

APPLICATION FORM

CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION

SEVEN (7) COPIES OF SUBMITTED DRAWINGS ARE REQUIRED

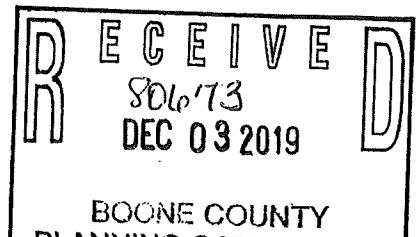
(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Check One:
Concept Development Plan (Includes Utilization of an Underlying Zone in a Planned Development)
X Change in an Approved Concept Development Plan
Long Range Planning Committee Review (As stated in the Houston-Donaldson Study)
Long Range Planning Committee Review (As stated in the Union Town Plan)
Zone Change Committee Review of previously approved Concept Development Plan Conditions or Zoning Map Amendment Conditions
Zoning Administrator Review (As stated in the Central Florence Strategic Plan, An Update of the Parkway Corridor Study)
Zoning Administrator Review (As stated in the Mall Road District Study)
2. Name of Project Harper Company Laydown Yard Expansion
3. Location of Project 1648 Petersburg Road, Hebron, KY 41048
4. Total Acreage of Site 5.39
5. Current Zoning I-1/CD
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) October 15, 2008
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) No
8. Proposed Uses (please specify each use) Contractor equipment and material staging
9. Proposed Building Intensities (please specify) N/A - no buildings proposed
10. Have you submitted a Concept Development Plan? No
11. Are you also applying for:
Conditional Use Permit Variance #1: Buffer Yard Width
Two (2) Dimensional Variance Variance #2 : KY20 Street Frontage Fence Setback
12. Name of Applicant(s) Jim Thomas
Phone Number 859-586-8890 Fax No. 859-586-8891 E-Mail jthomas@harperco.com
13. Address of Applicant(s) 1648 Petersburg Road
Hebron KY 41048
City State Zip
14. Name of Property Owner(s) The Harper Company
Phone Number 859-586-8890 Fax No. 859-586-8891 E-Mail jthomas@harperco.com
15. Address of Property Owner(s) 1648 Petersburg Road
Hebron KY 41048
City State Zip
16. Are there any existing buildings on the site? No
How many?
17. Deed Book 1108 Page No. 247 Group No. 2010
18. Have you had a pre-application meeting with BCPC Staff? Yes
19. Please check the following organizations/agencies which you have discussed the proposed development with in the last several months:

- N/A Boone County Water District
N/A Florence Public Services Dept.
N/A Duke Energy
Yes Sanitation District #1

(over)



- N/A Cincinnati Bell
- N/A Owen Electric Cooperative, Inc.
- N/A Boone County Public Works Department
- Yes Kentucky Transportation Cabinet
- N/A Boone County Building Department
- N/A Northern Kentucky Health District
- N/A USDA NRCS/Boone County Conservation District
- N/A KY Division of Water
- N/A Local School District
- N/A Local Fire District
- Yes Other: US Army Corps of Engineers

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

21. **Waiver of 60 Day Time Requirement by Originator for Final Planning Commission Action**

Check if Applicable

In accordance with the provisions in KRS 100.211, the applicant(s) and property owner(s) or originators above, hereby waive the 60 day time limit for the Boone County Planning Commission to take final action on my (our) Zoning Map Amendment and/or Concept Development Plan* application. This time limit waiver is considered effective immediately upon receipt by the Boone County Planning Commission and expires on February 6, 2020

22. ORIGINAL Property Owner's Signature [Signature]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

23. ORIGINAL Applicant's Signature [Signature]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

SECTION B (To be completed by BCPC Staff)

1. Date Received 12/3/19 Fee Received \$ 3,689.80 R# 80673
2. Check what has been submitted:
 Application Fee Legal Description
 Concept Development Plan Addresses of Adjoining Property Owners
 No. of copies of plan received **
3. Date Application is **Administratively Complete** as Defined in KRS 100.211
4. Staff Reviewer TODD MORGAN
5. Committee Chairperson _____
6. Scheduled Public Hearing Date 1/8/20
7. Boone County Planning Commission Action:
 Approved 6/3/20 Approved With Conditions
 Denied
8. Other: _____

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

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

EXHIBIT

“A”

STAFF REPORT

Request of **Jim Thomas (applicant)** for **The Harper Company (owner)** for a Change in Concept Development Plan in a Industrial One (I-1) zone and two dimensional variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request is for a Change in Concept Development Plan to allow contractor equipment and materials staging and variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way.

January 8, 2020

REQUEST

The request consists of the following applications:

1. A Change in Concept Development Plan application to allow additional contractor equipment and materials staging on the site (see 2008 site history, approved Concept Development Plan, and conditions of approval for more detail).
2. A Variance to reduce the KY 20 street frontage buffer yard requirement from 10' (Buffer Yard A) to 0'. Kentucky Transportation Cabinet has provided an email indicating that they would allow plantings to be installed in the KY 20 right-of-way.
3. A Variance to reduce the perimeter landscaping buffer yard requirement along the southern property line from 10' (Buffer Yard A) to 0'.

Note: Kenton County Airport Board owns the adjoining pie shaped property located immediately south of the site and on the same side of KY 20. The Harper Company has installed fencing along the KY 20 right-of-way line on this property, without their consent. The Harper Company has contacted Kenton County Airport Board about acquiring this property (see attached email from Paul Hegedus). This property would become part of the KY 20 street frontage buffer yard request if the property is acquired by the Harper Company.

4. A Variance to reduce the perimeter landscaping buffer yard requirement along a portion of the northeast property line from Buffer Yard D (80' or 40' with fence, wall, or berm) to 0'.

Note: Kenton County Airport Board owns the adjoining property.

5. A Variance to reduce the fence setback requirement from the Petersburg Road right-of-way from 50' to 0'.

Note: An 8' tall chainlink fence with barbed wire is being proposed and the applicant will be seeking a Waiver from the Zoning Administrator to waive the decorative fence standards in the front yard of the development (see applicable zoning regulations #8 on page 4 of the Staff Report).

PERTINENT SITE HISTORY

In 2008, the subject site was part of a Zoning Map Amendment application, which rezoned an approximate 7.9 acre site from Suburban Residential One (SR-1) to Industrial One (I-1) to allow the expansion of a outdoor contractor staging area and other uses permitted in the I-1 zone. The approved Concept Development Plan showed 20,000 and 16,000 square foot buildings located in close proximity to KY 20, staging areas behind the buildings, and a minimum 75' wide buffer between the creek and rear of the site. Eight (8) conditions of approval were imposed on the approval (see attachments).

In 2017, the subject site was part of Zoning Map Amendment and Variance applications. The request was to allow an approximate 10 acre site located at 1582 and 1648 Petersburg Road to be rezoned from Industrial One (I-1) to Industrial Two (I-2) to allow construction related uses and all principally permitted and accessory uses of the I-2 zone (including a concrete or asphalt plant). The Variance was to reduce the required landscaping buffer along the eastern property line. The applications were withdrawn by the applicant on November 27, 2017.

In February 2019, Boone County Planning Commission Staff made Harper Company aware that they had graded and fenced the property without approvals and that having contractor storage and staging to the KY 20 right-of-way line was not permitted per the 2008 zone change approval.

APPLICABLE ZONING REGULATIONS

1. Section 303 of the Boone County Zoning Regulations states that at the time of filing an application for a Zoning Map Amendment, an applicant may also request a dimensional variance and/or conditional use permit for the same development. The Planning Commission takes final action of any such Variance or Conditional Use Permit applications.
2. The Planning Commission needs to evaluate the Variance requests as they relate to the criteria listed in Section 251 of the Boone County Zoning Regulations:

Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.

- A. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- B. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
- C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

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

3. Section 3314 of the Boone County Zoning Regulations requires all parking and loading spaces set forth in Sections 3311 and 3325, including driveways, aisles, vehicle storage, outdoor storage, and vehicle circulation areas shall be improved with either asphalt concrete or portland cement concrete to provide a durable and dust-free surface. Exceptions to these requirements shall be determined by the Zoning Administrator upon written request of an applicant.

Note: The applicant will be seeking a Waiver from the Zoning Administrator if the Change in Concept Development Application is approved to allow gravel surfacing. The Zoning Administrator would like input from the Planning Commission and Boone County Fiscal Court through this public hearing process.

4. Section 3620 of the Boone County Zoning Regulations requires street frontage landscaping to be provided from Buffer Yard A when a use adjoins a street. The required shrubs from Plant List C and E can be reduced by 50 percent if the buffer yard width is increased from 10 feet to 20 feet and can be eliminated if the buffer yard area is increased to 30 feet. However, in all cases the trees required from Plant List A, B, C, or D shall still be required.
5. Buffer Yard Table #1 in Article 36 of the Boone County Zoning Regulations requires Buffer Yard D to be installed when a developing I-1 property adjoins a residential zone.
6. Buffer Yard Table #2 in Article 36 of the Boone County Zoning Regulations requires the following plantings in Buffer Yards A and D:

Buffer Yard A - Landscaping required per 100 linear feet at 10' wide:

- 5 small trees from Plant List C or 3 large, medium, or evergreen trees from Plant Lists A, B, or D.
- 30 small shrubs from Plant List E or 15 large shrubs from Plant List C.

Buffer Yard D (option 1) - Landscaping required per 100 linear feet at 80' wide:

- 20 Evergreen trees from Plant List D (Planted in double row).
- 11 large trees from Plant List A.
- 40 shrubs from Plant List C

Buffer Yard D (option 2) - Landscaping required per 100 at 40' wide with a 6' tall berm, fence, or masonry wall. Fences or walls used must be located in the center of the buffer and fences must provide 100% opacity. The maximum slope for the berm is 2.5 to 1.

- 20 Evergreen trees from Plant List D (Planted in double row).
- 11 large trees from Plant List A.
- 20 shrubs from Plant List C

7. Section 3635 of the Boone County Zoning Regulations requires loading/unloading areas and storage areas to be screened from public street right-of-ways or if visible to an adjoining property. This screening shall be accomplished by continuous solid closed fence or wall if such a structure is permitted on the affected portion of the site by sections 3153 and 3655, earthen berm, hedging, evergreen plant materials or combination thereof which is high enough to effectively screen the items mentioned above from view. Any wall or fence shall be the same or compatible, in terms of texture and quality, with the material and color of the principle building. This section does not apply to sites within the I-1 and I-2 zones when the activities

noted above are located on a site so that they abut other I-1 or I-2 zoned sites, or abut a local or subcollector street when the area across the street is zoned I-1 or I-2; this section does apply to I-1 and I-2 zoned sites, or portions thereof, where neither of these circumstances exist (also refer to Section 3154).

Note: The applicant will be seeking a Waiver from the Zoning Administrator for this requirement if the Change in Concept Development Application is approved. The Zoning Administrator would like input from the Planning Commission and Boone County Fiscal Court through this public hearing process.

8. Section 3655 of the Boone County Zoning Regulations permits fences within the front yard and corner side yards according to the following standards:

- No fence can be taller than four (4) feet. The maximum height for fences in front yard and corner side yard areas in the I-1 and I-2 zones is eight (8) feet provided the fence meets the minimum required front yard or corner side yard building setback as applicable.
- Fences shall be of a decorative design, (chain link, barbed wire, stock wire, chicken wire and similar type fences are not permitted) and shall be designed to have an opacity of fifty (50) percent or less.
- No fence can be located within a public right-of-way nor can it be located in an area which will obstruct the sight triangle for any motorist or pedestrian as defined in Article 32.

