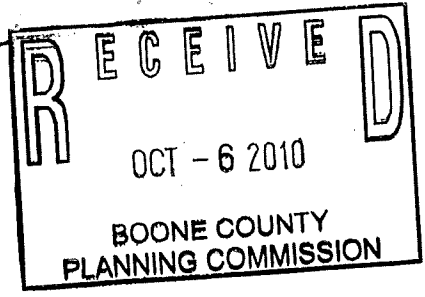


10-2MA-012+A



APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Name of Project Smith Towing Preliminary Stage I Plan
- 2. Location of Project Boone-Kenton County Border, Dolwick Drive, Erlanger, Kentucky
- 3. Total Acreage of Site Total 12.096, Boone County Portion 3.584 Acres
- 4. Current Zoning of Site A-2
- 5. Proposed Zoning (Classification being requested) I-1
- 6. Proposed Uses (please specify each use) Towing - Impound Lot & Wrecker Services

- 7. Names of Applicant(s) EJ Foltz, Abercrombie & Associates, Inc.
Phone Number 513-385-5757 Fax No. 513-245-5161

- 8. Address of Applicant(s) 3377 Compton Road, Suite 120
Cincinnati Ohio 45251
City State Zip

- 9. Name of Property Owner(s) Miller Valentine Group (a.k.a. MV Land Development Company)
Phone Number 937-293-0900 Fax No. 937-299-1564

- 10. Address of Property Owner(s) 4000 Miller Valentine Court
Dayton Ohio 45439-1487
City State Zip

- 11. Proposed Building Intensities (please specify) 3069 feet/acre

- 12. Are there any existing buildings on the site? No
How many? _____

- 13. Deed Book 436 Page No. 96 Group No. 2014B

- 14. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance

- 15. Have you submitted a Concept Development Plan? Yes

- 16. Have you had a pre-application meeting with BCPC Staff? Yes

- 17. Please check the following organizations/agencies which you have discussed the proposed development within 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
- Cincinnati/N. KY International Airport (KY Airport Zoning Commission for height restrictions near the airport)

EXHIBIT

“A”

STAFF REPORT

Request of **EJ Foltz, Abercrombie & Associates, Inc. (applicant)** for **Miller Valentine Group (aka MV Land Development Company) (owner)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the Boone County Zoning Regulations, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.

November 3, 2010

REQUEST

The applicant is requesting this Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1) to allow towing, impound, and wrecker services, and a dimensional Variance of the front yard setback from 50' to 30' (a 20' variance) along Dolwick Drive for the easternmost building in Boone County nearest the County line. The variance request is due to the irregular right-of-way and the drop in elevation from Dolwick Drive to the north. The two buildings in Boone County are proposed at 5,000 s.f. (50' x 100') and 6,000 s.f. (60' x 100') for an intensity of 2,790 s.f./acre. The maximum intensity permitted in the I-1 zone is 25,000 s.f./acre. The NKAPC had their Public Hearing for the Kenton County portion of this property on October 7, 2010, with a recommendation of approval with conditions to the City of Erlanger.

ADJACENT ZONING AND LAND USES

- North: Wooded hillside parcels zoned Agricultural Estate (A-2).
- East: Property zoned Business Park One (BP-1) in Kenton County.
- South: The Interstate Drive intersection with Dolwick Drive, property zoned Industrial One (I-1).
- West: Across Dolwick Drive, property zoned Industrial One (I-1).

RELATIONSHIP TO COMPREHENSIVE PLAN

The Future Land Use Map shows the subject property as Industrial (I) and Developmentally Sensitive (DS). These classifications are defined in the adopted Comprehensive Plan as:

- I: "Manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses."
- DS: "Areas that have an existing slope of twenty percent or greater for a height of 20 meters, or have unique soil or flooding characteristics which limit the ability of an area to support urban development, or contain significant wooded areas, creeks, wildlife habitat or other natural features that are important to a site's stability and visual character."

The Land Use Element (Airport Area, pg. 153) makes the following statements regarding the general area:

"To the north, the Mineola interchange area has experienced, and should continue to experience, significant Business Park development. The Airport Exchange Business Park and Circleport Industrial Parks should continue to develop."

The adopted 2005 Boone County Comprehensive Plan Goals and Objectives include the following pertinent statements:

- A. Proper planning is achieved through specific land use regulation tools and coordination with public infrastructure ("Overall," Goal).
- B. Boone County shall be viewed as an integral part of the Cincinnati Metropolitan Area ("Overall," Objective 1).
- C. 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).
- D. Proper design principles shall be applied in development ("Overall," Objective 3).
- E. 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).
- F. The needs of Boone County's population 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. New development or redevelopment shall attempt to design sites utilizing existing topography and vegetation, and encourage preservation of the existing character of the land. New development shall be designed in harmony with the physical environment in such a way that each site's existing physical assets are used. Residential development design in particular should minimize grading work as opposed to clearing the entire site. Existing trees and pasture land shall be evaluated during the design and construction process as a visual and economic benefit to the community ("Environment," Physical Objective 2).
- I. Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ("Business Activity," Goal).
- J. 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 usages ("Business Activity," Objective).

The Land Use Element provides the following Future Land Use Development Guidelines that relate to the proposal.

- A. Developments in Boone County should begin with an assessment of the existing site features to determine positive and useful attributes, as well as features which should or can be preserved. Development design should incorporate the use of these attributes for the benefit of the development and the County as a whole, rather than leveling an entire site to meet a pre-conceived project design. Development plans should identify such areas, and delineate disturb limits to protect those areas that have been defined. True Open Space subdivision design should be considered to blend new subdivisions in with areas that have a rural character (Utilization of Existing Vegetation and Topography, pg 140).
- B. 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. Developments proposed adjacent to planned or established greenbelts should provide pedestrian access where appropriate. Specific greenbelt studies should be conducted that examine Boone County's stream valleys and prominent wooded areas as permanent buffers or community separators. Natural green space benefits the community as well as

encouraging developers to create innovative developments through clustering of buildings and impermeable area. Typically, buffering is required and provided between unlike land uses, however, as the development of Boone County fills in previously rural areas, different lot sizes and designs of residential development sometimes impact each other. Where an appropriate gradation of lot size and setbacks cannot be designed into a proposed residential subdivision development of a significantly higher density than existing adjacent residential uses, deliberate vegetation buffering may need to be incorporated into the design to help protect low density residential areas. Buffer areas should use and supplement existing site features where possible ("Buffering," pg. 141).

- C. 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).

- D. Developments in Boone County must recognize the potential impacts of stormwater runoff. Developments must design and incorporate adequate provisions for the channelization and control of the rate of stormwater flow on and from the site. One goal of local storm water programs should be to minimize the amount of storm water generated by decreasing the amount of pavement and encouraging green rooftops. Creating less runoff is a method of managing runoff.

Control and mitigation practices for erosion associated with developments must be provided. At a minimum, developments must seed and mulch all graded areas and provide siltation controls. Stormwater management and erosion control measures must be concurrent with site work in order to be effective. Stormwater management officials must also consider the cumulative effects of increased development runoff in watersheds ("Stormwater Management and Erosion Control," pg. 141).

- E. 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. Connections between and within commercial and industrial developments allow for more efficient provision of transit service ("Access Management," pp. 141-142).

The Business Activity Element provides the following comment that relates to the area in question:

- A. A critical need in Boone County is to protect future industrial land, because the access, infrastructure, and level land that make it favorable for industrial development are finite. Beyond 2030, Boone County may have difficulty in developing more industrial uses outside the airport, U.S. 25, and Walton areas. In general, areas planned for non-extractive industrial uses should not be changed to allow other land uses to develop. The Tri-County Economic Development Corporation has identified a need for industrial building sites that have the necessary infrastructure and zoning and are ready to develop ("Recommended Areas of Industrial and Office Activity," pg. 65).
- B. The KY 237 and Mineola Pike I-275 Interchanges will experience continued industrial development in addition to the previously outlined commercial/office development. The mixture of uses should be carefully designed and planned to minimize negative impacts ("Recommended Areas of Industrial and Office Activity," pg. 65).

STAFF CONCERNS/COMMENTS

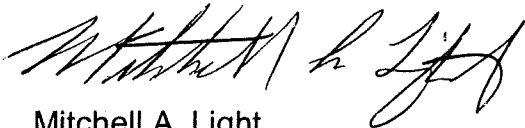
- 1. Staff did not receive proposed building elevations as part of the concept development plan materials. The NKAPC Staff Report states that both buildings in Kenton County will be pre-engineered metal buildings. Will the buildings in Boone County be of the same style, or is another style proposed?
- 2. The applicant is currently showing a monument sign at each access point in Boone County. Since this is currently one parcel, only one monument sign would be permitted.
- 3. The variance request is for one building (nearest to the County line) due to the irregular right-of-way and the drop in elevation from Dolwick Drive to the north. The property drops approximately 144 feet from Dolwick Drive (892) to the lowest point at the county line (750).

4. The Point Pleasant Fire Department commented that "before construction begins on any building, fire hydrants have to be installed in this section of Dolwick." Their comments are attached.
5. If approved, a thorough site plan review will be conducted by the Boone County Planning Commission Staff as well as the Boone County Project Review Committee.

CONCLUSION

The Boone County Planning Commission and the Boone County Fiscal Court need to evaluate the proposed zone change in terms of the three criteria necessary for a Zoning Map Amendment as stated in Article 3 "Amendment" of the Boone County Zoning Regulations. The Planning Commission also needs to evaluate the requested variance in terms of the standards in Section 251 "Application and Standards for Variances."

Respectfully Submitted,



Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

MAL/pr

Attachments:

- Vicinity Map
- Zoning Map
- Future Land Use Map
- Existing Topography
- Overall Concept Development Plan
- Concept Development Plan (Boone County Portion)
- Point Pleasant Fire Comments
- NKAPC Attachments
- Corporex Comment Letter
- Application



