

**ZONING MAP AMENDMENT
APPLICATION
PAGE 2**

- _____ Boone County Building Department
- _____ Northern Kentucky Health District
- _____ USDA NRCS/Boone County Conservation District
- _____ KY Division of Water
- _____ Local School District
- _____ Local Fire District
- _____ Other: _____

18. Project Jurisdiction/Location
 Unincorporated Boone County
_____ Florence

_____ Walton
_____ Union

19. **ORIGINAL Property Owner's Signature** _____
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

- ORIGINAL Applicant's Signature** _____
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

SECTION B (To be completed by BCPC Staff)

1. Date Received 7/20/23
2. Review Fee \$2447.36
3. Check what has been submitted:
 - _____ Application
 - _____ Fee
 - _____ Legal Description
 - _____ Concept Development Plan
 - _____ Address of Adjoining Property Owners
 - _____ Number of Copies of Plan Received**
4. _____ Date Application is **Administratively Complete** as Defined in KRS 100.211
5. Staff Reviewer M. Schwartz
6. Committee Chairman D. Hinks
7. Scheduled Public Hearing Date 9/16/2023
8. Boone County Planning Commission Action:
 - _____ **Approval**
 - _____ **Approval with Conditions**
 - Denial**
9. Other: _____ Resolution # _____

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

NOTE: An application consists of all fees paid in full, submitted drawings and a completed application form.

EXHIBIT

“A”

STAFF REPORT

#1

Request of **Steve Berling (applicant)** for **Webbs Excavation LLC, per Adam Reid (owner)** for a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02. The request is for a Zoning Map Amendment to allow the storage of trucks and supplies for an excavation company.

September 6, 2023

REQUEST

- A. The submitted request is to rezone an approximate 6.6 acre area of an approximate 189 acre area located at the terminus of Webb Lane from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD)

SITE HISTORY

- 1978 A Conveyance Plat was approved creating the 1.41 acre lot having a current PIDN of 043.00-00-016.02.
- 1960-1969 Based on information contained in the Boone County GIS, the first building was constructed on the site in question.
- 1974-1981 Based on information contained in the Boone County GIS, the second building was constructed on the site in question.
- 1999-2004 Based on information contained in the Boone County GIS, the area around the second building on the site in question was expanded.
- 2006-2007 Based on information contained in the Boone County GIS, the area around the first building on the site in question was expanded.
- 2008 On March 31, 2008, the Boone County Planning Commission approved a Home Occupation permit for an excavation business.
- 2012-2020 Based on information contained in the Boone County GIS, the third building was constructed on the site in question.

APPLICABLE REGULATIONS

- A. Section 308 of the Boone County Zoning Regulations states that before any map amendment is granted, the Planning Commission and legislative body shall use the following criteria:

1. The map amendment is in agreement with the adopted comprehensive plan and any specific study designed to further detail the Boone County Comprehensive Plan for the location in question; or
 2. The existing zoning classification is inappropriate and that the proposed zoning classification is appropriate; or
 3. There have been major changes of an economic, physical, or social nature not anticipated in the adopted comprehensive plan that substantially alter the area's character.
- B. Section 601.A of the Boone County Zoning Regulations states that the purpose of the Agriculture district is to preserve and protect the supply of productive agricultural lands and other open space, primarily for non-urban uses.
- C. Section 1503.A of the Boone County Zoning Regulations states that any other uses not listed in the underlying district are permitted if found to be compatible and of benefit to the community and meet the requirements of this article, including approval for any such use or uses through a Concept Development by the appropriate legislative body or Fiscal Court.
- D. Section 1509.A of the Boone County Zoning Regulations states that the Planning Commission shall require that a Concept Development Plan be submitted for the development or redevelopment of property located in a Planned Development zone. The Concept Development Plan may be filed to the Planning Commission by the owner(s). If the Concept Development Plan involves a zone change, then the proposal is subject to the criteria in Section 308 as well as the provisions of this article. If the Concept Development Plan does not involve a zone change, or only involves uses that are permitted in the underlying zone (formerly called a "Utilization of an Underlying District), then the proposal is subject only to the provisions of this article. The contents of the Concept Development Plan submittal shall include the items listed in Section 303.

SITE CHARACTERISTICS

- A. The approximate 6.6 acre area, being a part of the approximate 189 acre property, is located at the terminus of Webb Lane.
- B. The site is accessed from Webb Lane, which is a private street that intersects with Cleek Lane.
- C. The approximate 6.6 acre property is currently occupied by two (2) barn structures, a 4-bay building, outside material storage, outside vehicle and equipment storage, and vacant/agricultural land.
- D. Mature vegetation exists along the rear property line of the site in question.
- E. Topographically, the approximate 6.6 acre site in question slopes downward, east to west, at an average grade of approximately 11%.

ADJACENT LAND USES AND ZONES

- North: Single-family residential dwellings and agricultural land (A-1)
- South: Single-family residential dwellings and agricultural land (A-1)
- East: Single-family residential dwellings and agricultural land (A-1 and A-2)
- West: Single-family residential dwellings and agricultural land (A-1)

RELATIONSHIP TO COMPREHENSIVE PLAN

- A. The Our Boone County Plan 2040 Future Land Use Plan designates the site for "Rural Density Residential", "Rural Land", and "Developmentally Sensitive" uses, which are described as follows:
1. Rural Density Residential - Low density residential uses of up to one dwelling unit per acre.
 2. Rural Lands - Wooded, agricultural, recreational, or low density residential uses of up to one dwelling unit per two acres. Residential construction in Rural Lands does not occur in a formal subdivision.
 3. Developmentally Sensitive - Areas that have an existing slope of twenty percent or greater for a height of 20 meters (67.6 feet), or have unique soil or flooding characteristics which limit the ability of an area to support urban development, or contain significant wooded areas, creeks, wildlife habitat, or other natural features that are important to a site's stability and visual character. In addition, developmentally sensitive areas may, in the future, be defined and protected due to historical or visual importance.
- B. The following Our Boone County Plan 2040 Goals and Objectives apply to this application:
1. Mixing of residential and other land uses shall be encouraged where appropriate (Overall Goal A, Objective 2).
 2. Boone County shall strive to achieve diversity and balance in land use while protecting natural resources and natural systems (Overall Goal A, Objective 3).
 3. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community (Overall Goal A, Objective 4).
 4. Development policies shall not discriminate against any person (Demographics Goal A, Objective 1).
 5. Provide appropriate services, housing, employment, and shopping opportunities in order to meet the needs of the population in all geographic areas of the County (Demographics Goal A, Objective 4).

6. Specific areas, innovative land use planning concepts, and design incentives shall be identified to encourage the preservation of agricultural lands (Natural and Cultural Resources Goal B, Objective 1).
 7. The impacts of proposed adjacent residential development on existing agricultural operations shall be examined and addressed (Natural and Cultural Resources Goal B, Objective 3).
 8. Industries shall be promoted in suitable locations to make the county a vital part of a strong regional economy (Economy Goal A, Objective 2).
 9. Local agriculture, business products, and services shall be encouraged and supported (Economy Goal A, Objective 4).
 10. 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).
 11. Mixing of commercial and non-commercial uses shall occur in areas where consideration has been given to assure compatibility with surrounding land uses and natural systems (Economy Goal B, Objective 2).
 12. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe access and adequate parking (Economy Goal B, Objective 3).
- C. Webb Lane is a narrow private street with a gravel surface.
- D. The following are excerpts from Our Boone County Plan 2040:
1. 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 (Land Use, Future Land Use Development Guidelines, Buffering, pages 95-96).

2. 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 (Land Use, Future Land Use Development Guidelines, Landscaping, page 96).

STAFF COMMENTS

A. The submitted Concept Development Plan indicates the following:

1. Retention of the three (3) existing buildings.
2. Retention of all existing outside gravel areas.
3. Retention of the existing outside concrete paved area.
4. Construction of two (2) 3,600 square foot buildings.
5. Provision for additional outside concrete paved areas.
6. Extension of one of the existing outside gravel areas.
7. Construction of a retaining wall and a six (6) foot high privacy fence.
8. Provision for a future pond.

B. Staff has reviewed the submitted Concept Development Plan against the Boone County Zoning Regulations, and offers the following comments:

1. Section 505.1 does not identify 'Construction Sales and Service' as a permitted, conditional, or accessory use within the A-1 district.
2. Section 3154.A.2 states that outside storage, display, and loading areas are permitted only when listed as a permitted use in the applicable zoning district, provided such activities are an integral function of the principal use.

Section 505.1 does not identify outside storage as a permitted, conditional, or accessory use within the A-1 district.

3. Section 3154.A.4 states that outside storage areas shall be screened and enclosed with a wall structure constructed of decorative masonry (excluding plain faced concrete blocks), EFIS, stucco, or other material which is the same or compatible with the texture and color of the materials of the principal building, excluding metal siding, wood fencing, or any type of link or wire fencing regardless of whether or not slats are used. The solid wall enclosure structure shall be high enough to screen the materials or products which are kept within the enclosure, although the area of the walls that are above the height of the materials or products contained within the structure, and any gates, may be constructed of architectural grade metal or wrought iron type fencing (excludes metal siding, wood fencing, and any type of link or wire fencing or gates). The solid wall enclosure structure shall adjoin, and be attached to, the principal building on the site.

The submitted Concept Development Plan does not provide for such screening enclosure.

4. Section 3314.A states that all parking and loading spaces, 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.

The submitted Concept Development Plan indicates that several outdoor storage areas will have a gravel surface.

STAFF CONCERNS

- A. The following list provides a summary of those requirements that are being requested to be waived/altered using the PD district regulations:
 1. Use of the site for 'Construction Sales and Service'.
 2. Provision for outdoor storage.
 3. Outdoor storage areas not being screened.
 4. Use of gravel surfaces on outdoor storage areas.

- B. The proposed development will have the greatest impact on the adjoining property to the northwest of the site in question.

The distance between the proposed development and the common property line is approximately eighty-eight (88) feet, which currently has mature vegetation.

The distance between the activity on the site in question and the activity on the adjoining property is approximately one hundred eighty (180) feet.

- C. Section 1506 of the zoning regulations provides criteria for planned development areas.

The applicant should address how their proposal meets this criteria.

- D. There are other non-residential/agricultural activities that are located along Webb Lane.
- E. Staff has received an email from an adjoining property owner who is in opposition to the submitted request (see attached).

CONCLUSION

The zoning map amendment request needs to be evaluated by the Boone County Planning Commission and the Boone Fiscal Court in terms of Articles 3 and 15 of the Boone County Zoning Regulations, the appropriate planning documents noted herein, and the potential impacts on existing and planned uses in the area.