Note: The applicant will be seeking a Waiver from the Zoning Administrator to modify required fence type from decorative fencing to chain link fencing with barbed wire if the applications are approved. The Zoning Administrator has indicated that he would like input from the Planning Commission and Boone County Fiscal Court through this public hearing process.

SITE CHARACTERISTICS

The approximate 5.39 acre site has 170' of frontage on the north side of KY 20 and is being used for outdoor contractor storage and staging. Boone County GIS shows the topography of the parcel falls from 872 feet above sea level at the KY 20 right-of-way line to 822 feet above sea level above where Elijah Creek run through the northern portion of the property. It should be noted that the property is currently being filled and that most of the vegetation shown on the property in the 2016 aerial map has been cleared. Eight foot (8') tall chainlink has been installed along the KY 20 right-of way line, northeast property line, and to the south of the creek. Access to the property is provided from the existing Harper Company operation (KY 20 and Ariens Drive) and a new gated access point on KY 20. The property is located in the 55 decibel noise level contour on the 2011 noise contour map.

ADJACENT LAND USES AND ZONING

- Northeast: Properties Owned By Kenton County Airport Board (SR-1)
- Northwest: Harper Company (I-1), Single-Family Residential Dwellings (SR-1)
- Southeast: KY 20 and Kenton County Airport Board Property (SR-1)
- Southwest: Harper Company (I-1)

RELATIONSHIP TO COMPREHENSIVE PLAN

The Our Boone County Plan 2040 contains a 2040 Future Land Use Map. The map forecasts the majority of the site as Industrial uses and the northern tip for Suburban Density Residential uses. These future land use classifications are defined as follows:

Industrial - manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses.

Suburban Density Residential - Single family housing of up to four units per acre.

The Land Use Element makes the following statement regarding the general area:

- A. Due to the impacts of aviation noise, industrial uses are recommended on the east side of Limaburg Road (Hebron Area, pg. 111).

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 existing site features to determine positive and useful attributes, as well as features that 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. Development plans should identify such areas, and delineate disturb limits to protect those areas that have been defined. Open Space and Cluster subdivision designs should be considered to blend new subdivisions in with areas that have a rural character (Utilization of Existing Vegetation and Topography, pg 95).
- 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; where appropriate, 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 open space within developments and between developments. Developments proposed adjacent to planned or established open spaces should provide pedestrian access where appropriate. Natural green space benefits the community as well as encourages developers to create innovative development designs through clustering of buildings and impermeable area. Typically, buffering is required and provided between both like and 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, pp. 95-96).
- C. Developments in Boone County must include landscaping to accompany the proposed project. Retention of existing healthy vegetation is considered a component of landscaping and is encouraged. 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 soften the visual impacts of the development from adjoining properties and roadways. The amount of heat absorbed by impervious cover from sun radiation is decreased by landscaping, which reduces energy costs. Landscaping helps purify the air of harmful pollutants, thus reducing

health impacts. It also helps reduce the quantity and improve the quality of storm water runoff, including temperature. The use of bioretention islands (water filtering basins) and grass swales should be used where possible in place of raised islands as described in Northern Kentucky's Storm Water Best Management Practices Manual (2012). Native species are often heartier than nursery stock and should be used wherever possible to minimize pesticides and other high impact forms of maintenance. 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. 96).

- 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 is to construct and maintain stormwater facilities to slow the rate of flow using new and effective methods to control runoff. Another goal of local storm water programs should be to minimize the amount of storm water runoff generated by decreasing the amount of pavement, increasing on-site infiltration, and encouraging green rooftops.

Control and mitigation practices for erosion associated with developments must be provided. At a minimum, developments must reestablish ground cover on 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. Developments must obtain all required stormwater permits and comply with the permit requirements. Again, Northern Kentucky's Storm Water Best Management Practices Manual should also be utilized (Stormwater Management and Erosion Control, pg. 96).

- 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 sight distance for access points, adequate spacing 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, arterial or collector streets should not be used for direct access to lots, rather a system of local streets should feed into the collector and arterial street system. Connections between and within commercial and industrial developments allow for more efficient provision of transit service. In addition, the amount of travel time saved for services relying on routing (such as school buses, waste collection, mail, and other delivery services) is invaluable, not to mention the importance of simply connecting neighborhoods and people to each other. More importantly, the connectivity between developments promotes safety as emergency response vehicles have multiple ways of gaining access to a property during an emergency (Access Management, pg. 96).

- F. Developments in Boone County should give consideration to the overall design of the area. Site, landscape, and building design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify a specific development, but should not be used as a means to compete for motorist attention. The objective is to avoid the confusion and/or distraction of motorists, and to avoid the potential negative impacts of signs on the visual appearance of a development or corridor. Utility lines should be placed underground wherever possible, and junction boxes screened from public view (Design, Signs, and Cultural Resource Preservation, pg. 97).

The following Goals and Objectives relate to the requests:

- A. Boone County shall strive to achieve diversity and balance in land use while protecting natural resources and natural systems (Overall, Objective 3).
- B. Land use planning should recognize and protect natural systems (streams, wetlands, forests, etc.) essential to safety, health, economic stability, and overall quality of life (Environment, Goal A).
- C. Development shall attempt to utilize existing topography and vegetation (including mature trees where possible) and preserve the existing character of the land where practical (Environment, Goal 7).
- D. Boone County shall promote a vibrant, diverse, and sustainable economy that both recognizes the value of the environment and encourages and incentivizes innovation and prosperity with meaningful employment opportunities (Economy, Goal A).
- E. Boone County businesses are developed in appropriate locations and are compatible with surrounding land uses (Economy, Goal B).
- F. Compact, efficient development patterns shall be encouraged for industrial, commercial, and office uses with appropriately sized and well maintained buffer spaces between the business use and other land uses (Economy, Goal B, Objective 1).
- G. Industrial development shall be encouraged to locate near railroad lines, highways, the Ohio River, the Airport, and where infrastructure exists or is planned (Economy, Goal B, Objective 1).
- H. Effective site placement, architectural design, and landscape design for industrial uses shall enable a favorable relationship with adjoining uses. Smoke, dust, noise, and odor impacts shall be kept at a minimum and site development and enforcement shall be carefully coordinated with regulatory agencies (Economy, Goal B, Objective 7).
- I. Priority shall be given towards maintaining, protecting, and improving the capacity and safety of the existing road system across jurisdictions (Transportation, Goal A, Objective 1).

BOONE COUNTY TRANSPORTATION PLAN

The Boone County Transportation Plan contains recommended projects and the reconstruction of KY 20 from KY 237 to Conner Road is listed as a unscheduled need (to be implemented after 2040). The project description says the purpose of the project is to improve mobility between Hebron and the Cincinnati/Northern Kentucky International Airport.

STAFF COMMENTS

- 1. Staff would like applicant to address the following:
 - A. When will the Site Plan for Grading be submitted for the work that has already occurred?
 - B. Has the creek or area to the north of the creek been disturbed?
 - C. Have any further discussions taken place with Kenton County Airport Board about acquiring the pie shaped lot that has been fenced in?

- D. Did Kentucky Transportation Cabinet grant an Encroachment Permit to allow the new access point and evergreen trees in the KY 20 right-of-way?
2. Staff has concerns about the appearance of the contractor storage/staging yard from KY 20 and adjoining single-family residential properties. The 2008 approved Concept Development Plan contained the following elements and conditions to mitigate impacts:
 - Two buildings in close proximity to KY 20
 - Storage and staging behind these buildings,
 - Room to plant perimeter landscaping buffers
 - No fencing along the KY 20 right-of-way line.
 - Conditions dealing with disturbed limits, landscaping, lighting, noise, permitted storage areas, and architecture.
3. Staff would like the applicant and Zone Change Committee to review the 2008 conditions of approval and determine which ones are still appropriate if the Change in Approved Concept Development Plan application is approved.
4. Staff has the following comments regarding the Variance applications:
 - A. The Planning Commission will take final action of the Variances. The Planning Commission needs to review the applications in terms of the standards and criteria that are listed in Section 251 of the Boone County Zoning Regulations (see page 2 of the Staff Report).
 - B. The impacts of the KY 20 street frontage landscaping buffer Variance could be negated if Kentucky Transportation Cabinet allows evergreen plantings in the right-of-way. Staff would like the applicant to address if the evergreen landscaping that has been installed in the right-of-way has been approved through the Encroachment Permit process and if the dead plant materials will be replaced and maintained.
 - C. Staff believes the 40' or 80' buffer yard requirements along the northeast property line would create an unnecessary hardship on the applicant. The adjoining properties are owned by Kenton County Airport Board and are heavily wooded with deciduous trees. Staff recommends that a minimum 10' buffer should be required between the fence and property line and that any required plantings should be evergreens that will grow taller than the fence.
 - D. Staff believes the chainlink fence, with slats and barbed wire, that has been placed along the KY 20 right-of-way line is contrary to the objectives of Section 3655 of the Boone County Zoning Regulations. Moving the fence further back from the right of-way line would create the opportunity to add more evergreen landscaping and fully buffer the storage/staging lot and fencing from public view.
5. As mentioned earlier, the applicant will be seeking Waivers from the Zoning Administrator to allow gravel surfacing and chainlink fencing in the front yard if the applications are approved. The Zoning Administrator would like input from the Planning Commission and Boone County Fiscal Court through this public hearing process for the chainlink fence Waiver. The Waivers would be formally reviewed through the Waiver application process and would be acted on concurrently with a Major Site Plan application. The Zoning Administrator customarily approves Waivers to allow gravel surfacing for storage areas which involve tracked vehicles or the movement of heavy materials.

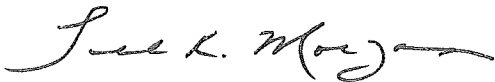
6. Staff would like to note that the applicant has also installed new chainlink fencing near their Ariens Drive access point without approval from the Planning Commission. This part of the Harper Company property is not part of this application. The fencing that was installed does not comply with decorative fence type standard and possibly the 25' corner side yard setback requirement from Ariens Drive. The applicant and Planning Commission should discuss alternatives to bring this section of fence into compliance with code. The Zoning Administrator could consider a fence type Waiver but the setback requirement will need to met or reduced through a separate Variance application.
7. Staff sent out an agency email and received comments back from Kenton County Airport Board. Their comments are attached to the Staff Report.

CONCLUSION

The Zoning Map Amendment request needs to be evaluated by the Boone County Planning Commission and Boone County Fiscal Court in terms of K.R.S. 100.213 and Article 3 of the Boone County Zoning Regulations. The Future Land Use Map will not need to be amended if the request is approved.

