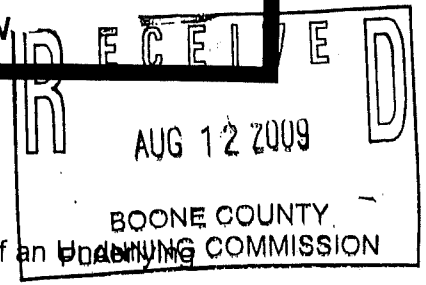


APPLICATION FORM

09-CCDP-011-A

CONCEPT DEVELOPMENT PLAN  
BOONE COUNTY PLANNING COMMISSION



(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check One:

- Concept Development Plan (Includes Utilization of an ~~existing~~ Zone in a Planned Development)
- Change in an Approved Concept Development Plan
- Long Range Planning Committee Review (As stated in the Houston-Donaldson Study)
- Long Range Planning Committee Review (As stated in the Union Town Plan)
- Zone Change Committee Review of previously approved Concept Development Plan Conditions or Zoning Map Amendment Conditions
- Zoning Administrator Review (As stated in the Central Florence Strategic Plan, An Update of the Parkway Corridor Study)

- 2. Name of Project SIR BARTON PROPERTIES
- 3. Location of Project 10824 DIXIE HIGHWAY BOONE Co KY
- 4. Total Acreage of Site 0.3896
- 5. Current Zoning C-3
- 6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) JANUARY 2002
- 7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) NO
- 8. Proposed Uses (please specify each use) SEE ATTACHED
- 9. Proposed Building Intensities (please specify) NO NEW BUILDINGS OR SITE IMPROVEMENTS - MODIFYING EXISTING CONDITION TO ALLOW ADDITIONAL USES
- 10. Have you submitted a Concept Development Plan? NO - SAME BUILDINGS/SITE
- 11. Are you also applying for:
  - Conditional Use Permit
  - Dimensional Variance
- 12. Name of Applicant(s) SIR BARTON PROPERTIES LLC F: 392-7200
- Phone Number 90 GERALD F. DUSING Fax No. E-MAIL - GDUSING@ASWDLAW.COM
- 13. Address of Applicant(s) 40 W. PIKE ST.  
COLUMTON Ky 41012  
City State Zip
- 14. Name of Property Owner(s) SIR BARTON PROPERTIES LLC
- Phone Number 859 371 7006 Fax No. \_\_\_\_\_
- 15. Address of Property Owner(s) 90 WILLIAM MCCARTY at TRI-CITY INS. Agency  
234 MAIN ST FLORENCE Ky 41042  
City State Zip
- 16. Are there any existing buildings on the site? YES  
How many? 2
- 17. Deed Book 926 Page No. 189 Group No. 491 2065
- 18. Have you had a pre-application meeting with BCPC Staff? YES

(over)

**EXHIBIT**

**“A”**

## STAFF REPORT

Request of **Sir Barton Properties c/o Gerald F. Dusing (applicant)** for **Sir Barton Properties (owner)** for a Change in an Approved Concept Development Plan for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky. The request is to modify a condition of a previous zone change approval to allow additional commercial uses on the site. The site is within a Commercial Services (C-3) zone.

October 7, 2009

### REQUEST

This request is for a change in an approved Concept Development Plan for the 0.3896 acre tract located at 10824 Dixie Highway, Boone County. The site is a former Hebron Auto Sales location and is subject to a conditional zone change approval from I-1 to C-3 that was granted in 2002 (1/2/02 Committee Report and Ordinance #02-01 are attached). Condition #7 of that approval states "commercial uses permitted on the site will be limited to auto sales and office support for the sale of autos." The current application requests that the following uses be permitted on the site in addition to auto sales per the 2002 approval.

### C-1 Principally Permitted Uses (Principally Permitted in the C-3 zone by reference)

6. Convenience stores;
7. Liquor, beverage, drug and proprietary stores;
11. Accounting, auditing and bookkeeping services;
15. Beauty and barber services and tanning salons;
16. Nursery and day care centers;
20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
23. Art, craft and hobby supplies and products, gifts and novelties;
24. Antiques and used merchandise;
27. Sporting goods including bicycles;
28. Draperies, curtains, upholstery and floor coverings;
32. Video stores;

### C-3 Principally Permitted Uses

5. Sales, automotive repair, or lease of new and used motor vehicles including tires, batteries and accessories (per the terms of the prior zone change approval);
7. Eating and drinking establishments including alcoholic beverages and accessory drive-in facilities;

8. Sporting goods and accessories including the sales and service of new and used marine craft, recreational vehicles, camping trailers, bicycles, and motorcycles and other sporting equipment and sales;
14. Florists including greenhouses (greenhouses are proposed to be excluded from this use category);
15. General dry goods and merchandise stores;
16. Department stores, mail order houses, direct retail selling organizations of general merchandise (department stores are proposed to be excluded from this use category);
17. Household appliances, china, glassware and metal ware;
21. Auto parts and accessories stores;

The application materials state that "customary accessory uses" are proposed for all of the requested use categories. No new buildings, additions, or site improvements are currently proposed, although improvements could be made at some point in time if needed by a future tenant. Current improvements include a 1,843 square foot residence which was previously converted for business use, a 614 square foot outbuilding, and a concrete parking area.

#### SITE HISTORY

The above referenced zone change from I-1 to C-3 was conditionally approved by the Fiscal Court on 3/12/02 to allow auto sales only. This development was for an expansion of the auto dealer that was formerly located on the corner of the Dixie Highway/East Frogtown Road intersection. A Major Site Plan for a parking/display area and related site improvements was approved by the Planning Commission on 8/12/02.

#### SITE CHARACTERISTICS

The site contains 0.3896 acres and has 130 feet of frontage along Dixie Highway. Buildings on the site include a residence which has been converted for business use in the approximate center of the property, and an outbuilding in the southeast corner of the tract. A concrete parking area encircles the principal building. This parking area was an expansion of the parking lot for the adjoining building to the immediate north that is located on the southeast corner of the Dixie Highway/East Frogtown Road intersection. Landscape areas exist along the Dixie Highway frontage, along the railroad right-of-way at the rear of the property, and along the south property line. Public water mains are within the adjoining Dixie Highway right-of-way. Public sanitary sewer is in the general area, but does not adjoin the subject site.

### ADJACENT LAND USES AND ZONING

The land uses and zoning adjacent to the subject site include the following.

- A. A residence converted for commercial use is located to the immediate north on the southeast corner of the Dixie Highway/East Frogtown Road intersection, and a bar/grill is located further to the north across East Frogtown Road (C-3).
- B. A residence converted for commercial use, a detached single family residence, and a mobile/modular home dealer is located to the west across Dixie Highway (C-3).
- C. Two detached single family residences are located to the south between Dixie Highway and the rail right-of-way (I-1).
- D. A developing industrial subdivision which currently contains a beverage distributor is located to the east across the rail right-of-way (I-1).

### RELATIONSHIP TO COMPREHENSIVE PLAN

The 2005 Boone County Comprehensive Plan's 2030 Future Land Use Map designates the subject site as "Industrial." This designation is described as "manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses."

The Land Use Element makes the following statements that relate to the general area.

- A. The U.S. 25 and Frogtown Road intersection should support locally-oriented commercial uses, however, special attention should be given to controlling and coordinating access points with this area. Multiple street connections are critical in the area south of the Mt. Zion interchange and west of I-75 to avoid burdening specific connections with too much traffic ("Devon Area," pp. 147 - 148).
- B. This area is bisected by U.S. 25, a major corridor for growth, extending from urbanized Florence to Walton. The fact that it runs parallel to I-75, and is located between the interstate and the railway, makes it an ideal transportation connector. Because of the various existing and future land uses along U.S. 25, it will carry a high volume of mixed traffic types. For this reason, any traffic-intensive or truck-oriented uses shall locate near connections to the interstate, and access management shall be an important consideration on all development along U.S. 25. The Kentucky Transportation Cabinet is designing a major widening of U.S. 25 south to Richwood Road ("Richwood Area," pg. 148).

- C. The industrial area to the south of Maher Road should be accessed via Frogtown Road, and the possibility of extending East Frogtown Road to connect with Maher Road should be explored because of the better visibility at the railroad crossing and intersection with U.S. 25. The frontage along U.S. 25 is suitable for a mixture of commercial and light industrial activity with proper access management provisions ("Richwood Area," pg. 148).

The Land Use Element's "Future Land Use Development Guidelines" make the following comments which relate to this proposal.

- A. Developments in Boone County must recognize the potential impacts upon adjoining land uses and incorporate a transition of land uses, building setbacks, and/or landscaping to minimize these impacts. Potential impacts include visual, noise or vibrations, odors, dust, smoke, and light. Buffering to mitigate these impacts should be an integral part of the design of proposed projects; existing site features should be used in meeting this guideline. Developments should provide buffering along public roadways, to soften the visual impact. Appropriate wooded areas and stream valleys should remain as greenbelts and open space within developments and between developments ("Buffering," pg. 141).
- B. Developments in Boone County must include landscaping to accompany the proposed project. This landscaping should be designed to improve the public view of a development, and should be incorporated into parking lots and other vehicle circulation areas, as well as within open spaces and around structures. Landscaping is intended to minimize the visual impacts of the development from adjoining properties and roadways . . .

Developments along major roadways in Boone County must include landscaping between the development and the right-of-way in order to promote the aesthetic appearance from the roads and to facilitate the compatibility of differing land uses ("Landscaping," pg. 141).

- C. Developments in Boone County must recognize the potential impacts of associated traffic on adjoining properties and transportation systems. The need exists to protect the capacity of the existing roadway network, and to plan improvements to accommodate new development and travel patterns. Access management provisions include the coordination of curb cuts, adequate corner clearance and site distance for access points, adequate space between access points, shared access points and parking facilities, provisions for access connections to adjoining properties, and dedication of public right-of-way. In subdividing property, arterials or collectors should not be used for direct access to lots, rather a system of local streets should feed into the collector and arterial system ("Access Management," pp. 141 and 142).

- D. Developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify a specific development, but should not be used as a means to compete for motorist attention. The objective is to avoid the confusion and/or distraction of motorists, and to avoid the potential negative impacts of signs on the visual appearance of a development or corridor. Overhead utility lines should be placed underground wherever possible, and junction boxes screened from public view ("Design, Signs, and Historic Preservation," pg. 142).

The Business Activity Element makes the following comments regarding the general area.

- A. Other types of projected commercial activity include the eventual restoration and redevelopment of older commercial areas, developments and corridors. This includes sites along Dixie Highway, U.S. 42 (in Florence), KY 18 (in Florence), Dream Street, downtown Burlington, and Union ("Recommended Areas of Commercial Activity," pg. 64).
- B. Existing sites should also be examined to enable adaptive re-use or redevelopment of buildings. There are numerous older vacant industrial buildings and sites or under utilized commercial sites that provide redevelopment opportunities. These areas are often referred to as grayfields or brownfields because they have older structures or pavement that are not functioning as an effective business use. ("Recommended Areas of Industrial and Office Activity," pg. 65).