SITE

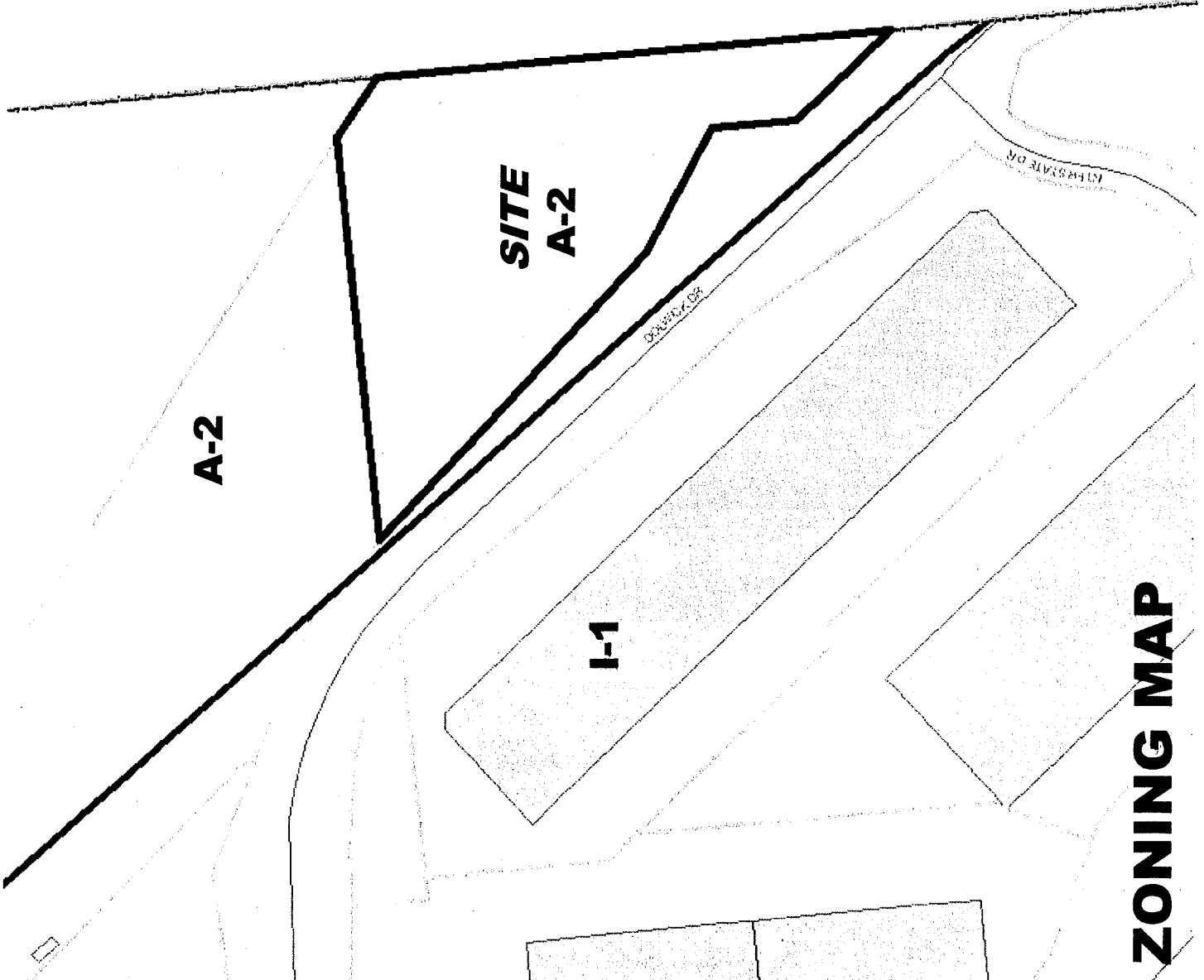
MANSFIELD

MANSFIELD

E INTERSTATE 275
W INTERSTATE 275

JANEOLA PIKE

VICINITY MAP
ERLINGER, PA

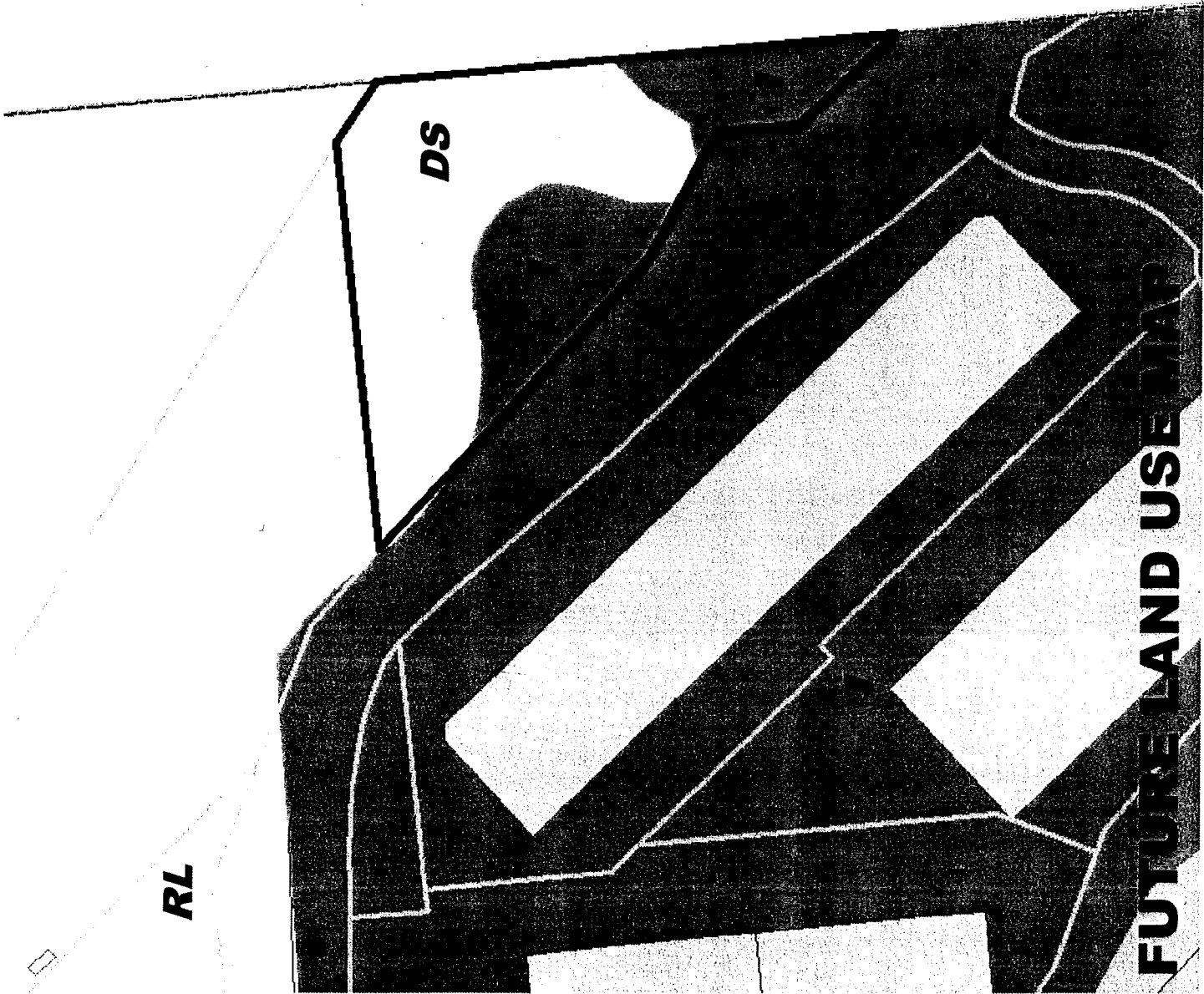


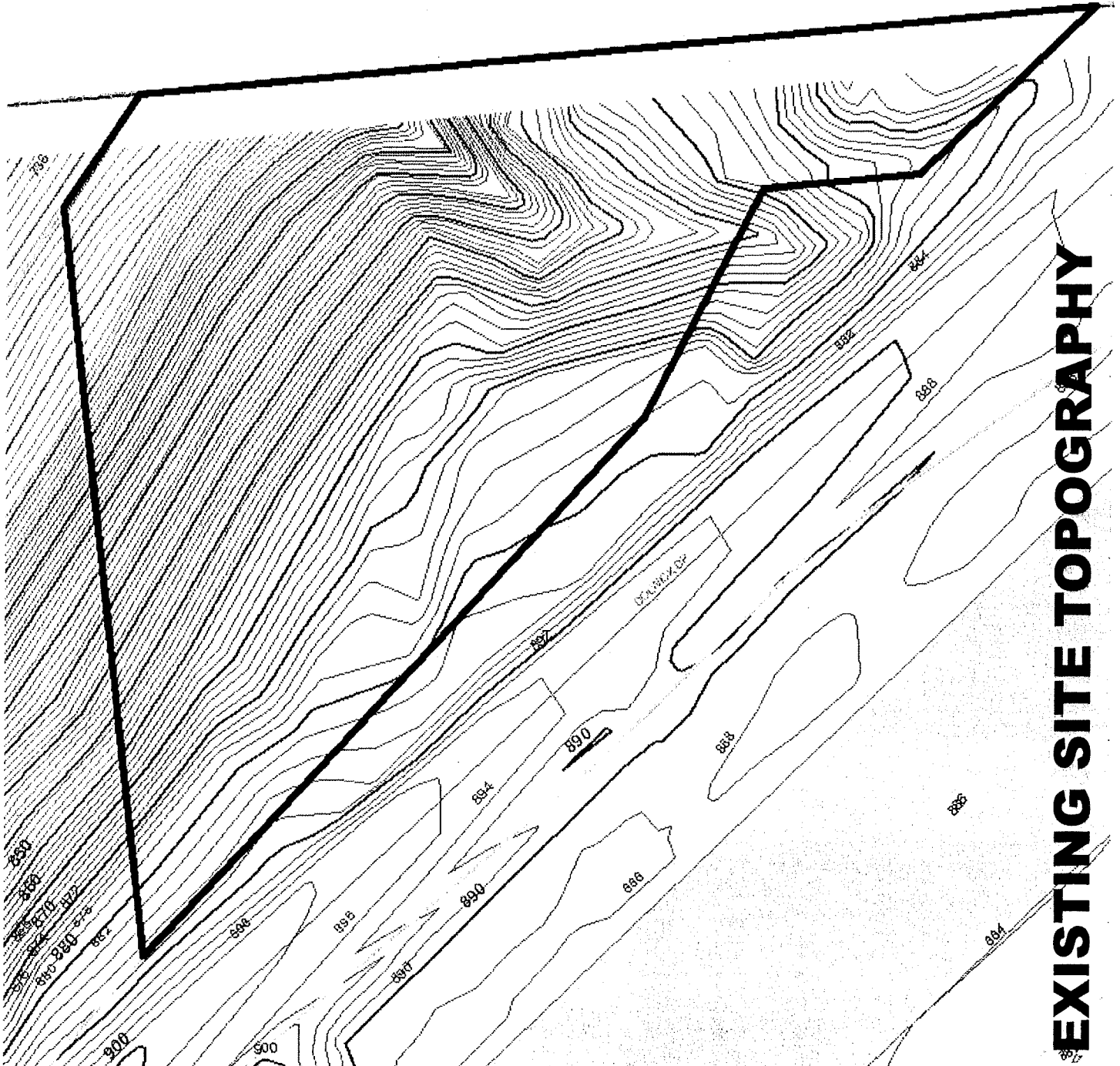
ZONING MAP

RL

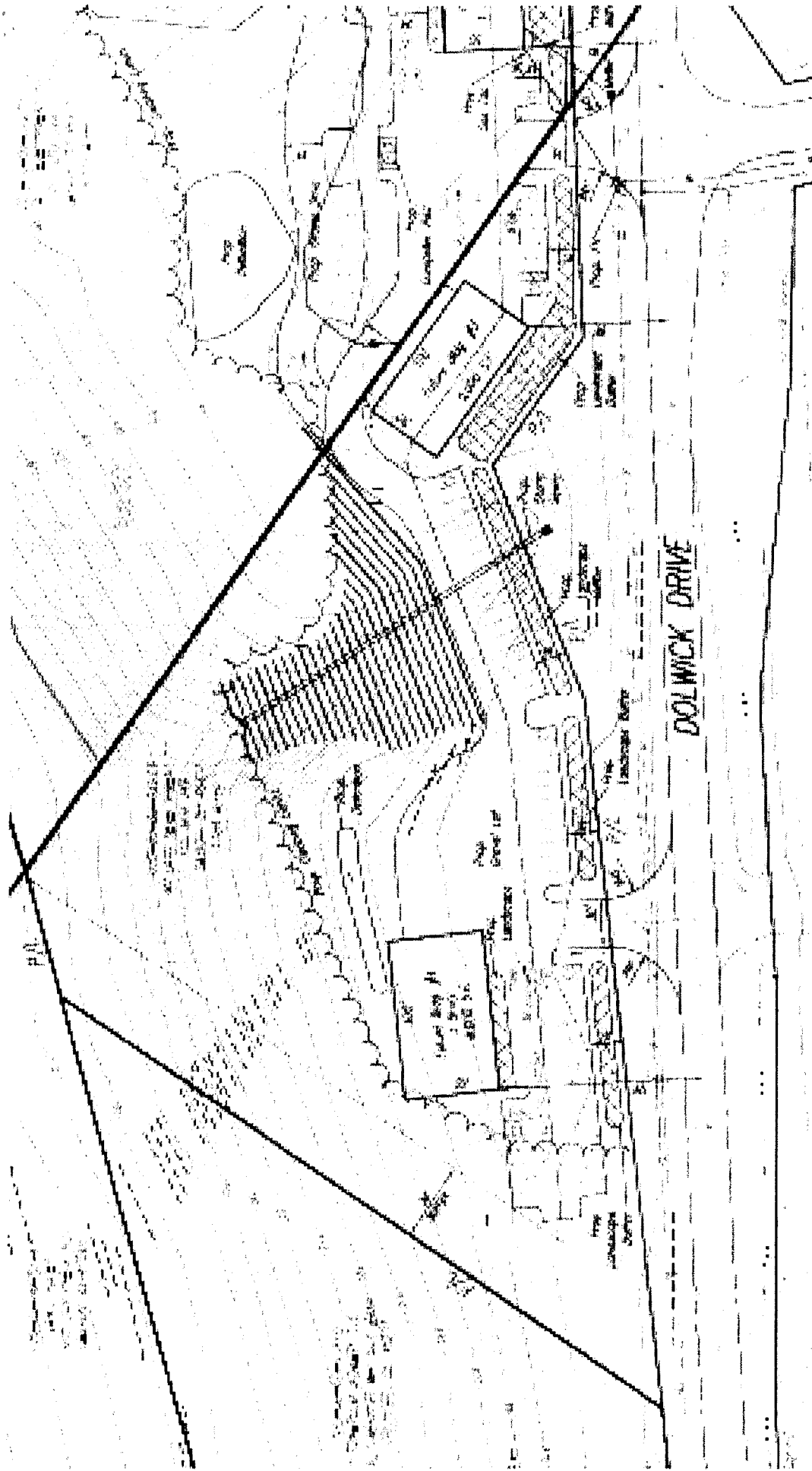
DS

FUTURE LAND USE MAP





EXISTING SITE TOPOGRAPHY



CONCEPT DEVELOPMENT PLAN (BOONE PORTION)

Mitch Light

From: William D. Engel [W.Engel@PointPleasantFire.org]
Sent: Friday, October 15, 2010 2:21 PM
To: Mitch Light
Cc: Jason A. Matthews; Mike J. Giordano
Subject: Zoning Map Amendment

To: Mitchell A. Light

From: Fire Inspector William Engel

Date: October 15, 2010

Re: Zoning Map Amendment from Agricultural to Industrial

The Point Pleasant Fire Department does not have a problem with the zoning change, Variance from Table 31.1, or the use as a towing, impound, and wrecker services. However before construction begins on any building, Fire Hydrants have to be installed in this section of Dolwick. At the present time, the Public Fire Hydrants are located between 1670 and 1650 Dolwick because these buildings were built prior to the construction of Dolwick and the driveway between the buildings accessed Mineola.

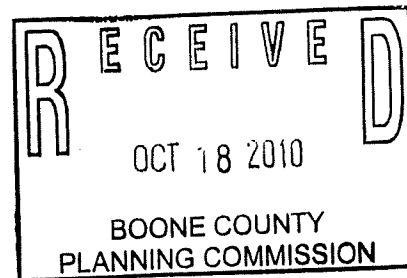


Kenton County Planning Commission

MANY COMMUNITIES / ONE FUTURE

October 15, 2010

Mayor and City Council
City of Erlanger
505 Commonwealth Avenue
Erlanger, KY 41018



Dear Mayor and Council:

NUMBER: 2019R

Attached please find a copy of this Commission's action from its meeting on October 7, 2010 regarding a proposed map amendment to the Erlanger Zoning Ordinance. (The proposal was submitted by Abercrombie and Associates on behalf of Miller Valentine Development.) Also attached is a summary of the evidence and testimony presented by proponents and opponents. Copies of this action have been sent to those persons or agencies which may be affected by this matter.

Once your City Council acts on this recommendation, please provide our staff at NKAPC with a copy of your executed ordinance. Questions regarding our action should be directed to Martin Scribner, AICP, Deputy Director for Current Planning at Area Planning (859.331.8980 or mscribner@nkapc.org).

Thank you.

John R. Wells III,
Chair

db

attachment

c: Matt Smith, KCPC Attorney
Frank Wichmann, City Attorney
Linda Carter, City Administrator
Mark Stewart, Codes Administrator
Abercrombie & Associates, E.J. Foltz
Miller Valentine Development
Boone County Planning Commission, Kevin Wall

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
STATEMENT OF RECOMMENDATION

NUMBER: 2019R

WHEREAS

Abercrombie and Associates, Inc. per E.J. Foltz on behalf of Miller Valentine Development, Inc., HAS SUBMITTED AN APPLICATION REQUESTING THE KENTON COUNTY PLANNING COMMISSION TO REVIEW AND MAKE RECOMMENDATIONS ON: A proposed map amendment to the Erlanger Zoning Ordinance changing an approximate 8.5-acre area located along the northeast side of Dolwick Drive between Appomattox Street and Mineola Pike in Erlanger; the noted acreage is part of a larger 12.1-acre parcel that includes 3.6 acres in unincorporated Boone County, from BP-1 (Business Park) to IP-4 (an Industrial Zone).

WHEREAS

A PUBLIC HEARING WAS HELD ON THIS APPLICATION ON THURSDAY, OCTOBER 7, 2010, AT 6:15 P.M., IN THE NORTHERN KENTUCKY AREA PLANNING COMMISSION'S FIRST FLOOR MEETING ROOM, 2332 ROYAL DRIVE, FORT MITCHELL, KY.; AND A RECORD OF THAT HEARING IS ON FILE AT THE OFFICES OF THE KENTON COUNTY PLANNING COMMISSION, 2332 ROYAL DRIVE, FORT MITCHELL, KENTUCKY.

NOW, THEREFORE,

THE KENTON COUNTY PLANNING COMMISSION SUBMITS THE FOLLOWING RECOMMENDATIONS, ALONG WITH SUPPORTING INFORMATION AND COMPREHENSIVE PLAN DOCUMENTATION:

KCPC RECOMMENDATION – ERLANGER ZONING ORDINANCE:

Approval of the proposed map amendment to the Erlanger Zoning Ordinance changing the described area from BP-1 (Business Park - One) to IP-4 (Industrial - Four Zone) subject to the following condition:

1. That the proposed map amendment be conditioned on the approval of the proposed map amendment in Boone County to ensure a legal means of access can be provided to the site in question.
2. That the Stage II Development Plan meet the requirements of the Erlanger Zoning Ordinance.

COMPREHENSIVE PLAN DOCUMENTATION:

- Date of Adoption by the Kenton County Planning Commission: December 13, 2006.

SUPPORTING INFORMATION/BASES FOR KCPC RECOMMENDATION:

1. The proposed map amendment from BP-1 to IP-4 is consistent with the Land Use Element of the Comprehensive Plan, which identifies the site in question along with the area to south and a portion of the area to the east for Industrial development.
2. The proposed map amendment is reasonable and appropriate in that the proposed land use is compatible with the surrounding land uses and properly integrates with the existing character of the area.

JOHN R. WELLS, III, CHAIR
KENTON COUNTY PLANNING COMMISSION

ATTACHMENT 2019R

SUMMARY OF THE EVIDENCE AND TESTIMONY PRESENTED BY THE PROPONENTS/OPPONENTS OF THE PROPOSED MAP AMENDMENTS

(NOTE: This summary was compiled by the Commission's secretary in compliance with 100.211 (1). It is believed to be accurate, but has not been reviewed or approved by the Commission. A summary will be found in the officially approved minutes, which will be available following the next meeting of the Commission.)

ISSUE

The request of Abercrombie and Associates, Inc. per E.J. Foltz on behalf of Miller Valentine Development, Inc., for a proposed map amendment to the Erlanger Zoning Ordinance changing the described area from BP-1 (Business Park) to IP-4 (an Industrial Zone).

PROPONENTS

The proponent for the issue stated he really didn't have any questions or anything to add to staff's presentation. He stated they are asking for some variances for the buildings, for setbacks. He stated the Boone County Commission and joint staff wanted to see the parking lot take place in the back versus the front. He stated there are natural buffers that are going to be kept in place that separate the proposed use from the adjacent use which is required. He further noted there is an irregular line through the property which is not a typical line. He stated because of this meandering of the line the buildings will be varying distances from that line. Additional proponents stated this is a ten or fifteen year plan and not something that would be developed all at one time. It was further stated they are asking for the industrial zone because that is where this development belongs. The proponent then stated they are company that has won national awards and they are not just an impound service.

OPPONENTS/NEUTRAL PARTIES

The opponent for the issue addressed the Commission and stated he owns a building which is severely impacted by the proposed business. He stated zoning is there to protect uses. He stated there a quite a number of mobile homes that will have to drive past an impound lot to get to there homes. He further noted as you drive down Dolwick you eventually come to another office there that has Toyota in it. He stated this development would negatively impact that business as well. He stated he feels the negative impact of driving through a negative use will impact the high end developments in the area. He stated in his complex they were not allowed to put up any metal buildings and this will have metal. He stated it shouldn't be allowed to go from business to industrial because it will have a negative impact on the existing uses. Additional opponents stated this development plan does not fit the standard for the land use plan. It was further stated the development plan does not fit the core vision of the area as stated by the comprehensive plan. The opponent then noted land in question is currently zoned as a business park. The opponent stated since this has been deemed a long term plan she questioned what does this mean for the in between – will there be buildings built, will it sit. The opponent then stated this facility is not the most economic or feasible use for the site. It was noted other uses may provide more jobs and allow for more business to come in and would benefit the area

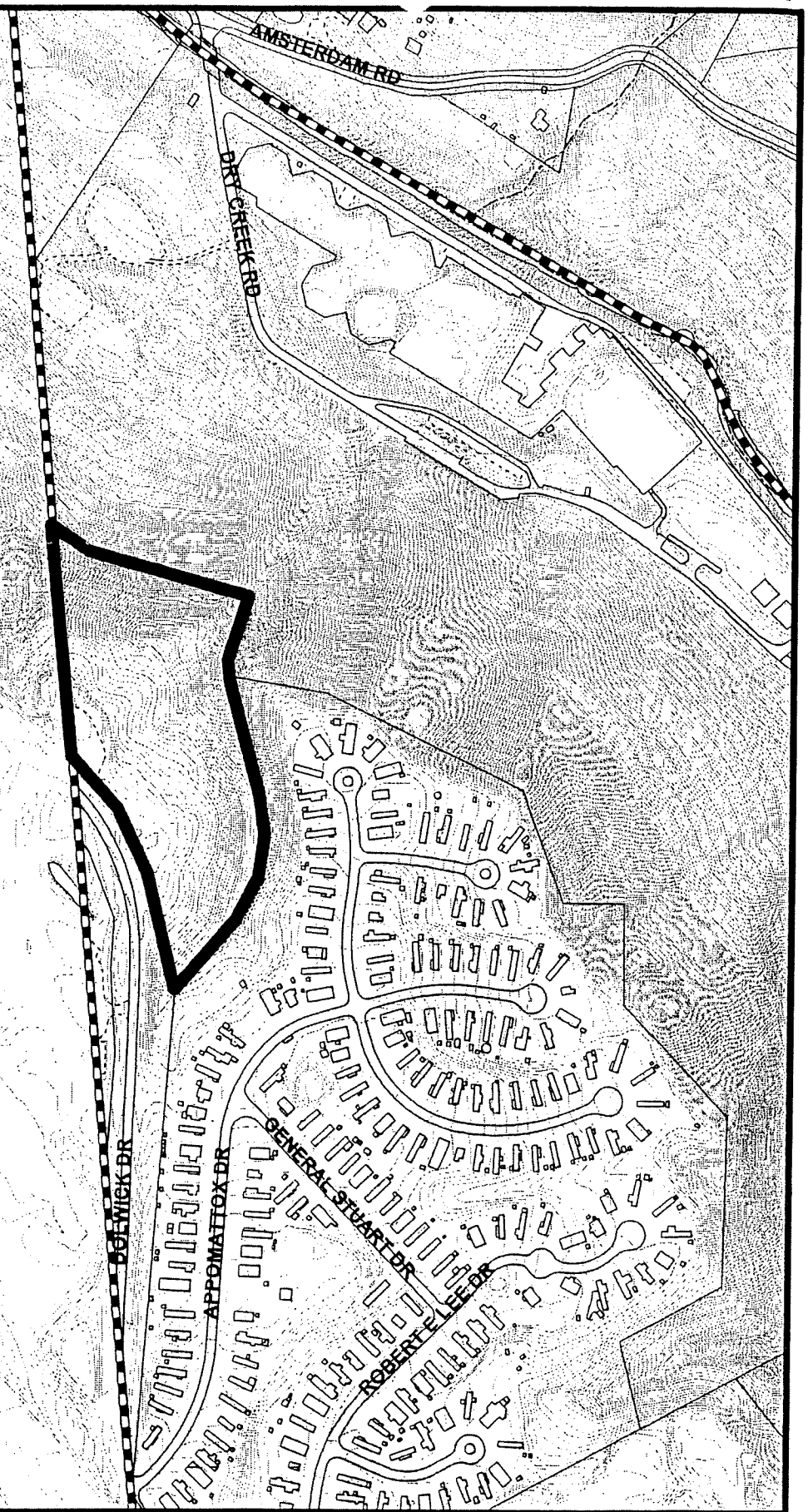
better than the proposed use. The opponent stated there is no need for this type of business in Kenton County at this time.

Exhibits: Staff presentation. Staff recommendation.

Bases for Staff Recommendation:

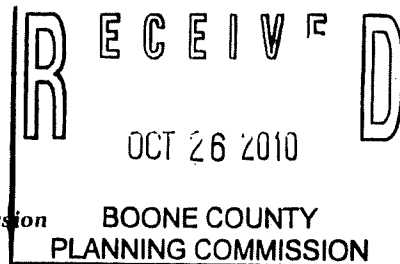
The NKAPC Staff Recommendation is on file at the NKAPC office.

Boone
County





Kenton County Planning Commission
MANY COMMUNITIES / ONE FUTURE



Map Amendment
NKAPC Staff Report
October 7, 2010
Planning Commission, Public Hearing
Michael Ionna
Associate Planner

- A. Petition Number/Title: Z-10-09-03/2019R
- B. Applicant: Abercrombie and Associates, Inc. per E.J. Foltz on behalf of Miller Valentine Development, Inc.
- C. Location: An approximate 8.5-acre area located along the northeast side of Dolwick Drive between Appomattox Street and Mineola Pike in Erlanger; the noted acreage is part of a larger 12.1-acre parcel that includes 3.6 acres in unincorporated Boone County
- D. Request: A proposed map amendment to the Erlanger Zoning Ordinance changing the described area from BP-1 (Business Park) to IP-4 (an Industrial Zone)
- E. History: This is the first time the Planning Commission has heard this specific request.
- F. Site Characteristics: A substantial portion of the site in question is identified as being located within a Physically Restrictive Development Area (PRDA). PRDA's are characterized by severe sloping conditions equal to or greater than 20% in slope as well as by soil conditions which would inhibit more intensive development types. The portion of the site most suitable for higher intensity development is located along Dolwick Drive.
- G: Land Use/
Zoning Review: The site in question, along with the area to the west, located within Boone County, and a portion of the area to the south of the site in question is currently occupied by vacant land. The area to the north, and a portion of the area to the east of the site in question, is currently occupied by public and semi-public uses. A portion of the land to the south of the site in question, located within Boone County, is currently occupied by industrial uses. A portion of the land to the south and east of the site in question is currently occupied by a mobile home park.
- The site in question, along with the areas to the north and a portion of the area to the east of the site in question, is currently zoned BP-1 (Business Park - One). The BP-1 Zone permits traditional industrial uses (i.e., manufacturing, warehousing, and processing) along with other uses (i.e., retail, service, public, and semi-public and a residential component) which serve to supplement the needs of the area labor force.
- The area to the south and east of the site in question is currently

zoned R-1M (P) (A Residential Mobile Home Park Zone with a Phased Overlay Zone). The intent and purpose of the R-1M Zone is to accommodate mobile homes. The phased overlay, denoted with the (P), is used in cases where the timing and/or phasing of the zoning of an area is especially critical to the implementation of the Area Wide Comprehensive Plan. The intent of phased zoning is to encourage redevelopment of a specified area for the land use designated within the comprehensive plan, which in this instance is industrial use, when the necessary conditions for the development are realized.

The area to the west of the site in question, located in Boone County, is currently zoned A-2 (Agriculture Estate). The intent and purpose of the A-2 Zone is to provide for low density residential development, and, on a limited basis, agricultural uses or agricultural related uses in the context of a rural environment.

H. Comprehensive Plan: The Land Use Plan Element of the *Comprehensive Plan Update 2006-2026* identifies the site in question as part of a larger area extending to the east and to the south for Industrial Development. The area to the north to the east of the site in question is identified as a Physically Restricted Development Area. The area to the west of the site in question, located within Boone County, is identified for Industrial Development as well as being Developmentally Sensitive. Developmentally Sensitive areas are identified within the Boone County Comprehensive Plan as areas that have an existing slope of 20 percent or greater for a height of 20 meters, or have unique soil or flooding characteristics.

I. Development Plan Review:

The proposed Stage I Development Plan shows the following:

- a. Four (4) buildings within the total proposed development, two (2) located within the City of Erlanger and two (2) located within Boone County. As it pertains to those building located within the City of Erlanger:
 - i. Building One (1) contains a total area of 5,000 square feet.
 - ii. Building Two (2) contains a total area of 6,000 square feet.
 - iii. Both buildings are located 30 feet from the front lot line.
 - iv. Building One (1) will be used to provide for an office as well as the storage of fleet vehicles.
 - v. Building Two(2) will be used for the storage of fleet vehicles.
 - vi. Both buildings will be pre-engineered metal buildings.
- b. Access to the site in question is provided from

Dolwick Drive located within Boone County. The proposed access point will be located opposite the intersection of Dolwick Drive with Interstate Drive.

- c. Provision for a monument sign located to the east of the access point on Dolwick Drive
- d. Provision for 20 off-street parking spaces
- e. Provision for a gravel impound lot located between Building One (1) and Building Two (2) and extending around the rear of Building One (1). The impound lot is contained within a six (6) foot high chain link fence which contains two (2) gates.
- f. Provision for Landscape Buffers shown along the front of the site in question. A natural landscape buffer is shown along the north, east, and a portion of the west of the site in question.
- g. A six (6) foot high decorative fence located in front of the off-street parking area located between Building One (1) and Building Two (2).

I. State Statute:

KRS 100.213 outlines the findings necessary for a proposed map amendment. It stipulates that the planning commission must:

- A. Find that the map amendment is in agreement with the adopted Comprehensive Plan;

Or

- B. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; or
- C. That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

J. Transportation:

The Transportation Plan Element of the *Comprehensive Plan Update 2006-2026* identifies that portion of Dolwick Drive fronting the site in question as a collector providing for two-way traffic within two driving lanes.

K. Staff Comments/
Considerations:

The proposed map amendment from BP-1 to IP-4 is consistent with the Land Use Element of the Comprehensive Plan, which identifies the site in question along with the area to south and a portion of the area to the east for Industrial development.

The proposed map amendment is reasonable and appropriate in that the proposed land use is compatible with the surrounding land uses and properly integrates with the existing character of the area.

The access point to the development is located within Boone County on a parcel of land currently zoned A-2. The A-2 Zone within Boone County does not allow impound lots. The applicant is currently involved in the map amendment process with the Boone County Planning Commission. Without approval of the Boone County Planning Commission, the applicant would not have legal means of access to the site in question.