Respectfully submitted,



Michael D. Schwartz
Director, Zoning Services

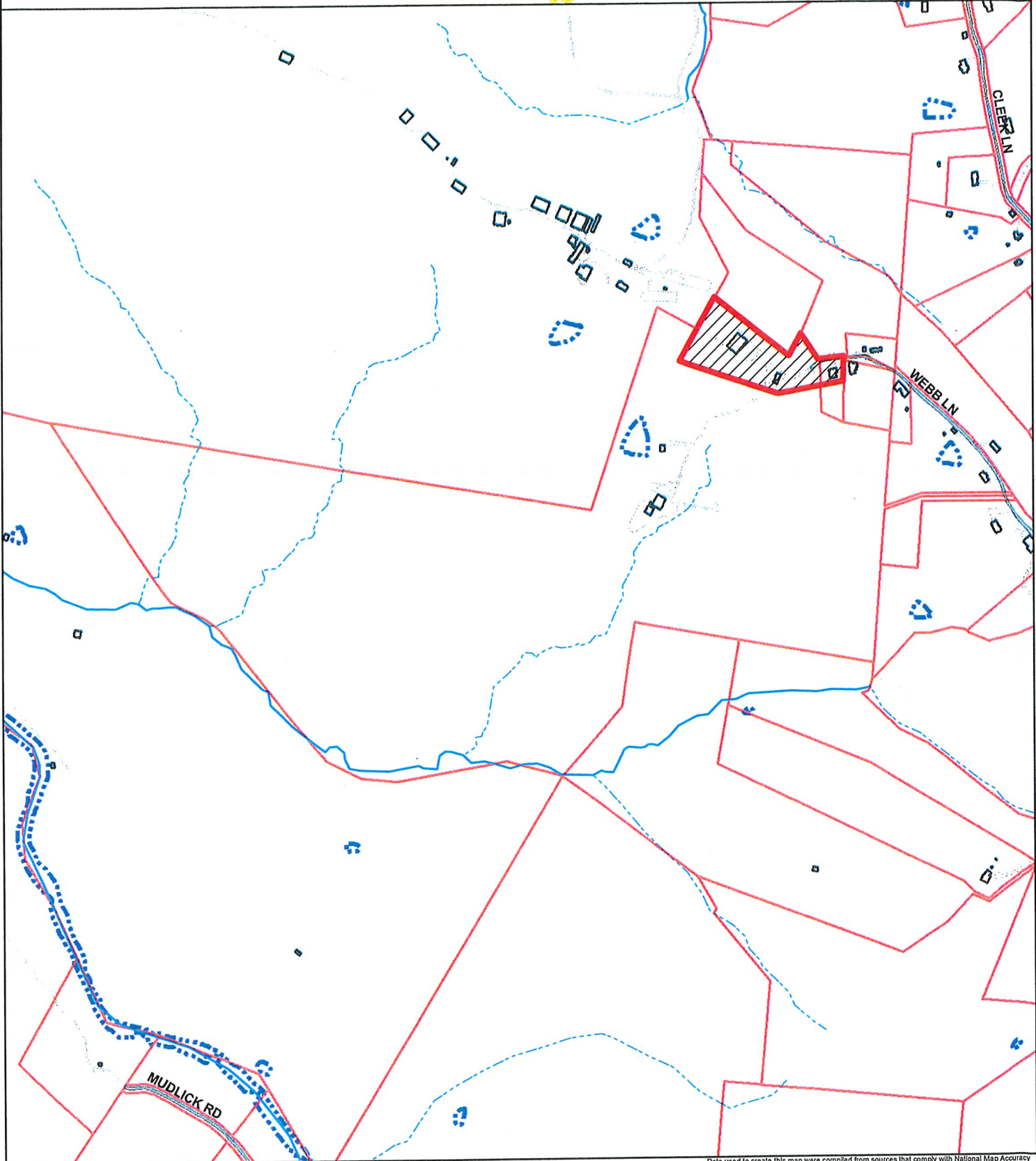
MDS/ss

Attachments:

- *Total Property Map
- *Vicinity Map
- *Aerial Map
- *Topographical Map
- *Zoning Map
- *2040 Future Land Use Map
- *Application
- *Concept Development Plan
- *Email from Bradley J. Steffen, legal counsel to John P. Helmer

Total Property Map

www.boonecountygis.com



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0 425 850 1,700 2,550 3,400 Feet

1 inch = 833 feet



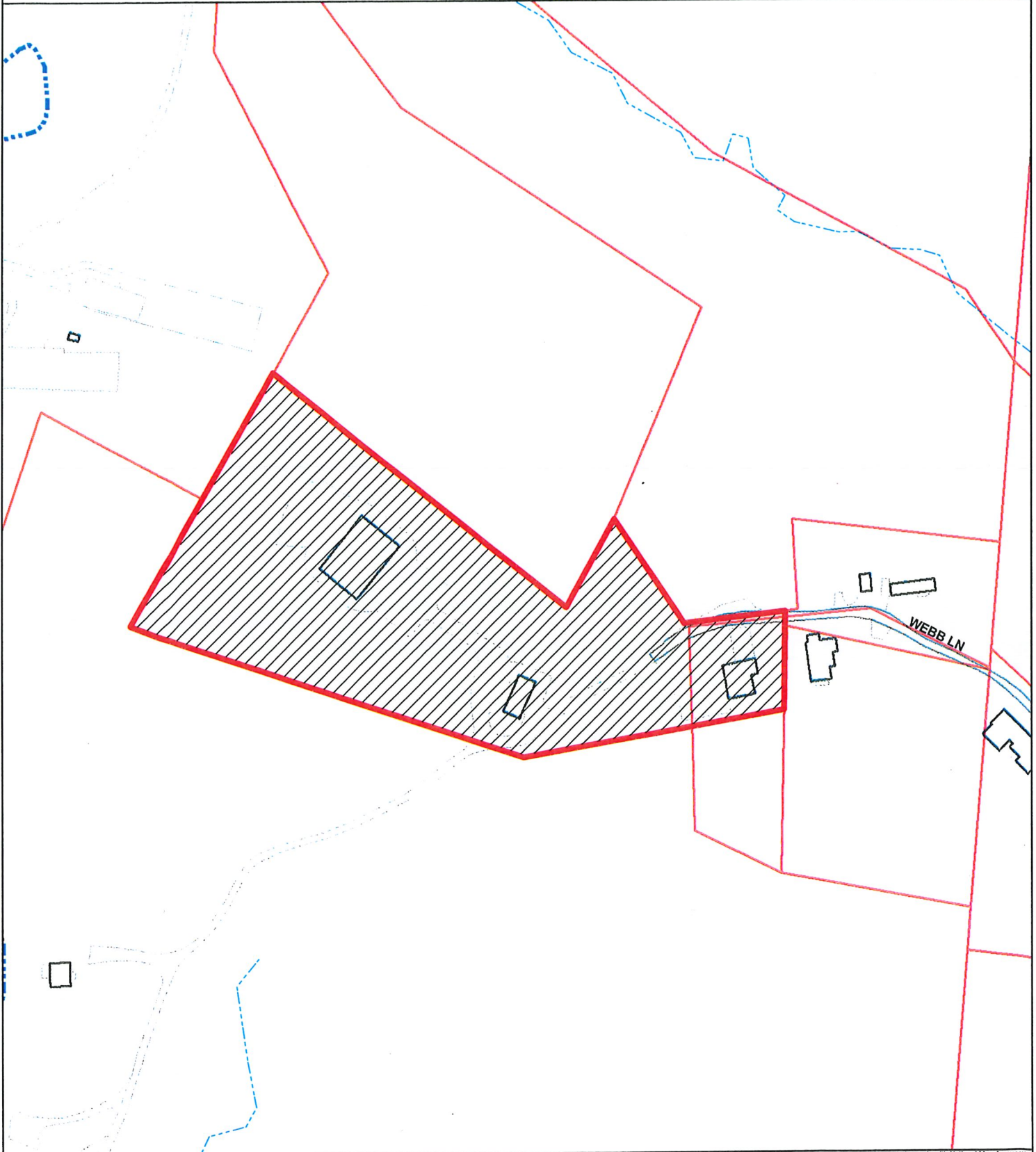
Boone County GIS - Putting Northern Kentucky on the Map



Map Created: xx/xx/2022
ArcMap Document: *.mxd

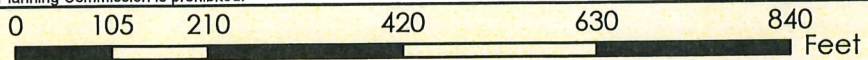
Vicinity Map

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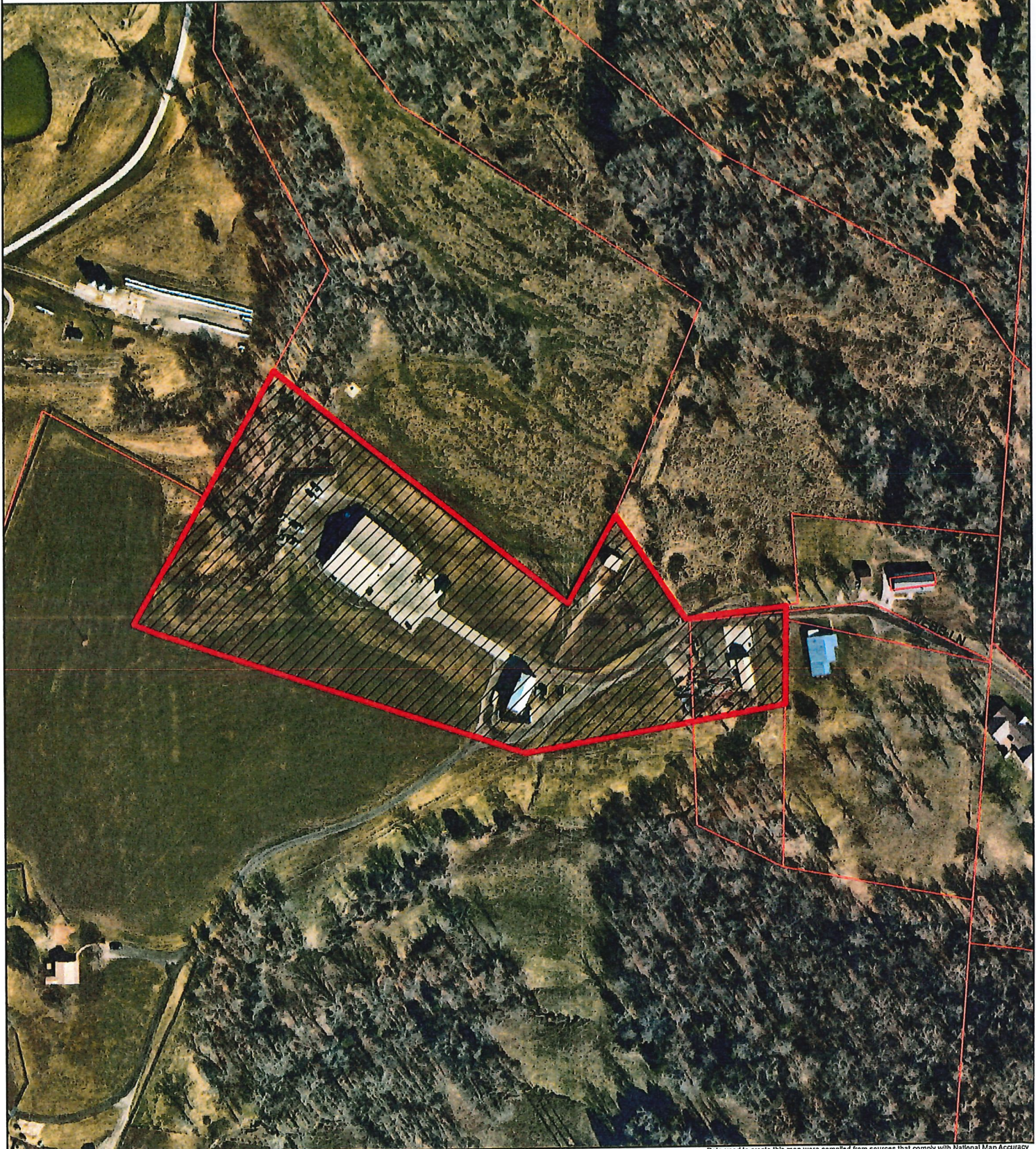