The Planning Commission needs to review the Variance applications in terms of Section 251 of the Boone County Zoning Regulations.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/ss

Attachments:

- *Site Vicinity Map
- *2019 Concept Development Plan (Current Proposal)
- *Letter and Documentation Submitted by Property Owner
- *2008 Approved Concept Development Plan
- *2008 Conditions of Approval
- *2017 Concept Development Plan (Application Was Withdrawn)
- *Zoning Map
- *2040 Future Land Use Map
- *Topographical Map
- *2016 Aerial Map
- *Agency Email
- *12/16/19 Email From Paul Hegedus, with Kenton County Airport Board
- *Application

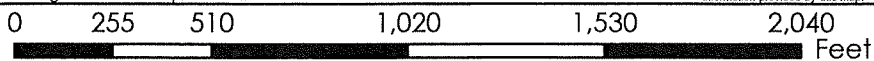
SITE VICINITY MAP

www.boonecountygis.com



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



1 inch = 500 feet



Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 07/01/2013

ArcMap Document: BooneMap (file).mxd

December 3, 2019

Boone County Planning Commission
2950 Washington Street, RM 317
P.O. Box 958
Burlington, KY 41005

**Re: Request for Dimensional Variance
Harper Company Laydown Yard Expansion
1648 Petersburg Road
Hebron, KY 41048**

To Whom It May Concern,

The Harper Company is requesting approval of a Change in Approved Concept Development Plan to complete expansion of a laydown yard at the subject property: 1648 Petersburg Road, Hebron, KY. This Change in Approved Development Plan will include Variances from the dimensional requirements of the Boone County Zoning Regulations (current edition December 4, 2013). This letter has been prepared to describe the Variances requested and the reasons for the Variances proposed.

Two Variances are requested:

Buffer Yard Width: The Harper Company is requesting a Dimensional Variance from Buffer Yard Width requirements for the front and side yards of the property. These are detailed below

1. A 10-foot wide Buffer Yard (Type A Plantings) is planned for the street frontage with KY 20 (Petersburg Road). This yard will include plantings on the Right of Way to be coordinated with the Kentucky Transportation Cabinet (KYTC).
2. The Property shares a boundary with Parcels owned and operated by the Kenton County Airport Board. These Parcels are currently zoned SR-1 (Suburban Residential). The Harper Company property is zoned I-1 (Industrial). Per the Boone County Zoning Regulations, an 80-foot wide Buffer Yard (Type D Plantings) is required between the Harper Company and Kenton County Airport Board Parcels. The Harper Company is requesting a dimensional variance to remove this Buffer Yard width because the Kenton County Airport Board does not plan to develop their properties for residential purposes due to the close proximity to the airport runway. The Harper Company has received written approval from the Kenton County Airport Board stating their waiver of required buffer areas (appended to this letter).

KY 20 Fence Setback: The Boone County Zoning Regulations requires fence to be located a minimum of 50-feet from the KY 20 (Petersburg Road) Right of Way. The Harper Company is requesting a Variance to reduce this street frontage setback. Site slopes for the property are steep (10% to 12% slope) with the most usable area along the street frontage with KY20 (5% to 6% slope). Reducing the fence setback requirements will reduce the site grading required and maximize the usable site area.

Sincerely,

Jim Thomas
President

Attachments: Kenton County Airport Board Approval Letter



P.O. Box 752000
Cincinnati, OH 45275-2000
Phone: 859-767-3151
Fax: 859-767-3080
cvgairport.com

September 20, 2017

Mr. Jim Thomas
The Harper Company
1648 Petersburg Road
Hebron, Kentucky 41048

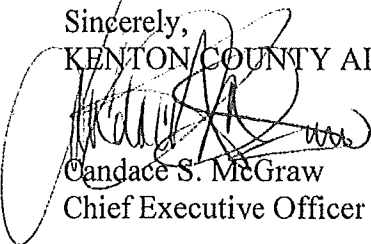
Dear Mr. Thomas:

We understand that The Harper Company is in the process of purchasing the Vines property located along KY 20 and adjacent to Airport property. Simultaneously, Harper is also working with the Boone County to have the zoning of the Vines property changed to I-2 (Industrial) from I-1(Industrial).

You have requested that the Airport agree to a waiver for a required buffer area on the Vines Property under the I-2 zone because the Airport property is currently zoned SR-1 (Suburban Residential). The Airport agrees to waive this buffer requirement since this property would not be developed for residential purposes due to the close proximity of the runway.

Should you have any questions or need additional information, please contact Paul Hegedus of my staff.

Sincerely,
KENTON COUNTY AIRPORT BOARD



Candace S. McGraw
Chief Executive Officer

Cc: Paul Hegedus

Shawn Green

Subject: FW: Harper Plantings
Attachments: Electronic Encroachment Permit Application.pdf

From: Brannon, Mark K (KYTC-D06) [mailto:Mark.Brannon@ky.gov]
Sent: Tuesday, December 3, 2019 9:26 AM
To: Shawn Green <Shawn@harperco.com>
Subject: RE: Harper Plantings

Shawn.

The Department will allow the planting of the trees on the ROW. Please submit a Encroachment Permit application to proceed with the project. I have enclosed the form for you to submit.

Thanks,
Mark



BOONE COUNTY PLANNING COMMISSION

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

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

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

October 6, 2008

Mr. Michael Shayeson and Mr. Billy R. Vines
c/o Mr. Justin Verst, P.E.
Viox & Viox
466 Erlanger Road
Erlanger, KY 41018

RE: Recommended Conditions of Approval for Shayeson/Huff/Vines Zone Change from SR-1 to I-1 for 7.9 Acre Site, KY 20, Boone County, Kentucky

Dear Mr. Shayeson and Mr. Vines:

The following represents the conditions of approval for the above referenced application, as discussed by the Planning Commission's Zone Change Committee at their October 1, 2008 meeting. If you, as the property owners, agree to these conditions, please so indicate by signing in the space provided at the end of this letter and return the original letter to the Planning Commission's office by Friday, October 10, 2008.

CONDITIONS

1. The width of the rear (north) buffer area for the contractor storage/staging yard shall be a minimum of 75 feet wide as shown on the Concept Development Plan. Sixteen mixed variety evergreen trees per 100 linear feet shall be provided in a double staggered row at the top of the slope in this buffer area. A hardwood tree seed/seedling mix shall be planted across the entire slope. Any fencing in this area of the site shall be provided along the interior (south) edge of the buffer yard; per the property owner's statements, this fencing shall be 6 foot high chain link topped with strands of barbed wire and not coiled wire. These buffer requirements shall be followed for the entire width of the contractor storage yard expansion, both for the proposed and existing I-1 zoned areas.
2. The northeastern-most part of the site (north of the creek) shall be maintained as an undisturbed buffer area.
3. All site lighting shall be directed toward the interior of the property, be limited to less than 1 footcandle at the interior edges of buffer yards which adjoin residential uses, and less than 1 footcandle at the property lines for tracts with other uses.
4. No outdoor public address system(s) shall be permitted on the site. No overnight truck "idling" will be permitted on the site.
5. Three (3) evergreen trees per 100 linear feet shall be added along the KY 20 street frontage of the existing Harper Company contractor storage/staging yard.

Mr. Michael Shayeson and Mr. Billy R. Vines
October 6, 2008
Page 2

6. The buildings on the Vines property shall be limited to the principally permitted uses and accessory uses permitted in the I-1 zone, except that principally permitted uses #44 "truck stops" and #50 "sexually oriented businesses as defined in Article 40 and applicable standards in Article 31" shall be excluded as proposed by the property owner. No conditional uses shall be permitted on the site.
7. Any outdoor storage to be used in conjunction with the proposed buildings shall either: 1.) Be placed to the rear of the front (south) building; or 2.) Be placed to the side of the front building provided it is enclosed with a structure which is compatible with said building in terms of colors and materials.
8. All facades of both proposed buildings shall use natural tones and be designed to have a "finished" appearance. The front facade and front/corner portion of the east facade on the front (south) building facing KY 20 will use architectural grade materials (such as brick, stone, faced CMU with an integral color, precast concrete, select metal products, etc.) and have detailed/articulated designs.

Sincerely,

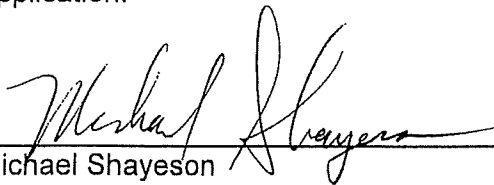


Kevin T. Wall, AICP
Director, Zoning Services

KTW/vlm


AGREEMENT

We, the property owners for the 7.9 acre site located on the north side of KY 20, Boone County, Kentucky, agree to the conditions listed herein for the above referenced Zoning Map Amendment application.



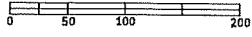
Michael Shayeson
Property Owner

10/15/08
Date

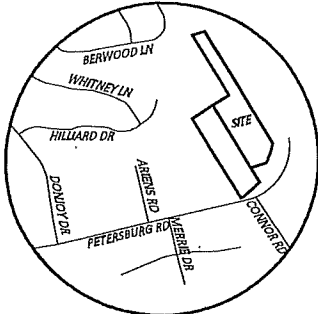


Billy R. Vines
Property Owner

10-15-08
Date



The Harper Co.
CONTRACTORS
 611 West Main Street
 Boone County, Kentucky



VICINITY MAP
 SCALE: 1"=1250'

- PROPOSED GRAVEL AREA
- PROPOSED TEMPORARY MATERIAL PROCESSING AND STOCKPILE AREA

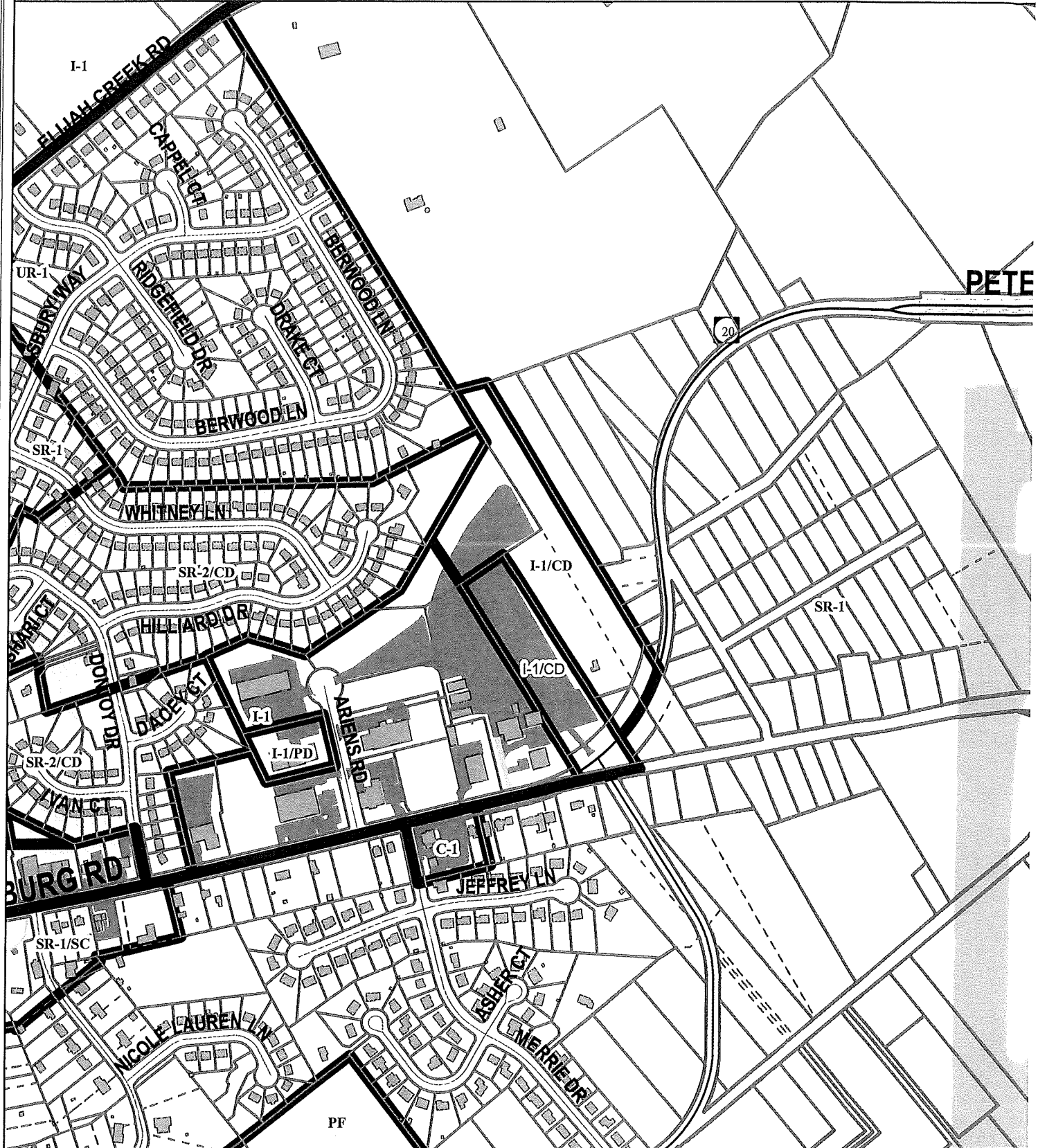
**HARPER YARD EXPANSION
 CONCEPT PLAN
 BOONE COUNTY, KENTUCKY
 SOUTHEAST OF HILLIARD DRIVE
 NORTHWEST OF PETERSBURG ROAD**