The submitted Stage I Development Plan meets the minimum requirements of the Erlanger Zoning Ordinance, except as follows:

- a. Section 13.5 states that fences within the IP-4 Zone shall only be allowed within the side and rear yard. The proposed six (6) foot decorative fence spanning the off-street parking area between Building One (1) and Building Two (2) is not permitted under the current regulations of the Erlanger Zoning Ordinance.
- b. Section 10.28.,D. states that the minimum front yard setback for principal uses within the IP-4 Zone shall be 50 feet. The submitted Stage I Development Plan shows a front yard setback of 30 feet.
- c. Section 9.17 sets forth the requirements for size and location and type of landscape buffers. Insufficient information has been submitted to determine compliance with the aforementioned regulations.
- d. Article 14 sets forth the requirements for the permitted use and location of signs. Insufficient information has been submitted to determine compliance with the aforementioned regulations.
- e. Section 11.1 sets forth the minimum length and width requirements for off-street parking spaces. Insufficient information has been submitted to determine compliance with the aforementioned regulations.

**M. Staff
Recommendation:**

To give a positive recommendation to the Erlanger City Council for the proposed map amendment to the Erlanger Zoning Ordinance changing the described area from BP-1 (Business Park - One) to IP-4 (Industrial - Four Zone) subject to the following conditions:

1. That the proposed map amendment be conditioned on the approval of the proposed map amendment in Boone County

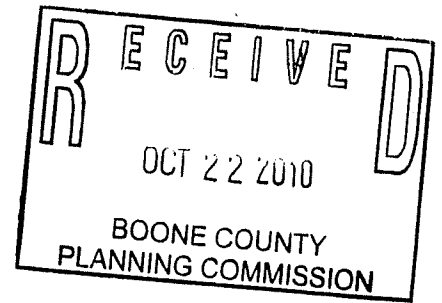
to ensure a legal means of access can provided to the site in question.

L. Additional Comments: If the disturbed land area is over one (1) acre, a land disturbance permit will be required from Sanitation District – One (SD-1).



October 20, 2010

Mayor Tom Rouse
City of Erlanger
505 Commonwealth Avenue
Erlanger, Kentucky 41018



Judge Gary Moore
Boone County Fiscal Court
2950 Washington Street
Burlington, Kentucky 41005

Dear Mayor Rouse and Judge Moore,

It has come to our attention that the Kenton County Planning Commission on October 7, 2010, approved a zoning change for Parcel #001-00-00-019.01, owned by MV Land Development Co, from BP-1 to IP-4, that will allow a towing impound lot to be developed. This use will cause irreparable damage to the quality and value of all of the surrounding existing commercial developments.

Corporex owns over 600 acres of land as well as 469,000 sf of existing Class A office space in nearby Circleport. A towing impound lot at the front entrance to all of this existing Class A development would completely stop any future leasing or development of quality properties. This impound lot use belongs away from any Class A parks and in an isolated area where decision makers and their employees would not pass by each day.

Corporex, along with Kenton County, the City of Erlanger, and Boone County have all worked very hard over the years to create a first class interchange at Mineola Pike and I-275 and the surrounding developments. In fact, Corporex and the City of Erlanger have each invested both time and money to enhance the Dolwick Drive corridor to make the approach to all of this development land more visually appealing. The use of an impound towing lot at the front door to this development will totally destroy 20 years of our collective hard work.

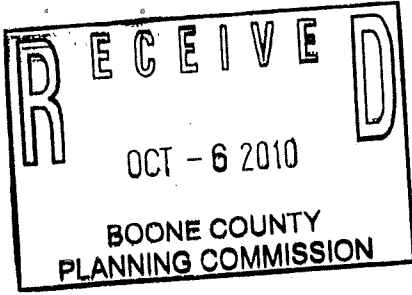
We strongly urge that this use not be allowed because it is clearly against the long-term best interest of the affected communities.

Sincerely,

William P. Butler
Chairman/CEO

Thomas Banta
President & COO

cc: Kevin Costello, Executive Director, Boone County Planning Commission
Erlanger City Council
Boone County Commissioners



APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Name of Project Smith Towing Preliminary Stage I Plan
2. Location of Project Boone-Kenton County Border, Dolwick Drive, Erlanger, Kentucky
3. Total Acreage of Site Total 12.096, Boone County Portion 3.584 Acres
4. Current Zoning of Site A-2
5. Proposed Zoning (Classification being requested) I-1
6. Proposed Uses (please specify each use) Towing - Impound Lot & Wrecker Services

7. Names of Applicant(s) EJ Foltz, Abercrombie & Associates, Inc.
Phone Number 513-385-5757 Fax No. 513-245-5161

8. Address of Applicant(s) 3377 Compton Road, Suite 120
Cincinnati Ohio 45251
City State Zip

9. Name of Property Owner(s) Miller Valentine Group (a.k.a. MV Land Development Company)
Phone Number 937-293-0900 Fax No. 937-299-1564

10. Address of Property Owner(s) 4000 Miller Valentine Court
Dayton Ohio 45439-1487
City State Zip

11. Proposed Building Intensities (please specify) 3069 feet/acre

12. Are there any existing buildings on the site? No
How many?

13. Deed Book 436 Page No. 96 Group No. 2014B

14. Are you also applying for:
Conditional Use Permit
XXXX Dimensional Variance

15. Have you submitted a Concept Development Plan? Yes

16. Have you had a pre-application meeting with BCPC Staff? Yes

17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- XXXX Boone County Water District
Florence Public Services Dept.
XXXX Duke Energy
Sanitation District #1
Cincinnati Bell
Owen Electric Cooperative, Inc.
Boone County Public Works Department
Kentucky Transportation Cabinet
Cincinnati/N. KY International Airport (KY Airport Zoning Commission for height restrictions near the airport)

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
NOVEMBER 3, 2010
7:30 P.M.**

COMMISSION MEMBERS PRESENT:

Mr. Ben Brandstetter
Mr. Greg Breetz
Mr. Kim Bungler, Secretary/Treasurer
Mr. Mark Hicks
Mrs. Janet Kegley
Mr. Jim Longano
Mr. Don McMillian
Mrs. Susan Poston, Temporary Presiding Officer
Ms. Lisa Reeves
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke

COMMISSION MEMBERS NOT PRESENT:

Mr. Mike Ford, Vice Chairman
Mrs. Linda Herald
Mr. Charlie Reynolds
Mr. Steve Turner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director, Zoning Services
Mr. Mitchell A. Light, Assistant Zoning Administrator/Enf. Officer

Mr. Rolfsen, Chairman, called the meeting to order at 7:36 P.M. and introduced the first item on the Agenda:

2010 BOONE COUNTY COMPREHENSIVE PLAN

1. Request of the Boone County Planning Commission Long Range Planning/Comp Plan Committee to review the 2010 update of the Boone County Comprehensive Plan Goals and Objectives. The Goals and Objectives include the following sections: Overall, Population, Environment, Economy, Business Activity, Housing, Recreation and Open Space, Agriculture, Preservation, Public Services and Facilities and Transportation. The Goals and Objectives form the basis for the update of the remaining Elements of the 2010 Boone County Comprehensive Plan.

THIS REQUEST HAS BEEN POSTPONED AND WAS RESCHEDULED FOR DECEMBER 1, 2010 AT 7:30 P.M.

ZONING MAP AMENDMENT AND VARIANCE

2. Request of EJ Foltz, Abercrombie & Associates, Inc. (applicant) for Miller Valentine Group (aka MV Land Development Company) (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the Boone County Zoning Regulations, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.

Staff Member, Mitch Light presented the Staff Report, which included a PowerPoint presentation (See Staff Report). The applicant is requesting this Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1) to allow towing, impound, and wrecker services, and a dimensional Variance of the front yard setback from 50' to 30' (a 20' variance) along Dolwick Drive for the easternmost building in Boone County nearest the County line. The variance request is due to the irregular right-of-way and the drop in elevation from Dolwick Drive to the north. The two buildings in Boone County are proposed at 5,000 square feet and 6,000 square feet for an intensity of 2,790 square feet per acre. The maximum intensity permitted in the I-1 zone is 25,000 square feet per acre. The NKAPC held a Public Hearing for the Kenton County portion of this property on October 7, 2010 and recommended approval with conditions to the City of Erlanger. Attached to the Staff Report is a copy of their recommendation. The surrounding zoning of the site includes Agricultural Estate (A-2) to the north, Industrial One (I-1) to the south and west and Business Park One (BP-1) to the east in Kenton County. The Future Land Use Map identifies this site as Industrial (I) and Developmentally Sensitive (DS). The topography of the site is quite steep. It is also heavily wooded. The county line runs through the property. The Land Use Element suggests "to the north, the Mineola Interchange area has experienced and should continue to experience significant Business park development. The Airport Exchange Business Park and Circleport Industrial Parks should continue to develop." References to the Goals and Objectives of the 2005 Boone County Comprehensive Plan are identified in the Staff Report. Mr. Light made specific reference

to objectives A, E and I, which refer to proper planning, adequate infrastructure and appropriate business locations that are compatible with the surrounding area. The Future Land Use Development Guidelines from the Land Use Element offers the following in relation to the proposed project: "Developments in Boone County should begin with an assessment of the existing site features to determine positive and useful attributes, as well as features, which should or can be preserved; 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; 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." Mr. Light also noted two references to the Business Activity Element on page 5 of the Staff Report. Mr. Light proceeded to show photographs of the site and surrounding areas.

In regard to Staff comments, the Planning Commission did not receive building elevations as part of the Concept Development Plan materials. The Area Planning Commission Staff Report states that both buildings in Kenton County will be pre-engineered metal buildings. Will the proposed buildings in Boone County be of the same style, or is another style proposed? Second, the applicant is currently showing a monument sign at each access point in Boone County. Since this is currently one parcel, only one monument sign is permitted. Third, the variance request is for one building (nearest to the County line) due to the irregular right-of-way and the change in elevation from Dolwick Drive to the north. The property drops approximately 144 feet from Dolwick Drive to the lowest point at the County line. Fourth, the Point Pleasant Fire Department noted that before construction begins on any building, fire hydrants have to be installed in this section of Dolwick Drive. The Fire Department's comments are attached to the Staff Report. The water line will have to be extended from Interstate Drive to Dolwick Drive in order to serve the site. If approved, Site Plan Review will have to be performed by the Boone County Planning Commission. Mr. Light stated that the Boone County Planning Commission and the Boone County Fiscal Court need to evaluate the proposed zone change in terms of the three criteria necessary for a Zoning Map Amendment as stated in Article 3 "Amendment" of the Boone County Zoning Regulations. The Planning Commission also needs to evaluate the requested variance in terms of the standards in Section 251 "Application and Standards for Variances." Mr. Light identified four attachments to be included in the record. They include an e-mail message from the Point Pleasant Fire Department, the recommendation from the Kenton County Planning Commission, a letter from Corporex Companies and a copy of the project application.

E.J. Foltz, Abercrombie and Associates, Inc. stated he is representing Wayne Smith of Smith Towing. Mr. Foltz addressed the Staff concerns. He agreed to provide photographs and building elevations at the Committee Meeting. He stated that they would agree to one monument sign at the main entrance across from Interstate Drive. In regard to the variance, it originated from a meeting with Staff and NKAPC Staff. It is for one building located near the County line. At first, they planned to have the parking in front and the building in the rear. Now the building is in front and the parking is in the back. There is a 20 foot buffer in front of all of the buildings and parking. The proposed parking and buildings will be above grade. There will be a berm plus standard landscaping. Mr. Wayne Smith noted that the maps in Boone County and Kenton County show that there is a

difference in elevation of 10 feet. The site is heavily wooded. The purpose of the request is to move the business to the Mineola Pike area because his operation has changed from being a local company in Boone County to a more regional operation - Greater Cincinnati area and Northern Kentucky. He is now one of the largest towing companies in the region in terms of number of calls. The site in question makes sense as it will eliminate KY 18 traffic. Currently, Mr. Smith stated that he had 34 vehicles on his lot of which 19 are his vehicles. The remaining vehicles are in and out and in a typical month 3,000 vehicles will be moved. Eighteen to twenty-two drivers work for him on any given day. The operation has grown over the years. The proposed site will result in less traffic congestion on KY 18. The site lends itself for this type of operation. The buildings will be constructed on an individual basis over a 5-10 year time period. The proposed site is suited toward smaller buildings. The buildings will be used to store vehicles/equipment inside versus outside.

Mr. Foltz stated that his client would extend water and gas from Interstate Drive. The existing topography of the site wouldn't allow big warehouse buildings. His client will use the flat portion of the site and leave the back portion or two-thirds of the site in both counties untouched.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor of the request? Seeing none, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak against the request?

Mr. Bob Fessler, Corporex Companies, stated he is representing the Circleport area and all of the tenants. He brought visuals to the Public Hearing displaying various buildings in the area. Corporex and its tenants are vehemently against the zone change request. They are not against a towing or impound lot. It doesn't belong at the front door of a Class "A" interchange. Boone County, Kenton County, the City of Erlanger and Corporex Companies has spent 25 years developing the interchange in a first class manner. It represents the opening to our entire community. When you leave the airport, you go by this interchange. The result of this work has been to create an interchange to attract first class companies - like Toyota Boshoku, Gap and Wildflavors. People will have to go by this site to get to some of these companies. Those companies were identified on an aerial photograph submitted by Mr. Fessler (see Exhibit 1). In addition, Mr. Fessler submitted a letter from the COO of Wildflavors, Inc. (See Exhibit 2). The letter states that Wildflavors is opposed to the proposed use on the grounds that it does not mix well with the class of buildings in the area. He stated that their company has tried to create a first class image for his building and customers. All of his customers would have to come by the towing and impound lot. Other tenants in the area include Sterling Cut Glass, DHL, Pepsi and Square D/Schneider in the Dolwick building. Mr. Fessler stated that Square D/Schneider with 200 jobs would have never moved into the building if an impound lot was the first thing their customers would see. It does not belong in an area like this, but in an area down an alley where employees and decision makers don't have to pass by each day. Mr. Fessler showed photographs of existing buildings in the area. These buildings are not metal but are brick, glass and concrete. They are fully landscaped. Visitors staying at the Holiday Inn will be able to see the impound lot. This is not the image for the community. In addition, photographs of the existing Smith Towing facility were shown to the Board. The proposed use belongs elsewhere and a negative vote is being requested. The Comprehensive Plan states that "Boone County shall be viewed as an integral part of the

Cincinnati Metropolitan Area." That is correct and the interchange is a gateway to Cincinnati. It has attracted world Class A companies. Further, "development should promote the overall quality of life and that the quality of the existing physical and social environment should be enhanced. The development of a towing and impound lot will not enhance the physical environment and quality of life. He stated that "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas." That is a correct statement. An impound lot is not a compatible use to the surrounding area. The zone change should be turned down because of the work done in the area and what is identified in the Comprehensive Plan. This project may create 30 jobs but it also will be a job killer. Circleport and Corporex has hundreds of acres left to develop with the potential of thousands of high paying jobs. It doesn't make sense.

Mr. Tim Selnich, Reit Management and Research, own the Convergys building. His company bought the building because of such tenants of GE and Convergys. He submitted a letter (see Exhibit 3) and explained that the proposed project will jeopardize their ability to retain their current tenant. Further, Hub Properties Trust has spent hundreds of thousands of dollars to maintain their property to Class A standards. The Mineola Pike interchange was not envisioned when I-275 was built. But Corporex and local government officials in the 1970's had the vision to attract first class companies like Toyota, Gap, Convergys, and GE. The Convergys building is their flagship call center for companies such as P & G and AT & T. They bring their customers to the facility. Location is very important to selecting a place to operate a business. If there are five choices that are similar, then they look at ways of not going to a certain location. Don't give them a reason based on the proposed use. A small single decision to help a small business may ultimately impact other businesses and the community.

Mr. Bill Chester, Vice-President of DCT Industrial, owns 2 buildings across from the site with tenants such as Dominos, Sterling Cut Glass, DHL, St. Elizabeth and Gameworks. His company has invested \$8 million in the buildings and is concerned about attracting and retaining quality tenants if the proposed use is approved. It will impact the Class A corridor and he recommends that the Planning Commission turn down the Zone Change request.

Mr. Andrew Brendamour, representing Doug Brendamour, stated that his father owns the building located at 1570 Dolwick Drive across the street from the project. In 1990, his father selected the site for a Foreign Trade Zone (FTZ). He built a 136,000 square foot office/distribution center. He indicated that when his father bought his site, there were covenants and deed restrictions made by the original developer which would protect property values and promote the welfare of businesses and tenants. The same developer is involved with the proposed project. Currently, his building has 100 employees and the largest tenant is ACS, a division of Xerox. ACS does high security health insurance mailings. Security is a concern as an impound lot will bring crime. The proposed use will affect all his tenants and the value of the real estate in the area. The use belongs in a secluded area.

Ms. Laurie Murray, representing KSL Realty, owns Colonial Manor Mobile Home Park that is immediately adjacent to the proposed use. The mobile home park pre-dates the businesses in the area - since the early 1970's. She stated they have 220 families living in the park. It is a quiet and well maintained neighborhood. An impound lot will not be a

good neighbor. It will be a source of noise, traffic, trash and congestion. It is not an appropriate use of the land. It will be detrimental to the mobile home park community and to the community around it.

At this time, Chairman Rolfsen asked whether the Board members had any questions or comments?

Mr. Brandstetter asked what was the status of the Zone Change request in Kenton County? Mr. Light responded that the Kenton County Planning Commission has recommended approval to the City of Erlanger. The City of Erlanger will have a Committee meeting about the request on November 23rd and then an ordinance will be prepared for first reading in December. Mr. Brandstetter inquired what happens if one legislative unit approves the project and one doesn't? Mr. Wilson stated that Erlanger or the Kenton County Planning Commission doesn't have jurisdiction to require us to approve or deny anything and vice versa. It is treated as two separate applications.

Ms. Laurie Murray stated that she attended the Erlanger meeting last night. The Kenton County Planning Commission approved the project subject to approval of the Boone County portion. It has to have both County's approval along with Erlanger's approval for it to go into effect. Mr. Brandstetter noted a Kenton County condition that the approval is subject to Boone County approving the project to assure a legal means of access to the property. Mr. Light noted that the only planned access to the site is in Boone County and across from Interstate Drive. Mr. Brandstetter asked about the irregular street right-of-way of Dolwick Drive? Mr. Foltz responded that it was due to the relocation of Dolwick Drive. Mr. Brandstetter asked whether the applicant would purchase the additional right-of-way in order to meet the buffer requirements. Mr. Foltz stated that they currently meet the buffer requirements. Purchasing additional right-of-way can take a long time. Mr. Light stated that Building #3 needs a variance because of the notch in the street right-of-way.

Mr. Bunger asked if the plan location for the parking lots is correct and how will the storm water be handled especially impacting the residential areas?

Mr. Foltz noted that the Long-Range Plan in both counties describe the area as industrial including the mobile home park. Kenton County is requiring a 75 foot buffer to protect the mobile home park from the impound lot. The mobile home park residents will not see the impound lot from their back yards. The parking lots were moved to the rear. The impound lot will not be seen from the road. The proposed buildings will buffer the parking areas. The Boone County portion is future buildings. They could be used for impound services or future uses. Storm water from the site will be directed toward detention ponds behind Building #2, #3 and #4. The one behind building #2 is a larger one and will accommodate the run off from the front impound lot to one side of Building #1. Water will be discharged toward the existing natural drainage swale.

Mr. Longano asked about the noise impact? Mr. Smith stated there are trucks and trailers in the area that generate noise based on the industrial zoning. Mr. Costello stated that the current zoning of the site in Boone County is Agricultural Estate (A-2) and not Industrial (I-1). Mr. Smith stated there is very little truck noise at night - a few trucks around 8-9 p.m. Normal operations are from 6:00 a.m. to 10:00 p.m. Mr. Smith took issue with the

opponent's pictures of his existing facility. Pictures were taken in the rear portion of his lot and not the front of his facility. The front portion looks very nice. He stated he is not a junkyard. His business has won numerous national and regional towing awards. Mr. Smith said he liked the idea of the building being up front versus set back on the site. The proposed business will be an asset to the area and not a detriment.

Mr. Schwenke suggested that the applicant bring drawings to the Committee meeting that show the facade of the proposed buildings. Even the larger buildings in the area have loading areas that don't look nice with docks and trucks. He also recommended screening of the storage/parking areas in the back portion of the site.

Chairman Rolfsen asked what is exactly going to happen on the Boone County side? Mr. Smith agreed that it would include buildings for his tow trucks and an impound lot. The operation in Burlington will be relocated to the proposed site. There will be no automotive repair only repair to his fleet of tow trucks.

Mr. Hicks inquired about the topography? Mr. Foltz explained that they have to fill in one area to make a connection between Buildings #3 and #4. There will be a storm line built in the same area. There will be storm water from Dolwick Drive that will continue to flow in the natural drainage area. In addition, the water from the pipe will come from the detention ponds. Rip Rap will be installed for outlet protection. Mr. Hicks asked whether the applicant has to follow certain Developmentally Sensitive (DS) Guidelines when developing in this area? Mr. Light replied that they have to submit erosion control measures, geotechnical studies, etc. It is one of the reasons why the applicant is applying for the variance - to move the building away from the hillside requiring less fill work.