ArcMap Document: *.mxd

Map Created: xx/xx/2022

Aerial Map

www.boonecountygis.com



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0 105 210 420 630 840 Feet

1 inch = 208 feet



Boone County GIS - Putting Northern Kentucky on the Map

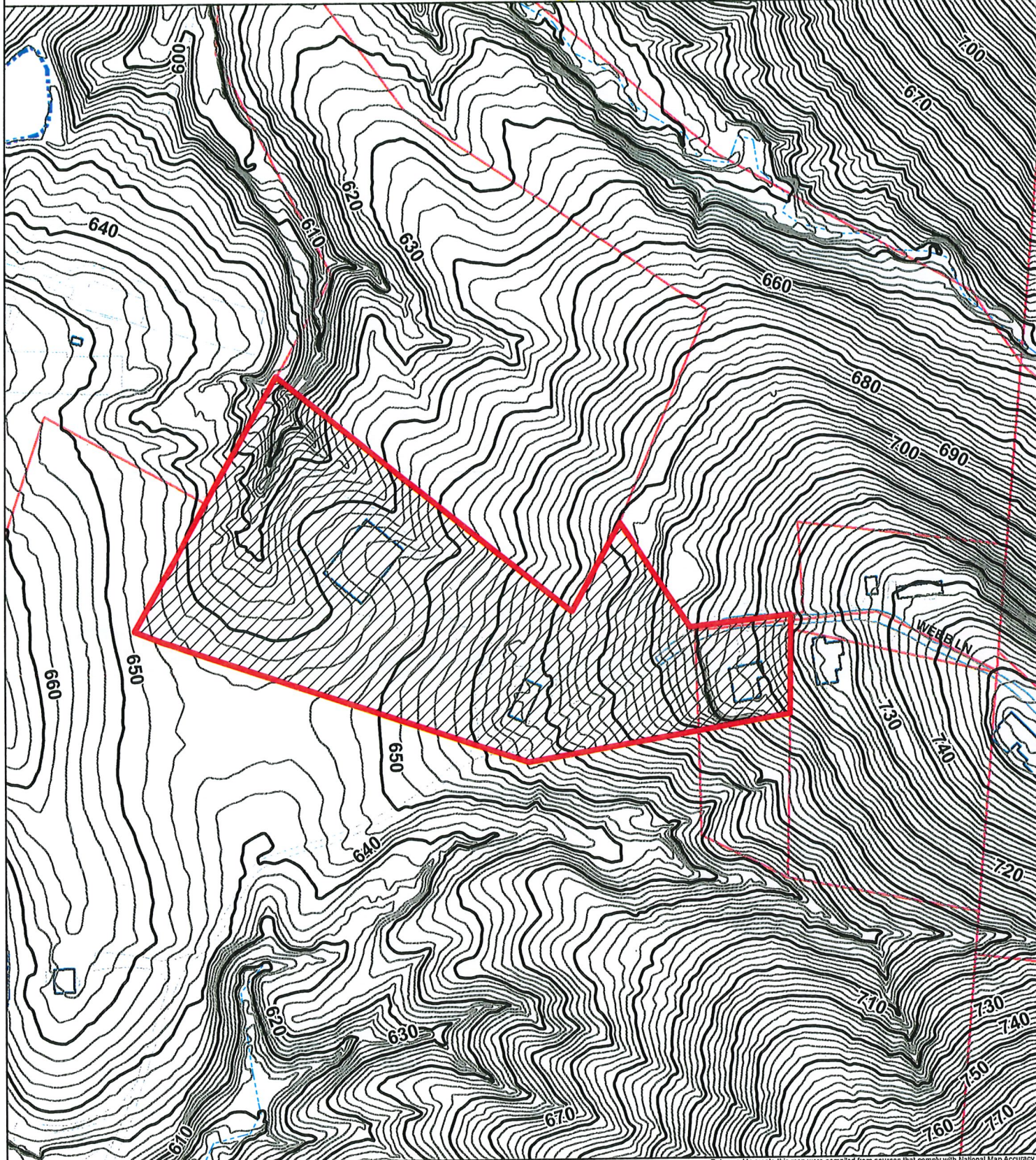


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Boone County GIS
ArcMap Document: *.mxd

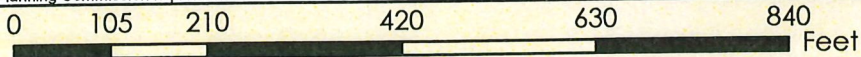
Topographical Map

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1 inch = 208 feet



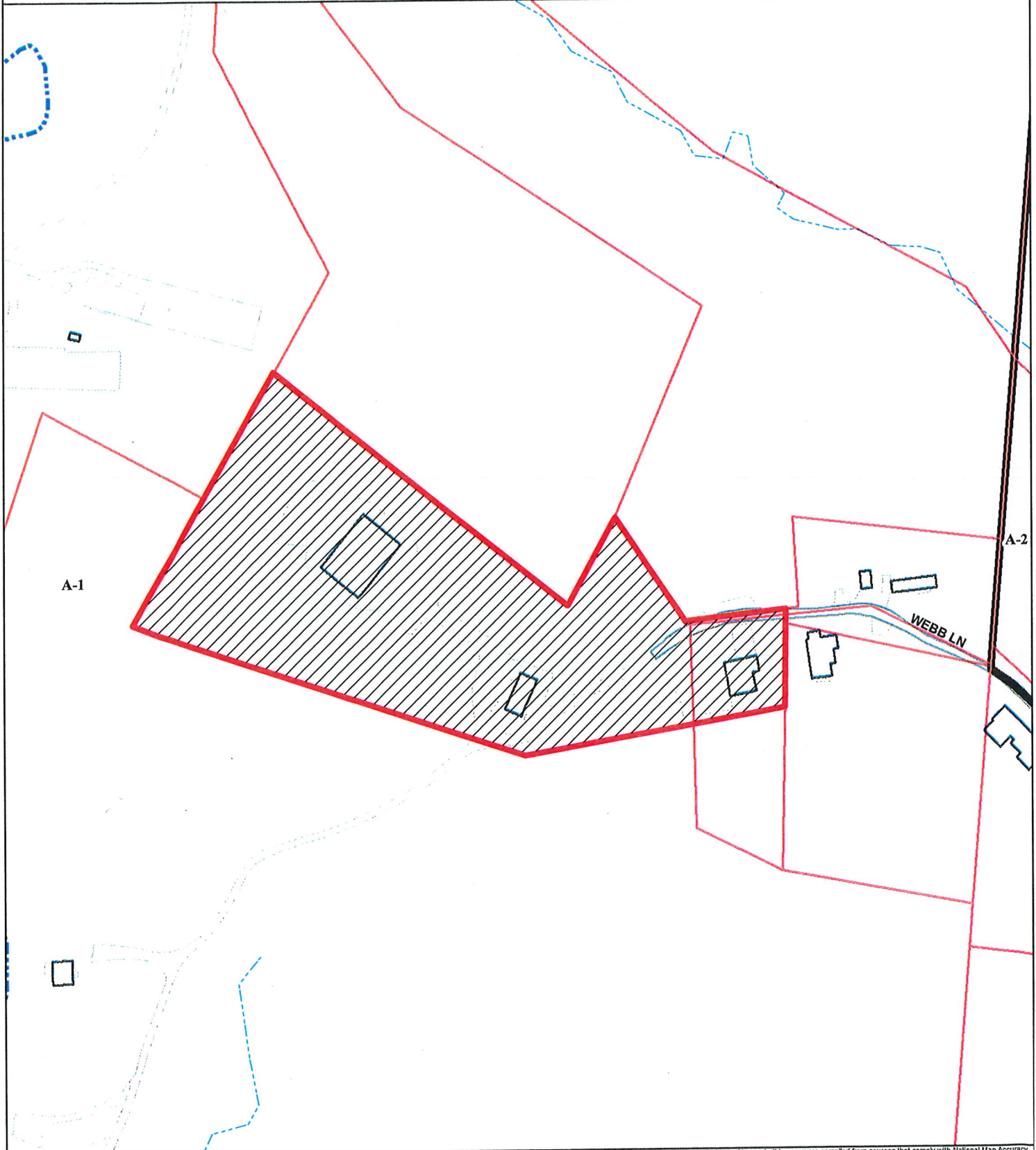
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Map Created: xx/xx/2022

Web Page Publishing: 2/28/2022
ArcMap Document: *.mxd

Zoning Map

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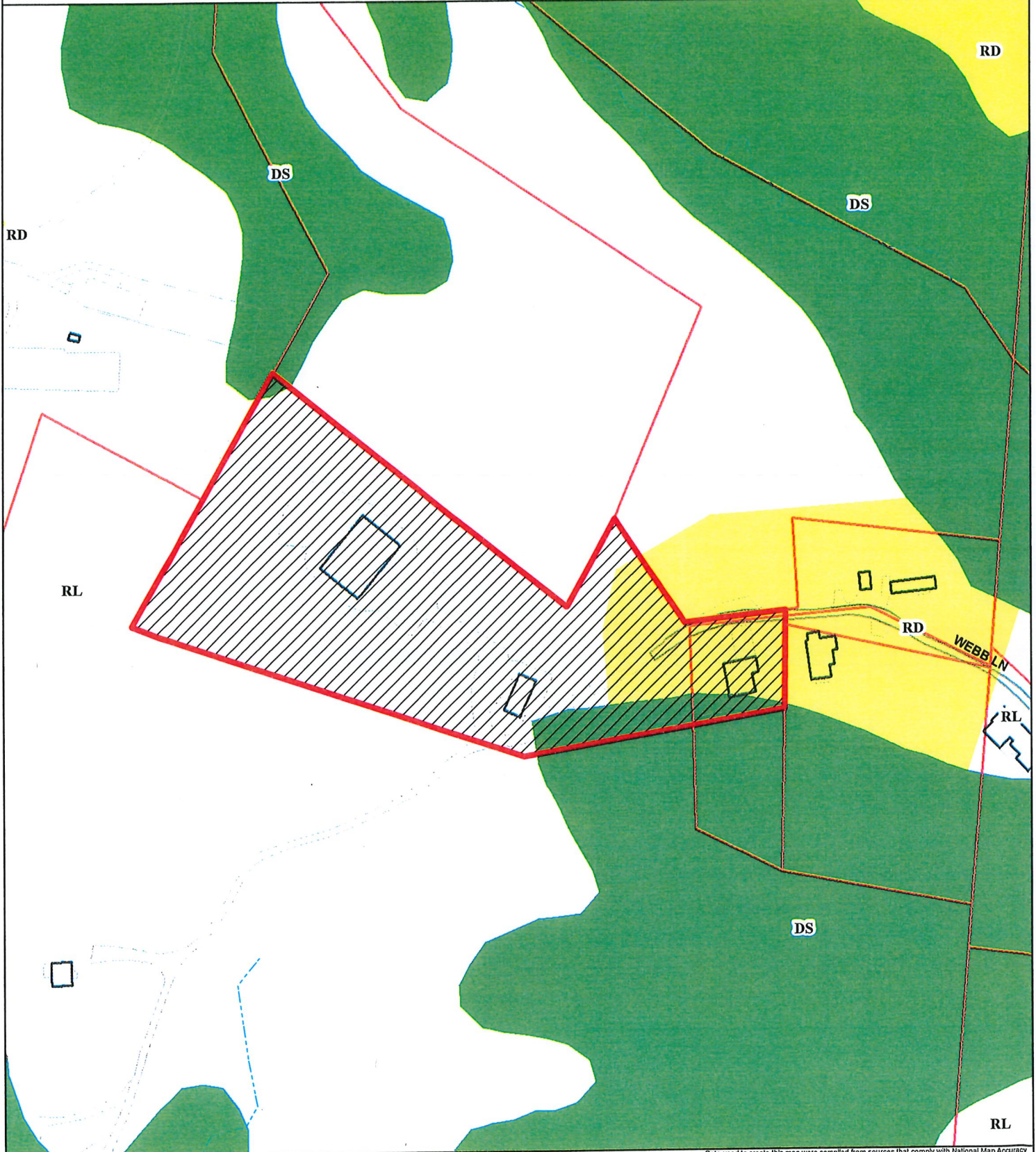