SEPTEMBER 29, 2017 SCALE: 1"=125'



ZONING MAP

www.boonecountygis.com

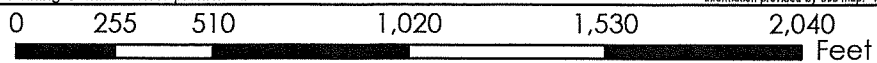


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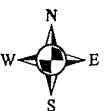
Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



Boone

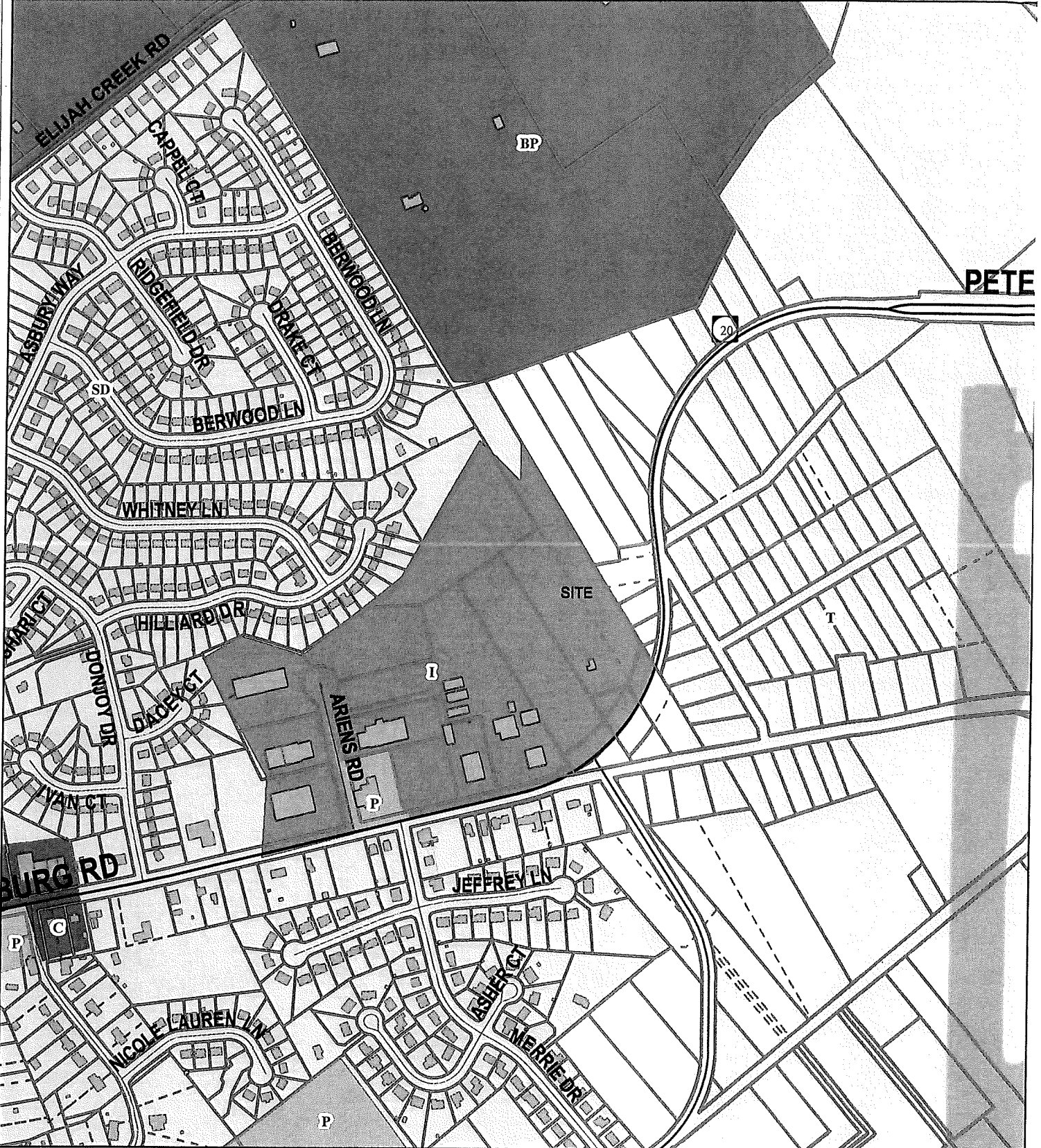


1 inch = 500 feet



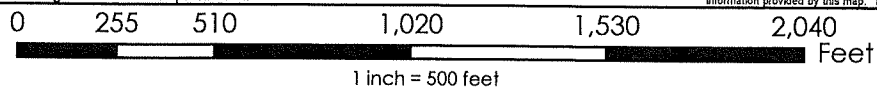
2040 FUTURE LAND USE MAP

www.boonecountygis.com



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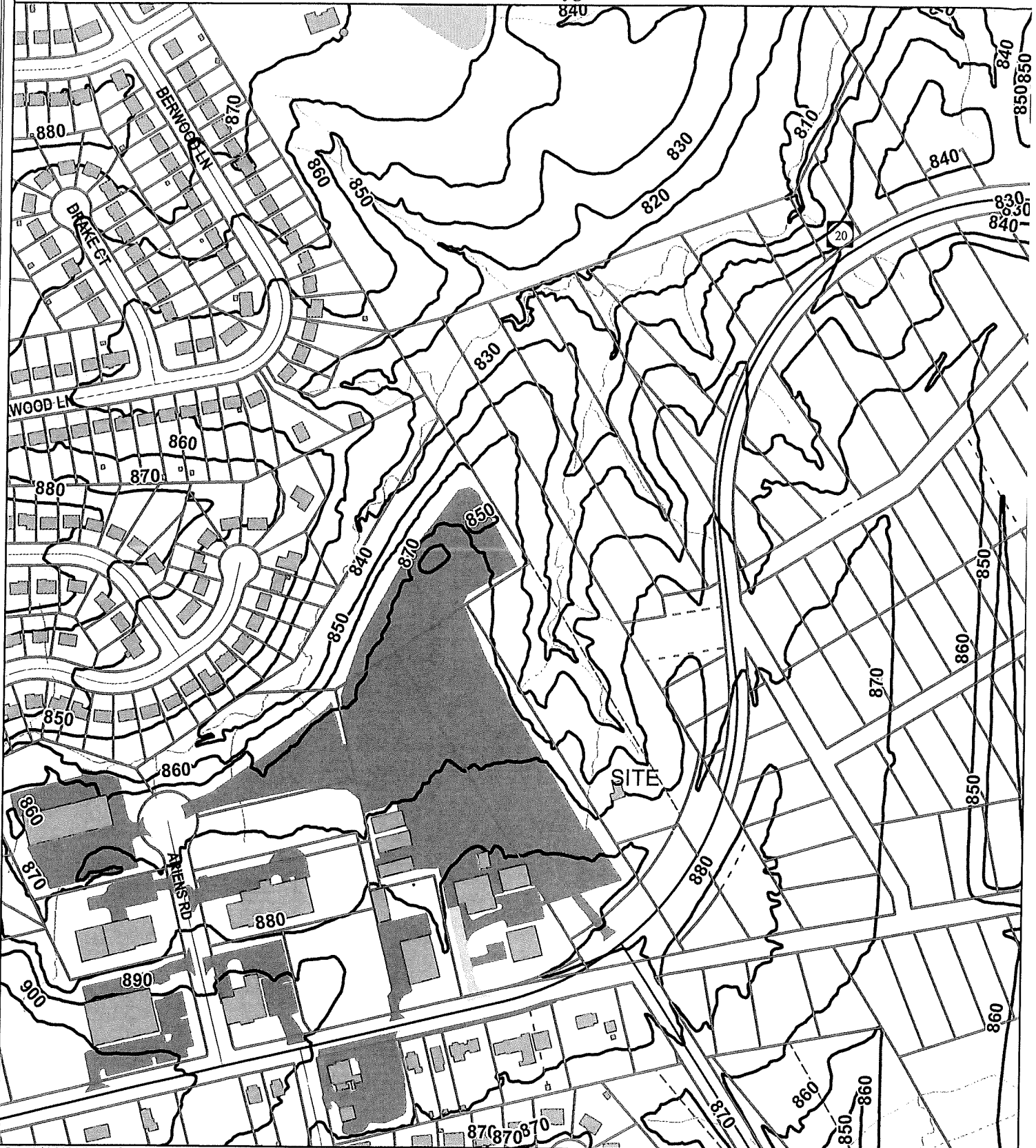


Boone County GIS - Putting Northern Kentucky on the Map



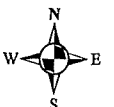
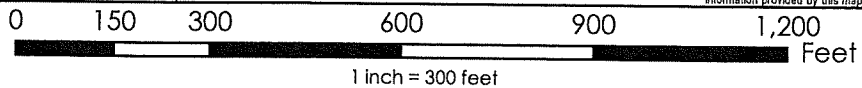
TOPOGRAPHICAL MAP

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Boone County GIS - Putting Northern Kentucky on the Map

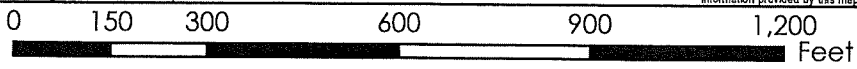
2016 AERIAL MAP

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1 inch = 300 feet



Boone County GIS - Putting Northern Kentucky on the Map

Todd Morgan

From: Todd Morgan
Sent: Friday, December 13, 2019 3:33 PM
To: 'linzy.brefeld@ky.gov'; Aman, Andy (aaman@sd1.org); bschempf@cvgairport.com
Cc: Matthew Webster
Subject: Harper Company - Concept Development Plan Application
Attachments: 2008 Approved Plan.pdf; 2019 Proposed Plan.pdf; Harper Co - Gate Picture.pdf; Harper Co - Site Vicinity Map.pdf

All,

I wanted to make you aware that the Harper Company has submitted a Change in Concept Development Plan application in an Industrial One (I-1) zone and two dimensional Variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request would allow additional contractor equipment/material staging storage and Variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way. The public hearing is scheduled for January 8, 2020, at 7:30 P.M.

