be paid to the City of Walton PO Box 95 Walton, KY 41094.

If you fail to pay the set fine, charges and fees there will be a lien placed against your property.

The person to whom the citation is issued shall respond to the citation within seven days of the date of issuance by either paying the civil fine as set forth in the citation or requesting, in writing, a hearing before the Code Enforcement Board to contest the citation. The request for a hearing shall be delivered to the City Clerk's office. The request shall include the name and address of the person requesting the hearing so Walton may notify the person of the hearing. If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final.

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Robert Krebs, Zoning Enforcement Officer

Robert Krebs

From: Robert Krebs
Sent: Friday, September 29, 2023 8:10 AM
To: Jack Gatlin; Bobby McDonald
Cc: Michael Duncan; Gevana Hicks
Subject: RE: 19 N Main Citations

I am fine with that.

Robert Krebs

Zoning Enforcement
Boone County Planning Commission
2950 Washington Street
Burlington, KY 41005
Phone 859-334-2196

From: Jack Gatlin <jgatlin@gatlinvoelker.com>
Sent: Friday, September 29, 2023 7:49 AM
To: Robert Krebs <rkrebs@boonecountyky.org>; Bobby McDonald <bmcDonald@cityofwalton.org>
Cc: Michael Duncan <mduncan@zslaw.com>; Gevana Hicks <ghicks@cityofwalton.org>
Subject: Re: 19 N Main Citations

EXTERNAL MESSAGE

Robert-

My understanding is that the fence has now been removed.

I have discussed this matter with the Mayor and he would like to dismiss both citations and waive all fines since there are currently no violations and the goal is compliance.

Are you comfortable with that?

Jack Gatlin
Gatlin Voelker, PLLC

On Sep 22, 2023, at 11:56 AM, Jack Gatlin <jgatlin@gatlinvoelker.com> wrote:

Whatever you think works. A photo of the fence may be helpful for those that haven't driven by it.

In contested cases in other cities, I will argue the case a bit as the attorney BUT, everybody has a different procedure and I don't want to overstep. I do anticipate the appellants attorney to aggressively cross examine everyone.

Jack S. Gatlin
Attorney at Law

Todd Morgan

From: Todd Morgan
Sent: Tuesday, March 12, 2024 9:43 AM
To: Dale Wilson
Cc: Robert Krebs; Steve Lilly
Subject: FW: Appeal of Zoning Permit for Shed Located at 5 N. Main Street Walton, KY
Attachments: 240308.5 N. Main Street, Walton (2024 - Boundary).pdf

From: Scott Thomas <sthomas@hemmerlaw.com>
Sent: Tuesday, March 12, 2024 9:19 AM
To: Todd Morgan <TMorgan@boonecountky.org>
Subject: RE: Appeal of Zoning Permit for Shed Located at 5 N. Main Street Walton, KY

EXTERNAL MESSAGE

Dear Mr. Morgan,

My apologies.

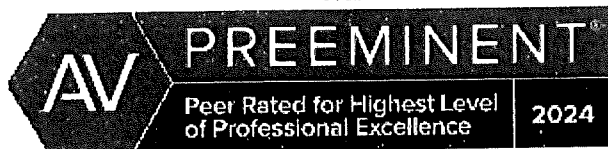
Thanks--scott

Scott R. Thomas
250 Grandview Drive, Suite 500
Ft. Mitchell, Kentucky 41017
Phone: (859) 578-3862
Fax: (859) 578-3869
Cell: (513) 307-2696
sthomas@HemmerLaw.com

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From: Todd Morgan <TMorgan@boonecountky.org>
Sent: Tuesday, March 12, 2024 8:42 AM
To: Scott Thomas <sthomas@hemmerlaw.com>
Subject: RE: Appeal of Zoning Permit for Shed Located at 5 N. Main Street Walton, KY

Mr. Thomas,

I did not receive the attachment.

Thanks,

Todd K. Morgan, AICP
Senior Planner, Zoning Services
Boone County Planning Commission
(859) 334-2196

From: Scott Thomas <sthomas@hemmerlaw.com>
Sent: Monday, March 11, 2024 4:30 PM
To: Todd Morgan <TMorgan@boonecountyky.org>
Subject: RE: Appeal of Zoning Permit for Shed Located at 5 N. Main Street Walton, KY

EXTERNAL MESSAGE

Dear Mr. Morgan,

Thank you for your email.