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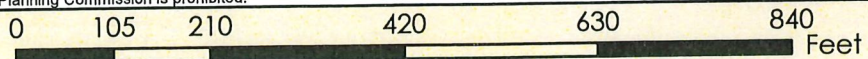
2040 Future Land Use Map

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Boone County GIS - Putting Northern Kentucky on the Map

Boone County GIS
ArcMap Document: *.mxd

Map Created: xx/xx/2022

**ZONING MAP AMENDMENT
APPLICATION
PAGE 2**

- _____ Boone County Building Department
- _____ Northern Kentucky Health District
- _____ USDA NRCS/Boone County Conservation District
- _____ KY Division of Water
- _____ Local School District
- _____ Local Fire District
- _____ Other: _____

18. Project Jurisdiction/Location
 Unincorporated Boone County
_____ Florence

_____ Walton
_____ Union

19. **ORIGINAL Property Owner's Signature** _____
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

ORIGINAL Applicant's Signature _____
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

SECTION B (To be completed by BCPC Staff)

1. Date Received 7/20/23
2. Review Fee \$2447.36
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of Copies of Plan Received**
4. _____ Date Application is **Administratively Complete** as Defined in KRS 100.211
5. Staff Reviewer _____
6. Committee Chairman _____
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - _____ **Approval**
 - _____ **Approval with Conditions**
 - _____ **Denial**
9. Other: _____ Resolution # _____

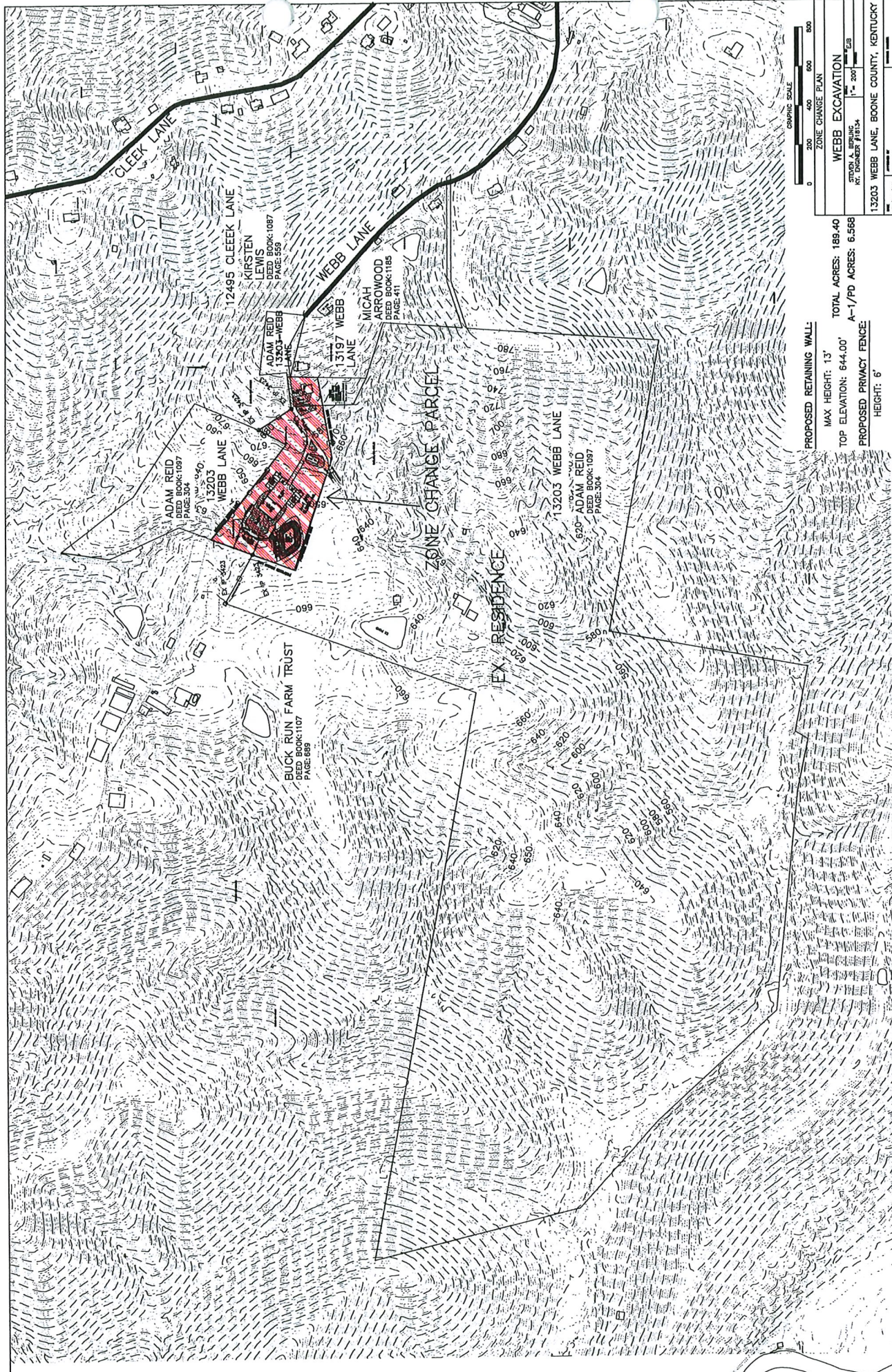
**Boone County Planning Commission
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2950 Washington Street, Room 317
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Burlington, Kentucky 41005
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plancom@boonecountky.org - E-mail
www.boonecountky.org - Web Page**

NOTE: An application consists of all fees paid in full, submitted drawings and a completed application form.

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

1. Date Received: _____ Fee Received: _____ Receipt #: _____
2. Number of Copies Received: _____
3. Has the following been submitted (check all that apply):
 - Completed Application
 - Concept Development Plan
 - Legal Description
 - Names and Mailing Addresses of Adjacent Property Owners
4. Date the application is Administratively Complete (as defined in KRS 100.211): _____
5. Staff Reviewer: _____
6. Committee Chairperson: _____
7. Scheduled Public Hearing Date: _____
8. Boone County Planning Commission Action: _____ Date of Action: _____
 - _____ Approved
 - _____ Approved with Conditions
 - _____ Denial
 - _____ Other
9. Resolution Number: _____

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PROPOSED RETAINING WALL:
 MAX HEIGHT: 13'
 TOP ELEVATION: 644.00'
 PROPOSED PRIVACY FENCE:
 HEIGHT: 6'

GRAPHIC SCALE
 0 200 400 600 800
 ZONE CHANGE PLAN

WEBB EXCAVATION <small>13203 WEBB LANE, BOONE COUNTY, KENTUCKY</small>	
TOTAL ACRES: 189.40 A-1/PD ACRES: 6.568	AT: DISTRICT #18154 EUB
13203 WEBB LANE, BOONE COUNTY, KENTUCKY 7/20/23	



Writer's Direct:
Phone: (859) 426-2156
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Email: bsteffen@dbllaw.com

August 29, 2023

Via Email: mschwartz@boonecountyky.org

Michael D. Schwartz
Director, Zoning Services
Zoning Administrator
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

**Re: Webb's Excavation, LLC's Request For Zoning Map Amendment
Public Hearing – 7:30 p.m., Wednesday, September 6, 2023**

Dear Mr. Schwartz:

This office serves as legal counsel to John P. Helmer, and I write concerning the application submitted by Steve Berling, on behalf of Webb's Excavation, LLC ("Webb's"), for a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) dated July 20, 2023. The proposed map amendment is not in agreement with the Boone County Comprehensive Plan, the existing classification is appropriate as it is uniform to the surrounding area, and there have been no changes within the area that have substantially altered the basic character of the surrounding land.

Findings Necessary for a Map Amendment

Boone County Zoning Regulation Code ("Zoning Code"), Section 308 provides the criteria applicable to the proposed amendment:

- A. Before any map amendment is granted, the Planning Commission or the legislative body shall determine that one or more of the following findings apply:
 1. The map amendment is in agreement with the adopted comprehensive plan and any specific study designed to further detail the Boone County Comprehensive Plan for the location in question;
 2. The existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate;

Dressman Benzinger LaVelle psc
Attorneys at Law

CINCINNATI OFFICE: 221 East Fourth Street, Suite 2500, Atrium Two • Cincinnati, Ohio 45202-4100 • Phone: (513) 241-4110 • Fax: (513) 241-4551
COVINGTON OFFICE: 109 East Fourth Street, Covington, Kentucky 41011 • Phone: (859) 341-1881 • Fax: (859) 788-2011
LOUISVILLE OFFICE: 321 West Main Street, Suite 2100, Waterfront Plaza • Louisville, Kentucky 40202-4284 • Phone: (502) 572-2500 • Fax: (502) 572-2503

3. There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

The application fails to satisfy any of these criteria.

The Application

Webb's is requesting the map amendment to allow for the storage of trucks and supplies in support of its excavation company, which is owned by Mr. Adam Reid. Specifically, Webb's is wanting to store triaxle dump trucks, excavation equipment, and supplies on the identified parcel, along with building two new buildings, expanding gravel parking and concrete paving, building a retaining wall with an accompanying privacy fence, and a pond. *See* the enclosed application, attached as **Exhibit A**. Outside of building a pond, the sought after project is inappropriate on land designated A-1, as the primary purpose of the project is for the operation of an excavating company.

It is also apparent that the application submitted by Steve Berling, on behalf of Webb's is invalid as the actual owner of the land at issue is Mr. Reid and not Webb's. Specifically, the sought after map amendment is for a 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and beginning part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number ("PIDN") of 043.00-00-016.02. Zoning Code Section 302 requires that the application be signed by the property owner. The application reports that Webb's is the current owner of this property, however, a simple search on the Boone County Property Valuation Administrator website reports that Mr. Reid is the owner and not Webb's. *See* the enclosed property reports, attach as **Exhibit B**. Therefore, the application is insufficient and not in compliance with the Zoning Code.