The Housing Element makes the following comments regarding the general area.

- A. South of Florence to Mt. Zion Road, industrial development, associated with the Northern Kentucky Industrial Park, will be predominant. South of Mt. Zion Road, the expansion of existing and the building of new mobile home parks have constituted most of the housing units in this area. However, recent apartment development near the Mt. Zion interchange shows that residential development momentum is greater west of I-75. Near Richwood, single-family residential development will be limited to the immediate Maher Road area ("Florence, U.S. 25 Corridor," pg. 79).

The Population Element outlines population projections based on the Ohio-Kentucky-Indiana Regional Council of Government's (OKI) transportation analysis zones. The population for the zone where the site is located (883) is expected to increase from 4,349 in the year 2000, to 4,891 in 2010, and to 5,236 in 2020 (pp. 24 and 25).

The "KY Transportation Cabinet Six-Year Plan" section of the Transportation Element (pg. 129) lists an improvement in the general area described as the "reconstruction of U.S. 25 from KY 1829 (Industrial Rd.) to KY 338 (Richwood Rd.) - R.O.W. 2010." The Proposed Trail Network exhibit (Figure 11.4, pg. 129) illustrates a planned trail lane along the section of Dixie Highway which adjoins the subject site.

The Goals and Objectives include the following pertinent statements.

- A. Development issues shall be viewed in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, within appropriately planned and designed neighborhood developments ("Overall," Objective 2).
- B. Proper design principles shall be applied in development ("Overall," Objective 3).
- C. Future growth shall be accompanied by adequate infrastructure and services. Existing infrastructure and services shall be monitored, maintained and improved as needed ("Overall," Objective 4).
- D. Boone County shall strive to achieve both a diversity and balance in land use. Land use and zoning decisions shall strive to balance the rights of landowners with the rights of the general public in a fair and impartial manner ("Overall," Objective 6).
- E. Innovative development design methods shall continue to be pursued and supported through incentives ("Overall," Objective 9).
- F. The needs of Boone County's population base are measured and fulfilled through the provision of orderly growth ("Population," Goal).
- G. New development or redevelopment within Boone County is designed, constructed and operated in such a way that the quality of the existing physical environment and social environment are enhanced. Development within Boone County preserves and promotes a better quality of life ("Environment," Goal).
- H. Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ("Business Activity," Goal).
- I. Compact, efficient development patterns shall be encouraged for business districts (e.g. industrial, commercial and office) with appropriately sized and well maintained buffer spaces between the business use and other land usage ("Business Activity," Overall Objective).
- J. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe and effective access and ample parking spaces ("Business Activity," Commercial Objective 1).

### BOONE COUNTY TRANSPORTATION PLAN 2030

- A. Exhibit 5-2 "Operational Improvement Plan Project Locations" (pg. 5-4) illustrates the section of Dixie Highway between Industrial Road and Richwood Road as a Six Year Highway Plan Project.
- B. Exhibit 6-1 "Recommended Long-Range Highway Projects (pg. 6-2) outlines a road connection between Maher Road and East Frogtown Road (Map ID 25). Exhibit 6-13 "Recommended Transportation Plan Project Prioritization" (pg. 6-20) lists this connection as a medium priority project to be completed within 11 to 20 years.
- C. Exhibit 6-10 (pg. 6-16) lists the "Year 2030 Recommended Transportation Plan Levels of Service - Two Lane State Routes" for the segment of Dixie Highway between Richwood Road and Frogtown Road as LOS D.
- D. Exhibit 6-18 "Multi-Use Trail Network" (pg. 6-29) illustrates a planned trail alignment along the section of Dixie Highway which adjoins the subject site.

### STAFF COMMENTS

The governing bodies will need to determine whether the proposal is in agreement with the Comprehensive Plan. The Future Land Use Map designates this site as "Industrial." The Land Use Element ("Devon Area," pp. 147 - 148) states "the U.S. 25 and Frogtown Road intersection should support locally-oriented commercial uses, however, special attention should be given to controlling and coordinating access points with this area." The text of the "Richwood Area" section of the Land Use Element (pg. 148) also discusses the importance of access management in this area.


The Business Activity Element ("Recommended Areas of Commercial Activity," pg. 64) discusses "the eventual restoration and redevelopment of older commercial areas, developments and corridors," including Dixie Highway. This Element ("Recommended Areas of Industrial and Office Activity," pg. 65) additionally states that "existing sites should also be examined to enable adaptive re-use or redevelopment of buildings. There are numerous older vacant industrial buildings and sites or under utilized commercial sites that provide redevelopment opportunities." The governing bodies will also need to consider the alternate statutory findings for a Zoning Map Amendment.

Staff has no issues with this request as the specific uses proposed should have little relative impact. The existing site improvements were constructed approximately seven years ago under zoning requirements which are the same or similar to the current regulations. It should be noted that the proposed restaurant category (C-3 Principally Permitted Use #7) allows drive-ins, and drive through facilities are permitted as a customary accessory use (subject to the standards in Section 3155). If this request is approved, a Tenant Finish application, or Site Plan application if applicable, needs to be approved by the Planning Commission whenever the use of the property is proposed to change.

CONCLUSION

The Boone County Planning Commission and the Boone County Fiscal Court need to evaluate the proposed change in Concept Development Plan in terms of the three criteria necessary for approving a Zoning Map Amendment as stated in Article 3 "Amendment" of the Boone County Zoning Regulations. The Future Land Use Map should be amended if this request is approved.

Respectfully submitted,



Kevin T. Wall, AICP  
Director, Zoning Services

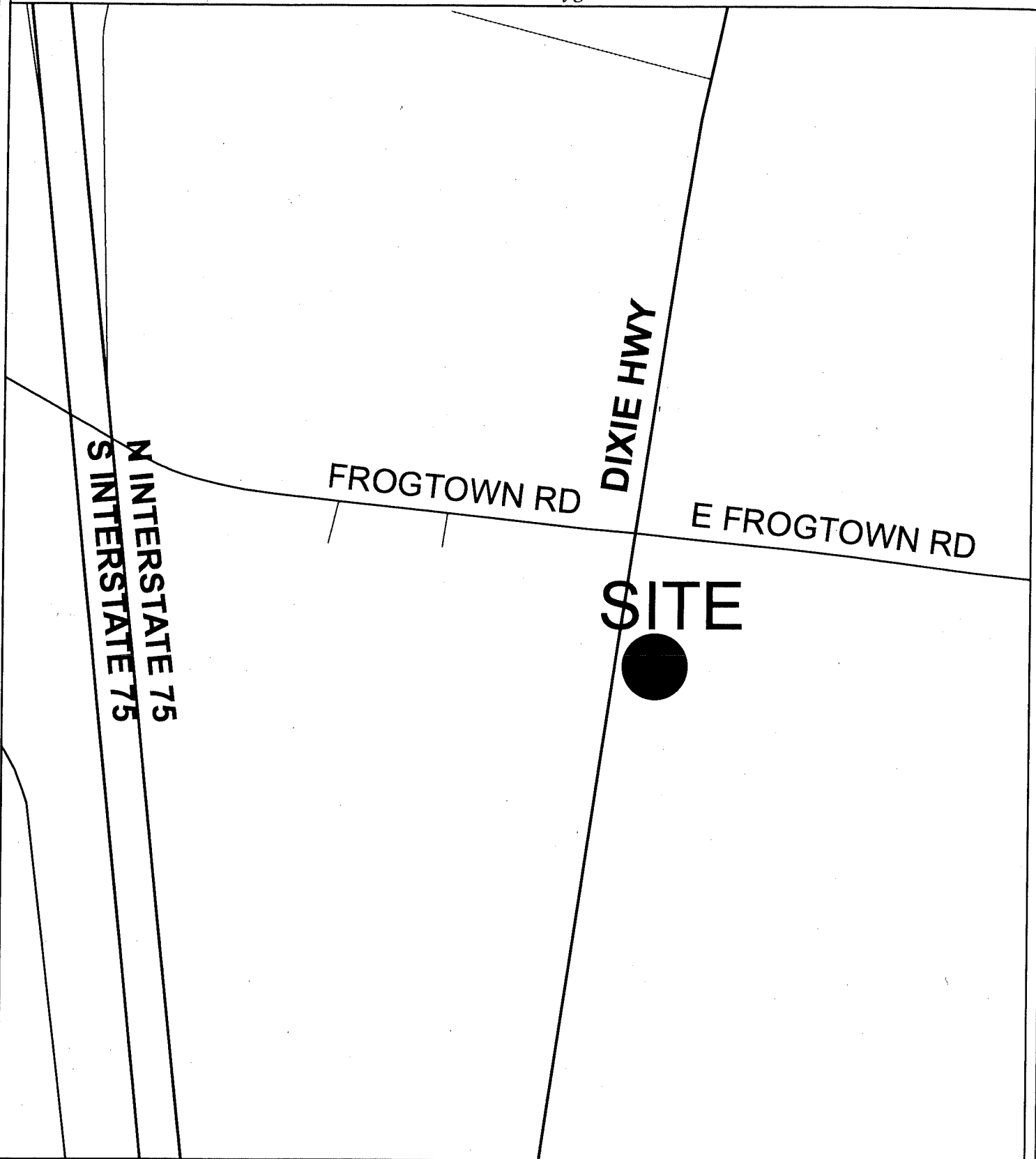
KTW/pr

attachments:

- location map
- aerial photo w/ zoning
- Future Land Use Map excerpt
- topographic map
- previous HKR Enterprises Concept Development Plan dated 10/5/01
- 1/2/02 Committee Report and Ordinance #02-01
- application materials