Mr. Foltz noted the schedule of statistics - related to the variance request on the submitted Concept Development Plan. Typically for industrial, the street right-of-way is 60 feet and the building setback is 50 feet. Thus, the total building setback is 80 feet from the centerline. Even with the 20 foot variance, Buildings #1, #2, and #3 are beyond 80 feet. Even though they are asking for a variance, they are still farther back than they would normally be under a regular right-of-way width.

Mr. McMillian asked whether Kentucky had a law that impound lots had to be screened? Mr. Wilson responded that there is a law requiring screening for junk yards but not towing facilities. Mr. Wilson said that even though there isn't a State requirement for screening this type of facility, the Planning Commission has a right to address it through zoning.

Mr. Wilson reminded everyone that the document noting Kenton County's condition is a Planning Commission recommendation only. The City of Erlanger may think differently.

Mr. Fessler distributed a set of photographs (see Exhibit #4) depicting a typical impound lot or the current Smith Towing lot. The proposed site is very irregular with very useable ground. It will be impossible to hide all of the cars from the road behind the two buildings. The screening from the existing facility is inadequate as demonstrated in the submitted photographs. What is the runoff going to be? It will include petroleum products.


Mr. Wilson explained a decision by the full Planning Commission will not occur tonight. The request will be referred to a Committee for a recommendation and then ultimately come back to the full Planning Commission. This is a trial type Public Hearing where testimony is given.

Mrs. Poston inquired about the location of the impound activity? Mr. Light responded that the impounding will occur on the Kenton County side or next to and behind and between Buildings #1 and #2. No impounding activity is being proposed in Boone County.

Chairman Rolfsen asked if it is required to fence an area for impounded vehicles? Mr. Smith responded yes. Mr. Smith stated that he selected the site because of the natural buffer area that would screen the impound lot. Mr. Rolfsen stated that it is important to get a visual perspective of the site and activities from the road. Mr. Foltz said he would provide this information at the Committee meeting. The submitted Concept Development Plan shows decorative fencing in front and the location of the impound activity.

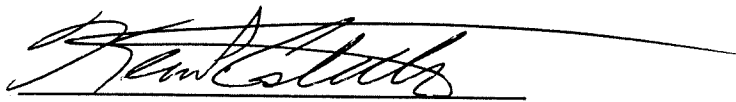
There being no further questions or comments, Chairman Rolfsen stated that the Committee Meeting for this item will be on November 17, 2010 at 5:00 P.M. in this room. This item will be on the Agenda for the Business Meeting on December 1, 2010 at 7:00 P.M. Chairman Rolfsen closed this Public Hearing at 8:40 P.M.

APPROVED:



Charlie Rolfsen
Chairman

Attest:



Kevin P. Costello, AICP
Executive Director

Exhibits

- 1- Photograph submitted by Mr. Fessler
- 2- Letter submitted by Mr. Fessler from the COO of Wildflavors, Inc.
- 3- Letter submitted by Mr. Selnich, Reit Management & Research
- 4- Photographs submitted by Mr. Fessler of current Smith Towing Lot

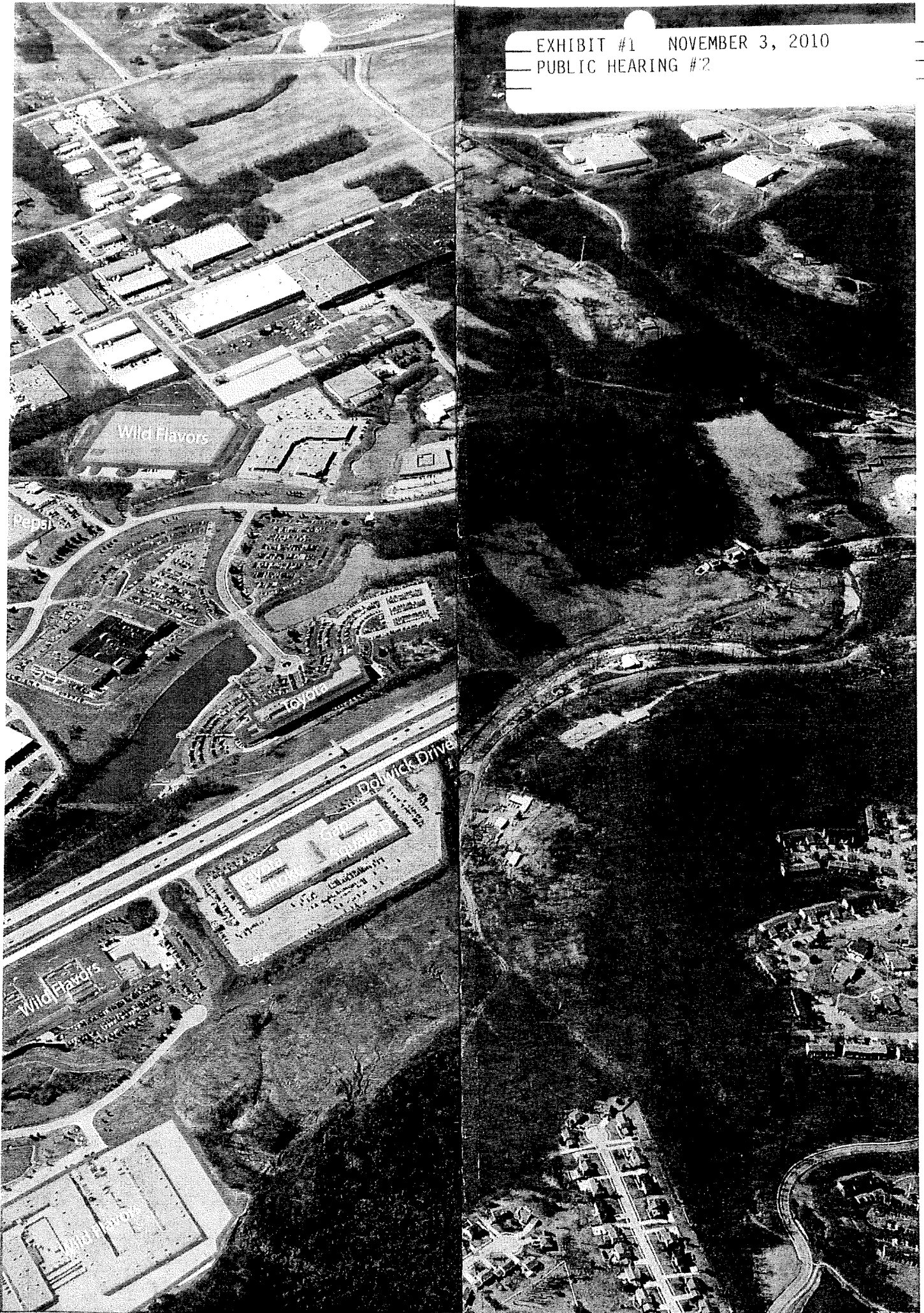




EXHIBIT #2-NOVEMBER 3, 2010
PUBLIC HEARING #2

November 2, 2010

Mayor Tom Rouse
City of Erlanger
505 Commonwealth Avenue
Erlanger, KY 41018

Judge Gary Moore
Boone County Fiscal Court
2950 Washington Street
Burlington, KY 41005

Re: Zoning change for Parcel #001-00-00-019.01

Dear Mayor Rouse and Judge Moore,

It recently came to WILD Flavors, Inc.'s ("WILD") attention that the Kenton County Planning Commission approved a zoning change on October 7, 2010, for Parcel #001-00-00-019.01, which will allow the development of a towing impound lot on the property. For the reasons stated below, WILD respectfully requests that this use not be allowed.

WILD's U.S. headquarters is located directly off Dolwick Dr. at 1261 Pacific Avenue. In order to reach our facility, it is necessary to drive past the above referenced parcel. WILD has numerous customers visit its facility on a daily basis, and an impound lot would not be an attractive site for these customers.

WILD, along with other individuals and entities, works very hard to maintain its premises to protect its outstanding image to its customers and this community. To allow this type of use in this area will take away everyone's hard work to maintain such a professional image. This use will cause irreparable damage to the quality and value of all of the surrounding existing commercial developments.

Therefore, we respectfully request that this use not be allowed because it is clearly against the long-term best interest of the affected communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik T. Donhowe".

Erik T. Donhowe, Ph.D.

WILD Flavors, Inc.

WILD Flavors, Inc.
1261 Pacific Avenue
Erlanger, KY 41018-1260

Telephone:
Web Site:
USA

859-342-3600
www.wildflavors.com

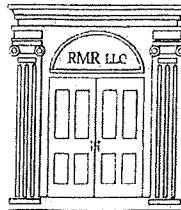
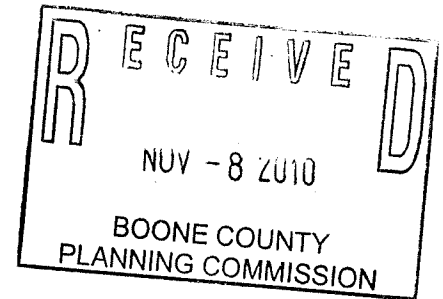


EXHIBIT #3-NOVEMBER 3, 2010
PUBLIC HEARING #2

Reit Management
& Research LLC
PROPERTY MANAGEMENT
DIVISION



November 2, 2010

VIA: Electronic Mail – US Mail to Follow

Mayor Tom Rouse
City of Erlanger
505 Commonwealth Avenue
Erlanger, KY 41018

Judge Gary Moore
Boone County Fiscal Court
2950 Washington Street
Burlington, KY 41005

Dear Mayor Rouse and Judge Moore,

It has come to my attention that the Kenton County Planning Commission, on October 7, 2010, approved a zoning change for Parcel #01-00-00-019.01, owned by MV Land Development Co, from BP-1 to IP-4, that will allow, among other uses, a towing impound lot to be developed.

We believe this will jeopardize our ability to retain our current tenant located at 1101 Pacific Avenue as well as future tenants. Our tenant has indicated its displeasure with the zoning change and towing impound lot use once notified of the Planning Commission's decision. Reit Management & Research LLC, as external adviser for the owner of 1101 Pacific Avenue, Hub Properties Trust, manages this 85,000sf Class A office property. A towing impound lot at the front entrance to this existing Class A development would materially adversely impact the appeal of our property and limit our future leasing or development of this high quality asset. The Planning Commission's decision substantially derogates from the intent and purpose of the zoning by-law in that the impound lot in question should be located in an isolated area, not adjacent to an area within a substantially more restrictive zoning district, the intent of which zoning is to encourage and attract quality development, uses and tenants.

Hub Properties Trust has spent hundreds of thousands of dollars to maintain our property to Class A standards. The impact to value created by locating an impound lot at this location and corresponding negative impact to the tax base due to potential vacancy of Class A properties threatens the very nature of this development.

We strongly urge that this use be rejected because it clearly undermines the long-term best interest of the affected communities and specifically will be detrimental to the value of our real estate holdings in this area.

Sincerely,

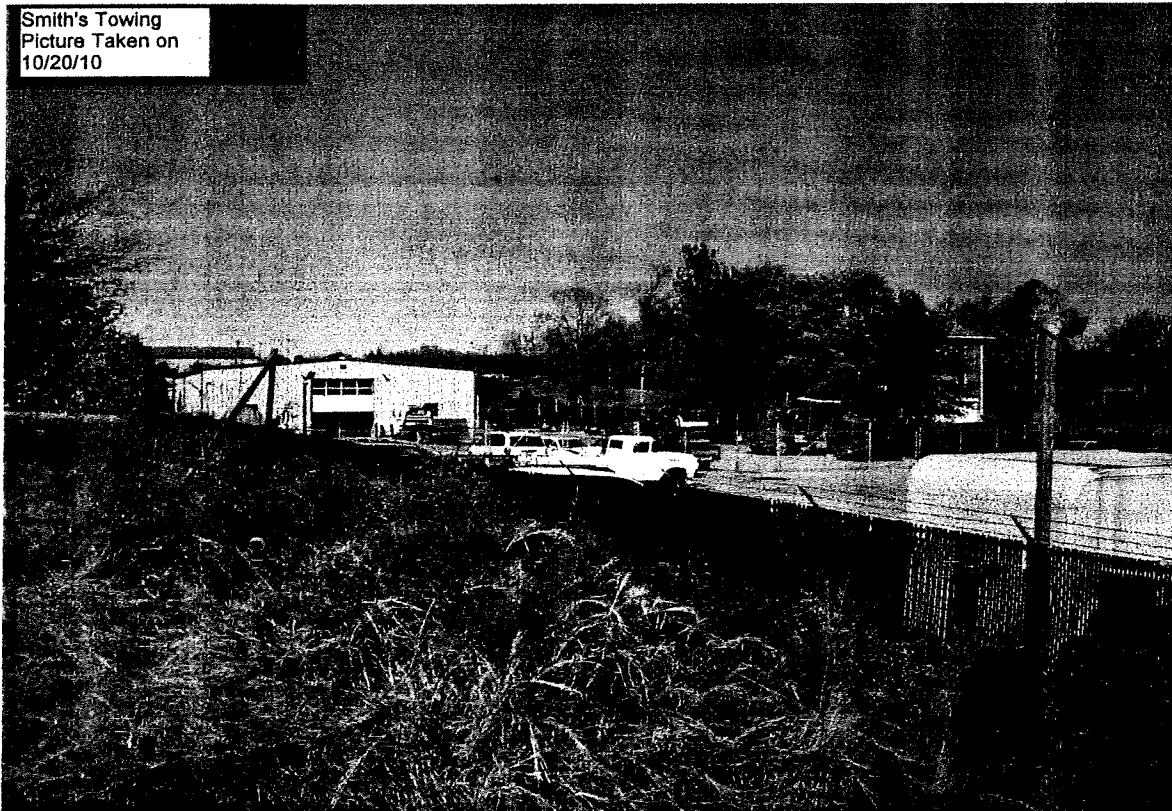
David S. Buchanan
Vice President, Midwest Region

cc: Kevin Costello, Executive Director, Boone County Planning Commission
Erlanger City Council
Boon County Commissioners

Smith's Towing
Picture taken on
10/20/10



Smith's Towing
Picture Taken on
10/20/10



Smith's Towing
Picture taken on
10/20/10



Smith's Towing
Picture taken
on 10/20/10



**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
DECEMBER 1, 2010
7:00 P.M.**

Mr. Charlie Rolfsen, Chairman, called the meeting to order at 7:00 P.M.

COMMISSION MEMBERS PRESENT:

Mr. Ben Brandstetter
Mr. Greg Breetz
Mr. Kim Bunger, Secretary/Treasurer
Mr. Mike Ford, Vice Chairman
Mrs. Janet Kegley
Mr. Jim Longano
Mr. Don McMillian
Ms. Lisa Reeves
Mr. Charlie Reynolds
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke

COMMISSION MEMBERS NOT PRESENT:

Mrs. Linda Herald
Mr. Mark Hicks
Mrs. Susan Poston; Temporary Presiding Officer
Mr. Steve Turner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director of Zoning Services
Mr. Mitchell A. Light, Assistant Zoning Administrator/Enf. Officer

Approval of the Minutes:

Chairman Rolfsen, stated that the Commissioners received copies of the Minutes of the November 3, 2010 Business Meeting and Public Hearings. He asked if there were any comments or corrections. There being no changes to the Minutes, Mr. Bunger moved that both sets of Minutes be approved as written. Mr. Ford seconded the motion and it carried unanimously.

ACTION ON PLAN REVIEWS:

ZONING MAP AMENDMENT AND VARIANCE

1. **Request of EJ Foltz, Abercrombie & Associates, Inc. (applicant) for Miller Valentine Group (aka MV Land Development Company) (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the Boone County Zoning Regulations, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.**

Staff Member, Mitch Light, read the Committee Report, which recommended Denial of both the Zoning Map Amendment and Variance requests (see Committee Report). The Committee denied the request 2-1 with Mr. Breetz and Mr. Brandstetter voting for the denial and Mrs. Kegley voting against the denial.

Chairman Rolfsen asked if the applicant wanted to make any comments with a five minute limitation. Mr. E.J. Foltz, Abercrombie & Associates (Applicant), stated that he thought the way the Zone Change Committee handled the request was inappropriate because there was a discussion about Conditions of Approval or what could be done to alter the site plan and building elevations. Mr. Foltz offered to distribute a handout. Mr. Wilson asked if the handout was already part of the record. Mr. Foltz responded no. Mr. Wilson stated that the applicant cannot hand out new materials to be put into the record. Mr. Foltz explained that the Committee Meeting was 1.5 to 2.0 hours in length and involved discussing Conditions of Approval. His client volunteered to give up an exit and a monument sign, provide additional buffering, lower the building, put brick around the skirt of the building, and agree to no impound or towing services on the Boone County side. Only employee parking is allowed on the Boone County side. There were 12 conditions. There was an unanimous vote on the Conditions. The last 2 minutes of the Committee Meeting dealt with compatibility of the use. Mr. Breetz and Mr. Brandstetter voted against the zone change. It came down to meeting only one of the three findings of the zone change criteria or K.R.S. 100.213. The first is whether the Zoning Map Amendment is in agreement with the Comprehensive Plan. The second criteria involves whether the existing zoning classification is inappropriate and the proposed zoning classification is appropriate. According to Kenton County, Mr. Foltz stated that the project meets both criteria and that it is why their recommendation of approval was given by Erlanger. The first criteria does stick. The Comprehensive Plan says the area will be industrial. It does not say what you are going to do with it. Is it going to be a dog kennel, a junkyard, a headquarters or a sales office? The map shows the Dolwick Connector - everything in red is Industrial. Both sides of the county border are industrial. He questioned how he received a 2-1 no vote by the Committee since the request meets the Comprehensive Plan rather than it is an appropriate use. On the Dolwick Connector, there is a transformer substation on the corner - not an attractive site. On the right hand side, there is the back of industrial buildings. - painted block concrete. There is no landscaping, no trees or bushes. There are open trash

dumpsters facing Dolwick Drive , which is the gateway to Circleport. There is a mobile home park on the left side and one of the homes is sitting on the right-of-way. The submitted elevations show only the top third of the building from Dolwick Drive. The impound operations will occur in Kenton County several feet below the road and behind the buildings and screening. It won't have an adverse impact in the area considering what is located in the area. Even Wild Flavors has an opened dumpster near the road and is not screened. Mr. Foltz stated the use won't have an adverse impact. The use is currently located in downtown Burlington. You can't see the use behind the building or from KY 18.

At this time, Chairman Rolfsen asked if there was anyone in the audience that wanted to speak in opposition to the request?

Mr. Bob Fessler, representing Corporex, DCT, Doug Brendamour, Reit Management, Wild Flavors and Colonial Manor, stated that he believes the conclusion of the Zone Change Committee is correct. It does not meet the Comprehensive Plan. In 2005, the Comprehensive Plan was adopted and it is used to evaluate the request. The Zone Change Committee outlined a list of reasons of why the project does not fit. The quality of the tenants and businesses attracted to the area cannot be duplicated. A truck is not the same as a towing impound lot. Someone staying at the hotel is used to seeing a sub station and a truck and not a towing impound lot. We are not against Mr. Smith - he runs a great operation. It doesn't belong at the front door of a Class A business park. Corporex has another 600 acres to develop in the area. Thousands of jobs are at stake. The jobs there now are high paying jobs. No more development will occur in the area if it is approved. Property values will go down. Mr. Fessler stated that the consortium of property owners wants the Planning Commission to continue the no vote on the submitted Zoning Map Amendment request.

Chairman Rolfsen asked if there was a motion for denial of the request. Mrs. Kegley asked to discuss the matter first. She noted that the Committee vote was a split vote. There is also Findings for Approval with Conditions. Mrs. Kegley asked if this could be read so that the Planning Commission can make a decision either way. Mrs. Kegley admitted discussing many conditions. There was also a motion for approval at the Committee Meeting and the uncertainty of the use on the Kenton County side was brought up. Thus, the request was denied at the last minute. Mrs. Kegley stated that at the Public Hearing, there was a very good presentation by the neighbors about the impound lot. Unfortunately, the 3 acres in Boone County does not have an impound lot. They are planning to store the tow trucks inside a building. It is a storage facility. It is considered an accessory use to what is happening in Kenton County. Kenton County held a Public Hearing and not one person in the audience attended. The neighbors made the presentation that should have been made to Kenton County to Boone County. They asked us to turn it down to try to circumvent Kenton County. It is not fair to the applicant to turn it down because of what Kenton County did. We are here to look at our piece. Our piece does not allow a tow truck in the lot nor impounded vehicles. It is an employee parking lot-much smaller than the employee parking lots across the street. The site has 2 buildings of which one is totally below the road. Both buildings have evergreen trees 10 feet apart. What you will see is a metal seam roof-similar to the Union Library and Victory Bank. It will be hunter green. The presentation by the neighbors stated that the area is a Class A business park. The subject site won't be able to be developed as a business park due to the topography.

There is nothing on our map that says Class A versus Class D buildings. The use is industrial. When you drive around Dolwick, behind the front building, there is a gap of at least 200 feet where there is no landscaping and you see loading bays. You can see at least half a dozen bays with trucks. One must compare the back of these buildings with backs of an impound lot. The Planning Commission is only concerned about what is visible from the road. We don't have any jurisdiction over the Kenton County side. Mrs. Kegley stated that she is only looking at the Boone County portion. If there was not an impound lot, the applicant would get approval. The applicant is only parking their trucks in a garage. She doesn't think it is a problem with the Business Park use.