Boone County Zoning Regulation Code

Zoning Code Section 505.1 identifies land use that is allowed and prohibited within A-1. This section clearly states that the following are "prohibited":

- **Construction Sales and Service** - An establishment engaged in the wholesale sale of materials used in the construction and maintenance of buildings or other structures, as well as the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, electrical, plumbing, air conditioning and heating supply stores, swimming pool sales, construction and trade contractors, landscape contractors, grounds keeping, and wholesale nurseries.
- **Heavy Equipment** - Equipment, implements, and machinery used for commercial, industrial, construction, excavation, landscaping, mining and other purposes which are larger than a Bobcat style implement such as bulldozers, excavators, backhoes, crushers, compactors, cranes, and cherry pickers.

- **Light Equipment** - Equipment, implements, and machinery used for commercial, industrial, construction, small scale excavation, landscaping, and other purposes, which are equal to or smaller in size than a Bobcat style implement such as Bobcat style loaders and mini-excavators, fork lifts, scissor lifts, generators, compressors, power washers, and jack hammers.
- **Truck Repair Facility** - A business establishment that repairs, rebuilds, reconditions, or services trucks, trailers, mobile homes, or recreational vehicles, including but not limited to any of the following activities: body and paint work; engine repair or rebuilding; installation, repair, or reconditioning of tires, brakes, transmissions, mufflers, electrical or air conditioning systems, upholstery, or glass, all on an individual vehicle basis; changing of oil, other fluids, and filters; emissions testing and vehicle inspections.
- **Office** - Professional, governmental, executive, management or administrative offices of private or public entities. Typical uses include government offices, administrative offices, legal offices, technology businesses, and architectural firms.
- Small equipment and engine repair and service.

In fact, Webb's has already disregarded these prohibited uses well before seeking this map amendment, all of which are not in compliance with land that is designated A-1. *See* the enclosed pictures, attached as **Exhibit C**.

The purpose of the Agriculture district, A-1, "is to preserve and protect the supply of productive agricultural lands and other open space, primarily for non-urban uses." Zoning Code Section 601. As the below image depicts, this area of land is rural and predominately made up of large farms, clearly falling into the category of A-1. Thus, preservation of this landscape should be top priority.

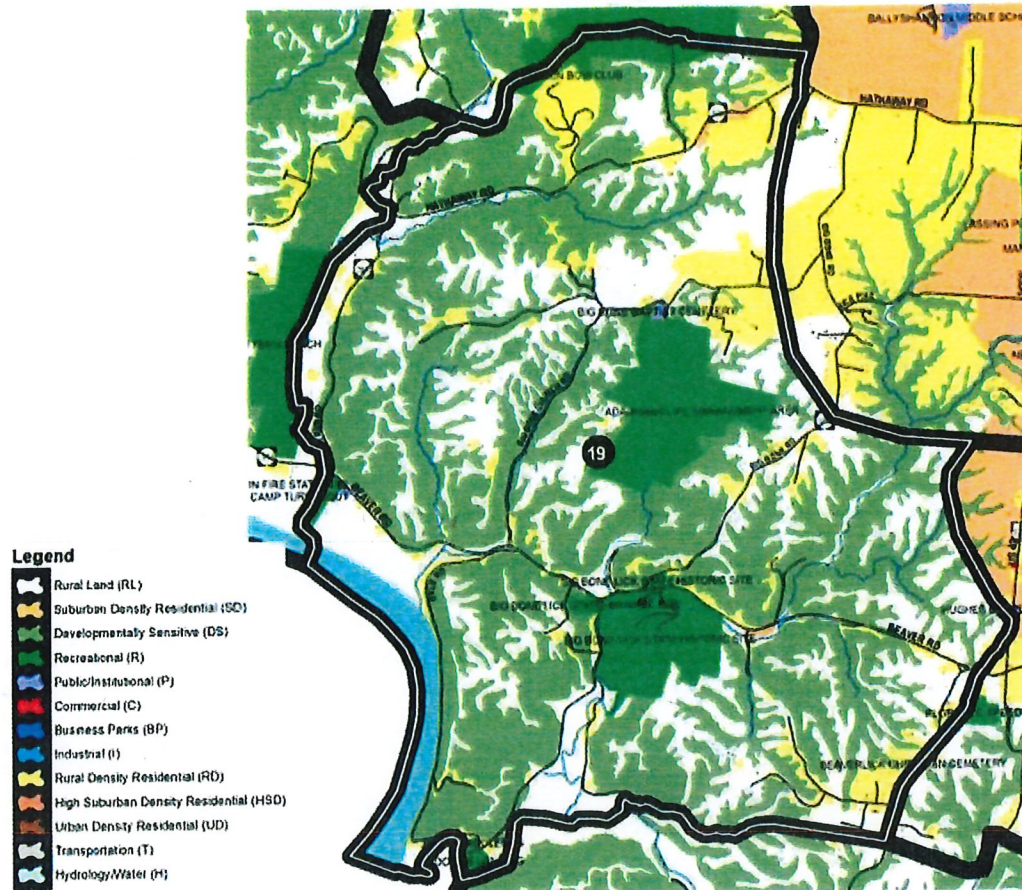


A Planned Development (“PD”) is a special overlay zoning district, which allows various types of land uses and densities in return for appropriate, flexible, creative and high quality designs consistent with the standards and criteria of the zoning ordinance and adopted comprehensive plan. See Zoning Code Section 1500. A PD requires unique consideration, disposition, control and approval. *Id.* Prohibited uses of the underlying district are permitted only if found to be compatible and of the benefit to community and meet necessary requirements. *See Zoning Code Section 1503.* Section 1506 of the Zoning Code provides criteria for a PD. Of particular consideration, PDs “shall” generally have a mixed use orientation and “shall” have a pedestrian orientation. The proposed map amendment does not satisfy either criteria. Finally, a PD district “shall not adversely affect adjacent property, and/or the public health, safety, and general welfare and/or the provisions of the adopted comprehensive plan.” *See Zoning Code Section 1503.*

The proposed map amendment is not compatible and of benefit to the community. Carving out a six-plus-acre parcel for purposes of operating an excavation company is not well-suited nor of a value to the surrounding community when it is in the middle of an agricultural and residential community. This area does not present the type of “mixed use” development with the necessary pedestrian orientation that warrants a PD. Additionally, the proposed map amendment adversely affects adjacent property and the public health, safety, and general welfare of the surrounding community due to the significant potential of runoff that could hinder nearby creeks and wildlife habitat.

Boone County Comprehensive Plan

When assessing the Boone County Comprehensive Plan, adopted on June 5, 2019, the surrounding area falls into the classification of “Agriculture” and “Woodlands” on the current zoning map. Agriculture is defined as “agricultural activity and abandoned, overgrown fields that have not yet reverted to woodland, and vacant or future development areas within the urbanized portion of the county.” Woodlands is defined as “mature wooded areas of greater than one acre.” When looking at the future land use Geographic Areas, the project area falls into “Big Bone.” (*See the below image*).



The surrounding areas around the subject property are classified as “Rural Land” and “Developmentally Sensitive” under the future land use map. The comprehensive plan provides the following definitions:

- **Rural Lands** - Wooded, agricultural, recreational, or low density residential uses of up to one dwelling unit per two acres. Residential construction in Rural Lands does not occur in a formal subdivision.
- **Developmentally Sensitive** - Areas that have an existing slope of twenty percent or greater for a height of 20 meters (67.6 feet), or have unique soil or flooding characteristics which limit the ability of an area to support urban development, or contain significant wooded areas, creeks, wildlife habitat, or other natural features that are important to a site's stability and visual character. In addition, developmentally sensitive areas may, in the future, be defined and protected due to historical or visual importance. Any development on land identified as Developmentally Sensitive must be carefully assessed by the developer and the Planning Commission to determine the ability of the land to support the proposed project. The land use priority for areas designated Developmentally Sensitive is

preservation of the existing environment, as opposed to development of the land. This shall act as a guideline for any project proposed in Developmentally Sensitive areas; specific sites designated as Developmentally Sensitive require more detailed inventories of soil, slope, wildlife habitat, vegetation, and other possible physical constraints as part of the development plans. These inventories shall be used, along with engineering studies, to determine whether an area designated Developmentally Sensitive can be developed in a fashion which is sensitive to the existing site characteristics. The Developmentally Sensitive areas of Boone County have been identified by utilizing United States Department of Agriculture Natural Resources Conservation Service (formerly Soil Conservation Service) data and mapping, through the Boone County Geographic Information System (GIS). The degree of accuracy of these areas is intended to locate general areas of concern. Actual site assessments will determine the exact boundaries of Developmentally Sensitive areas in Boone County at the time of development.

Spot Zoning

The proposed map amendment is also indicative of “spot zoning.” Spot zoning is frowned upon by the Kentucky courts. *Mathis v. Hannan*, 306 S.W.2d 278, 280 (Ky. 1957). Specifically, spot zoning occurs when: (1) when a particular small lot or parcel of ground is singled out and placed in an area, the use of which is inconsistent with the classification change in the ordinance; and (2) where special benefits are sought to be conferred on a particular property owner or where a special burden is sought to be imposed on a particular property owner. *Id.* Spot zoning is invalid where the ordinance does not form to a part of a comprehensive plan of zoning or is for mere private gain as distinguished from the good of the common welfare. *Parker v. Rash*, 236 S.W.2d 687, 689 (Ky. 1951). Thus, the evil of spot zoning consists in the reclassification of a site for a use not consistent with the character of the neighborhood or area. *Wells v. Fiscal Ct. of Jefferson Cnty.*, 457 S.W.2d 498, 500–01 (Ky. 1970). Because the proposed map amendment consists of a six-plus-acre parcel that will facilitate services that completely contradict an A-1 Agricultural district, it falls in line with spot zoning and must be denied. *See e.g. Parker v. Rash*, 236 S.W.2d 687 (Ky. 1951) (denied a zoning amendment request to build a doctor’s office because it was different from that of surrounding property); *Mathis v. Hannan*, 306 S.W.2d 278 (Ky. 1957) (denied a zoning amendment request because there was no uniformity of application over a general area and only a particular piece of property had been singled out for action); and *Fritts v. City of Ashland*, 348 S.W.2d 712 (Ky. 1961) (denied a zoning amendment request of a four-acre tract from residential to light industrial because the request was not a step in any coordinated plan for establishment of industrial districts).

Application of the Criteria for a Map Amendment

The proposed map amendment fails because it is not in agreement with the Boone County Comprehensive Plan, the existing classification is appropriate as it is uniform to the surrounding area, and there have been no changes within the area that have substantially altered the basic character of the surrounding land.

First, the proposed map amendment is not in agreement with the Boone County Comprehensive Plan. The purpose of the Agriculture district, A-1, "is to preserve and protect the supply of productive agricultural lands and other open space, primarily for non-urban uses." Zoning Code Section 601. The proposed application fully contradicts the A-1 Agriculture District and falls outside of the compressive plan's future vision for this area.

Webb's is going to turn this six-plus-acre parcel into an area of constant congestion made up of large dump trucks, semi-trucks and trailers, and excavation equipment such as bulldozers, excavators, and backhoes. The current operation of Webb's at this location is contrary to the Zoning Code and Comprehensive Plan and is already very loud, with triaxle dump trucks and excavating equipment moving about non-stop. In sworn testimony before the Boone Circuit Court, Case No. 20-CI-00516, on June 14, 2022, Mr. Reid testified that he already operates an excavating business at this location and that he stores its equipment at this location when it is not on a job site.