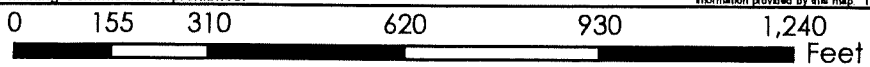
# Location

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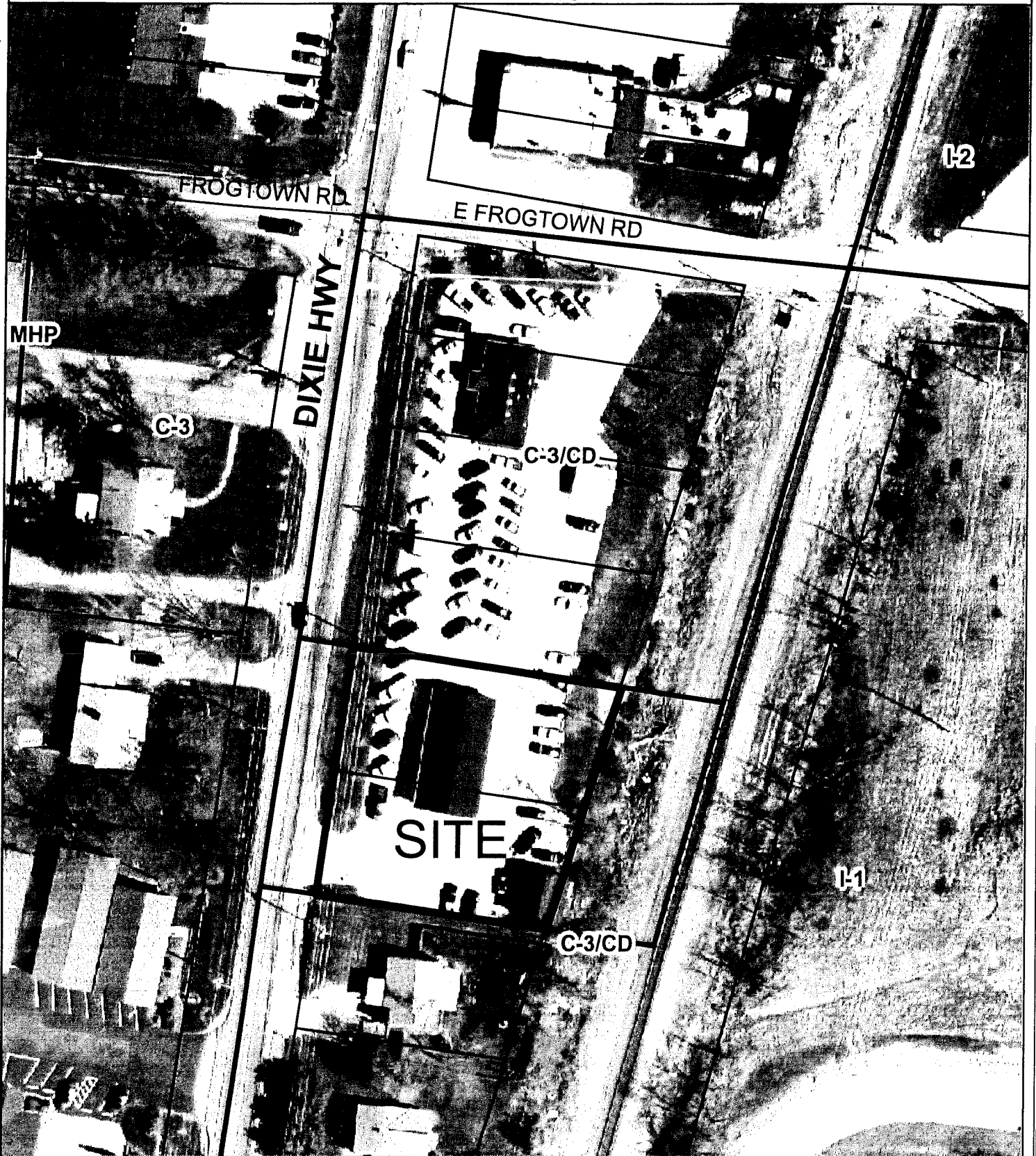
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**Boone County GIS - Putting Northern Kentucky on the Map**

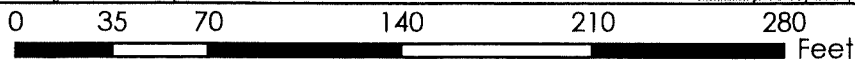
# Zoning

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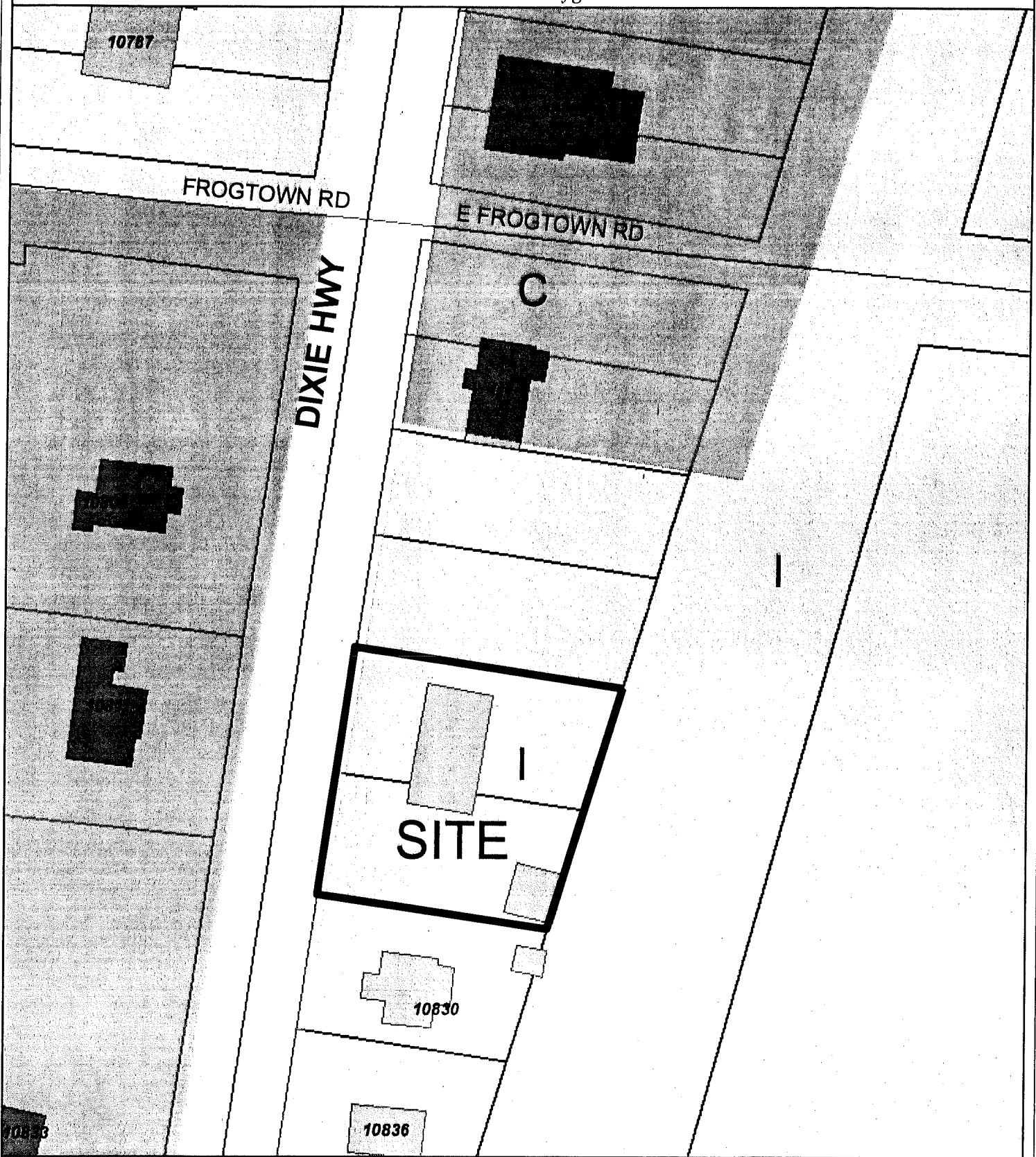
1 inch = 69 feet



**Boone County GIS - Putting Northern Kentucky on the Map**

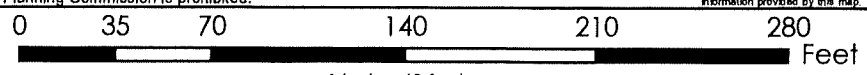
# Future Land Use

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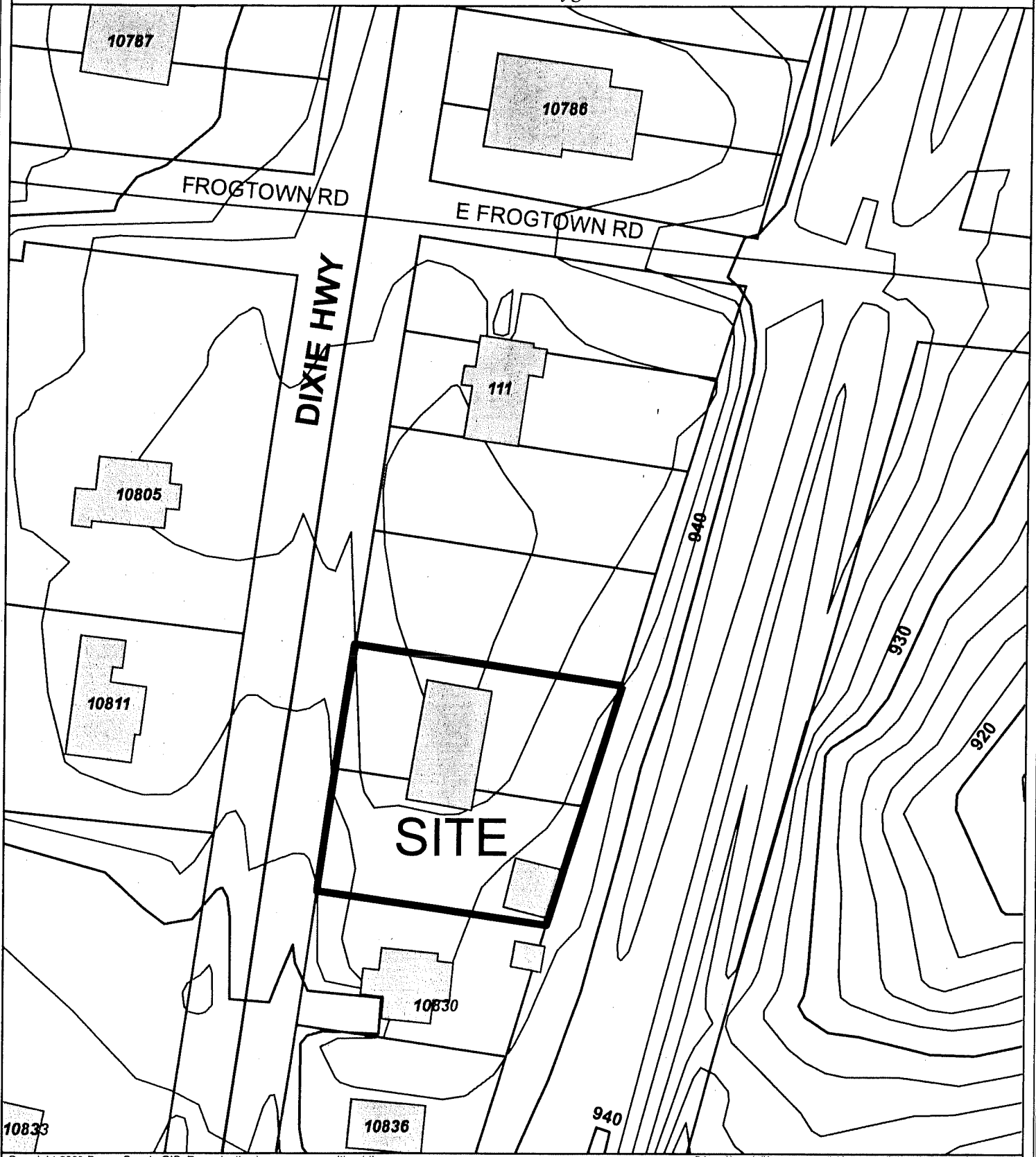
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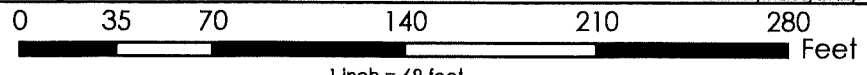
# Topography