Attached please find a boundary survey of the subject property prepared by Mr. Ament. Please note that this is not the “mortgage inspection” Mr. Ament did earlier and which Mr. Megerle found fault with. A copy of this survey was given to Mr. Megerle on March 8.

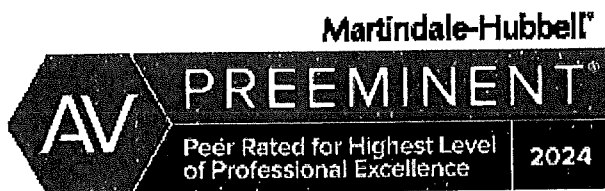
Please call me if you have any questions.

Thanks--scott

Scott R. Thomas
250 Grandview Drive, Suite 500
Ft. Mitchell, Kentucky 41017
Phone: (859) 578-3862
Fax: (859) 578-3869
Cell: (513) 307-2696
sthomas@HemmerLaw.com

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From: Todd Morgan <TMorgan@boonecountyky.org>
Sent: Monday, March 11, 2024 12:07 PM
To: Scott Thomas <sthomas@hemmerlaw.com>

Cc: baileyjaynes6@gmail.com

Subject: Appeal of Zoning Permit for Shed Located at 5 N. Main Street Walton, KY



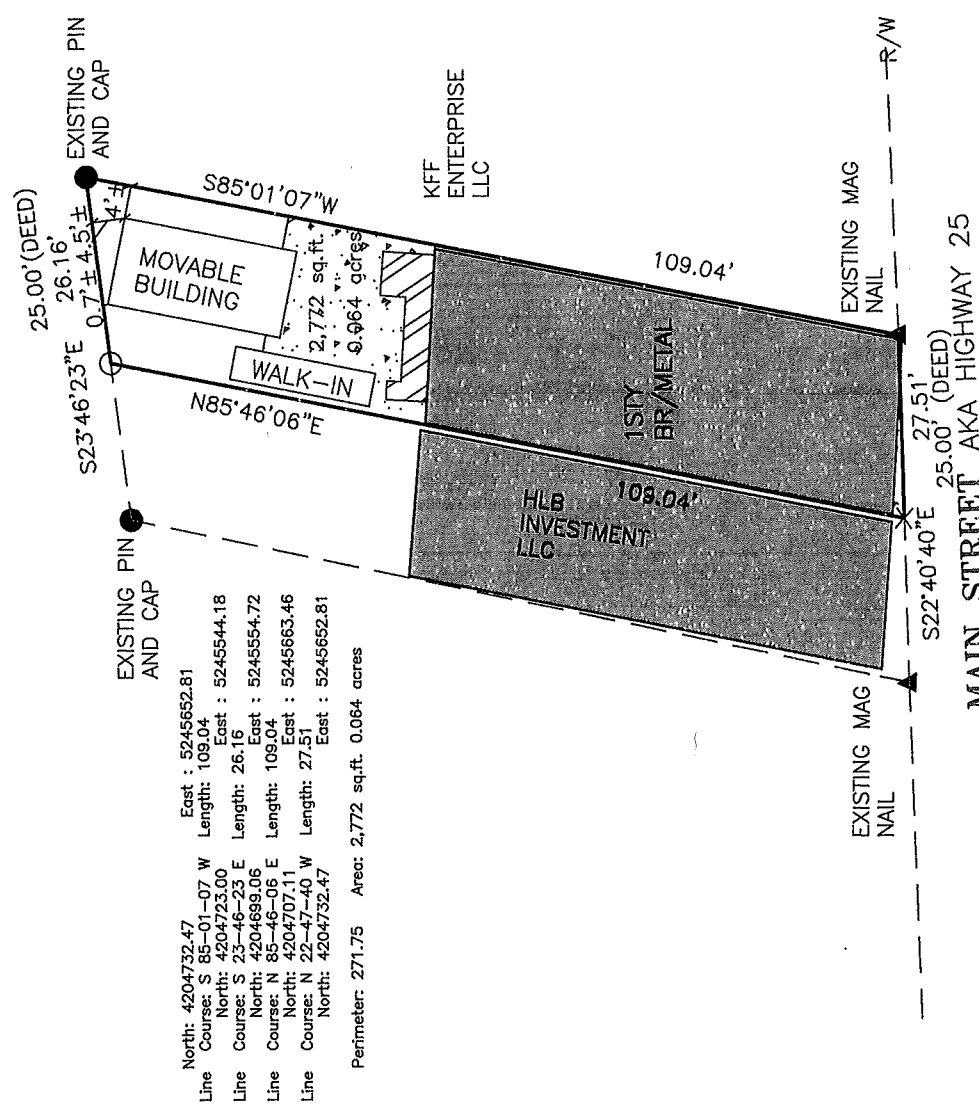
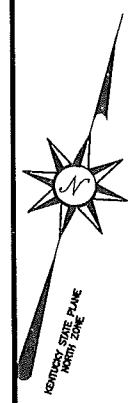
**IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender
TMorgan@boonecountyky.org**