Mr. Breetz stressed that the Committee vote was 2-1. He doesn't think that it is appropriate to change our rules when it is clear that the majority voted to deny the request. Mr. Wilson stated the vote was a split vote and Mr. Breetz has a right to express his opinion on his Committee vote.

Mr. Breetz explained that the rule of the Zone Change Committee is to go over all of the evidence and discuss the issues and then vote. It is a simple process and we completed the process just like any request. Mr. Breetz noted that Mr. Foltz said he was surprised about voting on the conditions and the fact that the request went in the opposite direction was denied by the Committee. It is important to resolve the issues discussed at the Public Hearing because the vote by the Board could go either way. If the Committee would have voted first on the use, then there would be no opportunity to go through the detailed issues from the Public Hearing. The issues that prompted his negative vote were items that Mrs. Kegley mentioned tonight were taken care of at the Committee Meeting. One example is the buffering. The suggested buffering was 6 foot pine trees. It is a hillside with a steep grade. Two metal buildings graded down on a steep hillside. There is a 14 foot drop at Dolwick Drive and a 20 foot high building is proposed. From the road a 6 foot tree will be planted below the road. Even if the tree would grow to its potential height, the whole site is under an existing power line. The trees would have to be trimmed from the power lines. There are issues with the buffering hiding the proposed buildings. The Planning Commission is restricted to looking at the project in Boone County. What goes on in Kenton County is beyond the Planning Commission. The main entrance is located opposite Interstate Drive. It is pretty obvious that the area is Business Park and it happens to be zoned industrial. Just because the area is zoned industrial it doesn't mean you allow any and all types of industrial-we try to make it compatible.

Mr. Wilson stated that in the years past, the Zone Change Committee has spent time to get into a deep analysis of a zone change request. It is not so much to send a signal that the request be approved, but rather what conditions can be agreed to that may allow the application to be approved. Our current policy is to read the majority (2-1) of the Committee Report. If that does not pass, then you look at the opposite findings. If you would like to deviate from the policy, a motion would be in order.

Mrs. Kegley moved to have the Staff read the Finding for Approval with Conditions. Mr. Breetz seconded the motion and it passed unanimously.

Staff Member, Mitch Light distributed copies of the Findings for Approval with Conditions. He then read the Findings for Approval with Conditions (See Exhibit #1).

At this time, Chairman Rolfsen stated that a motion to accept either the Committee Report or the Findings for Approval with Conditions would be in order.

Mr. Brandstetter moved by Resolution to the Boone County Fiscal Court to deny the request (Zoning Map Amendment and Variance Requests) based on the Committee Report. Mr. Breetz seconded the motion. Chairman Rolfsen asked if there was any further comments from the Board.

Mrs. Kegley stated that she wanted to address Mr. Breetz's comment and recognized that the site is Developmentally Sensitive and that is a reason why there is a requirement for a geotechnical report and one of the entrances was removed. The main entrance will have a gradual grade. There was no discussion about the grade at the Zone Change Committee meeting. The applicant did not have the opportunity to address the issue. One will see a hip roof. It is a residential type roof. It is the same type of roof in Class A office buildings. She stated she didn't have an issue with something that is good looking.

Mr. Breetz stated that the Committee Meeting was very thorough and discussion so far shows the effectiveness of the Committee. This is important for the applicant to understand.

Chairman Rolfsen asked to review a copy of the architectural renderings and building elevations. Mr. Foltz proceeded to identify the different building elevations for the benefit of the Planning Commission members. The garage doors will not be seen from Dolwick Drive.

Mr. Schwenke explained that he visited the site. It is an industrial area-a lot of doors, trash and warehousing. A tow truck business is smaller than a big warehouse business. Mr. Schwenke stated that he doesn't have a problem with the use.

Mr. Ford inquired about the activities during the day on the Boone County side? Mr. Foltz stated that during the day it will be employee parking. Mr. Ford stated that buildings will be garages? Mr. Foltz stated yes. There will be some minor maintenance such as oil changes.

At this time, Chairman Rolfsen asked for a vote on the motion previously made by Mr. Brandstetter to deny the request and seconded by Mr. Breetz. Mr. Brandstetter, Mr. Breetz, Mr. Bunger, Mr. Ford, Ms. Reeves voted yes and Mrs. Kegley, Mr. Longano, Mr. McMillian, Mr. Reynolds, Chairman Rolfsen and Mr. Schwenke voted no. The motion to deny the request failed by a vote of 6-5.

Mrs. Kegley then moved by Resolution to the Boone County Fiscal Court to approve the request based upon the Findings for Approval with Conditions. It would include approval of the variance. The motion was seconded by Mr. Reynolds. Mr. Brandstetter, Mr. Breetz, Mr. Ford and Ms. Reeves voted no. Mr. Bunger, Mrs. Kegley, Mr. Longano, Mr. McMillian, Mr. Reynolds, Chairman Rolfsen and Mr. Schwenke voted yes. The motion to approve the request passed by a vote of 7-4.

ZONING MAP AMENDMENT

2. Request of Daniel Rich (applicant) for 84 Financial, LP (owner) for a Zoning Map Amendment from Commercial Services (C-3) to Industrial Two (I-2) for 7.06 acres located at 8299 Dixie Highway, Boone County, Kentucky. The request is for a zone change to allow a manufacturing building.

Staff Member, Kevin Wall explained that the applicant was unable to obtain a signature from the property owner agreeing to the Conditions (See Exhibit #2). The applicant is requesting a deferral until next month and has waived the 90 day time limit.

Mr. McMillian moved to defer the request until the January 5, 2011 Business Meeting at 7:00 p.m. Mr. Reynolds seconded the motion and it carried unanimously.

3. **TECHNICAL/DESIGN REVIEW-** Kohl's
61 Spiral Drive

Staff Member, Kevin Wall, presented the request. Kohl's wants to make some cosmetic changes to the store in Florence. The stair step cosmetic look around the entryway will be replaced with a solid color all of the way across. The columns at each entrance will be replaced by a canopy. The proposed colors and materials are very comparable to the existing building. Mr. Wall stated that the Committee met prior to the Business Meeting and recommended approval.

There being no further comments or questions, Mr. Reynolds moved to approve the request based upon the Committee Report. Mr. Longano seconded the motion and it carried unanimously.

4. **TECHNICAL/DESIGN REVIEW-** Fifth Third Bank
8100 Burlington Pike

Staff Member, Mitch Light, presented the request. Fifth Third at Houston Road/KY 18 wants to replace the building mounted signs. On the north elevation, the new sign will be 130 square feet and it will read "Fifth Third Bank." On the front side (KY 18), Fifth Third is proposing a 236 square foot building mounted sign. There will be no neon stripe. Another

EXHIBIT

“B”

**THE FINDINGS FOR APPROVAL WITH CONDITIONS WERE READ
AT THE DECEMBER 1, 2010 BUSINESS MEETING AND ADOPTED
BY A VOTE OF 7-4.**

**SMITH TOWING
FINDINGS FOR APPROVAL
WITH CONDITIONS**

Request of EJ Foltz, Abercrombie & Associates, Inc. (applicant) for Miller Valentine Group (aka MV Land Development Company) (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the Boone County Zoning Regulations, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.

December 1, 2010

The requested zone change from A-2 to I-1, and Variance for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky, should be conditionally approved for the following reasons.

1. The Comprehensive Plan's Future Land Use Map designates the site for Industrial (I) and Developmentally Sensitive (DS). The Industrial (I) designation is described as "manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses" and the Developmentally Sensitive (DS) designation is described as "areas that have an existing slope of twenty percent or greater for a height of 20 meters, or have unique soil or flooding characteristics which limit the ability of an area to support urban development, or contain significant wooded areas, creeks, wildlife habitat or other natural features that are important to a site's stability and visual character." The proposal is for "towing, impound, and wrecker services" which follows the Industrial (I) designation. The proposal also included a request for a Variance to reduce the front yard setback in order to avoid the Developmentally Sensitive (DS) portion of the site.
2. The Land Use Element (Airport Area, pg. 153) states "to the north, the Mineola interchange area has experienced, and should continue to experience, significant Business Park development. The Airport Exchange Business Park and Circleport Industrial Parks should continue to develop." The proposal is for two (2) buildings and automobile parking for employees. Visual impacts are addressed through conditions stated below for lighting, buffering, building materials and the parking of automotive vehicles and vehicles used in the business.

3. Based on the Concept Development Plan and the conditions outlined below, the proposal is in general agreement with the "Future Land Use Development Guidelines" on pages 140-142 of the Land Use Element and the Comprehensive Plan Goals and Objectives.
4. The applicant is agreeable to a number of conditions at the Committee Meeting which should be applied to the development, should it be approved. These conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2005 Boone County Comprehensive Plan and to mitigate foreseeable impacts that may be created by the development. These conditions are outlined below:
 1. There will be no storage and/or the impounding of vehicles in Boone County.
 2. There will be no overhead doors facing Dolwick Drive.
 3. There will only be parking for employee automobiles with no outside storage of rollback and/or tow truck type vehicles used in the business in Boone County.
 4. The buildings will be constructed of the types and colors of materials (white metal sides and green standing seam metal roofing with no roof equipment) per the elevation drawings presented at the November 17, 2010 Zone Change Committee meeting.
 5. The secondary (westernmost) access point on Dolwick Drive has been eliminated.
 6. A copy of the geotechnical engineer's report will be submitted with the application for Major Site Plan review.
 7. Parking lot lights a maximum of 12 foot high will be reviewed as part of the required photometric plan to be submitted with the application for Major Site Plan review.
 8. The required landscape plan will include 6' evergreen trees from Plant List D (Article 36, Landscaping, Boone County Zoning Regulations) with a spacing of 10' on center at the entrance in order to screen the overhead doors on the east side of proposed building 3.

9. Evergreen trees from Plant List D (Article 36, Landscaping, Boone County Zoning Regulations) will be planted in lieu of any deciduous trees in order to screen proposed building 4 from the view of a passenger traveling in an automobile on Dolwick Drive.
10. The applicant will pursue a purchase of the "notch" in the right-of-way of Dolwick Drive from the KTC. Documentation of this endeavor will be provided with the application for Major Site Plan review. If the right-of-way purchase is approved, the dimensional variance will no longer be necessary and a Staff review of the revised Concept Development Plan will occur to allow the building based upon meeting the current building setbacks.

THIS COMMITTEE REPORT WAS READ AT THE DECEMBER 1, 2010 BUSINESS MEETING BUT NOT ADOPTED BY A VOTE OF 6-5. FINDINGS FOR APPROVAL WERE READ AND ADOPTED BY A VOTE OF 7-4.

#1

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Greg Breetz, Chairman

DATE: December 1, 2010

RE: Request of **EJ Foltz, Abercrombie & Associates, Inc. (applicant)** for **Miller Valentine Group (aka MV Land Development Company) (owner)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the Boone County Zoning Regulations, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.

REMARKS:

We, the Committee, recommend denial of this request based upon the following findings of fact:

Findings of Fact

1. The Committee has concluded that the request is not in agreement with the adopted 2005 Boone County Comprehensive Plan for the following reasons:
 - A. To the north, the Mineola interchange area has experienced, and should continue to experience, significant Business Park development. The Airport Exchange Business Park and Circleport Industrial Parks should continue to develop (Land Use Element, Airport Area).

The text refers to continued growth of the existing industrial and business park developments. This request or the use of towing, impound, and wrecker services is not a Business Park type of use.

- B. Proper design principles shall be applied in development ("Overall," Objective 3).

Because of the severity of the topography, the developability of the property is limited to a small flat area located close to Dolwick Drive and therefore the use cannot be effectively buffered.

- C. 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").

The proposal is to allow towing, impound, and wrecker services. This proposal and its visual impacts do not enhance the physical and social environment of the area.

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

The proposed use is not compatible with the established industrial/business park developments at the Mineola Pike I-275 Interchange.

- E. 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. Buffer areas should use and supplement existing site features where possible (Future Land Use Development Guidelines, "Buffering," pg. 141).

The KY 237 and Mineola Pike I-275 Interchanges will experience continued industrial development in addition to the previously outlined commercial/office development. The mixture of uses should be carefully designed and planned to minimize negative impacts ("Recommended Areas of Industrial and Office Activity," pg. 65).

The proposal is to allow towing, impound, and wrecker services. The applicant has not adequately addressed the impact of the proposed use on the surrounding properties.

2. The proposed zone change as expressed through the submitted Concept Development Plan does not compel a conclusion that the proposed zoning classification is appropriate due to the lack of compatibility with the neighboring industrial land uses and the layout design of the proposed use. Due to this fact, whether or not the existing zoning classification is inappropriate is a moot issue.
3. The Committee has not identified any facts which would lead to a finding that there have been major changes of an economic, physical, or social nature not anticipated in the adopted Comprehensive Plan that substantially alter the area's character nor has the Applicant provided any such facts.
4. The Committee has also concluded that the Variance request be denied as well since it is tied to the Zoning Map Amendment request. Without a zoning change, the variance request is irrelevant.
5. If the requested Zoning Map Amendment is approved by the Boone County Fiscal Court, the variance is recommended for approval by the Zone Change Committee.

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/Concept Plan Committee Vote.

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
NOVEMBER 3, 2010
7:30 P.M.**

COMMISSION MEMBERS PRESENT:

Mr. Ben Brandstetter
Mr. Greg Breetz
Mr. Kim Bungler, Secretary/Treasurer
Mr. Mark Hicks
Mrs. Janet Kegley
Mr. Jim Longano
Mr. Don McMillian
Mrs. Susan Poston, Temporary Presiding Officer
Ms. Lisa Reeves
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke

COMMISSION MEMBERS NOT PRESENT:

Mr. Mike Ford, Vice Chairman
Mrs. Linda Herald
Mr. Charlie Reynolds
Mr. Steve Turner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director, Zoning Services
Mr. Mitchell A. Light, Assistant Zoning Administrator/Enf. Officer

Mr. Rolfsen, Chairman, called the meeting to order at 7:36 P.M. and introduced the first item on the Agenda:

2010 BOONE COUNTY COMPREHENSIVE PLAN

1. Request of the Boone County Planning Commission Long Range Planning/Comp Plan Committee to review the 2010 update of the Boone County Comprehensive Plan Goals and Objectives. The Goals and Objectives include the following sections: Overall, Population, Environment, Economy, Business Activity, Housing, Recreation and Open Space, Agriculture, Preservation, Public Services and Facilities and Transportation. The Goals and Objectives form the basis for the update of the remaining Elements of the 2010 Boone County Comprehensive Plan.

THIS REQUEST HAS BEEN POSTPONED AND WAS RESCHEDULED FOR DECEMBER 1, 2010 AT 7:30 P.M.

ZONING MAP AMENDMENT AND VARIANCE

2. Request of EJ Foltz, Abercrombie & Associates, Inc. (applicant) for Miller Valentine Group (aka MV Land Development Company) (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the Boone County Zoning Regulations, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.

Staff Member, Mitch Light presented the Staff Report, which included a PowerPoint presentation (See Staff Report). The applicant is requesting this Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1) to allow towing, impound, and wrecker services, and a dimensional Variance of the front yard setback from 50' to 30' (a 20' variance) along Dolwick Drive for the easternmost building in Boone County nearest the County line. The variance request is due to the irregular right-of-way and the drop in elevation from Dolwick Drive to the north. The two buildings in Boone County are proposed at 5,000 square feet and 6,000 square feet for an intensity of 2,790 square feet per acre. The maximum intensity permitted in the I-1 zone is 25,000 square feet per acre. The NKAPC held a Public Hearing for the Kenton County portion of this property on October 7, 2010 and recommended approval with conditions to the City of Erlanger. Attached to the Staff Report is a copy of their recommendation. The surrounding zoning of the site includes Agricultural Estate (A-2) to the north, Industrial One (I-1) to the south and west and Business Park One (BP-1) to the east in Kenton County. The Future Land Use Map identifies this site as Industrial (I) and Developmentally Sensitive (DS). The topography of the site is quite steep. It is also heavily wooded. The county line runs through the property. The Land Use Element suggests "to the north, the Mineola Interchange area has experienced and should continue to experience significant Business park development. The Airport Exchange Business Park and Circleport Industrial Parks should continue to develop." References to the Goals and Objectives of the 2005 Boone County Comprehensive Plan are identified in the Staff Report. Mr. Light made specific reference

to objectives A, E and I, which refer to proper planning, adequate infrastructure and appropriate business locations that are compatible with the surrounding area. The Future Land Use Development Guidelines from the Land Use Element offers the following in relation to the proposed project: "Developments in Boone County should begin with an assessment of the existing site features to determine positive and useful attributes, as well as features, which should or can be preserved; 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; 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." Mr. Light also noted two references to the Business Activity Element on page 5 of the Staff Report. Mr. Light proceeded to show photographs of the site and surrounding areas.

In regard to Staff comments, the Planning Commission did not receive building elevations as part of the Concept Development Plan materials. The Area Planning Commission Staff Report states that both buildings in Kenton County will be pre-engineered metal buildings. Will the proposed buildings in Boone County be of the same style, or is another style proposed? Second, the applicant is currently showing a monument sign at each access point in Boone County. Since this is currently one parcel, only one monument sign is permitted. Third, the variance request is for one building (nearest to the County line) due to the irregular right-of-way and the change in elevation from Dolwick Drive to the north. The property drops approximately 144 feet from Dolwick Drive to the lowest point at the County line. Fourth, the Point Pleasant Fire Department noted that before construction begins on any building, fire hydrants have to be installed in this section of Dolwick Drive. The Fire Department's comments are attached to the Staff Report. The water line will have to be extended from Interstate Drive to Dolwick Drive in order to serve the site. If approved, Site Plan Review will have to be performed by the Boone County Planning Commission. Mr. Light stated that the Boone County Planning Commission and the Boone County Fiscal Court need to evaluate the proposed zone change in terms of the three criteria necessary for a Zoning Map Amendment as stated in Article 3 "Amendment" of the Boone County Zoning Regulations. The Planning Commission also needs to evaluate the requested variance in terms of the standards in Section 251 "Application and Standards for Variances." Mr. Light identified four attachments to be included in the record. They include an e-mail message from the Point Pleasant Fire Department, the recommendation from the Kenton County Planning Commission, a letter from Corporex Companies and a copy of the project application.

E.J. Foltz, Abercrombie and Associates, Inc. stated he is representing Wayne Smith of Smith Towing. Mr. Foltz addressed the Staff concerns. He agreed to provide photographs and building elevations at the Committee Meeting. He stated that they would agree to one monument sign at the main entrance across from Interstate Drive. In regard to the variance, it originated from a meeting with Staff and NKAPC Staff. It is for one building located near the County line. At first, they planned to have the parking in front and the building in the rear. Now the building is in front and the parking is in the back. There is a 20 foot buffer in front of all of the buildings and parking. The proposed parking and buildings will be above grade. There will be a berm plus standard landscaping. Mr. Wayne Smith noted that the maps in Boone County and Kenton County show that there is a

difference in elevation of 10 feet. The site is heavily wooded. The purpose of the request is to move the business to the Mineola Pike area because his operation has changed from being a local company in Boone County to a more regional operation - Greater Cincinnati area and Northern Kentucky. He is now one of the largest towing companies in the region in terms of number of calls. The site in question makes sense as it will eliminate KY 18 traffic. Currently, Mr. Smith stated that he had 34 vehicles on his lot of which 19 are his vehicles. The remaining vehicles are in and out and in a typical month 3,000 vehicles will be moved. Eighteen to twenty-two drivers work for him on any given day. The operation has grown over the years. The proposed site will result in less traffic congestion on KY 18. The site lends itself for this type of operation. The buildings will be constructed on an individual basis over a 5-10 year time period. The proposed site is suited toward smaller buildings. The buildings will be used to store vehicles/equipment inside versus outside.

Mr. Foltz stated that his client would extend water and gas from Interstate Drive. The existing topography of the site wouldn't allow big warehouse buildings. His client will use the flat portion of the site and leave the back portion or two-thirds of the site in both counties untouched.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor of the request? Seeing none, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak against the request?

Mr. Bob Fessler, Corporex Companies, stated he is representing the Circleport area and all of the tenants. He brought visuals to the Public Hearing displaying various buildings in the area. Corporex and its tenants are vehemently against the zone change request. They are not against a towing or impound lot. It doesn't belong at the front door of a Class "A" interchange. Boone County, Kenton County, the City of Erlanger and Corporex Companies has spent 25 years developing the interchange in a first class manner. It represents the opening to our entire community. When you leave the airport, you go by this interchange. The result of this work has been to create an interchange to attract first class companies - like Toyota Boshoku, Gap and Wildflavors. People will have to go by this site to get to some of these companies. Those companies were identified on an aerial photograph submitted by Mr. Fessler (see Exhibit 1). In addition, Mr. Fessler submitted a letter from the COO of Wildflavors, Inc. (See Exhibit 2). The letter states that Wildflavors is opposed to the proposed use on the grounds that it does not mix well with the class of buildings in the area. He stated that their company has tried to create a first class image for his building and customers. All of his customers would have to come by the towing and impound lot. Other tenants in the area include Sterling Cut Glass, DHL, Pepsi and Square D/Schneider in the Dolwick building. Mr. Fessler stated that Square D/Schneider with 200 jobs would have never moved into the building if an impound lot was the first thing their customers would see. It does not belong in an area like this, but in an area down an alley where employees and decision makers don't have to pass by each day. Mr. Fessler showed photographs of existing buildings in the area. These buildings are not metal but are brick, glass and concrete. They are fully landscaped. Visitors staying at the Holiday Inn will be able to see the impound lot. This is not the image for the community. In addition, photographs of the existing Smith Towing facility were shown to the Board. The proposed use belongs elsewhere and a negative vote is being requested. The Comprehensive Plan states that "Boone County shall be viewed as an integral part of the

Cincinnati Metropolitan Area." That is correct and the interchange is a gateway to Cincinnati. It has attracted world Class A companies. Further, "development should promote the overall quality of life and that the quality of the existing physical and social environment should be enhanced. The development of a towing and impound lot will not enhance the physical environment and quality of life. He stated that "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas." That is a correct statement. An impound lot is not a compatible use to the surrounding area. The zone change should be turned down because of the work done in the area and what is identified in the Comprehensive Plan. This project may create 30 jobs but it also will be a job killer. Circleport and Corporex has hundreds of acres left to develop with the potential of thousands of high paying jobs. It doesn't make sense.