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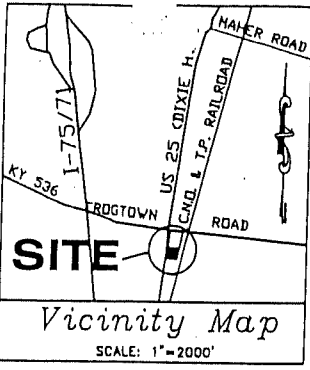


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**Boone County GIS - Putting Northern Kentucky on the Map**



**PROPERTY INFORMATION:**  
**OWNER:** HKR Enterprises  
**ADDRESS:** 1038 Peterburg Road  
 Hebron, KY 41048

D.B. 790, PG. 282  
 LOTS 33 & 34  
 THEO. CARPENTER ESTATE  
 SUBDIVISION  
 PLAT No. 3 PAGE 26

0.3896 TOTAL ACRES

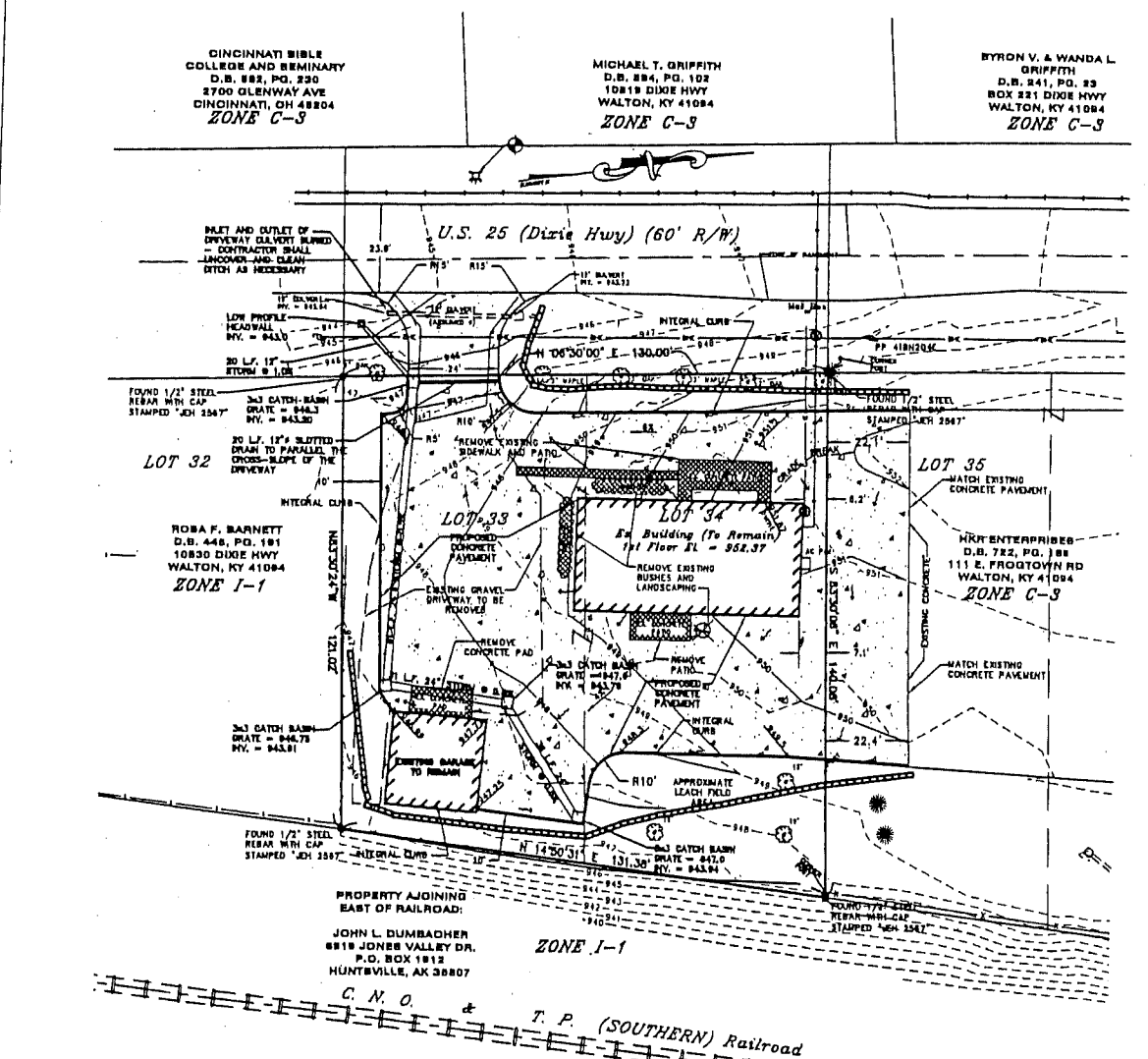
**BENCHMARK:**  
 TOP BOLT ON FIRE HYDRANT  
 ELEV. = 946.33

LEGEND	
—	overhead electric
—	underground electric
—	overhead telephone
—	underground telephone
○	power pole
○	gas pole
○	light pole
○	fire hydrant
○	water valve
○	water main
○	water meter
○	water whorl
○	manhole
○	gas meter
○	gas line
○	gas valve
○	sewer manhole
○	sewer manhole
○	catch basin
○	curb inlet
○	manhole
○	catch basin

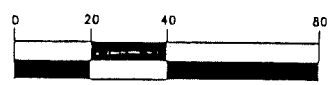
EXISTING ZONE: I-1 INDUSTRIAL ONE	
MIN. LOT SIZE	20,000 S.F.
MIN. FRONTAGE	100 FT.
MAX. HEIGHT	80 FT.
MIN. FRONT YARD	30 (80') FT.
MIN. REAR YARD	10 (80') FT.
MIN. SIDE YARD	

PROPOSED ZONE: C-3 COMMERCIAL THREE	
MIN. LOT SIZE	20,000 S.F.
MIN. FRONTAGE	100 FT.
MAX. HEIGHT	80 FT.
MIN. FRONT YARD	30 (80') FT.
MIN. REAR YARD	10 (80') FT.
MIN. SIDE YARD	

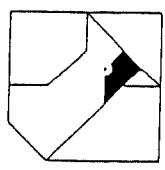
\* WHEN ABUTTING A RESIDENTIAL ZONE



GRAPHIC SCALE



( IN FEET )  
 1 inch = 40 ft.



**CARDINAL**  
 ARCHITECTURE  
 ENGINEERING  
 LAND SURVEYING

**REQUEST FOR ZONE CHANGE**  
 for  
**HKR ENTERPRISES**  
 10824 Dixie Highway, City of Walton  
 County of Boone, State of Kentucky

ONE MOOCK ROAD  
 WILDER, KENTUCKY  
 41071 (859) 581-9600

DRAWN BY:	AED
DATE:	10/5/01
SCALE:	1" = 40'
FILE NO.	98-312-01

## ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: January 2, 2002

RE: Request of **HKR Enterprises** to consider a Zoning Map Amendment from Industrial One (I-1) to Commercial Services (C-3) for a 0.3896 acre site located at 10824 Dixie Highway, Boone County, Kentucky. This request is for a zone change to allow auto sales.

### REMARKS

We, the Committee, recommend approval of the Zoning Map Amendment request based upon the following findings of fact and with the following conditions:

### FINDINGS OF FACT

1. The Committee has determined that the proposed Zoning Map Amendment and the accompanying Concept Development Plan is appropriate for the property located at 10828 Dixie Highway, Boone County, Kentucky. The Committee's decision is based on the fact that the applicant's request is in agreement with the 2000 Boone County Comprehensive Plan.

The 2025 Future Land Use text states the following regarding the Richwood area, in which the site is located: "The frontage along U.S. 25 is suitable for a mixture of commercial and light industrial activity with proper access management provisions (p. 167)." The proposal would allow for increased commercial development in the area, which at present contains a mixture of commercial and industrial development.

The Goals and Objectives state in the "Business Activity" section that "[c]ommercial uses shall be limited to strategic locations serving trade areas and neighborhood needs and shall have safe and effective access and ample parking space (p.8)." The section further states that "[h]ighway commercial uses shall be in close proximity to highway interchanges for maximum convenience and economy to the traveling public, while minimizing impact to the community in terms of traffic congestion, local commuting patterns and access (p. 8)." The placement of this proposed commercial use is within a strategic location as recommended by the 2000 Boone County Comprehensive Plan.

2. The Committee has determined that the proposed zoning category would be appropriate for the site. The limited size and depth of the site would limit the ability of the site to be used for the principally permitted uses listed in the I-1 zoning category, the site's current zoning.
3. The Committee has concluded that the following conditions are necessary for the purpose of satisfying the Goals, Objectives, and Policies stated in the 2000 Boone County Comprehensive Plan and the mitigation of any foreseeable problems that the proposal may create. The Applicant has signed a letter of agreement with these conditions and understands that the submitted Concept Development Plan along with these conditions serves as a basis for this recommendation.

#### CONDITIONS

1. The applicant will provide a privacy fence, 6 feet high, running the length of the south property line. This fence will extend from the east property line to the side of the house located south of the site. The fencing will be provided in addition to the Buffer Yard "A" that is required per Article 37 of the Boone County Zoning Regulations, and the fencing will be located on the property line, with landscaping located immediately to the north of the fencing.
2. The exterior walls of any structure located on site shall be predominately earth tone (tans, beiges, reddish browns, warm greys) and/or white in color, and roof structures shall use colors that coordinate with the exterior walls. The Planning Commission staff shall review and determine the appropriateness of proposals involving exterior color of structures on site through the Site Plan Review Process.
3. Major repairs or maintenance of any vehicles will not occur on site. Minor repairs and replacement of parts (including but not limited to washing of vehicles, charging batteries, fixing flat tires, replacing headlamps, wiper blades, air filters, etc.) will be allowed on inventory vehicles (vehicles intended to be sold on site) only. These repairs are to take place during business hours only.
4. Cosmetic repairs to the garage, including repair and replacement of siding, shall take place prior to its use as a repair facility for inventory vehicles.
5. There will be no additional signage added to the property.