Mr. Thomas,

KFF Enterprises, LLC has filed an Appeal regarding the issuance of a Zoning Permit that was issued by our office 2/6/24. The Walton Board of Adjustment will be holding a public hearing at 3/27/24, at 6:00 P.M., to hear and decide on the application. The Board will decide if our office acted in error by approving the permit. I have attached the public hearing notice and application that was submitted by KFF Enterprises/Megerle Law.

Call or email me if you have any questions.

Todd K. Morgan, AICP
Senior Planner, Zoning Services
Boone County Planning Commission
(859) 334-2196



North: 4204732.47	East: 5245652.81
Line Course: S 85-01-07 W	Length: 109.04
North: 4204723.00	East: 5245544.18
Line Course: S 23-46-23 E	Length: 26.16
North: 4204699.06	East: 5245554.72
Line Course: N 85-46-06 E	Length: 109.04
North: 4204707.11	East: 5245663.46
Line Course: N 22-47-40 W	Length: 27.51
North: 4204732.47	East: 5245652.81

Perimeter: 271.75 Area: 2,772 sq.ft. 0.064 acres

VICINITY MAP_NIS

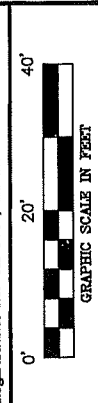


ANDREW R. AMENT, P.S.C.
LAND SURVEYOR, P.S.C.
 OHIO-KENTUCKY
 665 Fair Oaks Lane
 Edgewood, Kentucky 41017
 Telephone: (606) 341-7827
 Fax: (606) 341-7827

RETRACEMENT SURVEY
 HUDSON PROPERTIES
 5 NORTH MAIN STREET
 BOONE COUNTY
 WALTON, KY 41048

SURVEYOR'S CERTIFICATE
 I hereby certify that the survey depicted a survey made by me or under my direct supervision by the method of RIK observation with equipment as listed below. This survey, in accordance with the specifications of this class. The reference meridian basis shown hereon is the from Kentucky State Plane, North Zone.
 Field work was completed on 2-28-2024.
 Date of Plat of Map is 3-7-2024.

Andrew R. Ament PLS
 Andrew R. Ament Land Surveyor, P.S.C.
 Registered Land Surveyor
 Registration No. OH 5664, KY 1729



LEGEND

●	Iron Pin (fd)
○	long with cap (#1728)
⊙	Stake (fd)
▲	P.A., RR Stake or Mag Nail (fd)
△	P.A., RR Stake or Mag Nail (est)
□	Hub or Stake (est)
X	Notch found in concrete
—	Ownership Lines
- - -	Overhead Utilities
—	Property Lines

NOTES
 1. All streets are public unless otherwise noted.
 2. Survey in accordance with Kentucky Topcon Hyper SR utilizing network adjusted RTK in Kentucky State Plane North Zone, NAD 83 & NAVD 86, utilizing Geoid12A.
 3. This is a boundary survey and it complies with 201 KAR 18:150.

STATE OF KENTUCKY
ANDREW R. AMENT
 1729
 LICENSED PROFESSIONAL LAND SURVEYOR

DRAWN: MPY CHECKED: ARA SCALE: 1"=20'