Mr. Tim Selnich, Reit Management and Research, own the Convergys building. His company bought the building because of such tenants of GE and Convergys. He submitted a letter (see Exhibit 3) and explained that the proposed project will jeopardize their ability to retain their current tenant. Further, Hub Properties Trust has spent hundreds of thousands of dollars to maintain their property to Class A standards. The Mineola Pike interchange was not envisioned when I-275 was built. But Corporex and local government officials in the 1970's had the vision to attract first class companies like Toyota, Gap, Convergys, and GE. The Convergys building is their flagship call center for companies such as P & G and AT & T. They bring their customers to the facility. Location is very important to selecting a place to operate a business. If there are five choices that are similar, then they look at ways of not going to a certain location. Don't give them a reason based on the proposed use. A small single decision to help a small business may ultimately impact other businesses and the community.

Mr. Bill Chester, Vice-President of DCT Industrial, owns 2 buildings across from the site with tenants such as Dominos, Sterling Cut Glass, DHL, St. Elizabeth and Gameworks. His company has invested \$8 million in the buildings and is concerned about attracting and retaining quality tenants if the proposed use is approved. It will impact the Class A corridor and he recommends that the Planning Commission turn down the Zone Change request.

Mr. Andrew Brendamour, representing Doug Brendamour, stated that his father owns the building located at 1570 Dolwick Drive across the street from the project. In 1990, his father selected the site for a Foreign Trade Zone (FTZ). He built a 136,000 square foot office/distribution center. He indicated that when his father bought his site, there were covenants and deed restrictions made by the original developer which would protect property values and promote the welfare of businesses and tenants. The same developer is involved with the proposed project. Currently, his building has 100 employees and the largest tenant is ACS, a division of Xerox. ACS does high security health insurance mailings. Security is a concern as an impound lot will bring crime. The proposed use will affect all his tenants and the value of the real estate in the area. The use belongs in a secluded area.

Ms. Laurie Murray, representing KSL Realty, owns Colonial Manor Mobile Home Park that is immediately adjacent to the proposed use. The mobile home park pre-dates the businesses in the area - since the early 1970's. She stated they have 220 families living in the park. It is a quiet and well maintained neighborhood. An impound lot will not be a

good neighbor. It will be a source of noise, traffic, trash and congestion. It is not an appropriate use of the land. It will be detrimental to the mobile home park community and to the community around it.

At this time, Chairman Rolfsen asked whether the Board members had any questions or comments?

Mr. Brandstetter asked what was the status of the Zone Change request in Kenton County? Mr. Light responded that the Kenton County Planning Commission has recommended approval to the City of Erlanger. The City of Erlanger will have a Committee meeting about the request on November 23rd and then an ordinance will be prepared for first reading in December. Mr. Brandstetter inquired what happens if one legislative unit approves the project and one doesn't? Mr. Wilson stated that Erlanger or the Kenton County Planning Commission doesn't have jurisdiction to require us to approve or deny anything and vice versa. It is treated as two separate applications.

Ms. Laurie Murray stated that she attended the Erlanger meeting last night. The Kenton County Planning Commission approved the project subject to approval of the Boone County portion. It has to have both County's approval along with Erlanger's approval for it to go into effect. Mr. Brandstetter noted a Kenton County condition that the approval is subject to Boone County approving the project to assure a legal means of access to the property. Mr. Light noted that the only planned access to the site is in Boone County and across from Interstate Drive. Mr. Brandstetter asked about the irregular street right-of-way of Dolwick Drive? Mr. Foltz responded that it was due to the relocation of Dolwick Drive. Mr. Brandstetter asked whether the applicant would purchase the additional right-of-way in order to meet the buffer requirements. Mr. Foltz stated that they currently meet the buffer requirements. Purchasing additional right-of-way can take a long time. Mr. Light stated that Building #3 needs a variance because of the notch in the street right-of-way.

Mr. Bunger asked if the plan location for the parking lots is correct and how will the storm water be handled especially impacting the residential areas?

Mr. Foltz noted that the Long-Range Plan in both counties describe the area as industrial including the mobile home park. Kenton County is requiring a 75 foot buffer to protect the mobile home park from the impound lot. The mobile home park residents will not see the impound lot from their back yards. The parking lots were moved to the rear. The impound lot will not be seen from the road. The proposed buildings will buffer the parking areas. The Boone County portion is future buildings. They could be used for impound services or future uses. Storm water from the site will be directed toward detention ponds behind Building #2, #3 and #4. The one behind building #2 is a larger one and will accommodate the run off from the front impound lot to one side of Building #1. Water will be discharged toward the existing natural drainage swale.

Mr. Longano asked about the noise impact? Mr. Smith stated there are trucks and trailers in the area that generate noise based on the industrial zoning. Mr. Costello stated that the current zoning of the site in Boone County is Agricultural Estate (A-2) and not Industrial (I-1). Mr. Smith stated there is very little truck noise at night - a few trucks around 8-9 p.m. Normal operations are from 6:00 a.m. to 10:00 p.m. Mr. Smith took issue with the

opponent's pictures of his existing facility. Pictures were taken in the rear portion of his lot and not the front of his facility. The front portion looks very nice. He stated he is not a junkyard. His business has won numerous national and regional towing awards. Mr. Smith said he liked the idea of the building being up front versus set back on the site. The proposed business will be an asset to the area and not a detriment.

Mr. Schwenke suggested that the applicant bring drawings to the Committee meeting that show the facade of the proposed buildings. Even the larger buildings in the area have loading areas that don't look nice with docks and trucks. He also recommended screening of the storage/parking areas in the back portion of the site.

Chairman Rolfsen asked what is exactly going to happen on the Boone County side? Mr. Smith agreed that it would include buildings for his tow trucks and an impound lot. The operation in Burlington will be relocated to the proposed site. There will be no automotive repair only repair to his fleet of tow trucks.

Mr. Hicks inquired about the topography? Mr. Foltz explained that they have to fill in one area to make a connection between Buildings #3 and #4. There will be a storm line built in the same area. There will be storm water from Dolwick Drive that will continue to flow in the natural drainage area. In addition, the water from the pipe will come from the detention ponds. Rip Rap will be installed for outlet protection. Mr. Hicks asked whether the applicant has to follow certain Developmentally Sensitive (DS) Guidelines when developing in this area? Mr. Light replied that they have to submit erosion control measures, geotechnical studies, etc. It is one of the reasons why the applicant is applying for the variance - to move the building away from the hillside requiring less fill work.

Mr. Foltz noted the schedule of statistics - related to the variance request on the submitted Concept Development Plan. Typically for industrial, the street right-of-way is 60 feet and the building setback is 50 feet. Thus, the total building setback is 80 feet from the centerline. Even with the 20 foot variance, Buildings #1, #2, and #3 are beyond 80 feet. Even though they are asking for a variance, they are still farther back than they would normally be under a regular right-of-way width.

Mr. McMillian asked whether Kentucky had a law that impound lots had to be screened? Mr. Wilson responded that there is a law requiring screening for junk yards but not towing facilities. Mr. Wilson said that even though there isn't a State requirement for screening this type of facility, the Planning Commission has a right to address it through zoning.

Mr. Wilson reminded everyone that the document noting Kenton County's condition is a Planning Commission recommendation only. The City of Erlanger may think differently.

Mr. Fessler distributed a set of photographs (see Exhibit #4) depicting a typical impound lot or the current Smith Towing lot. The proposed site is very irregular with very useable ground. It will be impossible to hide all of the cars from the road behind the two buildings. The screening from the existing facility is inadequate as demonstrated in the submitted photographs. What is the runoff going to be? It will include petroleum products.

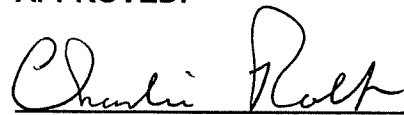
Mr. Wilson explained a decision by the full Planning Commission will not occur tonight. The request will be referred to a Committee for a recommendation and then ultimately come back to the full Planning Commission. This is a trial type Public Hearing where testimony is given.

Mrs. Poston inquired about the location of the impound activity? Mr. Light responded that the impounding will occur on the Kenton County side or next to and behind and between Buildings #1 and #2. No impounding activity is being proposed in Boone County.

Chairman Rolfsen asked if it is required to fence an area for impounded vehicles? Mr. Smith responded yes. Mr. Smith stated that he selected the site because of the natural buffer area that would screen the impound lot. Mr. Rolfsen stated that it is important to get a visual perspective of the site and activities from the road. Mr. Foltz said he would provide this information at the Committee meeting. The submitted Concept Development Plan shows decorative fencing in front and the location of the impound activity.

There being no further questions or comments, Chairman Rolfsen stated that the Committee Meeting for this item will be on November 17, 2010 at 5:00 P.M. in this room. This item will be on the Agenda for the Business Meeting on December 1, 2010 at 7:00 P.M. Chairman Rolfsen closed this Public Hearing at 8:40 P.M.

APPROVED:



Charlie Rolfsen
Chairman

Attest:



Kevin P. Costello, AICP
Executive Director

Exhibits

- 1- Photograph submitted by Mr. Fessler
- 2- Letter submitted by Mr. Fessler from the COO of Wildflavors, Inc.
- 3- Letter submitted by Mr. Selnich, Reit Management & Research
- 4- Photographs submitted by Mr. Fessler of current Smith Towing Lot

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Greg Breetz, Chairman

DATE: November 17, 2010


RE: Request of **EJ Foltz, Abercrombie & Associates, Inc. (applicant)** for **Miller Valentine Group (aka MV Land Development Company) (owner)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the **Boone County Zoning Regulations**, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.

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.

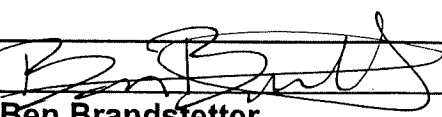
EJ Foltz/Miller Valentine Group/Smith Towing

November 17, 2010



Greg Breetz, Chairman

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

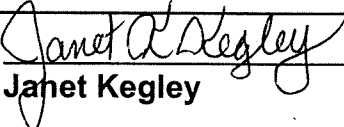


Ben Brandstetter

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Kim Bunger

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____



Janet Kegley

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Susan Poston

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 1 FOR PROJECT _____ ABSENT
2 AGAINST PROJECT _____ ABSTAIN

SUPPORTING INFORMATION



BOONE COUNTY PLANNING COMMISSION

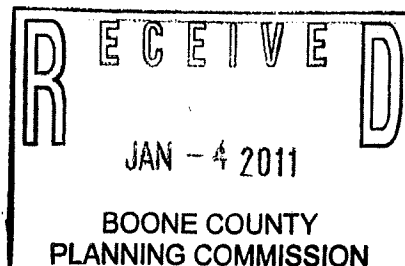
www.boonecountyky.org/pc
www.boonecountygis.com

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

December 2, 2010

Mr. E. J. Foltz
Abercrombie & Associates
3377 Compton Road
Cincinnati, OH 45251



RE: Request of **EJ Foltz, Abercrombie & Associates, Inc. (applicant)** for **Miller Valentine Group (aka MV Land Development Company) (owner)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance from Table 31.1 of the Boone County Zoning Regulations, for 3.584 acres located on the north side of Dolwick Drive, approximately 800 feet east of the Dolwick Drive/Mineola Pike intersection and across from the property at 1614 Dolwick Drive, Boone County, Kentucky. The zone change area is part of a 12.096 acre site that is located in both Boone and Kenton Counties. The request is for a zone change to allow towing, impound, and wrecker services, and a Variance to reduce the front yard setback.

Dear Mr. Foltz:

The following represents the conditions of approval for the above referenced application as recommended by the Boone County Planning Commission at their December 1, 2010 Business Meeting. Provide the signature of the property owner, in the space provided at the end of this letter, and return to the Planning Commission office by Friday, December 3, 2010.

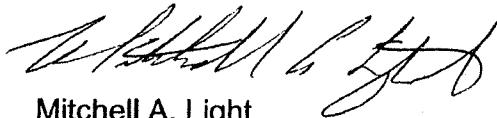
CONDITIONS

1. There will be no storage and/or the impounding of vehicles in Boone County.
2. There will be no overhead doors facing Dolwick Drive.
3. There will only be parking for employee automobiles with no outside storage of rollback and/or tow truck type vehicles used in the business in Boone County.
4. The buildings will be constructed of the types and colors of materials (white metal sides and green standing seam metal roofing with no roof equipment) per the elevation drawings presented at the November 17, 2010 Zone Change Committee meeting.

Mr. E. J. Foltz
Abercrombie & Associates
December 2, 2010
Page 2

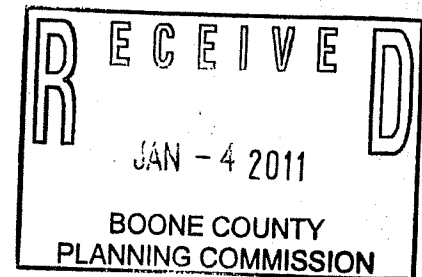
5. The secondary (westernmost) access point on Dolwick Drive has been eliminated.
6. A copy of the geotechnical engineer's report will be submitted with the application for Major Site Plan review.
7. Parking lot lights a maximum of 12 foot high will be reviewed as part of the required photometric plan to be submitted with the application for Major Site Plan review.
8. The required landscape plan will include 6' evergreen trees from Plant List D (Article 36, Landscaping, Boone County Zoning Regulations) with a spacing of 10' on center at the entrance in order to screen the overhead doors on the east side of proposed building 3.
9. Evergreen trees from Plant List D (Article 36, Landscaping, Boone County Zoning Regulations) will be planted in lieu of any deciduous trees in order to screen proposed building 4 from the view of a passenger traveling in an automobile on Dolwick Drive.
10. The applicant will pursue a purchase of the "notch" in the right-of-way of Dolwick Drive from the KTC. Documentation of this endeavor will be provided with the application for Major Site Plan review. If the right-of-way purchase is approved, the dimensional variance will no longer be necessary and a Staff review of the revised Concept Development Plan will occur to allow the building based upon meeting the current building setbacks.

Sincerely,



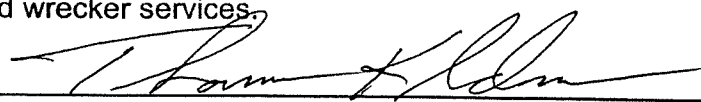
Mitchell A. Light
Assistant Zoning Admin/Enforcement Officer

MAL/pr



AGREEMENT

I, Thomas K. Adams, do hereby agree to the recommended conditions of approval stated above for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1), and a Variance to reduce the front yard setback for 3.584 acres to allow towing, impound, and wrecker services.



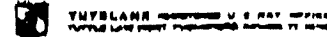
Thomas K. Adams
~~Miller Valentine Group~~ (owner)

MV Land Development Company

12-2-10
Date

FORM 88

Case No. 2013



QUIT - CLAIM DEED

BOOK 430 PAGE 06

KNOW ALL MEN BY THESE PRESENTS

CITY TRANSFER TAX PAID \$ 229.50
CLERK

THAT **MILLER-VALENTINE DEVELOPMENT, INC.**, an Ohio Corporation
of **Montgomery County**, State of Ohio, for valuable consideration paid, grants to

M V LAND DEVELOPMENT COMPANY, an Ohio General Partnership whose tax mailing address is:

P.O. Box 744
Dayton, Ohio 45401

the following real property:

Parcel 1

Situated in Group 2014, Boone County, Kentucky and being a portion of land conveyed to Miller Valentine Development, Inc. by deed recorded in Deed Book 315, Page 297 in the records of Boone County, Kentucky and lying on the South side of relocated Dolwick Drive as recorded in Highway Book 13, Page 102 and being more particularly described as follows:

Beginning at the intersection of the centerlines of Dolwick Drive and Interstate Drive; thence with the centerline of Interstate Drive South 41° 09' 36" West, 92.07 feet to the P.C. of a curve; thence South 48° 50' 24" East, 25.00 feet to the Southeast intersection of the right of way of Dolwick Drive and Interstate Drive and the true point of beginning for this description; thence with the right of way of Dolwick Drive, the following two courses South 75° 07' 01" East, 66.70 feet; thence South 33° 37' 03" East, 108.80 feet to the intersection of the West right of way of Dolwick Drive and the Boone Kanton County Line; thence with said county line South 5° 46' 06" East, 820.72 feet to the intersection of said county line and west right of way of Dolwick Drive; thence with said west right of way South 1° 41' 34" West, 719.11 feet; thence with the Interstate 275 and the former Dolwick Drive right of way, the following six courses; thence North 39° 56' 13" West, 494.91 feet; thence North 18° 08' 08" West, 53.85 feet; thence North 39° 56' 13" West, 200.00 feet; thence North 43° 10' 00" West, 194.80 feet; thence North 22° 20' 05" West, 147.75 feet; thence North 8° 40' 36" West, 209.41 feet to the East right of way of Interstate Drive; thence with the East right of way of Interstate Drive, the following eight courses North 75° 29' 07" East, 20.70 feet; thence on a curve to the left having a radius of 100.00 feet, on an arc distance of 51.29 feet, chord of said arc bears North 60° 47' 26" East, 50.73 feet; thence North 46° 05' 46" East, 328.75 feet; thence on a curve to the right having a radius of 50.00 feet, an arc distance of 36.14 feet, chord of said arc bears North 60° 48' 11" East, 35.36 feet; thence on a curve to the left having a radius of 50.00 feet, an arc distance of 88.50 feet, chord of said arc bears North 36° 40' 04" East, 77.39 feet; thence North 40° 05' 46" East 28.03 feet; thence on a curve to the left having a radius of 200.00 feet, an arc distance of 152.10 feet, chord of said arc bears North 24° 09' 45" East, 149.39 feet; thence on a curve to the right having a radius of 150.00 feet, an arc distance 101.92 feet, chord of said arc bears North 21° 41' 45" East 99.97 feet to the true point of beginning.

Contains 14.603 acres more or less.

Prior deed reference: Deed Book 315, Page 297, Boone County Records

Parcel 2

Situated in Group 2014, Boone County, Kentucky and being a portion of land conveyed to Miller Valentine Development, Inc. by deed recorded in Deed Book 315, Page 297 in the records of Boone County, Kentucky, and lying on the South side of relocated Dolwick Drive as recorded in Highway Book 13, Page 102 and being more particularly described as follows:

Beginning at the intersection of Dolwick Drive and Interstate Drive; thence with the centerline of Dolwick Drive South 48° 50' 10" East; 25.66 feet; thence leaving said centerline North 46° 09' 50" East 60.00 feet to the intersection of the North right of way line and the Boone Kenton County line and the true point of beginning for this description; thence with the North right of way of Dolwick Drive, the following four courses; thence North 43° 50' 10" West, 160.66 feet; thence North 5° 10' 35" West 96.05 feet; thence North 62° 16' 16" West, 158.11 feet; thence North 47° 02' 44" West 446.82 feet; thence with the North property line North 83° 40' 09" East, 458.16 feet; thence continuing along the North property line South 56° 19' 04" East, 85.92 feet; thence with the Boone Kenton County line South 5° 46' 06" East 895.26 feet to the true point of beginning.

Contains 3.584 acres more or less.

Prior Instrument Reference: Volume 315, page 297 Boone County Records.

WITNESS its hands this 20th day of August 1990.

Signed and acknowledged in presence of

Mary Ann Hartley
Annette F. Hunt

MILLER-VALENTINE DEVELOPMENT, INC., an Ohio Corporation

By William J. Schneider its President

STATE OF OHIO, COUNTY OF MONTGOMERY, ss;

The foregoing was acknowledged before me, a Notary Public, in and for said county and state, by William J. Schneider, President of Miller-Valentine Development, Inc., on behalf of said corporation and the same is the free act of said corporation on this 20th day of August, 1990.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Dayton, Ohio this 20th day of August, 1990.