Webb's has also used the surrounding land as an area to dump fill from its jobsites. During the same sworn testimony, Mr. Reid testified that Webb's empties loads of dirt and concrete from jobsites at this his property and, on occasion, allows other companies to dump soil and concrete at his property off of Webb Lane. This activity and the proposed application presents a concern with run off, as the entire proposed area runs off into a creek behind Webb's' work shop, which then flows onto Mr. Helmer's property. Additionally, Mr. Helmer testified at the same trial on June 13, 2022 and gave sworn testimony that Mr. Reid's business has "gotten considerably bigger" over the years and that it is a nuisance as it is loud and noisy. Simply put, an excavation company does not belong in the middle of an agricultural and residential area, because it is not compatible and of benefit to the surrounding community. *See* Zoning Code Section 1503.

Denying the application is also supported by the Boone County Comprehensive Plan, as it clearly presents that the vision of the Big Bone area is to maintain its rural appearance. Further, the Comprehensive Plan deems the area developmentally sensitive, whereby a PD district "shall not adversely affect adjacent property, and/or the public health, safety, and general welfare and/or the provisions of the adopted comprehensive plan." *See* Zoning Code Section 1503. The sought after use of the map amendment will adversely affect the adjacent properties and jeopardize the safety and welfare of neighbors due to the significant potential of runoff. Thus, an excavation business belongs in a commercially zoned area and not in an agricultural district.

No argument can be made that the current zoning classification of A-1 is not appropriate for this portion of Boone County. This area is just south of Big Bone State Park and helps to maintain the rural nature of the southern portion of Boone County. As the above image depicts, this area of land is rural and predominately made up of large farms. Thus, preservation of this landscape should be top priority. Further, Zoning Code Section 505.1 identifies land uses that are prohibited within A-1, and the primary activities of "construction sales and services" and "heavy equipment" that Webb's desires to engage in are inappropriate for A-1.

Finally, there have been no major changes of an economic, physical, or social nature within this surrounding area that warrants the map amendment. This is further supported by the Boone

Michael D. Schwartz
August 29, 2023
Page 8

County Comprehensive Plan, as there is no plan moving forward to make this corridor of Boone County into the next area of industrial use within the county. The basic character of this land is rural and will continue to be well into the future as supported by the Boone County Comprehensive Plan. Therefore, the Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) is inappropriate and must be denied.

Respectfully submitted,



Bradley J. Steffen

Enclosed:

- Exhibit A – Map Amendment Application
- Exhibit B – PVA Property Reports
- Exhibit C – Pictures

cc: plancom@boonecountyky.org

EXHIBIT A

12. 1097 304 2074
Deed Book Page Number Group Number

13. Have you had a pre-application meeting with the BCPC staff: Yes No

14. Have you submitted a Concept Development Plan: Yes No

15. Have you met or discussed your proposed development with any of the following organizations/agencies (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Boone County Building Department | <input type="checkbox"/> Local Fire District |
| <input type="checkbox"/> Boone County Public Works Department | <input type="checkbox"/> Local School District |
| <input type="checkbox"/> Boone County Water District | <input type="checkbox"/> Northern Kentucky Health Department |
| <input type="checkbox"/> Cincinnati Bell | <input type="checkbox"/> Owen Cooperative Electric, Inc. |
| <input type="checkbox"/> Cincinnati/Northern Kentucky International Airport (Kentucky Airport Zoning Commission for height restrictions near the airport) | <input type="checkbox"/> Sanitation District No. 1 |
| <input type="checkbox"/> Duke Energy | <input type="checkbox"/> USDA NRCS/Boone County Conservation District |
| <input type="checkbox"/> Florence Public Services Department | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Kentucky Division of Water | |
| <input type="checkbox"/> Kentucky Transportation Cabinet | |

16. Concept Development Plan Jurisdiction/Location (check all that apply):
 Unincorporated Boone Florence Walton Union

17. Waiver of 60 Day Time Requirement by Originator for Final Planning Commission Action:

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

ORIGINAL Property Owner's Signature: See Next Page
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

**ZONING MAP AMENDMENT
APPLICATION
PAGE 2**

- _____ Boone County Building Department
- _____ Northern Kentucky Health District
- _____ USDA NRCS/Boone County Conservation District
- _____ KY Division of Water
- _____ Local School District
- _____ Local Fire District
- _____ Other: _____

18. Project Jurisdiction/Location
 Unincorporated Boone County
_____ Florence

_____ Walton
_____ Union

19. **ORIGINAL Property Owner's Signature** _____
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

- ORIGINAL Applicant's Signature** _____
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

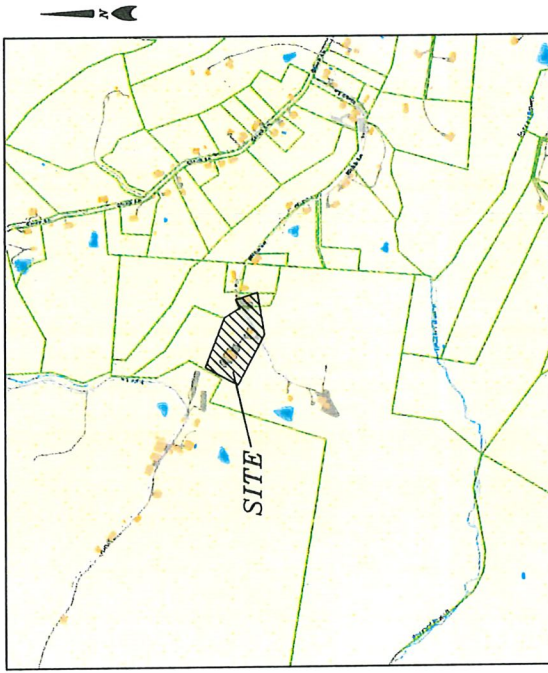
SECTION B (To be completed by BCPC Staff)

1. Date Received 7/20/23
2. Review Fee \$2447.36
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of Copies of Plan Received**
4. _____ Date Application is **Administratively Complete** as Defined in KRS 100.211
5. Staff Reviewer _____
6. Committee Chairman _____
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - _____ **Approval**
 - _____ **Approval with Conditions**
 - _____ **Denial**
9. Other: _____ Resolution # _____

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

NOTE: An application consists of all fees paid in full, submitted drawings and a completed application form.

ZONE CHANGE PLAN
ADAM REID- WEBB EXCAVATION
13203 WEBB LANE
WALTON, KENTUCKY 41094



VICINITY MAP
NO SCALE

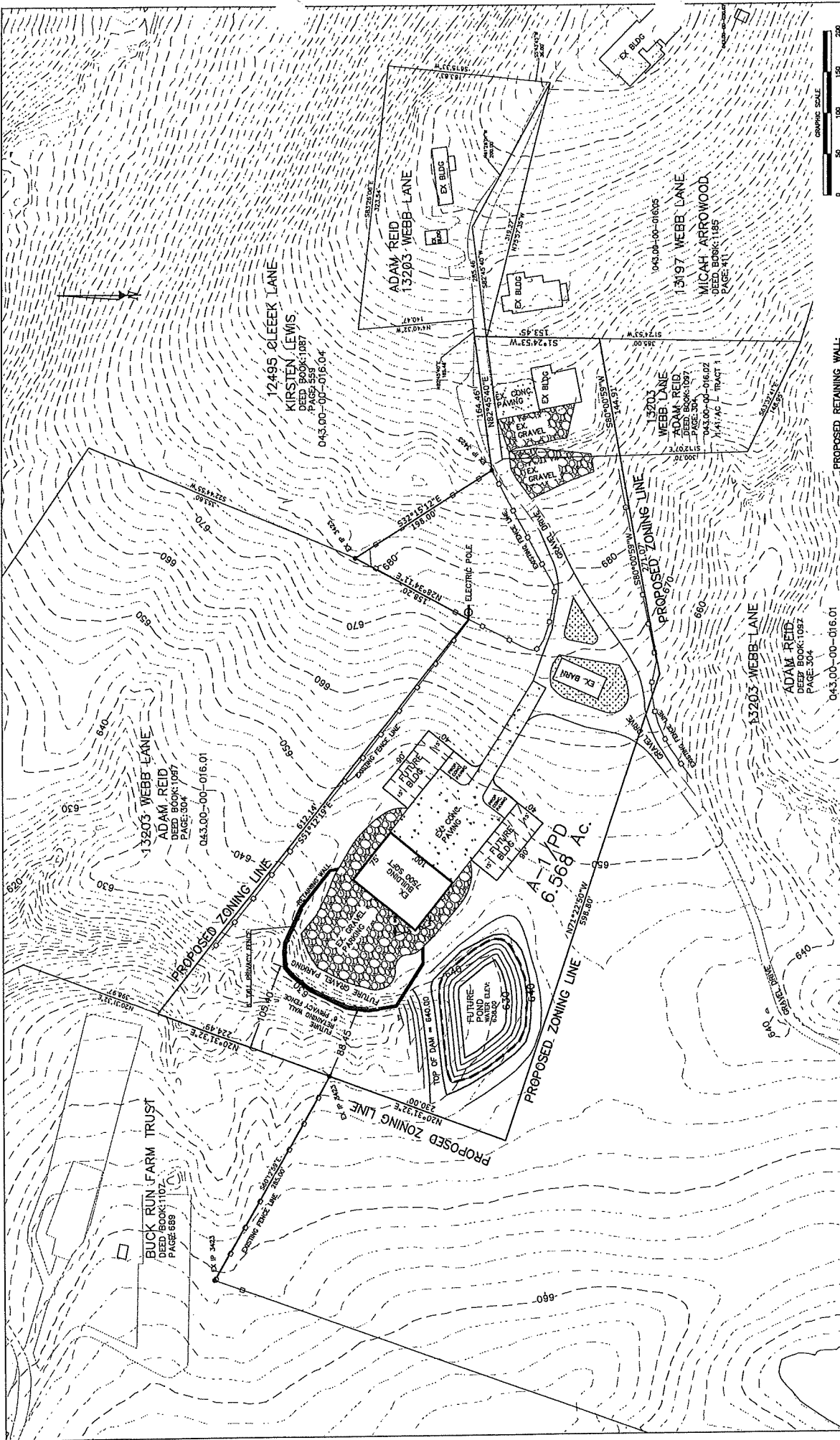
SURVEYOR

STEVEN A. BERLING
1671 PARK ROAD - SUITE ONE
FT. WRIGHT KY 41011
PHONE NO: (859) 331-9191
L.S. 3602

OWNER

ADAM REID
13203 WEBB LANE
WALTON KY 41094
PHONE NO: (859) 485-1223

JULY 20TH 2023



GRAPHIC SCALE	0 50 100 150 200
ZONE CHANGE PLAN	
WEBB EXCAVATION	
STEVEN A. WEBB K. DEBBIE F. HENK	
13203 WEBB LANE, BOONE COUNTY, KENTUCKY	
7/20/23	

PROPOSED RETAINING WALL:
 MAX HEIGHT: 13'
 TOP ELEVATION: 644.00'
 PROPOSED PRIVACY FENCE:
 HEIGHT: 6'