I would like to note that the 2008 zone change that was approved for the site allowed contractor storage and material staging to be located behind two buildings that were going to be constructed on the property. The current request (plan) no longer includes these buildings and would allow storage to the KY 20 right-of-way and northeast property line (see attachments).

I would appreciate if each of you could address the following:

Kentucky Transportation Cabinet

- The property owner has installed fencing on the 5.39 acre site. This fencing includes a new gate that allows employees to access the contractor/material staging yard from KY 20. Has this access point been approved by Kentucky Transportation Cabinet?

Sanitation District No. 1

- The property owner has started to fill the property. Has SD1 approved a Land Disturbance Permit?

Kenton County Airport Board

- A small portion of the fence that was installed is located on Kenton County Airport Board property (see pie shaped lot that is located between the subject site and KY 20). Did Kenton County Airport Board allow this fencing to be installed on their property?

I will be able to include your comments in the public hearing record if you respond to this email prior to January 8, 2020. Please feel free to add any additional comments you may have.

Please call or email me if you have any questions.

Sincerely,

Todd K. Morgan, AICP
Senior Planner, Zoning Services

Todd Morgan

From: Paul Hegedus <PHegedus@cvgairport.com>
Sent: Monday, December 16, 2019 9:00 AM
To: Todd Morgan
Cc: Debbie Conrad; Barb Schempf
Subject: RE: Harper Company - Concept Development Plan Application

EXTERNAL MESSAGE

Todd:

Replying on behalf of Barb Schempf.

We are not aware that the fence was constructed on CVG Property. However, we were recently contacted about potential purchase of the property by Harper.

Regards,

Paul

From: Todd Morgan <TMorgan@boonecountyky.org>
Sent: Friday, December 13, 2019 3:33 PM
To: linzy.brefeld@ky.gov; Aman, Andy (aaman@sd1.org) <aaman@sd1.org>; Barb Schempf <BSchempf@cvgairport.com>
Cc: Matthew Webster <mwebster@boonecountyky.org>
Subject: Harper Company - Concept Development Plan Application

CAUTION: EXTERNAL EMAIL

All,

I wanted to make you aware that the Harper Company has submitted a Change in Concept Development Plan application in an Industrial One (I-1) zone and two dimensional Variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request would allow additional contractor equipment/material staging storage and Variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way. The public hearing is scheduled for January 8, 2020, at 7:30 P.M.

I would like to note that the 2008 zone change that was approved for the site allowed contractor storage and material staging to be located behind two buildings that were going to be constructed on the property. The current request (plan) no longer includes these buildings and would allow storage to the KY 20 right-of-way and northeast property line (see attachments).

I would appreciate if each of you could address the following:

Kentucky Transportation Cabinet

APPLICATION FORM

CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION

SEVEN (7) COPIES OF SUBMITTED DRAWINGS ARE REQUIRED

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check One:

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

2. Name of Project Harper Company Laydown Yard Expansion

3. Location of Project 1648 Petersburg Road, Hebron, KY 41048

4. Total Acreage of Site 5.39

5. Current Zoning I-1/CD

6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) October 15, 2008

7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) No

8. Proposed Uses (please specify each use) Contractor equipment and material staging

9. Proposed Building Intensities (please specify) N/A - no buildings proposed

10. Have you submitted a Concept Development Plan? No

11. Are you also applying for: Conditional Use Permit Variance #1: Buffer Yard Width
Two (2) Dimensional Variance Variance #2: KY20 Street Frontage Fence Setback

12. Name of Applicant(s) Jim Thomas

Phone Number 859-586-8890 Fax No. 859-586-8891 E-Mail jthomas@harperco.com

13. Address of Applicant(s) 1648 Petersburg Road

Hebron KY 41048
City State Zip

14. Name of Property Owner(s) The Harper Company

Phone Number 859-586-8890 Fax No. 859-586-8891 E-Mail jthomas@harperco.com

15. Address of Property Owner(s) 1648 Petersburg Road

Hebron KY 41048
City State Zip

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

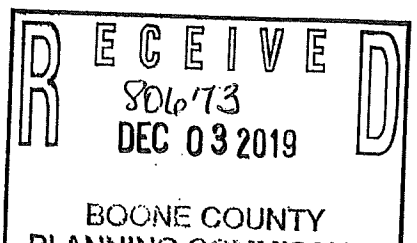
17. Deed Book 1108 Page No. 247 Group No. 2010

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

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

- N/A Boone County Water District
N/A Florence Public Services Dept.
N/A Duke Energy
Yes Sanitation District #1

(over)



EXHIBIT

“B”

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: June 3, 2020

RE: Request of Jim Thomas (applicant) for The Harper Company (owner) for a Change in Concept Development Plan in a Industrial One (I-1) zone and two dimensional variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request is for a Change in Concept Development Plan to allow contractor equipment and materials staging and variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way.

REMARKS:

We, the Committee, recommend approval of the above referenced Change in Concept Development Plan and Variance applications based on the following findings of fact and conditions:

Findings of Fact

1. The Committee concluded the Change in Concept Development Plan request is in agreement with the Boone County Comprehensive Plan for the following reasons:
 - A. The 2040 Future Land Use Map forecasts the majority of the site for Industrial (I) uses and the northern tip of the property for Suburban Density Residential (SD) uses. These future land use classifications are defined as follows:

Industrial - "manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses".

Suburban Density Residential - "single family housing of up to four units per acre".

The Committee concluded the contractor equipment and materials staging yard will be located in the portion of the site that is forecasted for industrial uses and the suburban density residential area will be left as a landscaping buffer.
 - B. The proposal is in agreement with the following future land use development guideline:

"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; where appropriate, 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 open space within developments and between developments."...(Buffering, pp. 95-96).

The Committee concluded that the contractor equipment and materials staging yard will be well buffered from KY 20 and adjoining residential properties. Conditions have been imposed which require landscaping along KY 20 and adjoining residential properties.

C. The proposal is an agreement with the following Goals and Objectives:

- Development shall attempt to utilize existing topography and vegetation (including mature trees where possible) and preserve the existing character of the land where practical (Environment, Goal 7).
- Boone County businesses are developed in appropriate locations and are compatible with surrounding land uses (Economy, Goal B).
- Industrial development shall be encouraged to locate near railroad lines, highways, the Ohio River, the Airport, and where infrastructure exists or is planned (Economy, Goal B, Objective 5).
- Effective site placement, architectural design, and landscape design for industrial uses shall enable a favorable relationship with adjoining uses. Smoke, dust, noise, and odor impacts shall be kept at a minimum and site development and enforcement shall be carefully coordinated with regulatory agencies (Economy, Goal B, Objective 7).

The Committee concluded the site is located in close proximity to the airport. Existing and proposed trees will effectively buffer the site from KY 20 and adjoining residential uses.

2. The Committee concluded the variance applications are in agreement with the criteria found in Section 251 of the Boone County Zoning Regulations and should be approved by the full Planning Commission based on the following finding of fact:

The requested variances will not adversely affect public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements found in the zoning regulations with the agreed upon conditions. In making these findings, the Committee found that the strict application of the provisions contained in the regulations would create unnecessary hardships on the property owner and that a special circumstance existed with Kenton County Airport Board owning residentially zoned property immediately to the northeast of the subject site.

3. The Committee has concluded the attached conditions are necessary to achieve consistency with the Boone County Comprehensive Plan and Variance findings. The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with the conditions.

Conditions

1. The approval is based on the revised Concept Development Plans that were submitted at the February 19, 2020 Zone Change/Concept Development Plan Committee Meeting unless modified by other conditions below.

2. The property shall be used solely for storage of construction equipment, materials, and inventory (excluding aggregate) owned by the Harper Company. No waste material, concrete, asphalt, gravel, or other waste paving materials shall be stored on site. In addition, the property shall not be kept as a junkyard as defined in Article 40 of the Boone County Zoning Regulations.
3. The concrete blocks and chunks of concrete currently on the surface of the site shall be utilized as fill during grading (or removed from the property). These materials shall be subsurface when the grading is complete and thus not visible.
4. The fence that was installed on Kenton County Airport Board property (Property Identification Number 047.00-00-075.00) can remain as long as Kenton County Airport Board signs the Site Plan application and authorizes the improvement.
5. The landscaping in the KY 20 street frontage buffer can remain in the right-of-way per the submitted landscaping plan as long as Kentucky Transportation Cabinet signs off on an Encroachment Permit for the final landscaping design. 50% of the required trees shall be eastern white pines and the other 50% shall be one or more other species from Plant List D of the Boone County Zoning Regulations. All dead trees shall be replaced per Section 3610 of the Boone County Zoning Regulations.
6. The portion of the Harper Company's northeast property line which aligns with the proposed crushed stone storage lot can be buffered with existing vegetation and supplemental evergreen plantings within a minimum 10 foot wide buffer on the Kenton County Airport Board property.

Boone County Planning Commission Staff shall evaluate the Kenton County Airport Board site with the applicant's landscape architect before the Site Plan is submitted for review to determine where supplemental landscaping needs to be planted to fulfill Section 3635 of the Boone County Zoning Regulations. Kenton County Airport Board shall sign the Site Plan application to document that they are allowing the supplemental landscaping to be planted on their property.

This 10' wide landscaping buffer, which fulfills Section 3635 Boone County Zoning Regulations, shall be required on the portion of the Harper Company's northeast property which contains crushed stone surfacing if:

- A. Kenton County Airport Board does not allow the supplemental landscaping on their property.
- B. Kenton County Airport Board decides to remove the supplemental landscaping at a future date.

This Zoning Administrator can reevaluate and allow minor changes to this condition in the event that the Kenton County Airport Board property is developed in the future with an industrial use.

7. Supplemental evergreen trees from Plant List D shall be added immediately to the north of the proposed 8' tall chainlink fence to help screen the rear of the approximate 5.39 acre

site. The required trees shall be provided in a double staggered row at a rate of 16 trees per 100 linear feet.

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.

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Kim Patton, Chairman

DATE: February 19, 2020

CHANGE IN CONCEPT DEVELOPMENT PLAN AND VARIANCES - Janet Kegley, Chairwoman, Todd Morgan, Staff

Request of **Jim Thomas (applicant)** for **The Harper Company (owner)** for a Change in Concept Development Plan in a Industrial One (I-1) zone and two dimensional variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request is for a Change in Concept Development Plan to allow contractor equipment and materials staging and variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way.

REMARKS:

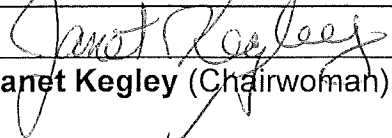
We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

Kim Bunger

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____

Lori Heilman (Alternate)

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____



Janet Kegley (Chairwoman)

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____

Steve Turner (Alternate)


For Project ____ Absent ____
Against Project ____

Rick Lunnemann

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____

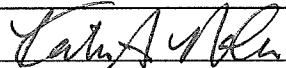
Randy Bessler (Alternate)

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____



Kim Patton

For Project Absent ____
Against Project ____
Abstain ____ Deferred ____



Katie Nolan (Alternate)

For Project Absent ____
Against Project ____
Abstain ____ Deferred ____

Brad Shipe

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____

TOTAL: ____ DEFERRED 3 FOR PROJECT ____ ABSENT
____ AGAINST PROJECT ____ ABSTAIN

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: May 20, 2020

CHANGE IN CONCEPT DEVELOPMENT PLAN AND VARIANCES - Janet Kegley, Chairwoman, Todd Morgan, Staff

Request of **Jim Thomas (applicant)** for **The Harper Company (owner)** for a Change in Concept Development Plan in a Industrial One (I-1) zone and two dimensional variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request is for a Change in Concept Development Plan to allow contractor equipment and materials staging and variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way.