6. There will be no alteration of the natural contours of the property other than what would be required for the proposed paving of the property.
7. Commercial uses permitted on the site will be limited to auto sales and office support for the sale of autos.
8. Any lighting fixtures added to the property would be shielded. Glare from these lighting fixtures would extend no further than the site itself.

A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request. Attached is the signature page for the Zone Change Committee Vote.

## ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Susan Poston, Committee Chairwoman

DATE: December 19, 2001

RE Request of HKR Enterprises (owner) to consider an application for a Zoning Map Amendment from Industrial One (I-1) to Commercial Services (C-3) for a 0.3896 acre site located at 10824 Dixie Highway, Boone County, Kentucky. The request is for a zone change to allow auto sales (Hebron Auto Sales).

### REMARKS:

We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

*Susan Poston*  
Susan Poston, Chairwoman

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>
Deferred	<input type="checkbox"/>		

*M Hicks*  
Mark Hicks

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>
Deferred	<input type="checkbox"/>		

*Bob Newman*  
Bob Newman

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>
Deferred	<input type="checkbox"/>		

*Earl R. White*  
Earl White

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>
Deferred	<input type="checkbox"/>		

*David Zimmer*  
David Zimmer

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>
Deferred	<input type="checkbox"/>		

Randy Barlow (Alternate)\*

For	<input type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>
Deferred	<input type="checkbox"/>		

Don McMillian (Alternate)\*

For	<input type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>
Deferred	<input type="checkbox"/>		

TOTAL:	<input type="checkbox"/>	DEFERRED	<input type="checkbox"/>	FOR	<input type="checkbox"/>	AGAINST	<input type="checkbox"/>	ABSTAIN
	<input type="checkbox"/>	ABSENT						

**Ordinance**  
**Of**  
**The Boone County Fiscal Court**

**Ordinance No. 02-01**

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT APPROVING, WITH CONDITIONS, A REQUEST OF HKR ENTERPRISES (OWNER) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM INDUSTRIAL ONE (I-1) TO COMMERCIAL SERVICES (C-3) ON A 0.3896 ACRE SITE LOCATED AT 10824 DIXIE HIGHWAY, BOONE COUNTY, KENTUCKY, AS RECOMMENDED UNANIMOUSLY BY THE BOONE COUNTY PLANNING COMMISSION VIA RESOLUTION NO. R-02-002-A.

WHEREAS, the Boone County Fiscal Court received a request for a Zoning Map Amendment to the Boone County Zoning Map and such Zoning Map Amendment being a zone change from Industrial One (I-1) to Commercial Services (C-3) on a 0.3896 acre site located at 10824 Dixie Highway, Boone County, Kentucky, which is more particularly described below; and,

WHEREAS, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval, with conditions, for the Zoning Map Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOONE COUNTY FISCAL COURT AS FOLLOWS:

**SECTION I**

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and is hereby approved, with conditions, this Zoning Map Amendment being a zone change from Industrial One (I-1) to Commercial Services (C-3) on a 0.3896 acre site located at 10824 Dixie Highway, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in an Industrial One (I-1) zone is more particularly described in DEED BOOK 790, PAGE NO. 282 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

**SECTION II**

That as a basis for the approval of a Zoning Map Amendment request are the findings of fact and conditions of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Ordinance and marked as "Exhibit A."

**Ordinance**  
**Of**  
**The Boone County Fiscal Court**

Ordinance No. 02-01

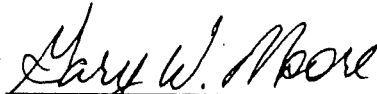
The Committee recommended approval, with conditions, for this request based on the findings of fact and conditions as set forth in the Committee Report and the Boone County Planning Commission Business Meeting minutes and marked as "Exhibit B." As a further condition of this change, there shall be no outdoor public address or audible intercom system on the site.

SECTION III

That this Ordinance shall take effect and be in full force when passed, published and recorded according to law.

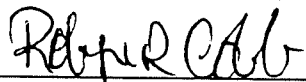
Introduced and given First Reading on the 5<sup>th</sup> day of February, 2002.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the 12<sup>th</sup> day of March, 2002, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested by the County Fiscal Court Clerk and declared to be in full force and effect.

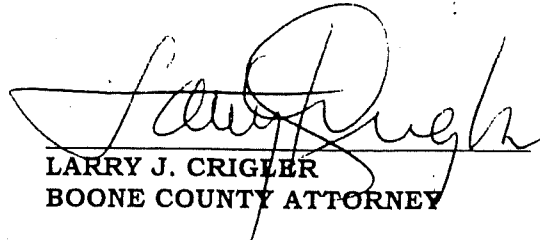


GARY W. MOORE  
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:



ROBYN R. COBB  
FISCAL COURT CLERK



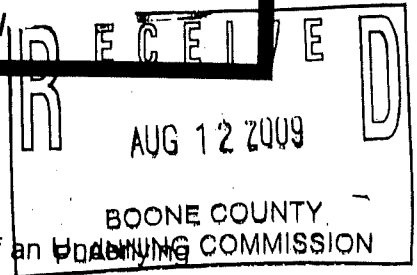
LARRY J. CRIGLER  
BOONE COUNTY ATTORNEY

3-21-02

DATE PUBLISHED

APPLICATION FORM

CONCEPT DEVELOPMENT PLAN  
BOONE COUNTY PLANNING COMMISSION



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

1. Check One:

- Concept Development Plan (Includes Utilization of an Existing Zone in a Planned Development)
- Change in an Approved Concept Development Plan
- Long Range Planning Committee Review (As stated in the Houston-Donaldson Study)
- Long Range Planning Committee Review (As stated in the Union Town Plan)
- Zone Change Committee Review of previously approved Concept Development Plan Conditions or Zoning Map Amendment Conditions
- Zoning Administrator Review (As stated in the Central Florence Strategic Plan, An Update of the Parkway Corridor Study)

- 2. Name of Project SIR BARTON PROPERTIES
- 3. Location of Project 10824 DIXIE HIGHWAY BOONE Co KY
- 4. Total Acreage of Site 0.3896
- 5. Current Zoning C-3
- 6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) JANUARY 2002
- 7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) NO
- 8. Proposed Uses (please specify each use) SEE ATTACHED
- 9. Proposed Building Intensities (please specify) NO NEW BUILDINGS OR SITE IMPROVEMENTS - MODIFYING EXISTING CONDITION TO ALLOW ADDITIONAL USES
- 10. Have you submitted a Concept Development Plan? NO - SAME BUILDINGS/SITE
- 11. Are you also applying for:
  - NO Conditional Use Permit
  - NO Dimensional Variance
- 12. Name of Applicant(s) SIR BARTON PROPERTIES LLC  
Phone Number 40 GERALD F. DUSING Fax No. e-mail - GDUSING@ASWDLANV.COM
- 13. Address of Applicant(s) 40 W. PIKE ST.  
COLUMBIA KY 40012  
City State Zip
- 14. Name of Property Owner(s) SIR BARTON PROPERTIES LLC  
Phone Number 859 371 7006 Fax No. \_\_\_\_\_
- 15. Address of Property Owner(s) 40 WILLIAM MCCARTY at TRI-CITY INS. Agency  
234 MAIN ST FLORENCE KY 4042  
City State Zip
- 16. Are there any existing buildings on the site? YES  
How many? 2
- 17. Deed Book 926 Page No. 189 Group No. 491
- 18. Have you had a pre-application meeting with BCPC Staff? YES

(over)

19. Please check the following organizations/agencies which you have discussed the proposed development with in the last several months:

- Boone County Water District
- Florence Public Services Dept.
- Duke Energy
- Sanitation District #1
- Cincinnati Bell
- Owen Electric Cooperative, Inc.
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- Boone County Building Department
- Northern Kentucky Health District
- USDA NRCS/Boone County Conservation District
- KY Division of Water
- Local School District
- Local Fire District
- Other: \_\_\_\_\_

20. Concept Development Plan Jurisdiction/Location  
 Unincorporated Boone County       Walton  
 Florence       Union

21. ORIGINAL Property Owner's Signature W. M. G. Gady  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

22. ORIGINAL Applicant's Signature John D. Jones  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**SECTION B** (To be completed by BCPC Staff)

1. Date Received 8/12/09 Fee Received \$2,302.00 R# 59231
2. Check what has been submitted:  
 Application       Fee       Legal Description  
 Concept Development Plan       Addresses of Adjoining Property Owners  
 No. of copies of plan received \*\*
3. Is application complete?  YES       NO
4. Staff Reviewer \_\_\_\_\_
5. Committee Chairperson \_\_\_\_\_
6. Scheduled Public Hearing Date \_\_\_\_\_
7. Boone County Planning Commission Action:  
 Approved       Approved With Conditions  
 Denied
8. Other: \_\_\_\_\_

\*\* Five (5) Copies Required

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 - E-Mail  
[www.boonecountyky.org](http://www.boonecountyky.org) - Web Page

Note: See Boone County Planning Commission Fee Schedule for Concept Development Plan Fees. An application consists of all fees paid in full, submitted drawings and a completed application form.

**SIR BARTON PROPERTIES REQUESTED PERMITTED USES**

**C-1 ZONE**

Permitted Uses Nos.

6, 7, 11, 15, 16, 20, 23, 24, 27, 28, 32  
with customary accessory uses.

**C-3 ZONE**

Permitted Uses Nos.

5, 7, 8, <sup>14 CAD</sup>~~15~~ excluding greenhouses, <sup>15 16</sup>~~16~~, ~~17~~ excluding Department stores,  
<sup>17</sup>~~18, 22, 21~~  
with customary accessory uses.

## Kevin Wall

---

**From:** Gerry Dusing [Gdusing@ASWDLAW.COM]  
**Sent:** Wednesday, August 12, 2009 11:55 AM  
**To:** Kevin Wall  
**Cc:** BillM@tricityinsky.com  
**Subject:** Sir Barton Properties

Kevin,

Per our conversation at the pre-app conference this morning:

Since the previous owner, Hebron Auto Sales, has gone out of business, the property was acquired by Sir Barton properties LLC and is now rented to a tenant who sells live bait, light fishing related goods, snacks such as soft drinks and potato chips and sundries like tobacco products.

The purpose of this application is to modify the existing condition limiting the use of the premises to the single use of auto sales related activities to allow for the limited specific requested permitted uses which we believe are compatible with the vicinity and appropriate for the layout of the property.