Mary Ann Hartley
Notary Public

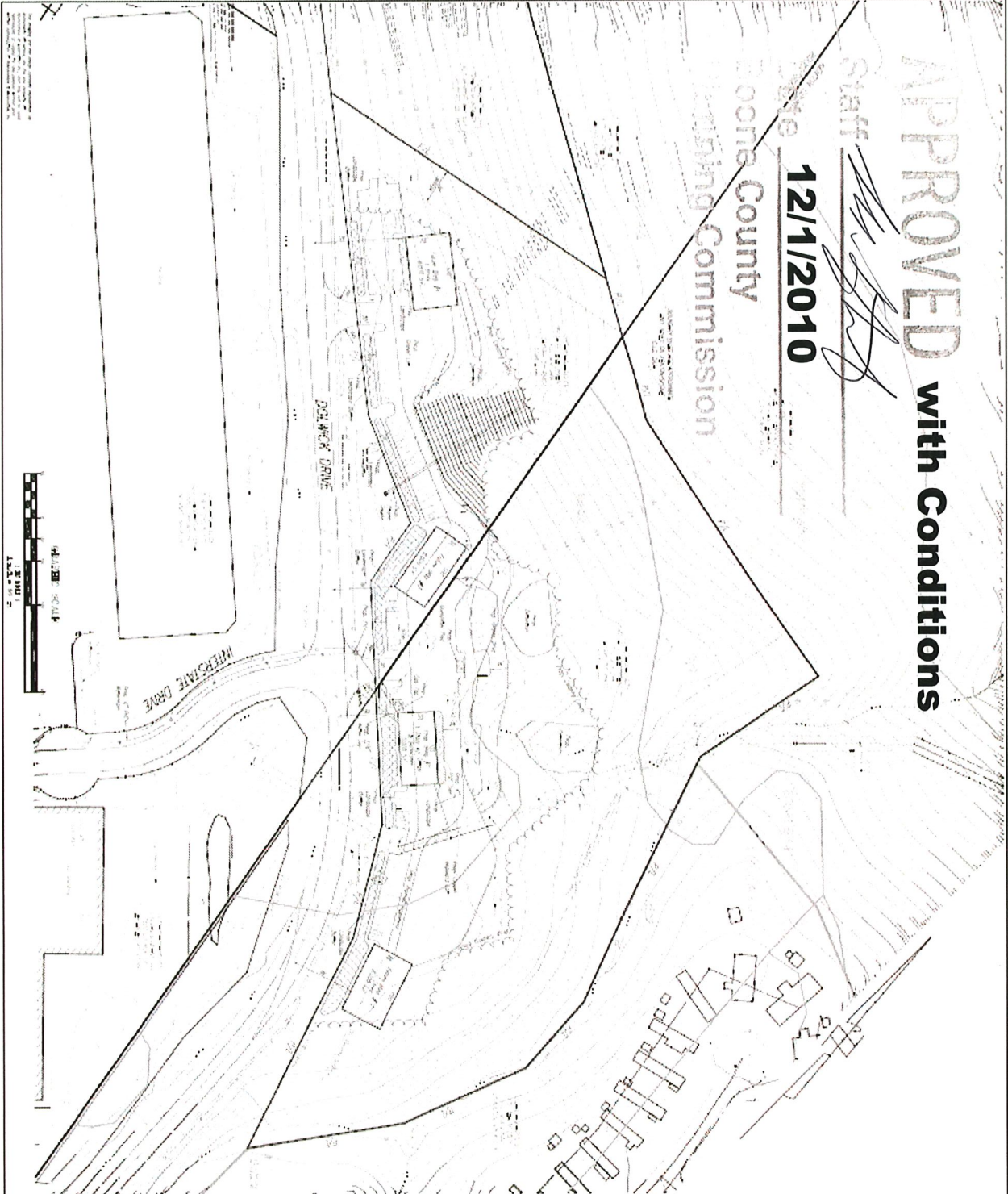
MARY ANN HARTLEY, Notary Public
In and for the State of Ohio
My Commission Expires Jan. 26, 1992

APPROVED with Conditions

Staff *[Signature]*

12/1/2010

Boone County
Planning Commission



NOTES:

1. ALL UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY.
2. THE EXISTING UTILITIES SHOWN ARE NOT TO BE MOVED OR DELETED.
3. THE EXISTING UTILITIES SHOWN ARE NOT TO BE MOVED OR DELETED.
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9. THE EXISTING UTILITIES SHOWN ARE NOT TO BE MOVED OR DELETED.
10. THE EXISTING UTILITIES SHOWN ARE NOT TO BE MOVED OR DELETED.

CONCEPT DEVELOPMENT PLAN

<p>Abercromble & Associates, Inc. Civil Engineering & Surveying 11111 Beechmont Blvd. Suite 100 Louisville, KY 40243 502-261-1111</p>	<p>PRELIMINARY STAGE 1 PLAN</p>	<p>1" = 100'</p>	<p>1" = 100'</p>	<p>1" = 100'</p>	<p>1" = 100'</p>
	<p>SWIN TOWNSHIP 1000 BUCKLE DRIVE CITY OF BOONE COUNTY BOONE COUNTY, KENTUCKY</p>	<p>1" = 100'</p>	<p>1" = 100'</p>	<p>1" = 100'</p>	<p>1" = 100'</p>

WRIGHT BLUEPRINTS, INC. is a member of the WRIGHT GROUP, a national firm of architects, interior designers, landscape architects, and engineers. We are currently working on the design of the proposed building for Wright Blueprints, Inc. in the City of Phoenix, Arizona. The project is located at 11111 N. 19th Avenue, Phoenix, Arizona 85021. The project is a 10,000 sq. ft. building with a total of 10,000 sq. ft. of floor area. The building is a single-story building with a total of 10,000 sq. ft. of floor area. The building is a single-story building with a total of 10,000 sq. ft. of floor area.



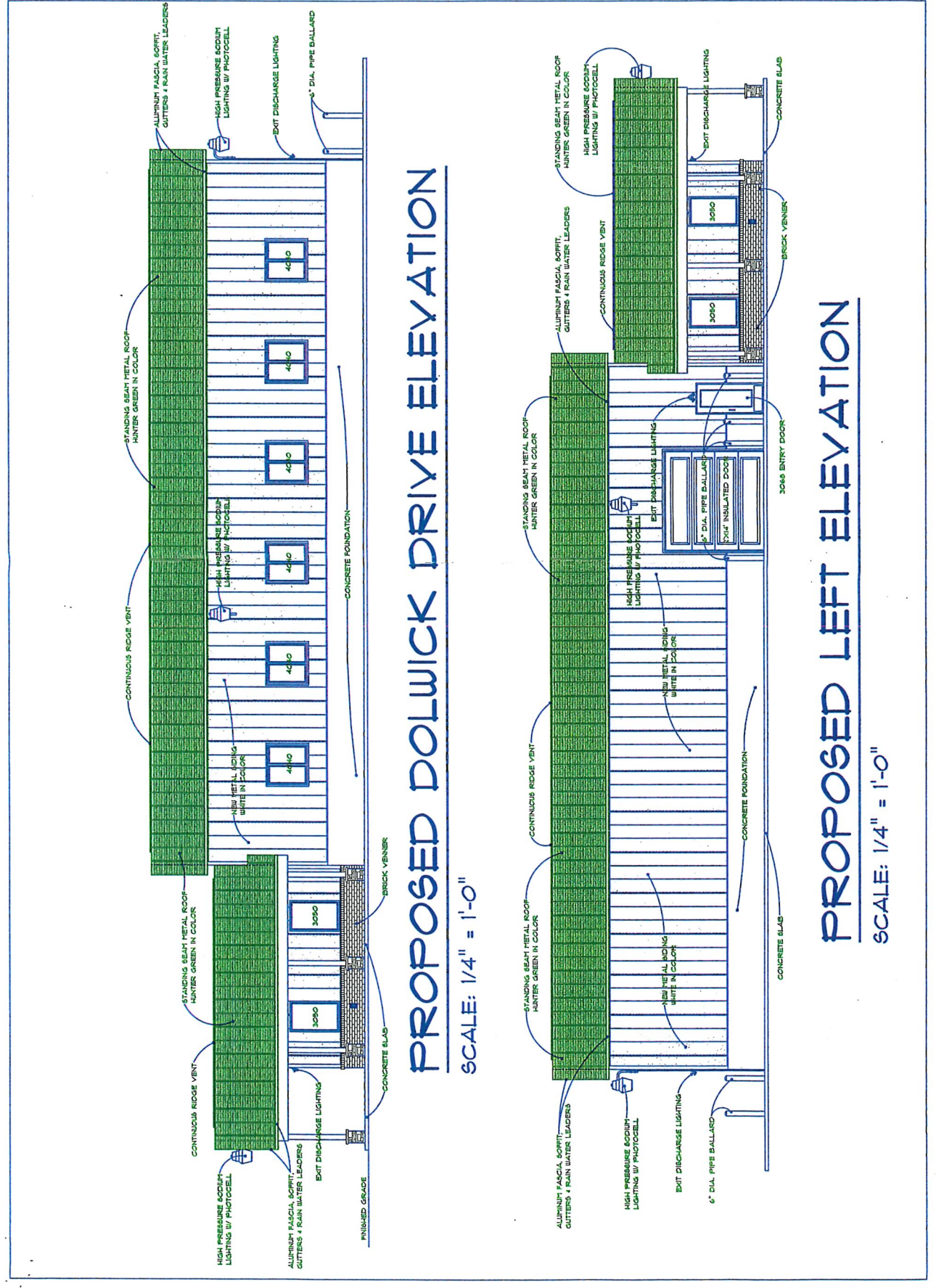
WRIGHT BLUEPRINTS
 "The First Year Done or Paid"
 533 Millington Road
 Phoenix, Arizona 85024
 Phone: (602) 944-0001

PROPOSED ELEVATIONS
BUILDING 1
 DRAWING TITLE:

DRAWN BY: Donald A. Wright
 CHECKED BY: [Blank]
 DATE: 11-21-10
 SCALE: 1/4" = 1'-0"

DRAWING NOTES:
 Comment Type: Data Issue
 Drawing Complete: 11-21-10
 Drawing Revised:

SHEET NUMBER:
Al.1
 SHEET 1 OF 8



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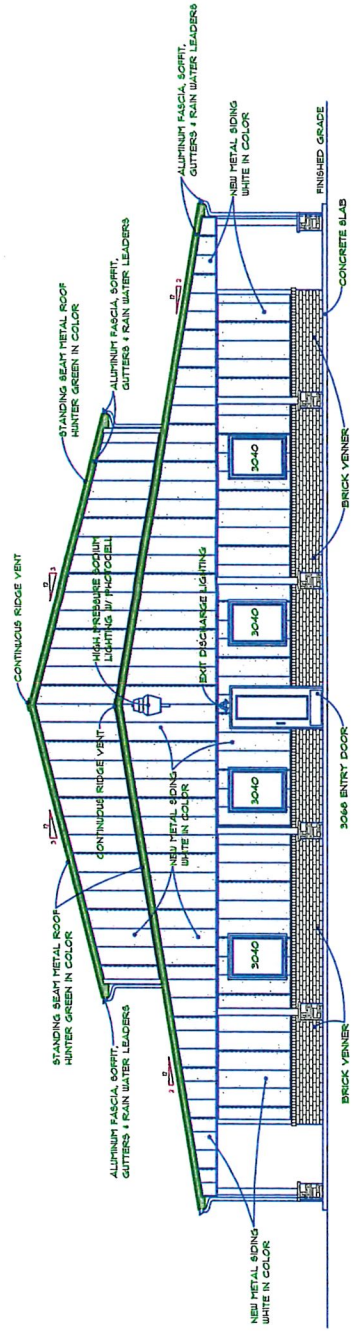
WRIGHT-BLUEPRINTS
 "We're Not Done on Paper"
 513 McMillanburg Road
 Falstown, Maryland 21040
 Phone: (410) 324-8677

PROPOSED ELEVATIONS
BUILDING 1

DRAWING TITLE: PROPOSED ELEVATIONS
 DESIGNER BY: David A. Wright
 DATE: 11-12-10
 SCALE: 1/4" = 1'-0"

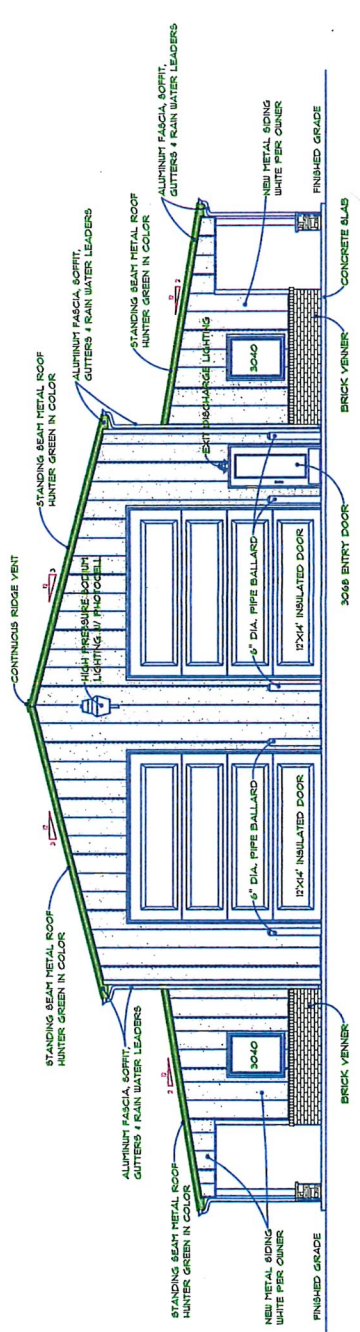
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 Comment Type: Date Issued:
 Drawing Completed: 11-12-10
 Drawing Revisions:

SHEET NUMBER:
A1.2
 SHEET 2 OF 2



PROPOSED ELEVATION

SCALE: 1/4" = 1'-0"



PROPOSED ELEVATION

SCALE: 1/4" = 1'-0"

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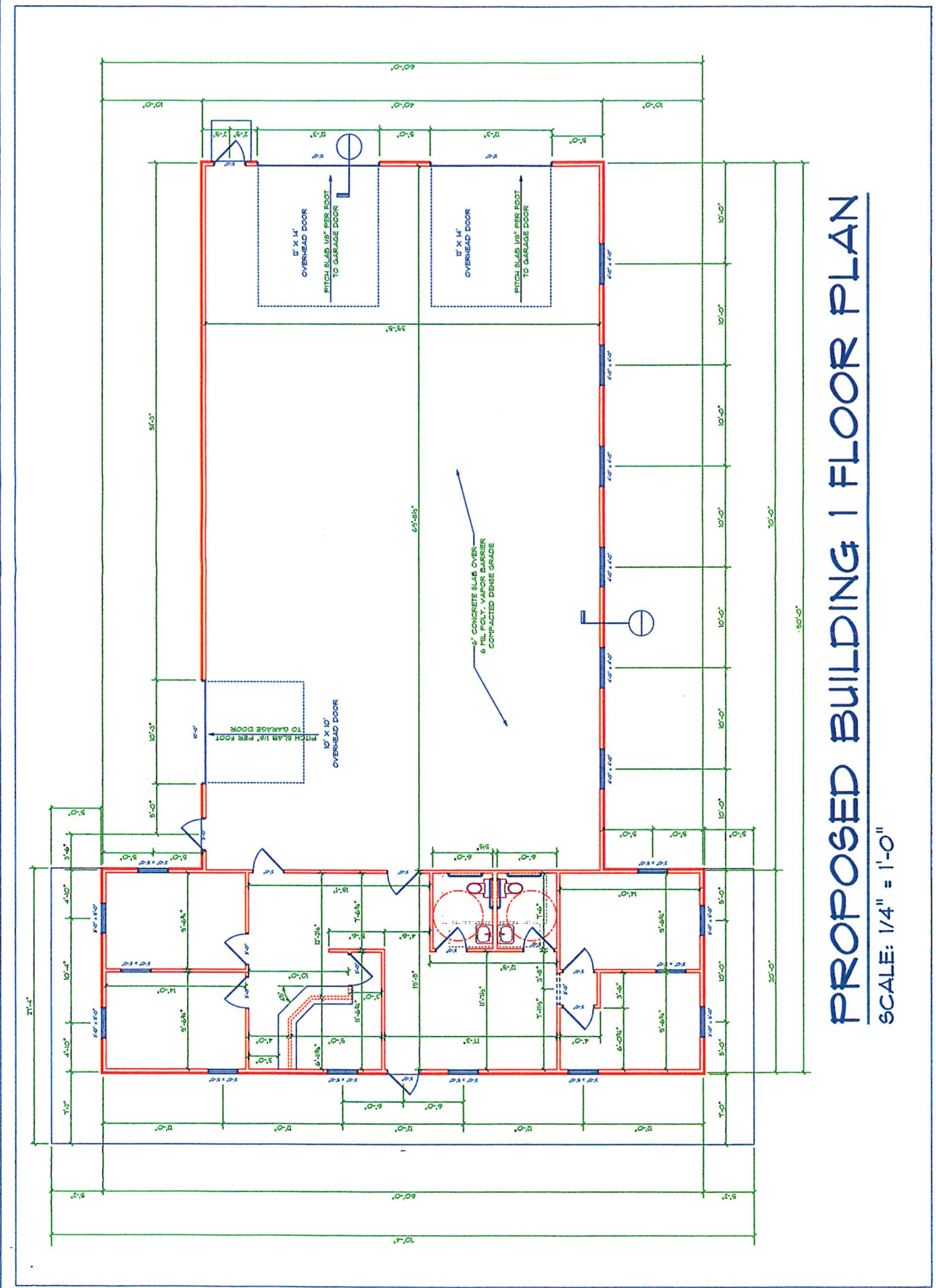
WRIGHT BLUMPRINTS
 "We Put Your Dreams on Paper"
 533 Montgomery Road
 Fairmont, Kentucky 40420
 Phone: (606) 684-8877

DRAWING TITLE:
BUILDING 1 PROPOSED FLOOR PLAN

DESIGNED BY: Donald A. Wright
 CHECKED BY:
 DATE: 11-12-10
 SCALE: 1/4" = 1'-0"

DRAWING NOTES:
 Comment Type: Date Issued:
 Printing Date: 11-12-10
 Drawing Revised:

SHEET NUMBER:
A1.3
 SHEET 3 OF 8



PROPOSED BUILDING 1 FLOOR PLAN

SCALE: 1/4" = 1'-0"

PROVIDED WITH THIS DRAWING IS THE PROVISIONAL SPECIFICATION FOR THE CONSTRUCTION OF THE BUILDING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR THE PROTECTION OF ALL UTILITIES AND ADJACENT PROPERTIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND ADJACENT PROPERTIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND ADJACENT PROPERTIES.



WRIGHT BLUEPRINTS
 "We Put Your Dreams on Paper"
 5111 McHenry Road
 Fallstown, Kentucky 40400
 Phone: (502) 654-6677

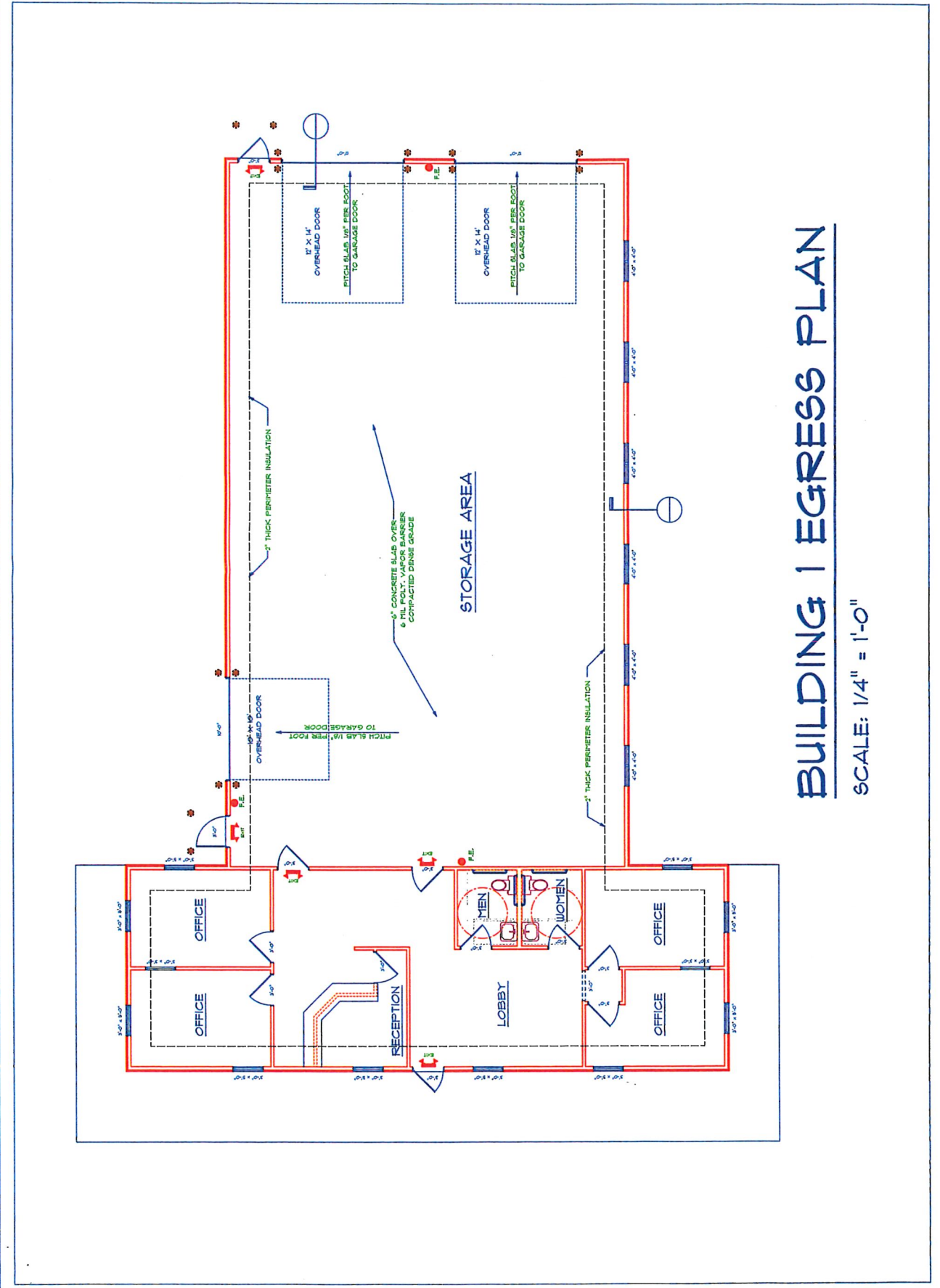
**BUILDING 1
 EGRESS PLAN**

DRAWING TITLE:

DESIGNED BY: Donald A. Wright
 CHECKED BY:
 DATE: 11-21-10
 SCALE: 1/4" = 1'-0"

DRAWING NOTES:
 Comment Type: Data Issue
 Drawing Complete: 11-21-10
 Drawing Revised:

SHEET NUMBER:
A1.4
 SHEET 4 OF 6



BUILDING 1 EGRESS PLAN

SCALE: 1/4" = 1'-0"

WRIGHT BUILDPRENTS
 "We Put Your Dreams on Paper"
 623 Millersburg Road
 Florence, Kentucky 41040
 Phone: (502) 854-4877



WRIGHT BUILDPRENTS
 "We Put Your Dreams on Paper"
 623 Millersburg Road
 Florence, Kentucky 41040
 Phone: (502) 854-4877

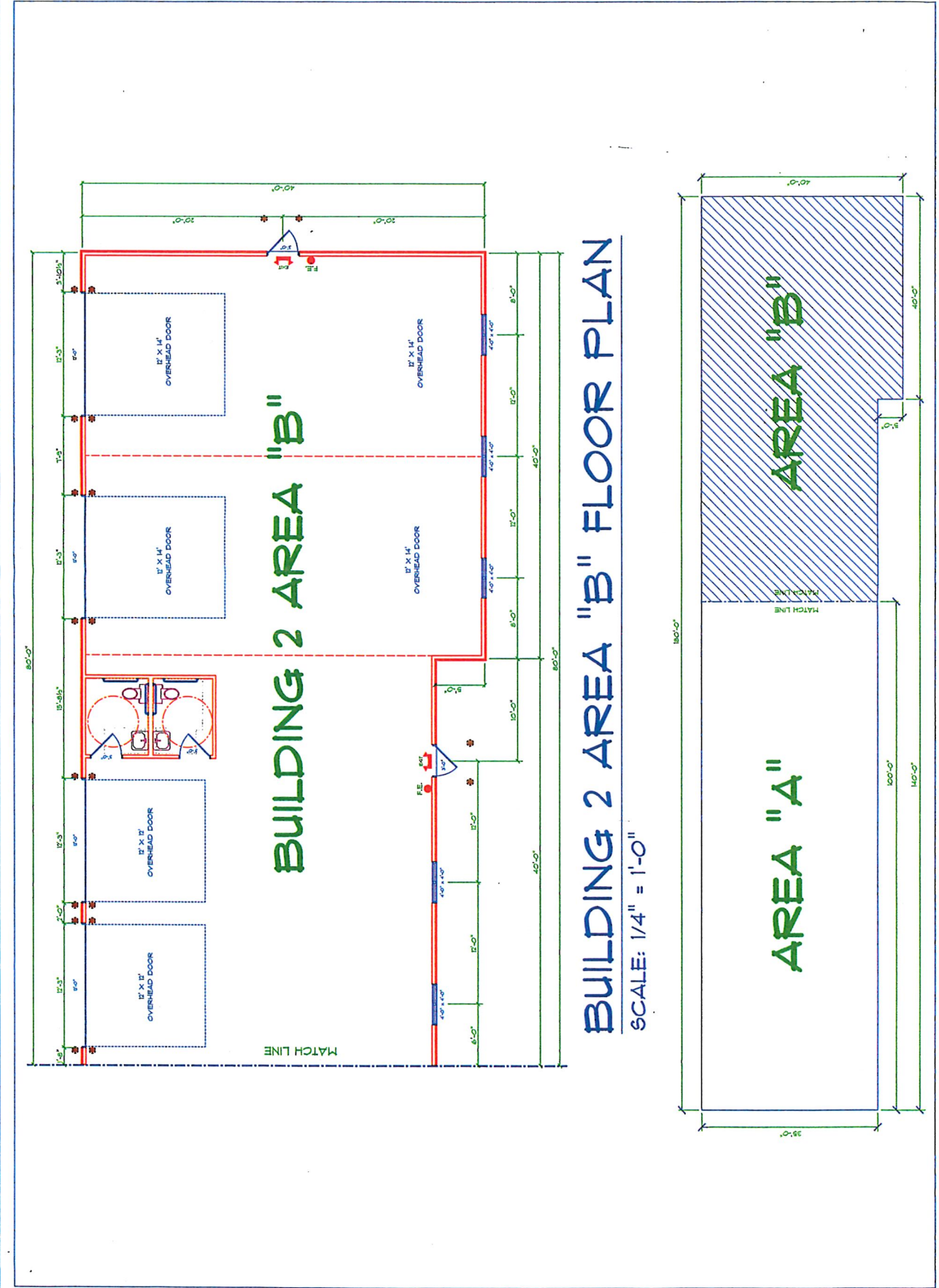
BUILDING 2 AREA "B"
PROPOSED FLOOR PLAN

DRAWING TITLE
 DESIGN BY: David A. Wright
 CHECKED BY:
 DATE: 11-12-10
 SCALE: 1/4" = 1'-0"

DRAWING NOTES:
 Comment Type: Data Issue:
 Drawing Complete: 11-12-10
 Drawing Revised:

SHEET NUMBER:
A1.5

SHEET 5B OF 8



BUILDING 2 AREA "B" FLOOR PLAN

SCALE: 1/4" = 1'-0"

AREA "A"

AREA "B"

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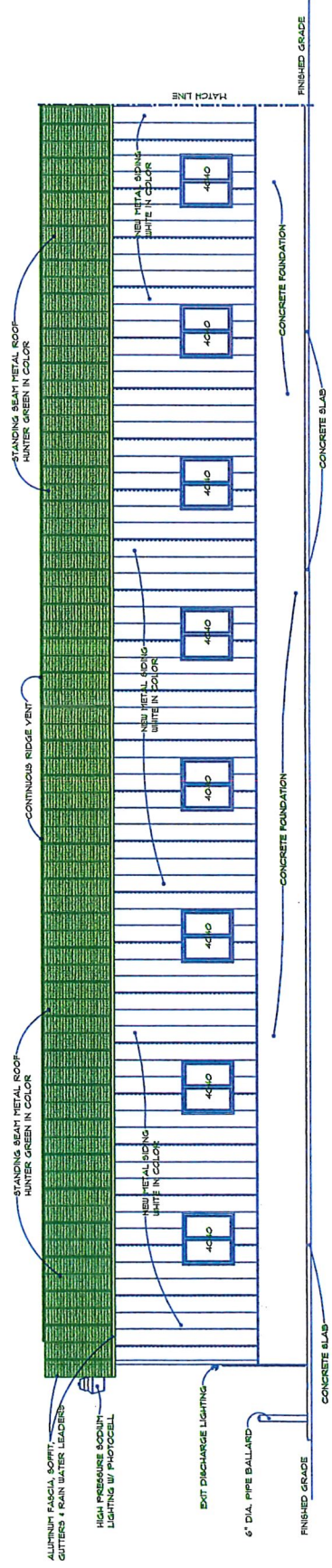
WRIGHT.
WRIGHT BLUEPRINTS
 "We Put Your Dreams on Paper"
 513 Richmond Road
 Raleigh, North Carolina 27604
 Phone: (919) 854-9771

PRAWING TITLE:
BUILDING 1 AREA "A"
FRONT & REAR ELEVATION

DRAWN BY: David A. Wright
CHECKED BY:
DATE: 11-13-10
SCALE: 1/4" = 1'-0"

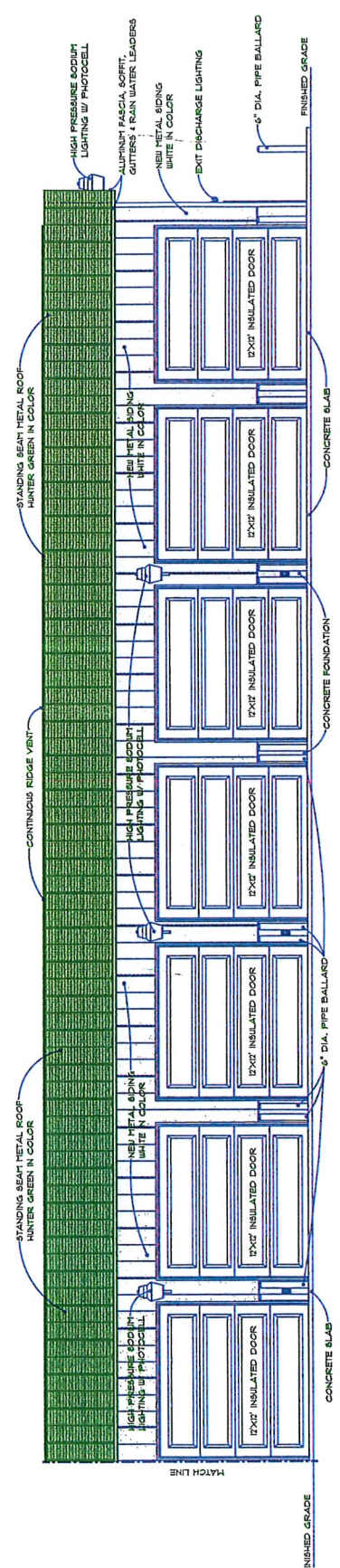
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 Comment Type: Date Issued:
 Drawing Complete: 11-12-10.
 Drawing Author:

SHEET NUMBER:
A1.6
SHEET 6 OF 8



BUILDING 2 AREA "A" DOLWICK DRIVE ELEVATION

SCALE: 1/4" = 1'-0"



BUILDING 2 AREA "A" REAR ELEVATION

SCALE: 1/4" = 1'-0"

OFFICE: 1015 THE MONUMENTS CENTER
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 1015 THE MONUMENTS CENTER
 1015 THE MONUMENTS CENTER
 1015 THE MONUMENTS CENTER



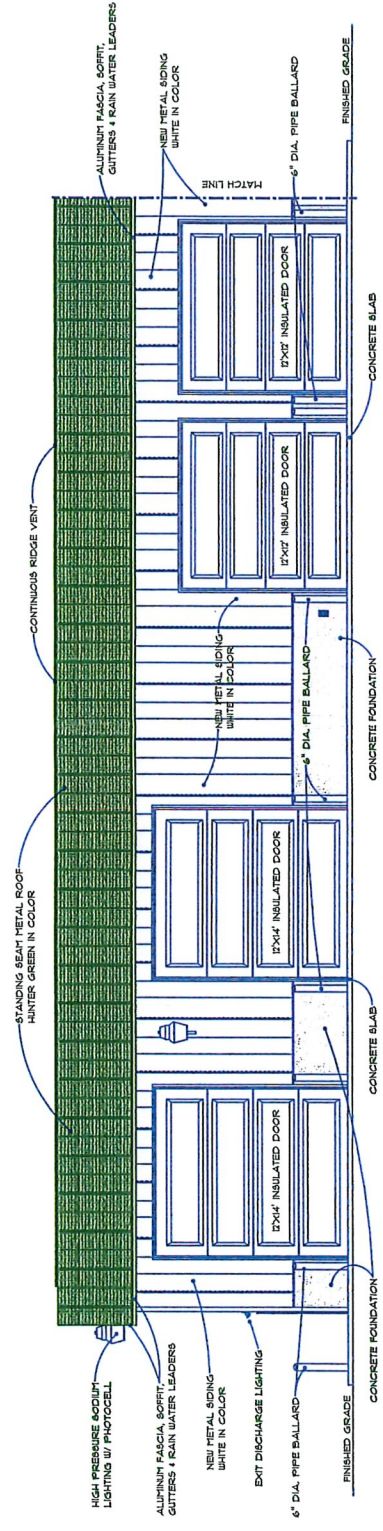
WRIGHT BLUEPRINTS
 "We're Not Done on Paper"
 522 Montgomery Road
 Falmouth, ME 04101
 Phone: (207) 854-6777

FRONT & REAR ELEVATIONS
BUILDING 2 AREA "B"

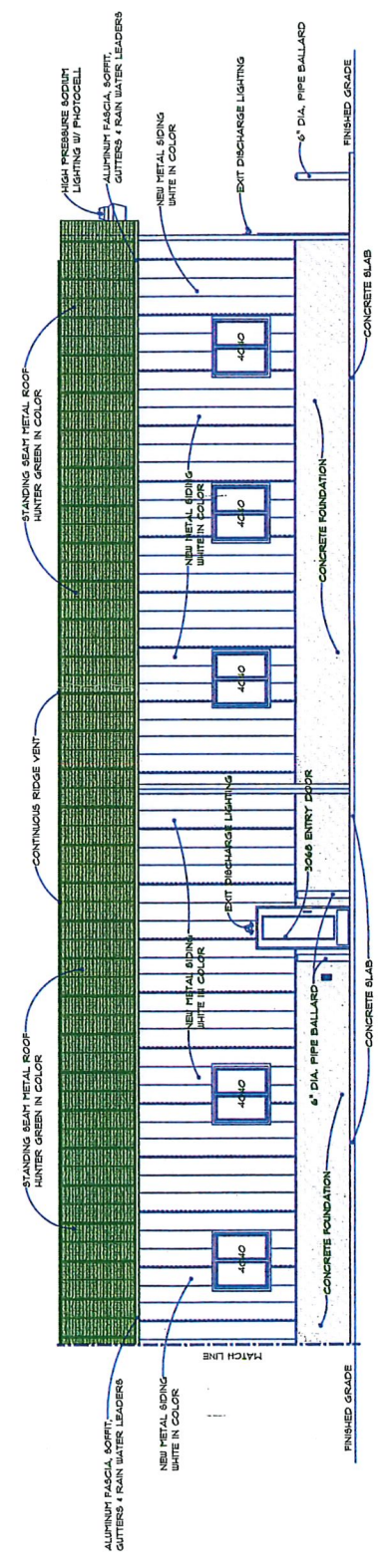
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 DRAWN BY: Donald A. Wright
 CHECKED BY:
 DATE: 11-19-10
 SCALE: 1/4" = 1'-0"

DRAWING NOTES:
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 Drawing Complete: 11-17-10
 Drawing Revised:

SHEET NUMBER:
Al.7
 SHEET 7 OF 9



BUILDING 2 AREA "B" REAR ELEVATION
 SCALE: 1/4" = 1'-0"



BUILDING 2 AREA "B" DOLWICK DRIVE ELEVATION
 SCALE: 1/4" = 1'-0"

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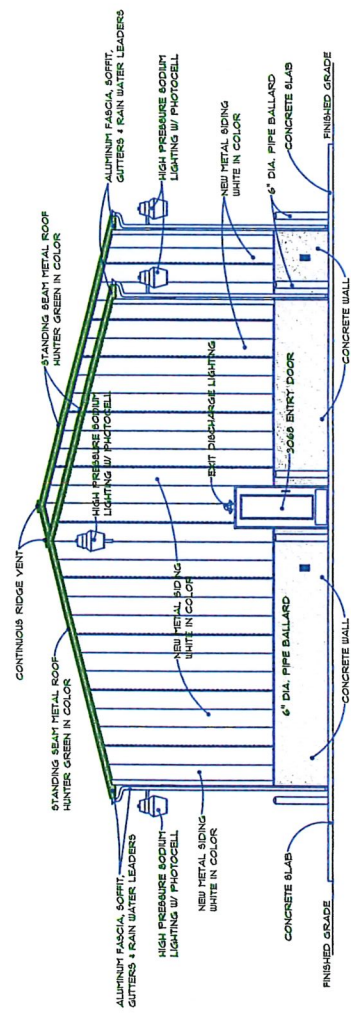
WRIGHT BLUEPRINTS
 "We Put Your Dreams on Paper"
 533 Midway Road
 Houston, Texas 77059
 Phone: (832) 954-4377

DRAWING TITLE:
BUILDING 2 AREA "B"
LEFT & RIGHT ELEVATIONS

DESIGN BY: David A. Wright
CREATED BY:
DATE: 11-20-10
SCALE: 1/4" = 1'-0"

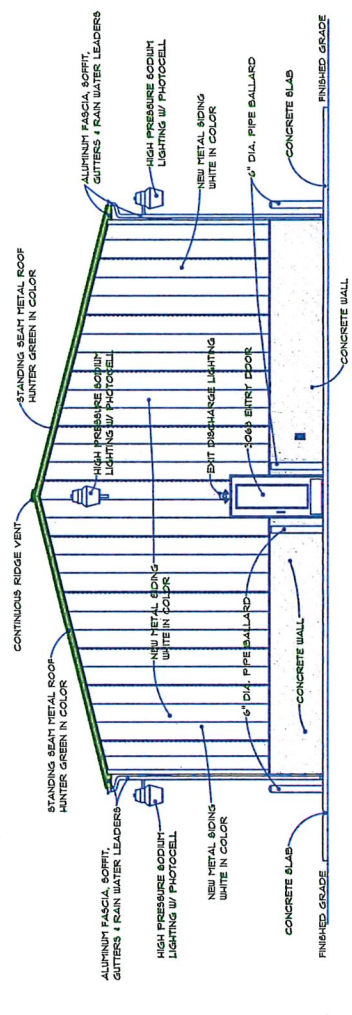
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 Comment Type: Date Issued:
 Drawing Complete: 11-12-10
 Drawing Status:

SHEET NUMBER:
A1.8
SHEET 8 OF 8



BUILDING 2 AREA "B" LEFT ELEVATION

SCALE: 1/4" = 1'-0"



BUILDING 2 AREA "B" RIGHT ELEVATION

SCALE: 1/4" = 1'-0"



VistaSheen®

DESCRIPTION:

Since the new PBR panel has been introduced to replace the VistaSheen® panel, it is used exclusively for additions to existing buildings containing VistaSheen®.

FEATURES:

- 36" Coverage
- Trimless Ridge
- Start installation at either end
- Economical profile
- Finish Warranty
- Diaphragm Action
- Reverse Rolled Profile
- Purlin Bearing Leg

BENEFITS:

- The panel qualifies under several UL90 construction numbers

GAUGE: 26 (standard), with 24 and 22 gauge optional

LENGTH: 45" maximum length is standard but longer lengths are available by special request.

DIMENSIONS: 36" coverage x 1 1/4"

FASTENERS: Standard coated, zinc-aluminum cast head, or stainless steel head screw.

FINISH: Galvalume®, Signature® 200 & 300 Series

USAGE: Roof & wall applications.

LIMITATIONS: Not designed for coverage over bar joist or to be used as rigid secondary. Five foot on center purlin spacing.

NOTE: Oil-canning is not considered grounds for rejection of any panel system. Oil-canning can occur in any panel with wide flat sections. Heavier gauge, embossing, striations, flatter sub-frame systems and support from a solid sub-deck can all help to minimize oil-canning.



PBA

DESCRIPTION:

The PBA panel produces a decorative smooth shadow line wall creating a distinctive architectural effect with semi-concealed fasteners. Ribs are 1 1/8" deep and major corrugations spaced 12" on center. The net coverage of panel is 3'-0".

FEATURES:

- Semi-concealed fastener panel
- Striations
- Signature® 200 and 300 Series
- Continuous eave to sill until panel exceeds 40'-0" length
- Optional Embossed texture
- UL "Class A" fire rating

BENEFITS:

- Attractive architectural application
- Reduces oil canning, textured appearance
- Attractive with no end laps, and ease of erection
- Premium paint finish with 20 year warranty, ultimate resistance to color changes and chalk
- This panel carries a UL "Class A" fire rating.

GAUGE: 26 and 24

LENGTH: Maximum recommended 45'. Longer lengths available on special order.

DIMENSIONS: 36" wide by 1 1/8" deep

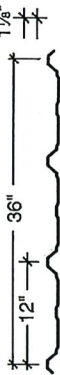
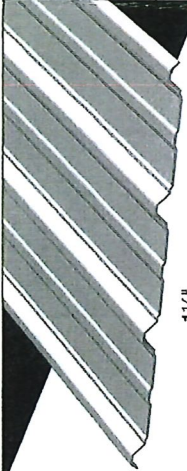
FASTENERS: Various, depending on application

FINISH: Galvalume®, Signature® 200 & 300 Series

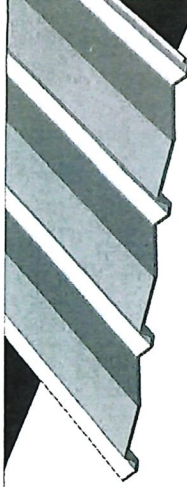
USAGE: Wall panel, liner panel, soffit panel, mansard panel face and back sheet.

LIMITATIONS: Installation may be difficult with very thick insulation.

NOTE: Oil-canning is not considered grounds for rejection of any panel system. Oil-canning can occur in any panel with wide flat sections. Heavier gauge, embossing, striations, flatter sub-frame systems and support from a solid sub-deck can all help to minimize oil-canning.



Roof



Wall