REMARKS:

We, the Committee Members were present via live video teleconference at the Committee Meeting and voted on the modification of Condition #2. The following Vote Sheet reflects the vote on the rewording of that condition only. 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.

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

Lori Heilman (Alternate)
For Project _____ Absent _____
Against Project _____
Abstain _____ Deferred _____

Janet Kegley (Chairwoman)
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

Steve Turner (Alternate)
For Project _____ Absent _____
Against Project _____

Rick Lunnemann
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

Randy Bessler (Alternate)
For Project _____ Absent _____
Against Project _____
Abstain _____ Deferred _____

Kim Patton
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

Katie Nolan (Alternate)
For Project _____ Absent _____
Against Project _____
Abstain _____ Deferred _____

Brad Shipe
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

Todd Morgan

Recorded Vote by Todd Morgan, AICP

TOTAL: _____ DEFERRED 5 FOR PROJECT _____ ABSENT
_____ AGAINST PROJECT _____ ABSTAIN

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Kim Bunger, Secretary/Treasurer
Ms. Corrin Gulick
Mr. Steve Harper
Mrs. Lori Heilman
Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Don McMillian
Mrs. Katie Nolan
Mr. Kim Patton
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mr. Tom Szurlinski
Mr. Steve Turner, Temporary Presiding Officer

COMMISSION MEMBERS NOT PRESENT:

Mr. Brad Shipe

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Kevin P. Costello, AICP, Executive Director
Mr. Todd K. Morgan, AICP, Senior Planner

Chairman Rolfsen introduced the second item on the Agenda at 8:11 p.m.

CHANGE IN CONCEPT DEVELOPMENT PLAN AND VARIANCES - Todd Morgan, Staff

2. Request of **Jim Thomas (applicant)** for **The Harper Company (owner)** for a Change in Concept Development Plan in a Industrial One (I-1) zone and two dimensional variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request is for a Change in Concept Development Plan to allow contractor equipment and materials staging and variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way.

Staff Member, Todd Morgan, presented the Staff Report, which included a PowerPoint presentation. The site is located off Petersburg Road across from Conner Road. The Concept Development Plan area is 5.39 acres in size. The request is a Change in Concept Development Plan that was originally approved in 2008. The applicant is requesting a Change in Concept Development Plan that would allow additional contractor equipment and materials staging on the site. The first Variance request is to reduce the KY 20 street frontage buffer Yard requirement from 10 feet (Buffer Yard A) to 0 feet. The Kentucky Transportation Cabinet has provided an email indicating that they would allow plantings in the KY 20 right-of-way. A second variance is being requested to reduce the perimeter landscape buffer yard requirement along the southern property line from 10 feet (Buffer Yard A) to 0 feet. The pie shaped lot is owned by the Airport Board and the Harper Company has been discussing the possibility of buying the property from the Airport Board. Another Variance request by the applicant is to reduce the perimeter landscape buffer yard requirement along a portion of the northeast property line from Buffer Yard D (80 feet or 40 feet with fence, wall or berm) to 0 feet. The adjoining property is also owned by the Airport Board. It is zoned residential now and that is why the large buffer yard is required. The last Variance request is to reduce the fence setback requirement from the Petersburg Road right-of-way from 50 feet to 0 feet. If this application is approved, the applicant will be asking the Zoning Administrator for a fence type waiver. Normally, chain link or barbed wire fencing is not permitted in the front yard. Usually, it is a decorative style fence. The Zoning Administrator would like input from the Planning Commission and the Fiscal Court on that issue.

Mr. Morgan showed a copy of the approved 2008 Concept Development Plan. It was referred to as the Vines property. It was 7.9 acres in area and was rezoned from Suburban Residential One (SR-1) to Industrial One (I-1) to allow additional contractor storage in the back of the site. In addition, there were 2 future I-1 buildings (16,000 and 20,000 square feet) containing I-1 uses. No outside storage was permitted other than behind the buildings. Also, no fencing was shown. There was also another request in 2017 in order to increase storage on-site and also to have an asphalt/concrete plant. That application was later withdrawn. In February, 2019, the Staff made the applicant aware that they were doing work without permits. The applicant increased storage up to the right-of-way line and fenced the property without approval. No grading plan was submitted. Pages 2 & 3 of the Staff Report reviews the applicable regulations. Mr. Morgan referred to Variance criteria, final action of the Variance requests, and the parking and loading space requirements, including paving, buffer yard requirements, storage areas visible from the road and finally, the fencing and landscaping requirements. Mr. Morgan reviewed the topography of the site including a creek in the back of the property. The site is located in the 55 DNL contour from the Airport. He also referred to the zoning map of the area. He showed photographs of the site and adjoining properties. The Future Land Use Map designates the site as Industrial (I) and the

back end as Suburban Density Residential (SD). Pages 5-7 of the Staff Report refer to the Boone County Comprehensive Plan.

In terms of Staff Comments, there is a need for the applicant to address the following:

- A. When will the Site Plan for Grading be submitted for the work that has already occurred?
- B. Has the creek or area to the north of the creek been disturbed?
- C. Have any further discussions taken place with Kenton County Airport Board about acquiring the pie shaped lot that has been fenced in?
- D. Did Kentucky Transportation Cabinet grant an Encroachment Permit to allow the new access point and evergreen trees in the KY 20 right-of-way?

Staff has concerns about the appearance of the contractor storage/staging yard from KY 20 and adjoining single-family residential properties. The 2008 approved Concept Development Plan contained the following elements and conditions to mitigate impacts:

- 1. Two buildings in close proximity to KY 20,
- 2. Storage and staging behind these buildings,
- 3. Room to plant perimeter landscaping buffers,
- 4. No fencing along the KY 20 right-of-way line, and
- 5. Conditions dealing with disturbed limits, landscaping, lighting, noise, permitted storage areas, and architecture.

Staff would like the applicant and Zone Change Committee to review the 2008 conditions of approval and determine which ones are still appropriate if the Change in Approved Concept Development Plan application is approved.

Staff has the following comments regarding the Variance applications:

- A. The Planning Commission will take final action of the Variances. The Planning Commission needs to review the applications in terms of the standards and criteria that are listed in Section 251 of the Boone County Zoning Regulations (see page 2 of the Staff Report).
- B. The impacts of the KY 20 street frontage landscaping buffer Variance could be negated if Kentucky Transportation Cabinet allows evergreen plantings in the right-of-way. Staff would like the applicant to address if the evergreen landscaping that has been installed in the right-of-way has been approved through the Encroachment Permit process and if the dead plant materials will be replaced and maintained.
- C. Staff believes the 40' or 80' buffer yard requirements along the northeast property

line would create an unnecessary hardship on the applicant. The adjoining properties are owned by Kenton County Airport Board and are heavily wooded with deciduous trees. Staff recommends that a minimum 10' buffer should be required between the fence and property line and that any required plantings should be evergreens that will grow taller than the fence.

- D. Staff believes the chainlink fence, with slats and barbed wire, that has been placed along the KY 20 right-of-way line is contrary to the objectives of Section 3655 of the Boone County Zoning Regulations. Moving the fence further back from the right-of-way line would create the opportunity to add more evergreen landscaping and fully buffer the storage/staging lot and fencing from public view.

As mentioned earlier, the applicant will be seeking Waivers from the Zoning Administrator to allow gravel surfacing and chainlink fencing in the front yard if the applications are approved. The Zoning Administrator would like input from the Planning Commission and Boone County Fiscal Court through this public hearing process for the chainlink fence Waiver.

Staff would like to note that the applicant has also installed new chainlink fencing near their Ariens Drive access point without approval from the Planning Commission. This part of the Harper Company property is not part of this application. The fencing that was installed does not comply with decorative fence type standard and possibly the 25' corner side yard setback requirement from Ariens Drive. The applicant and Planning Commission should discuss alternatives to bring this section of fence into compliance with code. The Zoning Administrator could consider a fence type Waiver but the setback requirement will need to met or reduced through a separate Variance application.

Staff sent out an agency email and received comments back from Kenton County Airport Board. These comments are attached to the Staff Report. Staff also received comments back from Kentucky Transportation Cabinet after the report was finalized (see Exhibit A).

At this time, Chairman Rolfsen asked if the applicant was present and wanted to proceed with their presentation?

Mr. Stan Lee, Palmer Engineering, stated that his client will work with the Boone County Planning Commission to meet the recommendations on the Variance requests. He is in agreement with the 10 foot buffer width and the decorative fence along KY 20. The owner is considering purchasing the Airport property adjacent to the site. It will be included in the street frontage buffer.

Ms. Sherri Edmondson, 2704 Berwood Lane, asked how much buffer would be required next to the residential zone if the plan was approved? Mr. Morgan replied that originally it was a 75 foot buffer with Buffer Yard C plantings. It is uncertain how much of the existing trees have remained since the 2008 zone change request. He asked the applicant to clarify it.

Chairman Rolfsen asked if the chainlink fence with the barbed wire is a violation? Mr. Morgan responded yes.

Mr. Costello noted that the original plan was a good plan. Why didn't the applicant follow it?

The work conducted on the site to date was not approved by the Planning Commission.

Mr. Morgan explained that Staff was aware of this in February, 2019. Ms. Stephanie Blain, Palmer Engineering, replied that her firm was not involved in improvements or work on the site. Her firm has been in contact with the Planning Commission, U.S. Army Corp of Engineers, Division of Water and SD1 about the existing stream. Palmer Engineering is trying to get the applicant into compliance. Mr. Costello asked if the owner has been cited by SD1 or the Division of Water? Mr. Lee responded that the stream has not been disturbed. Part of the plan is to disturb the stream and obtain a permit. Mr. Patton noted that the applicant is here because he got caught. Mr. Costello suggested that a representative from the Harper Company attend the Committee Meeting in order to answer questions. He noted that the applicant agreed to the original conditions and agreed to follow the original plan. The property owner signed an agreement to follow the regulations and conditions for approval. Mr. Morgan explained that when he met with the applicant, the applicant thought that the original zone change was no longer valid after 2 years. He mistakenly interpreted the 2 year site plan approval period. There is no time limit on a zone change approval.

Mr. Bunger suggested having the applicant correct everything first and then consider the zone change request. Why consider more of something not done appropriately. The variances requested have to seriously be considered because buffering did not occur with what is out there.

Mr. Morgan replied that the only way storage could be in compliance with the 2008 approval is if the 2 storage buildings are built. Mr. Wilson stated that an application has been filed and the Planning Commission has an obligation to process it. One cannot hold up or refuse an application. During the course of reviewing and taking action on the current application, conditions can be considered for the violations. Some of the items can be addressed through the Change in Concept Development Plan application and others through enforcement.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Ms. Edmondson noted that the 75 foot buffer area seems really shallow. On Saturday morning, aircraft noise seems to echo through it. It seems like there are fewer trees.

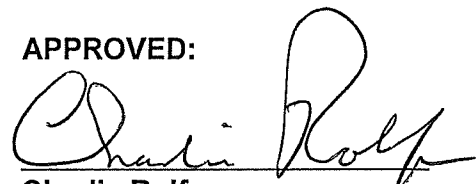
Mr. Harper noted that his former company, Harper Oil Products, is not The Harper Company. There is no connection other than they were a customer of his company in the past. There is no conflict of interest.