Thank you,

GERALD F. DUSING  
ADAMS, STEPNER, WOLTERMANN & DUSING  
P.O. BOX 861  
40 W. PIKE STREET  
COVINGTON, KY 41012

859-394-6200 TELE  
859-392-7206 FAX  
GDUSING@ASWDLAW.COM

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Thank You

## Kevin Wall

---

**From:** Gerry Dusing [Gdusing@ASWDLAW.COM]  
**Sent:** Wednesday, September 09, 2009 9:45 AM  
**To:** Kevin Wall  
**Subject:** RE: Sir Barton change/concept developoiment plan

Kevin,

I left a message for you. Our assumption is that if site improvements (e.g., drive-through) were to be constructed for a permitted use at a later date those improvements would have to conform to then existing zoning requirements/building code. Please call with any questions.

Thanks,

GERALD F. DUSING  
ADAMS, STEPNER, WOLTERMANN & DUSING  
P.O. BOX 861  
40 W. PIKE STREET  
COVINGTON, KY 41012

859-394-6200 TELE  
859-392-7206 FAX  
[GDUSING@ASWDLAW.COM](mailto:GDUSING@ASWDLAW.COM)

---

**From:** Kevin Wall [mailto:KWall@boonecountyky.org]  
**Sent:** Tuesday, September 08, 2009 8:48 AM  
**To:** Gerry Dusing  
**Subject:** Sir Barton change/concept developoiment plan

Gerry:

I have a question about this application. No improvements beyond those existing are proposed, but some of the use categories would require some level of improvements (drive-ins, any use which used a drive-through, etc.). Can you clarify?

Thanks,

kw

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**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM  
PUBLIC HEARING  
OCTOBER 7, 2009  
7:00 P.M.**

---

**COMMISSION MEMBERS PRESENT:**

Mrs. Judy Arnett, Secretary/Treasurer  
Mr. Kim Bungler  
Mr. Jim Carmichael  
Mr. Mike Ford  
Mr. Jim Longano  
Mr. Don McMillian  
Mrs. Susan Poston, Chairwoman  
Mr. Charlie Reynolds  
Mr. Charlie Rolfsen, Vice Chairman  
Mr. Bob Schwenke, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

Mr. Ben Brandstetter  
Mr. Greg Breetz  
Mrs. Linda Herald  
Mr. Mark Hicks  
Mrs. Janet Kegley

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Kevin T. Wall, AICP, Director, Zoning Services

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:00 P.M. and introduced the first item on the Agenda:

**APPLICANT: Sir Barton Properties c/o Gerald F. Dusing (applicant) for Sir Barton Properties (owner)**

**REQUEST: CHANGE IN CONCEPT DEVELOPMENT PLAN**

- 1. Request of Sir Barton Properties c/o Gerald F. Dusing (applicant) for Sir Barton Properties (owner) for a Change in an Approved Concept Development Plan for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky. The request is to modify a condition of a previous zone change approval to allow additional commercial uses on the site. The site is within a Commercial Services (C-3) zone.**

Staff Member, Kevin Wall, presented the Staff Report, which included a PowerPoint presentation (see Staff Report).

Chairwoman Poston asked for the Applicant's presentation. Mr. Gerry Dusing of Florence, Kentucky introduced himself and stated that he is representing Sir Barton Properties. He introduced a principle owner of the Sir Barton Properties - Mr. Bill McCarty. Mr. Dusing explained the history of the site. The property was subject to a zone change in 2003. The site was an addition to the existing Hebron Auto Sales and was limited by the Planning Commission for use as an office for the existing sales lot. Since then, it has been separated and Hebron Auto Sales is out of business. It is a stand alone business and there has been some improvements to the building - new siding and a concrete parking lot. It is a nice location. It is currently being used as a bait shop and selling various sundry items - snacks, refreshments, etc. Mr. Dusing noted that even though the Future Land Use Map indicates Industrial, which was also the case in 2003, the transition between industrial and commercial is one lot away. Further, he stated that they identified a list of Commercial Services (C-3) uses other than the bait shop that would be appropriate given the size of the lot and be compatible with the surrounding area. Mr. Dusing also noted that the Staff Report concludes that the staff has no issue with this request.

Chairwoman Poston asked if there was anyone in the audience that was in opposition with the request. There was no response.

Mr. Rolfsen inquired how the bait shop was allowed to open. Mr. Dusing responded that the use isn't legal. Mr. Dusing said that the owners brought the property through bankruptcy and wasn't aware of the restrictions. When a sign advertising the business was installed, the Planning Commission caught it. Mr. Rolfsen asked whether the existing bait shop would remain if this request would be approved. Mr. McCarty responded "yes" as he felt the business owned by Ronnie Smith is more like a convenience store and it is a clean business. Mr. McCarty stated that the outbuilding is being used to store cars. The proposed change would only affect the main building.

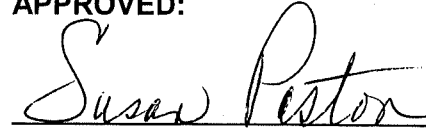
Mr. Ford asked if the request would be approved, will the site remain as is. Mr. Dusing stated it is planned to remain as is, but could discuss possible improvement such as a drive-thru window at the Zone Change Committee meeting. If this is proposed, there could be a condition where a Site Plan would be required.

Mr. Longano inquired about the Commercial Services (C-3) uses and the appropriateness of recreational vehicles given the size of the site. Mr. Wall responded that recreational vehicles are treated like car sales. It is a customary C-3 use. The Committee can decide whether to allow it at the Committee meeting. The code definition for recreational vehicles is very broad.

Mr. Carmichael asked about the corner property where the former Hebron Auto Sales was located - is it open or conditional C-3? Mr. Wall responded that it was conditional but wasn't limited to car sales only. Mr. McCarty also noted that he owns this parcel and is planning to put an auto sales business at the corner. Mr. Carmichael expressed his concern about meeting the parking requirements if both parcels were not owned by the same property owner due to the size. Mr. Wall explained that the Tenant Finish/Site Plan Review procedure validates parking requirements. If a code requirement vetoes a use, the use gets vetoed by operation of the regulations.

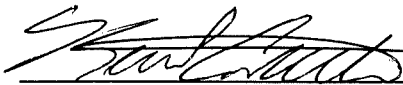
**There being no further comments, Mrs. Poston stated that the Committee Meeting for this item will be on October 21, 2009 at 5:00 P.M. in this room. This item will be on the Agenda for the Business Meeting on November 4, 2009 at 7:00 P.M. Mrs. Poston closed this Public Hearing at 7:20 P.M.**

**APPROVED:**



**Susan Poston,**  
**Chairwoman**

**Attest:**



**Kevin P. Costello, AICP**  
**Executive Director**

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM  
BUSINESS MEETING  
NOVEMBER 4, 2009  
7:00 P.M.**

---

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:00 PM.

**COMMISSION MEMBERS PRESENT:**

Mrs. Judy Arnett, Secretary/Treasurer  
Mr. Ben Brandstetter  
Mr. Greg Breetz  
Mr. Kim Bunger  
Mr. Jim Carmichael  
Mr. Mike Ford  
Mr. Mark Hicks  
Mrs. Janet Kegley  
Mr. Jim Longano  
Mr. Don McMillian  
Mrs. Susan Poston, Chairwoman  
Mr. Charlie Rolfsen, Vice Chairman  
Mr. Bob Schwenke, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

Mrs. Linda Herald  
Mr. Charlie Reynolds

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Matthew E. Becher, AICP, Rural/Open Space Planner  
Mr. Robert A. Jonas, AICP, GIS Specialist  
Mr. David A. Geohegan, AICP, Director, Planning Services  
Mr. Todd K. Morgan, AICP, Senior Planner  
Mr. Kevin T. Wall, AICP, Director, Zoning Services

**Approval of the Minutes:**

Chairwoman, Mrs. Susan Poston, stated that the Commissioners received copies of the Minutes of the October 7, 2009 Business Meeting and Public Hearings. She asked if there were any comments or corrections. There being no changes to the Minutes, Mr. Charlie Rolfsen moved that both sets of minutes be approved as written. Mr. Mark Hicks seconded the motion and it carried unanimously.

Mr. Wilson responded that the motion was to withdraw the Study from further consideration without regard to time. It means that if sometime in the future, you can revisit the topic. If so, the process would have to start all over again.

Mr. Costello also noted that as a practical matter there would have to be again interest on behalf of the County and the other legislative units. The Planning Commission would not initiate it on its own. Also, there are other groups in the audience that did not participate in the Stakeholders Committee. We would start the process all over again.

Mr. Bunger noted that he also served on the Committee. There was a large amount of information gathered for the County and residents. There was a certain amount of ambiguity, lack of structure, unknown empowerment, and concern about responsibility for implementation. He concluded that at this time, there is not strong basis for a recommendation to proceed with the Study.

**There being no further comments or questions, Chairwoman Poston asked for a vote on the request based upon a motion by Mr. Schwenke and seconded by Mr. Hicks. The motion passed unanimously.**

Chairwoman Poston returned to the beginning of the meeting Agenda.

1. **CHANGE IN CONCEPT DEVELOPMENT PLAN - Kevin Wall, Staff; Charlie Rolfsen, Chairman**

**Request of Sir Barton Properties c/o Gerald F. Dusing (applicant) for Sir Barton Properties (owner) for a Change in an Approved Concept Development Plan for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky. The request is to modify a condition of a previous zone change approval to allow additional commercial uses on the site. The site is within a Commercial Services (C-3) zone.**

Staff Member, Kevin Wall, read the Committee Report (see attached copy), which recommended approval subject to one condition. Chairwoman Poston asked whether there was anyone in the audience that would like to speak in favor or against the request.

Mr. Gerry Dusing, Attorney representing the Applicant, stated that he appreciated the Committee's recommendation and is available to answer any questions. Chairwoman Poston noted that there was no one in the audience in opposition to the request.

**Mr. Rolfsen moved to approve the request subject to the condition by Resolution to the Boone County Fiscal Court. Mr. Bunger seconded the motion and it carried unanimously.**

**EXHIBIT**

**“B”**

## ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Charlie Rolfsen, Chairman

DATE: November 4, 2009

RE: Request of **Sir Barton Properties c/o Gerald F. Dusing (applicant)** for **Sir Barton Properties (owner)** for a Change in an Approved Concept Development Plan for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky. The request is to modify a condition of a previous zone change approval to allow additional commercial uses on the site. The site is within a Commercial Services (C-3) zone.

### REMARKS:

We, the Committee, recommend approval of the above referenced request based on the following findings of fact and with the following condition.

### FINDINGS OF FACT

1. The Committee has concluded that the proposed Change in Concept Development Plan is in agreement with the Comprehensive Plan due to the following reasons.
  - A. The 2005 Boone County Comprehensive Plan's 2030 Future Land Use Map designates the site as "Industrial." This designation is described as "manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses." The site is already within a C-3 zone and is not conducive to industrial development due to its limited size (less than 0.4 acres), width (130'), and depth (140' at the deepest point). The site is also separated from the developing industrial park to the east by a rail right-of-way. However, the proposal is in agreement with the Comprehensive Plan's text as discussed below.
  - B. The Land Use Element ("Devon Area," pp. 147 - 148) states "the U.S. 25 and Frogtown Road intersection should support locally-oriented commercial uses, however, special attention should be given to controlling and coordinating access points with this area." This Element ("Richwood Area," pg. 148) also states "any traffic-intensive or truck-oriented uses shall locate near connections to the interstate, and access management shall be an important consideration on all development along U.S. 25" and "the frontage along U.S. 25 is suitable for a mixture of commercial and light industrial activity with proper access management provisions."