TOTAL ACRES: 189.40
 A-1/PD ACRES: 6.568

12495 CLEEK LANE
 KIRSTEN LEWIS
 DEED BOOK: 1087
 PAGE: 558
 043.00-00-016.04

ADAM REID
 13203 WEBB LANE
 DEED BOOK: 1087
 PAGE: 304
 043.00-00-016.01

ADAM REID
 13197 WEBB LANE
 DEED BOOK: 1195
 PAGE: 411
 043.00-00-016.02

ADAM REID
 13203 WEBB LANE
 DEED BOOK: 1087
 PAGE: 304
 043.00-00-016.02

ADAM REID
 13203 WEBB LANE
 DEED BOOK: 1087
 PAGE: 304
 043.00-00-016.01

BUCK RUN FARM TRUST
 DEED BOOK: 110
 PAGE: 669

A-1/PD
 6.568 AC
 1771*22'10" W
 588.80'

EX POND



GRAPHIC SCALE	
0	200
400	600
800	
ZONE CHANGE PLAN	
WEBB EXCAVATION	
STONEY A. WEBB INC	1" = 300'
KT. DEED BOOK: 1087, PAGE: 304	
13203 WEBB LANE, BOONE COUNTY, KENTUCKY	
7/20/23	


PROPOSED RETAINING WALL:
 MAX HEIGHT: 13'
 TOP ELEVATION: 644.00'
 PROPOSED PRIVACY FENCE HEIGHT: 6'

TOTAL ACRES: 189.40
 A-1/PD ACRES: 6.568

EXHIBIT B



13203 WEBB LN

MAILING ADDRESS	13203 WEBB LN WALTON, KY 41094
SITUS ADDRESSES	13203 WEBB LN WALTON, KY 41094
OWNERS	REID ADAM WEBB
LEGAL DESCRIPTION	188.17 AC ON WEBB LN (43-16)
PARCEL ID	043.00-00-016.00
UNITS SUBJECT TO 911 FEE  (https://www.boonecountyky.org/911fee)	1
ASSESSED TAXABLE VALUE	\$210,770
FARM FAIR CASH VALUE	\$786,000
HOMESTEAD / DISABILITY EXEMPTION	None
ACRES	188.1700
DEED BOOK/PAGE	1097 /304
TAX DISTRICT	500013
CITY LIMITS	Out of City
SALE DATE	05/03/2017
SALE PRICE	\$1
GIS MAP	Display this parcel on GIS Map (https://secure.boonecountygis.com/JavaScript/BoonePVA/?config=config-esearch.json&esearch=043.00-00-016.00&slayer=0&exprnum=1) Standard Viewer (https://secure.boonecountygis.com/JavaScript/BoonePVA/)
PROPERTY TAXES	Display Property Taxes for this parcel (https://boonecountytax.com/#/WildfireSearch/043.00-00-016.00) View Estimated Tax Bill (/forms-tools-links/tax-calculator.aspx?ddlTaxCalculator=500013&txtAssessment=210770)
Update Building Characteristics of This Structure (https://app.smartsheet.com/b/form/493403fb5f7849859002f1ebc94fbd8d)	



043.00-00-016.02


MAILING ADDRESS	13203 WEBB LN WALTON, KY 41094
SITUS ADDRESSES	WEBB LN WALTON, KY 41094
OWNERS	REID ADAM WEBB
LEGAL DESCRIPTION	1.41 AC ON WEBB
PARCEL ID	043.00-00-016.02
UNITS SUBJECT TO 911 FEE  (https://www.boonecountyky.org/911fee)	0
ASSESSED VALUE	\$33,200
HOMESTEAD / DISABILITY EXEMPTION	None
ACRES	1.4000
DEED BOOK/PAGE	1097 /304
TAX DISTRICT	500013
CITY LIMITS	Out of City
SALE DATE	05/03/2017
SALE PRICE	\$1
GIS MAP	Display this parcel on GIS Map (https://secure.boonecountygis.com/JavaScript/BoonePVA/?config=config-esearch.json&esearch=043.00-00-016.02&slayer=0&exprnum=1) Standard Viewer (https://secure.boonecountygis.com/JavaScript/BoonePVA/)
PROPERTY TAXES	Display Property Taxes for this parcel (https://boonecountytax.com/#/WildfireSearch/043.00-00-016.02) View Estimated Tax Bill (/forms-tools-links/tax-calculator.aspx?ddlTaxCalculator=500013&txtAssessment=33200)
Update Building Characteristics of This Structure (https://app.smartsheet.com/b/form/493403fb5f7849859002f1ebc94fbd8d)	

EXHIBIT C











**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
SEPTEMBER 6, 2023
7:30 P.M.**

Chairman Rolfsen opened the Public Hearing at 8:05 p.m. and welcomed the audience to the Planning Commission's September 6, 2023 Public Hearings.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mrs. Kathy Clark
Mr. Steve Harper, Temporary Presiding Officer
Mr. David Hincks
Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Charlie Rolfsen, Chairman
Mrs. Jackie Steele, Secretary/Treasurer
Mr. Tom Szurlinski
Mr. Steve Turner

COMMISSION MEMBERS NOT PRESENT:

Mrs. Pamela Goetting
Mr. Eric Richardson
Ms. Corrin Gulick, Vice Chairwoman
Mr. Bob Schwenke
Mr. Kenny Vaught

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Michael D. Schwartz, Director, Zoning Services

Chairman Rolfsen introduced the first item on the Agenda:

ZONING MAP AMENDMENTS, Michael Schwartz, Staff

1. Request of **Steve Berling (applicant)** for **Webbs Excavation LLC, per Adam Reid (owner)** for a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02. The request is for

a Zoning Map Amendment to allow the storage of trucks and supplies for an excavation company.

Staff Member, Michael Schwartz, referred to his PowerPoint presentation (See Staff Report). The site is 6.6 acres in size but is part of a larger tract of 189 acres. It is located at the terminus of Webb Lane, which is a private street. The first building on the subject site was constructed between 1960-1969. The second one was built between 1974-1981. There was a home occupation permit issued to allow an excavation business to operate on the subject property in 2008 but the rules did not allow employees and the storage of trucks. A pole barn was permitted in 2015 as part of an agricultural use. The site is currently zoned A-1. Everything around the site is either single family residential use or an agricultural purpose. Pages 1 & 2 of the Staff Report refers to the applicable regulations that apply to the request. The site slopes downward east to west on an average grade of 11%. The 2040 Future Land Use Map designates the site as Rural Density Residential (RD), 1 dwelling unit per acre, Rural Lands (RL) and Developmentally Sensitive (DS). Pages 3-5 of the Staff Report reference the Comprehensive Plan. Mr. Schwartz showed some photographs of the site and adjoining properties. He presented the Concept Development Plan showing the retention of the three existing buildings, the retention of all 3 gravel area, the retention of the concrete paved areas, the construction of two 3,600 square foot buildings, a provision of additional concrete areas, the extension of one of the existing outside gravel areas, the construction of a retaining wall and a provision for a future pond. Other non-compliance issues can be found on Pages 5 & 6 of the Staff Report. The use is defined as construction sales and service. Staff would like to note that the distance between the proposed use and the western property line is about 88 feet and the distance between the proposed use and the use on the adjacent property is about 180 feet. Staff has received an email from an adjacent property owner that is attached to the Staff Report and additional material has been placed at each Commissioner's seat. Again, the request is to rezone the site from A-1 to A-1/PD to allow the continuation and expansion of the excavation business.

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

Mr. Tom Breidenstein, attorney and planner, introduced his client's team members.

Mr. Stacey Graus, attorney, gave a historical review of the subject property. He represented Mr. Adam Reid in a lawsuit regarding his property. There was a trial involving the neighboring property owner, Mr. John Helmer. Mr. Helmer had an access easement that allowed him to cross onto Mr. Reid's property when his property flooded. The subject property has been in the Reid/Webb Family since 1953. In March, 2006, Mr. Reid created an LLC to form an excavation business. He started out very small and in 2008, he received approval from the Planning Commission to operate his business at 13203 Webb Lane. The application noted that he would be parking his equipment and trucks in a barn. He received a Home Occupation Permit and operated there for years. By 2015, the business grew and he needed a larger place. The excavation equipment he owns now is rarely on his property. It is usually at job sites. Mr. Graus explained how the business operates.

His farm has become a staging area for his business. He built the barn in 2015 to house the equipment on the property. Mr. Reid doesn't want to grow any further. It is manageable now. Mr. Graus stated that Mr. Reid and Mr. Helmer were close friends and helped each other. In 2019, something changed. There was an issue on one of the jobs they were doing together. Towards the end of 2019, Mr. Helmer told Mr. Reid that he had an easement through Mr. Reid's property and Mr. Reid was not in agreement. Mr. Helmer filed a lawsuit against Mr. Reid involving the easement. It was resolved in January, 2023. In December, 2020 a complaint was made and a Notice of Violation was given to Mr. Reid. It was thought everything would be resolved after the lawsuit was over. Mr. Reid uses his equipment to maintain Webb Lane – a private road. He also uses his equipment to maintain his farm.

Mr. Adam Reid, 13203 Webb Lane, distributed a handout (see Exhibit 1) and gave an overview of past history. His grandfather bought the farm in 1953. He moved on to the farm in 1983. He met Mr. Helmer and helped him with the farm. They became good buddies. He has helped him with balling hay and taking care of his livestock. They undertook between 75–100 jobs together between 2008-2018. The easement issue soured the relationship. He started the business in 2006 and applied for a Home Occupation Permit. He did not intentionally or deceitfully grow the company. He was unaware if he hired someone or bought additional equipment or a truck, he would have to go back to get permissions. He has 12 guys, 9 of which go to the shop and the other 3 go directly to the job site. He has been in business for 17 years. He just wants to be left alone. He will build the extra buildings and pond if necessary. He has 7 dump trucks and flatbed trucks. They work from 7:30 a.m. to 5:00 p.m. Mr. Reid showed photographs of the site and Mr. Helmer's property as well as employee events. Mr. Reid stated that he circulated a letter to get support from the neighbors. He used a photograph to show the houses he visited to get support along Cleek Lane, Patriot Court and Webb Lane. He asked the audience to stand if they supported him.

Mr. Steve Berling, Engineer, met with Staff to discuss what improvements to the site should be made to make the site look better – inside storage and parking, retaining wall, privacy fence, etc. Mr. Reid will make these improvements to be a good neighbor. Chairman Rolfsen asked if all the equipment and trucks would be stored inside? Mr. Berling replied yes. A privacy fence and trees would also be installed to screen parking. A pond could also be put in to handle storm water.

Mr. Breidenstein distributed a memorandum that addresses the statutory requirements for the Zoning Map Amendment request (Exhibit 2). He believes that the request conforms to the Comprehensive Plan. The use is a mixed use – an agricultural use and the excavation business. Therefore, it meets the Future Land Use Map designation of Rural Lands (RL). In addition, Pages 1-2 of the memorandum gives other references to the Comprehensive Plan, particularly the Goals and Objectives. On Page 3 there is an argument that the applicant also meets the Future Land Use Development Guidelines. It deals with buffering, landscaping, access management and storm water management. The proposed use is a very low traffic generator – 9 trips in and out. The architecture of the site is consistent with what is located in the area. It is a barn like others in in area. The applicant is not proposing any signs. The application meets the Planned

Development (PD) criteria (Section 1586 of the Zoning Regulations). Both uses on the property are compatible as they have existed since 2008. The first and only complaint was made in 2020. The affected property owner is not impacted in terms of traffic by the excavation or construction use. Mr. Breidenstein asked for a favorable recommendation for the Planning Commission.