Mrs. Kegley asked the applicant's engineer to give the Committee information about the trees in the back and how much of the area has been disturbed. Mr. Lee, Palmer Engineering, showed what areas have been disturbed. The storage will not be located in the back where the trees are located because one would have to cross the creek. Mr. Costello asked if the trees have thinned out. Mr. Lee replied that he didn't know.

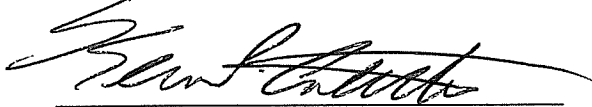
Mr. Lunnemann agreed with Mr. Bunger's previous comments. There is a high level of frustration with this site. There is a lack of respect and compliance of what is required. He asked the engineer to bring a representative from the Harper Company to the Committee Meeting in order to respond to all of the questions.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on January 22, 2020 at 5:00 P.M. in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on February 5, 2020 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 8:42 P.M.

APPROVED:


Charlie Rolfsen
Chairman

Attest:



Kevin P. Costello, AICP
Executive Director

Exhibit A - Comments from Kentucky Transportation Cabinet

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

May 26, 2020

The Harper Company
Mr. Jim Thomas
1648 Petersburg Road
Hebron, KY 41048

RE: Request of **Jim Thomas (applicant)** for **The Harper Company (owner)** for a Change in Concept Development Plan in a Industrial One (I-1) zone and two dimensional variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The request is for a Change in Concept Development Plan to allow contractor equipment and materials staging and variances to reduce the perimeter landscaping buffer yard requirements and 50 foot fence setback from the Petersburg Road right-of-way.

Dear Mr. Thomas,

The following represents the conditions of approval for the above referenced Change in Concept Development Plan and Variance applications as agreed to by you and the Boone County Planning Commission's Zone Change/Concept Development Plan Committee. Please sign the last page of this letter if you are agreement with the conditions. Please return this letter to the Boone County Planning Commission office by June 2, 2020.

CONDITIONS

1. The approval is based on the revised Concept Development Plans that were submitted at the February 19, 2020 Zone Change/Concept Development Plan Committee Meeting unless modified by other conditions below.
2. The property shall be used solely for storage of construction equipment, materials, and inventory (excluding aggregate) owned by the Harper Company. No waste material, concrete, asphalt, gravel, or other waste paving materials shall be stored on site. In addition, the property shall not be kept as a junkyard as defined in Article 40 of the Boone County Zoning Regulations.
3. The concrete blocks and chunks of concrete currently on the surface of the site shall be utilized as fill during grading (or removed from the property). These materials shall be subsurface when the grading is complete and thus not visible.
4. The fence that was installed on Kenton County Airport Board property (Property Identification Number 047.00-00-075.00) can remain as long as Kenton County Airport Board signs the Site Plan application and authorizes the improvement.

Mr. Jim Thomas
May 26, 2020
Page 2

5. The landscaping in the KY 20 street frontage buffer can remain in the right-of-way per the submitted landscaping plan as long as Kentucky Transportation Cabinet signs off on an Encroachment Permit for the final landscaping design. 50% of the required trees shall be eastern white pines and the other 50% shall be one or more other species from Plant List D of the Boone County Zoning Regulations. All dead trees shall be replaced per Section 3610 of the Boone County Zoning Regulations.
6. The portion of the Harper Company's northeast property line which aligns with the proposed crushed stone storage lot can be buffered with existing vegetation and supplemental evergreen plantings within a minimum 10 foot wide buffer on the Kenton County Airport Board property.

Boone County Planning Commission Staff shall evaluate the Kenton County Airport Board site with the applicant's landscape architect before the Site Plan is submitted for review to determine where supplemental landscaping needs to be planted to fulfill Section 3635 of the Boone County Zoning Regulations. Kenton County Airport Board shall sign the Site Plan application to document that they are allowing the supplemental landscaping to be planted on their property.

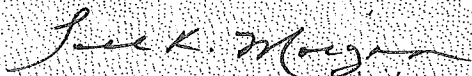
This 10' wide landscaping buffer, which fulfills Section 3635 Boone County Zoning Regulations, shall be required on the portion the Harper Company's northeast property which contains crushed stone surfacing if:

- A. Kenton County Airport Board does not allow the supplemental landscaping on their property.
- B. Kenton County Airport Board decides to remove the supplemental landscaping at a future date.

This Zoning Administrator can reevaluate and allow minor changes to this condition in the event that the Kenton County Airport Board property is developed in the future with an industrial use.

7. Supplemental evergreen trees from Plant List D shall be added immediately to the north of the proposed 8' tall chainlink fence to help screen the rear of the approximate 5.39 acre site. The required trees shall be provided in a double staggered row at a rate of 16 trees per 100 linear feet.

Sincerely,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/tlb

Mr. Jim Thomas
May 26, 2020
Page 3

AGREEMENT

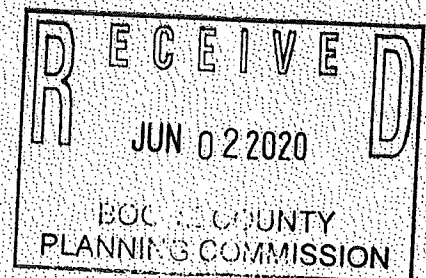
I, Jim Thomas, as President and Chief Executive Officer of the Harper Company, do hereby agree to the listed conditions of approval for the Change in Concept Development Plan and Variance applications, which are referenced on the first page of this letter.



6-2-2020

Mr. Jim Thomas, President & CEO
The Harper Company

Date



5
800

FILE: 69670/THE HARPER CO.
PIDN: 047.00-00-074.00
GROUP: 2010

Return to:
RETURN TO: KENTUCKY LAND TITLE AGENCY
2362 GRANDVIEW DRIVE
FT. MITCHELL, KY 41017

DEED

KNOW ALL PERSONS BY THESE PRESENTS:

That Billy R. Vines and Judith H. Vines, husband and wife, for and in consideration of One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00) paid by the Grantee, herein, the receipt of which is acknowledged, do bargain, sell and convey to The Harper Co., an Ohio corporation, its successors and/or assigns, the following described real estate, County of Boone and Commonwealth of Kentucky, to-wit:

Property Address: 1582 Petersburg Road, Hebron, Kentucky 41048
Grantee Mailing Address: x 1648 PETERSBURG RD HEBRON, KY 41048
Tax Mailing Address: x 1648 PETERSBURG RD HEBRON KY 41048
Grantor Mailing Address: PO BOX 15, Hebron, KY 41048-15

Group No: 2010
PIDN: 047.00-00-074.00

See attached Exhibit "A" for legal description which is incorporated by reference herein.

Subject to Easements and Restrictions of record.

Being all the remaining property conveyed to the Grantors by deed recorded in Deed Book 424, page 91 of the Boone County Clerk's records at Burlington, Kentucky.

Together with all the privileges and appurtenances to the same belonging. To have and to hold the same to the said Grantee, The Harper Co., an Ohio corporation, its successors and assigns, forever, the Grantors, Billy R. Vines and Judith H. Vines, husband and wife, their heirs and assigns hereby covenanting with the Grantee that the title so conveyed is clear, free and unencumbered and that they will warrant and defend the same against all legal claims whatsoever.

IN WITNESS WHEREOF, the said Grantors, Billy R. Vines and Judith H. Vines, husband and wife, hereunto set their hands, this 14th day of May, 2018.

GRANTORS:

Billy R. Vines
Billy R. Vines

Judith H. Vines
Judith H. Vines

STATE OF KENTUCKY
COUNTY OF KENTON

The foregoing instrument was acknowledged before me this 14th day of May, 2018 by the Grantors, Billy R. Vines and Judith H. Vines, husband and wife, to be their voluntary act and deed.

[Signature]
NOTARY PUBLIC

My commission expires:

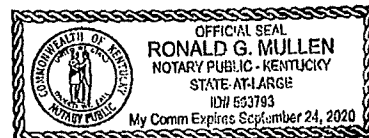


EXHIBIT "A"

PIDN: 047.00-00-074.00
Group: 2010

5.1206 Acres Petersburg Road
Hebron, KY 41048

PARCEL ONE

BEGINNING with a stone on the West side of the State Road East of Hebron, Kentucky, at a corner of O.C. Hafer with his line, North 33 degrees West 1612 feet to a corner of Raymond Carder; thence with his line North 71.5 degrees East 110 feet to a point in said line; thence South 33 degrees East 1614 feet to a corner in said State Road; thence with said State Road South 78 degrees West, 100 feet to the place of beginning.

PARCEL TWO

On the North side of Kentucky State Highway No. 20 about 1.1 miles East of Hebron (the intersection of Old Kentucky Route 237) and described thus:

BEGINNING at a stake in a line 25 feet North at right angles of the center line of Kentucky Highway No. 20 at the common corner of the properties of Robert H. Hafer and Alice Monteith; thence along said highway S 77-30 W 25.0 feet to a stake; thence leaving said highway and running on lines partitioning the property of Alice Monteith N 32-42-24 W 305.0 feet, S 72-22 W 146.1 feet to a stake in the common line of the properties of John Dye and Alice Monteith; thence therewith N 32-46 W 640.12 feet to the Northwest corner of a parcel of 0.74 acre; thence with the North line thereof N 56-44 E 165.0 feet to a corner thereof; thence with the Northeast line of said parcel and with the line of another parcel of Alice Monteith property S 32-43-7 E 997.92 feet to the place of beginning containing 2.67 acres and subject to legal highways and legal easements of record and in existence.

Less and except the following:

EXCEPTION #1

A certain tract of land being a portion of the lands of Billy R. Vines and Judith H. Vines (DB 424, PG 91), situated on the North side of Petersburg Road (KY 20), West of Conner Road and Laural Drive, and East of Merrie Drive in the City of Hebron in the County of Boone, Commonwealth of Kentucky and being more particularly described as follows:

BEGINNING at a set ½" iron pin and cap (P.L.S. #3494) in the existing North Right of Way line of Petersburg Road (KY 20), and being the Southwest property corner of Billy R. Vines and Judith H Vines (DB 424 Pg 91) and the Southeast property corner of Robert Hafer (WB 55 Pg 7), said point having a station of 20+78.58 196.66 feet to the right of the proposed centerline realignment of Petersburg Road (KY 20);

THENCE leaving the existing Right of Way of Petersburg Road and along the West line of the lands of the Grantor and the East line of Robert Hafer, North 32-30-58 West for a distance of 303.42 feet to a set ½" iron pin and cap (P.L.S. #3494), said point having a station of 22+05.61, 74.69 feet left of the proposed centerline realignment of Petersburg Road (KY 20);

THENCE along the North line of Hafer, South 72-25-54 West for a distance of 7.26 feet to a set ½" iron pin and cap (P.L.S. #3494), said point being in the North Right of Way line of the proposed realignment of Petersburg Road (KY 20) and having a station of 22+00.04, 80.00 feet left of the proposed centerline realignment of Petersburg Road (KY 20);

THENCE leaving the lands of Hafer and continuing through the lands of the Grantor along the proposed North Right of Way line of the realignment of Petersburg Road (KY 20) with a curve to the left having a Radius of 610.00 feet, a Delta Angle of 15-57-24, and an Arc length of 169.88 feet, said curve also having a Chord Bearing of North 17-37-46 East, a Chord Distance of 169.33 feet, and a Tangent of 85.49 feet, to a set ½" iron pin and cap (P.L.S. #3494). Said point being in the North Right of Way line of the proposed realignment of Petersburg Road (KY 20) and having a station of 23+92.20, 80.00 feet left of the proposed centerline realignment of Petersburg Road (KY 20) and a point in the East line of the Grantor and the West line of the lands of the Kenton County Airport Board (DB 816 Pg 371, being Lot Thirteen (13) of Laural Park Subdivision, PB 5 Pg 15);

THENCE along the East line of the Grantor and the West lines of Lots Thirteen (13), Twelve (12), Eleven (11), Ten (10), Two (2), and One (1) of Laural Park Subdivision, South 32-00-30 East for a distance of 460.40 feet to a set ½" iron pin and cap (P.L.S. #3494), said point being in the existing North Right of Way line of Petersburg Road (KY 20) and having a station of 21+44.35, 288.48 feet right of the proposed centerline realignment of Petersburg Road (KY 20);

THENCE leaving the East line of the Grantor and continuing along the existing North Right of Way line of Petersburg Road (KY 20) and with the South line of the lands of the Grantor North 78-52-17 East for a distance of 127.70 feet to the Real Point of Beginning.