The subject site is part of an overall tract that is located at the Dixie Highway/Frogtown Road intersection, and the additional uses proposed for the site would create greater opportunities for locally-oriented commercial uses. The proposed use list does not include activities which would be over-scaled, "traffic intensive or truck-oriented," or otherwise inappropriate for this site. These qualities also agree with the Business Activity Goal which states "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas."

Regarding "controlling and coordinating access points," access to the site is provided by one existing driveway on Dixie Highway and one existing driveway on East Frogtown Road. These access points are located at the farthest points possible from the road intersection.

- C. The Business Activity ("Recommended Areas of Commercial Activity," pg. 64) advocates "the eventual restoration and redevelopment of older commercial areas, developments and corridors," including Dixie Highway. This Element ("Recommended Areas of Industrial and Office Activity," pg. 65) additionally states that "existing sites should also be examined to enable adaptive re-use or redevelopment of buildings. There are numerous older vacant industrial buildings and sites or under utilized commercial sites that provide redevelopment opportunities." Through the expanded use list, the proposal offers greater opportunity for "re-use" of the site and building in a manner which is consistent with the Land Use Element as discussed above.
2. The Committee has concluded that the attached condition is necessary to achieve consistency with the specific goals, objectives, and policies of the 2005 Boone County Comprehensive Plan. The Committee has also concluded that the attached condition is necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with this condition.

#### CONDITION

1. The use of the property shall be limited to the following uses as outlined in the 2008 Boone County Zoning Regulations with the modifications noted. Customary accessory uses are also permitted.

C-1 Principally Permitted Uses (Principally Permitted in the C-3 zone by reference)

6. Convenience stores;
7. Liquor, beverage, drug and proprietary stores;
11. Accounting, auditing and bookkeeping services;
15. Beauty and barber services and tanning salons;
16. Nursery and day care centers;
20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
23. Art, craft and hobby supplies and products, gifts and novelties;
24. Antiques and used merchandise;
27. Sporting goods including bicycles;
28. Draperies, curtains, upholstery and floor coverings;
32. Video stores;

C-3 Principally Permitted Uses

5. Sales, automotive repair, or lease of new and used motor vehicles including tires, batteries and accessories - this use category is subject to the terms of the prior 2002 zone change approval;
7. Eating and drinking establishments including alcoholic beverages and accessory drive-in facilities;
8. Sporting goods and accessories including the sales and service of new and used marine craft, recreational vehicles, camping trailers, bicycles, and motorcycles and other sporting equipment and sales;
14. Florists including greenhouses - greenhouses are excluded from this use category;
15. General dry goods and merchandise stores;
16. Department stores, mail order houses, direct retail selling organizations of general merchandise - department stores are excluded from this use category;
17. Household appliances, china, glassware and metal ware;
21. Auto parts and accessories stores;

A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request. Attached is the signature page for the Zone Change Committee Vote.

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM  
PUBLIC HEARING  
OCTOBER 7, 2009  
7:00 P.M.**

---

**COMMISSION MEMBERS PRESENT:**

Mrs. Judy Arnett, Secretary/Treasurer  
Mr. Kim Bunger  
Mr. Jim Carmichael  
Mr. Mike Ford  
Mr. Jim Longano  
Mr. Don McMillian  
Mrs. Susan Poston, Chairwoman  
Mr. Charlie Reynolds  
Mr. Charlie Rolfsen, Vice Chairman  
Mr. Bob Schwenke, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

Mr. Ben Brandstetter  
Mr. Greg Breetz  
Mrs. Linda Herald  
Mr. Mark Hicks  
Mrs. Janet Kegley

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Kevin T. Wall, AICP, Director, Zoning Services

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:00 P.M. and introduced the first item on the Agenda:

**APPLICANT: Sir Barton Properties c/o Gerald F. Dusing (applicant) for Sir Barton Properties (owner)**

**REQUEST: CHANGE IN CONCEPT DEVELOPMENT PLAN**

1. **Request of Sir Barton Properties c/o Gerald F. Dusing (applicant) for Sir Barton Properties (owner) for a Change in an Approved Concept Development Plan for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky. The request is to modify a condition of a previous zone change approval to allow additional commercial uses on the site. The site is within a Commercial Services (C-3) zone.**

Staff Member, Kevin Wall, presented the Staff Report, which included a PowerPoint presentation (see Staff Report).

Chairwoman Poston asked for the Applicant's presentation. Mr. Gerry Dusing of Florence, Kentucky introduced himself and stated that he is representing Sir Barton Properties. He introduced a principle owner of the Sir Barton Properties - Mr. Bill McCarty. Mr. Dusing explained the history of the site. The property was subject to a zone change in 2003. The site was an addition to the existing Hebron Auto Sales and was limited by the Planning Commission for use as an office for the existing sales lot. Since then, it has been separated and Hebron Auto Sales is out of business. It is a stand alone business and there has been some improvements to the building - new siding and a concrete parking lot. It is a nice location. It is currently being used as a bait shop and selling various sundry items - snacks, refreshments, etc. Mr. Dusing noted that even though the Future Land Use Map indicates Industrial, which was also the case in 2003, the transition between industrial and commercial is one lot away. Further, he stated that they identified a list of Commercial Services (C-3) uses other than the bait shop that would be appropriate given the size of the lot and be compatible with the surrounding area. Mr. Dusing also noted that the Staff Report concludes that the staff has no issue with this request.

Chairwoman Poston asked if there was anyone in the audience that was in opposition with the request. There was no response.

Mr. Rolfsen inquired how the bait shop was allowed to open. Mr. Dusing responded that the use isn't legal. Mr. Dusing said that the owners brought the property through bankruptcy and wasn't aware of the restrictions. When a sign advertising the business was installed, the Planning Commission caught it. Mr. Rolfsen asked whether the existing bait shop would remain if this request would be approved. Mr. McCarty responded "yes" as he felt the business owned by Ronnie Smith is more like a convenience store and it is a clean business. Mr. McCarty stated that the outbuilding is being used to store cars. The proposed change would only affect the main building.

Mr. Ford asked if the request would be approved, will the site remain as is. Mr. Dusing stated it is planned to remain as is, but could discuss possible improvement such as a drive-thru window at the Zone Change Committee meeting. If this is proposed, there could be a condition where a Site Plan would be required.

Mr. Longano inquired about the Commercial Services (C-3) uses and the appropriateness of recreational vehicles given the size of the site. Mr. Wall responded that recreational vehicles are treated like car sales. It is a customary C-3 use. The Committee can decide whether to allow it at the Committee meeting. The code definition for recreational vehicles is very broad.

Mr. Carmichael asked about the corner property where the former Hebron Auto Sales was located - is it open or conditional C-3? Mr. Wall responded that it was conditional but wasn't limited to car sales only. Mr. McCarty also noted that he owns this parcel and is planning to put an auto sales business at the corner. Mr. Carmichael expressed his concern about meeting the parking requirements if both parcels were not owned by the same property owner due to the size. Mr. Wall explained that the Tenant Finish/Site Plan Review procedure validates parking requirements. If a code requirement vetoes a use, the use gets vetoed by operation of the regulations.

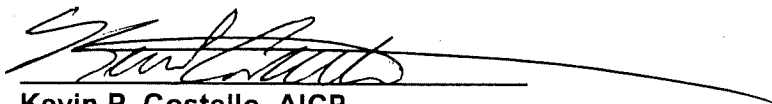
**There being no further comments, Mrs. Poston stated that the Committee Meeting for this item will be on October 21, 2009 at 5:00 P.M. in this room. This item will be on the Agenda for the Business Meeting on November 4, 2009 at 7:00 P.M. Mrs. Poston closed this Public Hearing at 7:20 P.M.**

**APPROVED:**



**Susan Poston,**  
**Chairwoman**

**Attest:**



**Kevin P. Costello, AICP**  
**Executive Director**

## ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Charlie Rolfsen, Chairman

DATE: October 21, 2009

RE: Request of **Sir Barton Properties c/o Gerald F. Dusing (applicant)** for **Sir Barton Properties (owner)** for a Change in an Approved Concept Development Plan for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky. The request is to modify a condition of a previous zone change approval to allow additional commercial uses on the site. The site is within a Commercial Services (C-3) zone.

### REMARKS:

We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

Sir Barton Properties

October 21, 2009

*Charlie Rolfsen*  
**Charlie Rolfsen, Chairman**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

*Ben Brandstetter*  
**Ben Brandstetter**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

*Greg Breetz*  
**Greg Breetz**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

*Kim Bunger*  
**Kim Bunger**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

**Janet Kegley**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

**Judy Arnett (Alternate)**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

**Linda Herald (Alternate)**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

**Charlie Reynolds (Alternate)**  
 For Project  Absent   
 Against Project   
 Abstain  Deferred

**TOTAL:**  DEFERRED 4 FOR PROJECT  ABSENT  
 AGAINST PROJECT  ABSTAIN

## LONG RANGE PLANNING/COMP PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Bob Schwenke, Chairman  
Long Range Planning/Comprehensive Plan Committee

DATE: November 4, 2009

RE: Request of **James W. Berling (applicant)** for **JLP-Florencecky LLC (owner)** for a determination of the review process relative to the Houston-Donaldson Study for a future 0.59 acre outlot located at 8032 Burlington Pike, Florence, Kentucky. The request is to alter the conditions of approval that were imposed on the City Barbeque restaurant project at the September 2, 2009 Boone County Planning Commission Business Meeting.

### REMARKS:

We, the Committee, recommend approval of the above referenced request based on the following findings of fact and with the following conditions.

### FINDINGS OF FACT

1. The Committee has determined that the proposal is in conformance with the "Criteria for Committee Review" on page 71 of the Houston-Donaldson Study. Specifically, the Committee has concluded that the proposal is consistent with the recommendations in the Site Analysis and Recommendation section of the Study. The Site 3, "K-Mart Site and Southern Seligman Frontage" section of the Study states that principally permitted Commercial Two (C-2) uses are recommended for this site. The proposal is to construct a 20 foot tall, 3,588 square foot restaurant on a 0.59 acre outlot. The outlot is located in Value City Furniture's front parking lot and has frontage on KY 18.
2. The Committee has determined that the redevelopment does not present a drastic or unknown potential impact on public infrastructure. No additional curb cuts are proposed and an existing curb cut at the southeast corner of the site is being limited to right-in turning movements only.
3. The Committee has concluded that the attached conditions are necessary to achieve consistency with the Houston-Donaldson Study. The applicant has signed a letter demonstrating agreement with these conditions (see attached letter from the property owner).

CONDITIONS

1. The approval is based on the revised plan that was submitted at the August 12, 2009 Long Planning Committee meeting (see attachments).
2. The building setback on the west side shall be a minimum of five feet. The proposed awning shall not be located within the five foot building setback.
3. The proposed smokers shall be sufficiently screened. The screening of the smokers will be reviewed in more detail through the Design Review process. In addition, landscaping features (trees and shrubs) shall be installed in the area between the smokers and access driveway. The landscaping buffer shall have the qualitative affect of Buffer Yard A.
4. The designated loading area shall only be utilized during off-hours.
5. The existing access off KY 18 shall be limited to right turn-in only. Additional directional signage and pavement markings shall be installed to direct traffic.
6. Curbing shall be installed to separate the building and parking area from the main access driveways (along the north and east boundaries of the site).



The undersigned, owner(s) of the certain real property described in the attached Exhibit "A" (the "Property"), do hereby appoint and expressly grant full authority to James W. Berling to act as an agent of and on behalf of the undersigned in all matters related to and in connection with the attached application for site plan approval for the property or other matters related to the proposed project approval. The undersigned hereby consents and agrees to be bound by the application, by any agreement made by the herein named agent with Boone County or City of Florence, Kentucky in connection with this same case, and by all decisions made by the city in connection with this same case, until revoked by owner.



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Owner's Signature

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Dirk Greene

Printed Name

## LONG RANGE PLANNING/COMPREHENSIVE PLAN COMMITTEE MEETING

TO: Boone County Planning Commission

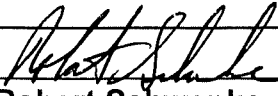
FROM: Charlie Rolfsen, Chairman

DATE: October 21, 2009

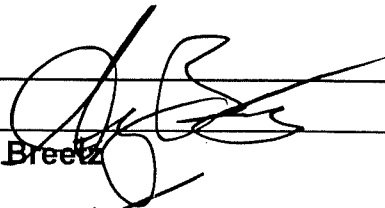
RE: Request of **James W. Berling (applicant)** for **JLP-Florenceky LLC (owner)** for a determination of the review process relative to the Houston-Donaldson Study for a future 0.59 acre outlot located at 8032 Burlington Pike, Florence, Kentucky. The request is to alter the conditions of approval that were imposed on the City Barbeque restaurant project at the September 2, 2009 Boone County Planning Commission Business Meeting.

### REMARKS:

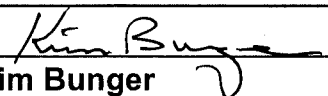
We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

  
\_\_\_\_\_  
**Robert Schwenke, Chairman**

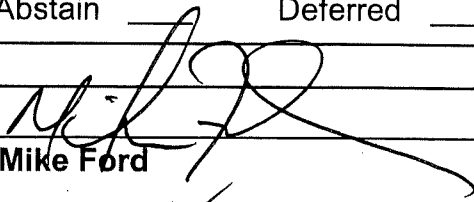
For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Greg Breetz**

For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Kim Bunger**

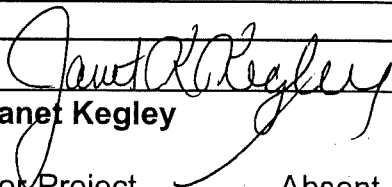
For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Mike Ford**

For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

\_\_\_\_\_  
**Mark Hicks**

For Project \_\_\_\_\_ Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Janet Kegley**

For Project \_\_\_\_\_ Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

**TOTAL:** \_\_\_\_\_ DEFERRED 5 FOR PROJECT \_\_\_\_\_ ABSENT  
\_\_\_\_\_ AGAINST PROJECT \_\_\_\_\_ ABSTAIN

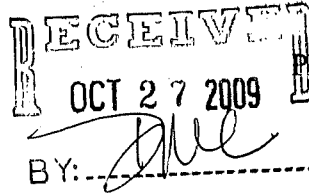
# **SUPPORTING INFORMATION**



# BOONE COUNTY PLANNING COMMISSION

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

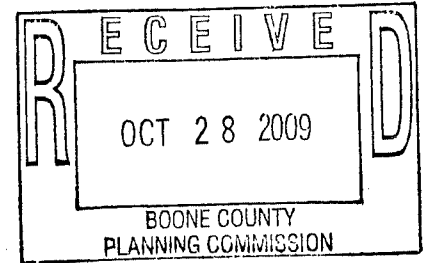
Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, KY 41005



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

October 23, 2009

Mr. William McCarty  
Sir Barton Properties LLC  
c/o Gerald F. Dusing  
Adams, Stepler, Woltermann & Dusing  
40 W. Pike St.  
Covington, KY 41012



FAX: 392-7200

RE: Recommended Conditions of Approval for Sir Barton Properties Change in Concept Development Plan, 10824 Dixie Highway, Boone County, Kentucky

Dear Mr. McCarty:

The following represents the condition of approval for the above referenced application as discussed by the Planning Commission's Zone Change Committee at their 10/21/09 meeting. If you, as the property owner, agree to this condition, please so indicate by signing in the space provided at the end of this letter and return the original letter to the Planning Commission's office by Friday, October 30, 2009.

## CONDITION

1. The use of the property shall be limited to the following uses as outlined in the 2008 Boone County Zoning Regulations with the modifications noted. Customary accessory uses are also permitted.

### C-1 Principally Permitted Uses (Principally Permitted in the C-3 Zone by Reference)

6. Convenience stores;
7. Liquor, beverage, drug and proprietary stores;
11. Accounting, auditing and bookkeeping services;
15. Beauty and barber services and tanning salons;
16. Nursery and day care centers;
20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
23. Art, craft and hobby supplies and products, gifts and novelties;
24. Antiques and used merchandise;
27. Sporting goods including bicycles;
28. Draperies, curtains, upholstery and floor coverings;

Mr. William McCarty  
Sir Barton Properties LLC  
c/o Gerald F. Dusing  
October 23, 2009  
Page 2

32. Video stores;

C-3 Principally Permitted Uses

5. Sales, automotive repair, or lease of new and used motor vehicles including tires, batteries and accessories - this use category is subject to the terms of the prior 2002 zone change approval;
7. Eating and drinking establishments including alcoholic beverages and accessory drive-in facilities;
8. Sporting goods and accessories including the sales and service of new and used marine craft, recreational vehicles, camping trailers, bicycles, and motorcycles and other sporting equipment and sales;
14. Florists including greenhouses - greenhouses are excluded from this use category;
15. General dry goods and merchandise stores;
16. Department stores, mail order houses, direct retail selling organizations of general merchandise - department stores are excluded from this use category;
17. Household appliances, china, glassware and metal ware;
21. Auto parts and accessories stores;

Sincerely,

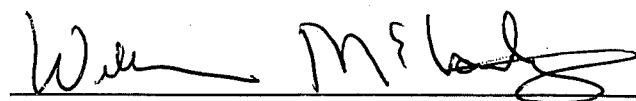


Kevin T. Wall, AICP  
Director, Zoning Services

KTW/vlm

AGREEMENT

I, the property owner for the 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky, agree to the condition listed herein for the above referenced Change in Concept Development Plan application.



William McCarty  
for Sir Barton Properties LLC  
Property Owner

10-28-09

Date

vision as shown on Plat No. 3, Page 26

**TRISTINA M. GRIFFITH, a single  
22, Page 189 of the Boone County**

Parcel Two

Group Number: 491  
Plat Book 3, Page 26  
PIDN: 075.00-00-072.00  
(10824 Dixie Highway, Walton, Kentucky 41094)

Lying and being in Boone County, Kentucky and located on the East side of U.S. Highway 25, South of its intersection with Frogtown Road and is described more particularly as follows:

Being all of Lots 33 and 34 of the Theo Carpenter Estate Subdivision as recorded in Plat Book 3, Page 26 of the Boone County Court Clerk's office at Burlington, Kentucky. Said lots have a total frontage on U.S. #25 of 130 feet, extending Eastwardly between parallel lines at 90° to the West right-of-way of the C.N.O. & T.P. Railroad.

Being the same property conveyed to HKR ENTERPRISES, LLC, a Kentucky Limited Liability Company, by STEVE VAUGHN, a single person, by Warranty Deed dated October 4, 2000 and recorded in Deed Book 790, Page 282 of the Boone County Clerk's records at Burlington, Kentucky.

## **ORDINANCE 10-01**

**AN ORDINANCE RELATING TO APPROVAL, WITH ONE CONDITION, FOR A REQUEST OF SIR BARTON PROPERTIES C/O GERALD F. DUSING (APPLICANT) FOR SIR BARTON PROPERTIES (OWNER) FOR A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN IN A COMMERCIAL SERVICES (C-3) ZONE FOR A 0.3896 ACRE TRACT LOCATED AT 10824 DIXIE HIGHWAY, BOONE COUNTY, KENTUCKY.**

**WHEREAS**, the Boone County Planning Commission received a request for a Change in an Approved Concept Development Plan in a Commercial Services (C-3) zone for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky, which is more particularly described below; and,

**WHEREAS**, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval, with one condition, for a Change in an Approved Concept Development Plan in a Commercial Services (C-3) zone for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky.

**NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF COUNTY OF BOONE, COMMONWEALTH OF KENTUCKY:**

### **SECTION I**

That the request for a Change in an Approved Concept Development Plan for the real estate which is more particularly described below shall be and is hereby approved, with one condition, in a Commercial Services (C-3) zone for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky. The real estate which is the subject of this request for a Change in an Approved Concept Development Plan in a Commercial Services (C-3) zone is more particularly described

in DEED BOOK 926, PAGE NO. 189 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

## SECTION II

That as a basis for the approval, with one condition, for a Change in an Approved Concept Development Plan in a Commercial Services (C-3) zone for a 0.3896 acre tract located at 10824 Dixie Highway, Boone County, Kentucky, are the findings of fact of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Ordinance and marked as "Exhibit A."

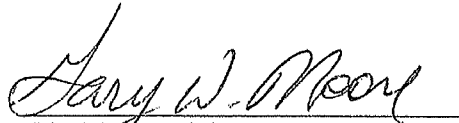
The Committee Report recommending approval for this request is attached hereto and marked as "Exhibit B."

## SECTION III

That this Ordinance shall take effect and be in full force when passed, published and recorded according to law.

Introduced and given First Reading on the 22<sup>nd</sup> day of December, 2009.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the 19<sup>th</sup> day of January 2010 and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.



GARY W. MOORE  
BOONE COUNTY JUDGE/EXECUTIVE



DAPHNE KORNBLUM  
FISCAL COURT CLERK