The above described tract of land contains 1.0551 Acres (45,959.59 Sq. Ft.) and being a portion of the lands of Billy R. Vines and Judith H. Vines as described in Deed Book 424 Page 91 and recorded in the Boone County Clerk's Office in Burlington, Kentucky. The source of bearings for this description is based upon the Airport Grid System.

EXCEPTION #2

A certain tract of land being a portion of the lands of Billy R. Vines and Judith H. Vines (DB 424, PG 91), situated on the North side of Petersburg Road (KY 20), West of Conner Road and Laural Drive and East of Merrie Drive in the City of Hebron in the County of Boone, Commonwealth of Kentucky and being more particularly described as follows:

BEGINNING at a point in the existing North Right of Way line of Petersburg Road (KY 20), and being the Southwest property corner of Billy R. Vines and Judith H Vines (DB 424 Pg 91) and the Southeast property corner of Robert Hafer (WB 55 Pg 7);

THENCE leaving the Right of way of the existing Petersburg Road and along the lands of the Grantor and the East line of Robert Hafer, North 32-30-58 West for a distance of 127.20 feet to a set ½" iron pin and cap (P.L.S. #3494) said point being in the South Right of Way line of the proposed realignment of Petersburg Road (KY 20) and having a station of 21+20.92, 80.00 feet right of the proposed centerline realignment of Petersburg Road (KY 20), said point being the Real Point of Beginning.

THENCE leaving the proposed South Right of Way line and along the West and South lines of the Grantor and the East and North lines of Robert Hafer for the following two calls:

North 32-30-58 West for a distance of 176.23 feet to a set ½" iron pin and cap (P.L.S. #3494), said point having a station of 22+05.61, 74.69 feet left of the proposed centerline realignment of Petersburg Road (KY 20);

South 72-25-54 West for a distance of 7.26 feet to a set ½" iron pin and cap (P.L.S. #3494), said point being in the North Right of Way line of the proposed realignment of Petersburg Road (KY 20) and having a station of 22+00.04, 80.00 feet left of the proposed centerline realignment of Petersburg Road (KY 20).

THENCE leaving the South line and continuing through the lands of the Grantor along the proposed North Right of Way line of the realignment of Petersburg Road (KY 20) with a curve to the left having a Radius of 610.00 feet, a Delta Angle of 15-57-24, and an Arc Length of 169.88 feet, said curve also having a

Chord Bearing of North 17-37-46 East, a Chord Distance of 169.33 feet, and a Tangent of 85.49 feet, to a set ½" iron pin and cap (P.L.S. #3494). Said point being in the North Right of Way line of the proposed realignment of Petersburg Road (KY 20) and having a station of 23+92.20, 80.00 feet left of the proposed centerline realignment of Petersburg Road (KY 20) and a point in the East line of the Grantor and the West line of the lands of the Kenton County Airport Board (DB 816 Pg 371, being Lot Thirteen (13) of Laural Park Subdivision, PB 5 Pg 15);

Thence along the East line of the Grantor and the West lines of Lots Thirteen (13), Twelve (12), Eleven (11), and ten (10) of Laural Park Subdivision, South 32-00-30 East for a distance of 215.18 feet to a set ½" iron pin and cap (P.L.S. #3494), said point being in the South Right of Way line of the proposed realignment of Petersburg Road (KY 20) and having a station of 22+47.08, 80.00 feet right of the proposed centerline realignment of Petersburg Road (KY 20);

THENCE leaving the East line of the Grantor and continuing along the proposed South Right of Way line of the realignment of Petersburg Road (KY 20) and through the lands of the Grantor with a curve to the right having a Radius of 770.00 feet, a Delta Angle of 10-28-32, and an Arc Length of 140.78 feet, said curve also having a Chord Bearing of South 26-56-24 West, a Chord Distance of 140.59 feet, and a Tangent of 70.59 feet to the Real Point of Beginning.

The above described tract of land contains 0.5494 Acres (23,930.13 Sq. Ft.) and being a portion of the lands of Billy R. Vines and Judith H. Vines as described in Deed Book 424 Page 91 and recorded in the Boone County Clerk's Office in Burlington, Kentucky. The source of bearings for this description is based upon the Airport Grid System.

Subject to easements and restrictions of record and/or in existence.

ORDINANCE NO. 2020 - 15

AN ORDINANCE RELATING TO THE BOONE COUNTY FISCAL COURT, KENTUCKY APPROVING, WITH CONDITIONS, THE REQUEST OF JIM THOMAS (APPLICANT) FOR THE HARPER COMPANY (OWNER) FOR A CHANGE IN CONCEPT DEVELOPMENT PLAN IN A INDUSTRIAL ONE (I-1) ZONE AND DIMENSIONAL VARIANCES FOR AN APPROXIMATE 5.39 ACRE SITE LOCATED TO THE IMMEDIATE EAST OF THE PROPERTY AT 1648 PETERSBURG ROAD, BOONE COUNTY, KENTUCKY.

WHEREAS, the Boone County Planning Commission received a request for a Change in Concept Development Plan in an Industrial One (I-1) zone, and dimensional Variances for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky, which is more particularly described below; and

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

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

Section One

That the request for a Change in Concept Development Plan and dimensional Variances for the real estate which is more particularly described below shall be and is hereby approved, with conditions, for an approximate 5.39 acre site located to the immediate east of the property at 1648 Petersburg Road, Boone County, Kentucky. The real estate which is the subject of this request for a Change in Concept Development Plan Map Amendment and is more particularly described in DEED BOOK. 1108, PAGE NO. 247 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

Section Two

That as a basis for this approval of a Concept Development Plan request and dimensional Variances are the findings of fact, and conditions, of the Boone County Planning Commission as set forth in its Minutes and official records for this request and same shall be and are hereby incorporated by reference as if fully set out in this Ordinance and marked as "Exhibit A."

The Boone County Planning Commission Committee recommended approval for this request based on the findings of fact and conditions as set forth in the Committee Report and same are marked as "Exhibit B."

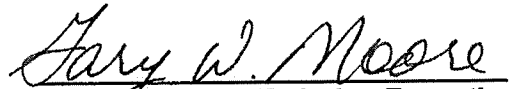
Section Three

This Ordinance shall be in effect and in full force from and after its passage, publication and recording, according to law.


First Reading - the 14th day of July, 2020.

Second Reading - the 11th day of August, 2020

Adopted this 11th day of August, 2020. Yes A No 0


**GARY W. MOORE, Judge-Executive
Boone County Fiscal Court**

ATTEST:


**Sharon Burcham,
Fiscal Court Clerk**

Amended Conditions of Approval for the Harper Company Project

Conditions

1. The approval is based on the revised Concept Development Plans that were submitted at the February 19, 2020 Zone Change/Concept Development Plan Committee Meeting unless modified by other conditions below.
2. The property shall be used solely for the storage of usual and customary construction equipment, materials and inventory used in the road construction business. Specifically, by way of example, "materials and inventory" include forms, dowel baskets, dowels, rebar, tie bar, sealing and striping material and the like ordinarily and customarily used in the road building industry owned by The Harper Company. More specifically, no aggregate, sand or gravel, or waste concrete, asphalt, gravel or other waste paving materials, and no spoils, recycled or reclaimed paving materials shall be stored on the property, either permanently or temporarily. In addition, the property shall not be kept as a junkyard as defined in Article 40 of the Boone County Zoning Regulations.
3. The concrete blocks and chunks of concrete currently on the surface of the site shall be utilized as fill during grading (or removed from the property). These materials shall be subsurface when the grading is complete and thus not visible.
4. The fence that was installed on Kenton County Airport Board property (Property Identification Number 047.00-00-075.00) can remain as long as Kenton County Airport Board signs the Site Plan application and authorizes the improvement.
5. The existing fence along the KY 20 frontage of the property may remain on the condition that the KY 20 frontage buffer is supplemented with landscaping that exceeds the requirements of the zoning regulations and substantially blocks that portion of the fence from views from KY 20 (except for the entrance gate). The landscaping shall conform to the supplemental plan submitted by the engineer and is incorporated herein to condition no. 5 by reference. The landscaping can remain in the right of way as long as the Kentucky Transportation Cabinet signs off on an Encroachment Permit for the final landscaping design. All dead trees shall be replaced per Section 3610 of the Boone County Zoning Regulations.

If the Kentucky Transportation Cabinet would remove, or require removal of the enhanced landscaping area along the front property line at some future date, the owner shall be required to replace said landscaping, in like kind, directly behind the fence.

6. The portion of the Harper Company's northeast property line which aligns with the proposed crushed stone storage lot can be buffered with existing vegetation and supplemental evergreen plantings within a minimum 10 foot wide buffer on the Kenton County Airport Board property.

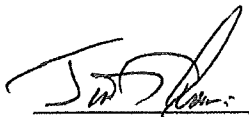
Boone County Planning Commission Staff shall evaluate the Kenton County Airport

Board site with the applicant's landscape architect before the Site Plan is submitted for review to determine where supplemental landscaping needs to be planted to fulfill Section 3635 of the Boone County Zoning Regulations. Kenton County Airport Board shall sign the Site Plan application to document that they are allowing the supplemental landscaping to be planted on their property.

This 10' wide landscaping buffer, which fulfills Section 3635 Boone County Zoning Regulations, shall be required on the portion of the Harper Company's northeast property which contains crushed stone surfacing if:

- A. Kenton County Airport Board does not allow the supplemental landscaping on their property.
 - B. Kenton County Airport Board decides to remove the supplemental landscaping at a future date.
7. The Zoning Administrator can reevaluate and allow minor changes to this condition in the event that the Kenton County Airport Board property is developed in the future with an industrial use. Supplemental evergreen trees from Plant List D shall be added immediately to the north of the proposed 8' tall chain link fence to help screen the rear of the approximate 5.39 acre site. The required trees shall be provided in a double staggered row at a rate of 16 trees per 100 linear feet.
8. The Concept Development Plan and ultimately the Site Plan shall indicate a **NONDISTURB AREA** as indicated on the Concept Development Plan for the northeast "neck" of the property, north of the proposed fence line and nearest the adjacent residential subdivision.

These modified, supplemental and additional Conditions of Approval of the Concept Development Plan are agreed to by The Harper Company.


Proceed For
Applicant THE HARPER CO.

Aug 11, 2020
Date

*(Prepared on Tuesday, August 11, 2020 immediately following the Fiscal Court meeting and approval of the updated Conditions of Approval.)