At this time, Chairman Rolfsen asked if anyone in the audience who was in favor or against the request or have questions? He asked the audience to not repeat the same set of concerns or comments over and over. Mr. Costello reminded the audience that all comments have to be land use related.

Mr. Dwight Workman, 12320 Cleek Lane, has never experienced any traffic issues related to the request. No one has been run off the road. It is a clean operation. It would be a travesty if he was not allowed to continue his business at the same location. He supports Adam Reid.

Mr. Jon Schneider, 12601 Cleek Lane, stated that he supports Adam Reid. He has never had any trouble with the road and the business as he and his wife walked it daily. The business is good for Walton, Cleek Lane and Webb Lane. Traffic is not an issue. There is no noise from the trucks.

Mr. Rob Turner, 12657 Cleek Lane, stated that there is a lot of equipment that goes in and out of Cleek Lane because it is an agricultural area. There is no issue with traffic on Cleek Lane, Webb Lane or Patriot Lane. He appreciates how well Mr. Reid keeps his property clean. It doesn't make sense to spend more money to make one person happy.

Mr. Mike Arrowood, 13197 Webb Lane, stated that the request is a business that is growing in Boone County. Mr. Reid's employees come from all over and are dedicated to the area.

Ms. Lauren Gilmore, 12300 Cleek Lane, stated that Mr. Reid has helped her take care of her property since her husband has multiple sclerosis. He gives a lot to the neighborhood by using his equipment and vehicles. Mr. Reid is only using 6 acres of his property for the business use. She supports him.

Mr. Brad Steffen, attorney for Mr. John Helmer, introduced Mr. Helmer.

Mr. John Helmer, 12246 Kite Lane, stated that he has been on the farm since 1969. He gave a history of his family farm. His property is part of Agricultural District #14. He is committed to agriculture. He wants to keep it that way and wants to follow the Comprehensive Plan. He noted that his plumbing business is located at U.S. 25. It is zoned I-1. Having an excavation business located next door to him is a nuisance. It is loud with trucks in and out. They have construction spoils. At one point, there were 40 trucks a day going in and out of the site dumping dirt. He doesn't have a personal vendetta against Mr. Reid. He is happy for his success. It is a construction company that needs to be in an area that is zoned properly. Thus, it won't negatively impact the neighbors. The Comprehensive Plan doesn't say anything about operating a construction company in the area. It says agriculture. That is what we are and his family is committed to

remaining agriculture. Therefore, he is asking the Board to deny the Zoning Map Amendment. It is out of place. It is time to relocate his business.

Mr. Drew Finn, 12226 Kite Lane, stated that he moved the location of his new home due to Mr. Reid's business. It cost him more money. He is against Mr. Reid's business expansion. It is noisy as he farms his property. He asked the Board to reject the application.

Ms. Kristen Lewis, 12495 Cleek Lane, stated that she owns 33 acres that adjoins the Reid property. She looks over 2 nice farms. She didn't realize that 2 times a day there would be dust and noise. She has been run off the road by one of Mr. Reid's trucks. The road is only one lane. It needs to be improved to accommodate trucks. The use in question will lower her property value since it isn't agricultural or a large lot residential subdivision. Ms. Lewis noted that she had a recent discussion with Mr. Reid regarding no complaints about the use and he can continue to operate because of no complaints. It is not right that the law can continue to be broken. If she would have known this, she would have complained within the 10 year period. She asked the Board to deny the request because she has to look at it every day.

Mr. Don Volland, 1471 Greenery Drive, stated that he was Ms. Lewis' realtor when she bought her 33 acre farm. Cleek Lane is on a ridge as it sits up high. All the houses look down on the beautiful farms. Now they are looking down on an industrial site. Property taxes may be reduced because of lower property values in the area. It is the wrong place for an industrial site.

Mr. Albert Smolko, 12515 Cleek lane, expressed a concern about stormwater from the proposed buildings. There are problems now because of one of the buildings. There are also people shooting guns in the area and on the property. He also has ditched his vehicle because of traffic. The road isn't wide enough. The 2015 building was supposed to be used for agricultural uses. He is against the proposed project.

Mr. Brad Steffen, attorney, stated that an excavation business does not belong in an agricultural district. This is about land use. The proposed map amendment is not in agreement with the Boone County Comprehensive Plan. The existing zoning classification is appropriate as it is uniform to the surrounding area. There have been no changes within the area that have substantially altered the basic characteristics of the surrounding land. Mr. Steffen referred to his memo dated August 29, 2023. It was attached to the Staff Report. The Boone County Zoning Regulations identifies and prohibits uses that are permitted in the A-1 zoning district. It also states the following uses that are prohibited - all of which Mr. Reid wants to engage in further - construction sales and service, the outdoor storage of construction equipment, large, heavy, industrial equipment, truck repair facilities, office and small equipment and engine repair. Mr. Steffen reviewed the purpose of an agricultural district - to preserve and protect the supply of productive agricultural lands and other open space providing for non-urban uses. Mr. Helmer has recertified his property as an Agricultural District. Mr. Steffen reviewed the requirements of a Planned Development (PD) zone. A Planned Development allows uses that are compatible and a benefit to the community. An excavating company in the middle of an agricultural area is not compatible. Further, a PD district

shall not adversely affect an adjacent property. The Staff Report shows that the site is surrounded by single family dwellings and agricultural zones. Mr. Steffen pointed out the Future Land Use recommendations for the area – Rural Lands and Developmentally Sensitive. It recommends the preservation of the existing environment. Mr. Reid's request is spot zoning since the area is surrounded by agriculture. Mr. Steffen introduced a letter and pictures dated August 31, 2023. (see Exhibit 3). It shows Mr. Reid bringing fill material to his property from various job sites. It is more than 9 truck loads of dirt/debris. He is also allowing other companies to dump material. Mr. Steffen also provided a video of equipment being brought in off Cleek Lane. Mr. Steffen also distributed a booklet describing Mr. Reid's activities and violations (see Exhibit 4). In late 2020, complaints were submitted to the Planning Commission for a commercial business operating off Webb Lane (Mr. Reid). On December 2, 2020, Mr. Bob Krebs sent a letter to Mr. Reid about the violation of the 2008 Home Occupation Permit. At that time, the barn was being used for commercial purposes and not exclusively for agricultural purposes. A copy of Mr. Reid's Home Occupation Permit was distributed (see Exhibit 5). The permit requires all equipment to be stored inside the barn. It did not include the workshop approved in 2015. The equipment is not being kept in the barn. Mr. Reid built the workshop under the guise of being used for agricultural purposes. He expanded his excavation business. There continues to be a concern about runoff from the outside storage of equipment and trucks into the streams and creeks. It flows into Mr. Helmer's property. Additional correspondence from the Boone County Planning Commission was sent to Mr. Reid about his violation and remedies. Then, the easement lawsuit is also being dealt with in the Summer, 2023. Mr. Schwartz in April determined a violation exists and gives Mr. Reid until early/mid-June to resolve the issue or else face action by the County Attorney's office. In October, 2022, the civil lawsuit was settled. In March, 2023, Mr. Helmer asked what were the next steps to enforce the regulations. Mr. Reid has disregarded the Planning Commission's previous approvals. Mr. Steffen provided a map of Mr. Helmer's Agricultural District #14 (see Exhibit #6). The recertification is good for 5 years. It is about land use. The PD is surrounded by agricultural uses. All of the activities by Mr. Reid contradict the zoning ordinance. He asked to enforce the zoning ordinance, that Boone County Comprehensive Plan be recognized and the Zoning Map Amendment request be denied. Mr. Steffen also asked if he could question Mr. Reid?

Chairman Rolfsen asked if any Commissioner had any questions or comments for the applicant. He asked if Mr. Helmer wanted the business moved completely from the property? Mr. Helmer replied yes. It is inappropriate for the area. It should be moved to an area where it is zoned properly and not negatively impact its neighbors.

Mr. Turner asked how the business affects the Agricultural District in question? Mr. Helmer responded that it doesn't affect the reclassification. The Reid property is not in the Agricultural District #14.

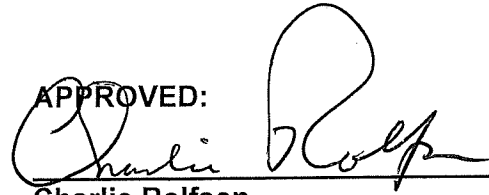
Mr. Steffen inquired if he could ask Mr. Reid a question? Mr. Wilson replied yes but all questions have to be directed to the Chairman. Mr. Steffen asked about putting dirt and fill on the subject property? Where is it coming from and how often? Does he charge for it? Do other companies dump on the site?

Mr. Reid responded that he has had others dump dirt as part of a job. He has filled in areas to build on. He does not charge to dump because it is for him only.

Mr. Graus asked Mr. Reid if he was willing to restrict from bringing fill in the future in order to continue to operate? Chairman Rolfsen asked if the applicant would restrict the dump trucks bringing fill material. Mr. Reid replied yes.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on September 20, 2023 at 5:00 P.M. This item will be on the Agenda for the Business Meeting on October 4, 2023 at 7:00 p.m. in the Fiscal Courtroom. Chairman Rolfsen closed the Public Hearing at 9:48 p.m.

APPROVED:



Charlie Rolfsen
Chairman

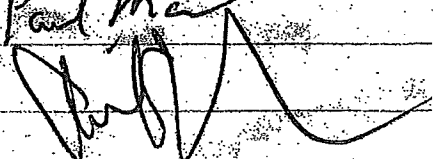
Attest:




Kevin P. Costello, AICP
Executive Director

- Exhibit #1: Signatures for Support of Webb Excavation
- Exhibit #2: Memorandum from Tom Breidenstein, Esq
- Exhibit #3: DBL Law Memo – Brad Steffen
- Exhibit #4: Complaints about Webb Excavation Packet
- Exhibit #5: Home Occupation Permit
- Exhibit #6: Boone County Conservation District Letter & Map

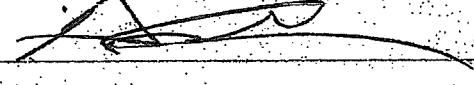
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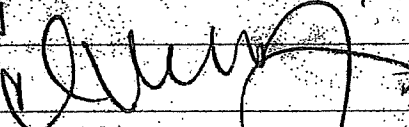
- 11012 Creek Ln Robert Massie Paul Ma
- 12246 Creek LN Aaron Stolle 

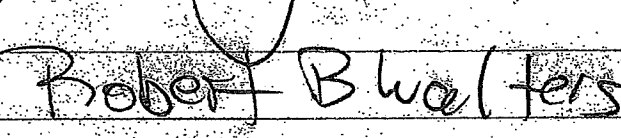
- 12349 Creek LN John L Bertke Jr. John L Bertke Jr.

- 12300 Creek LN Dawnen Hill 

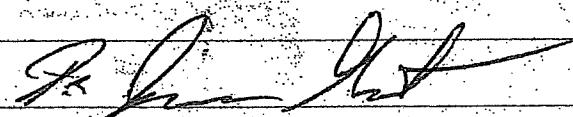
- 12389 Creek LN 

- 12340 Creek Ln GREG STAGG 

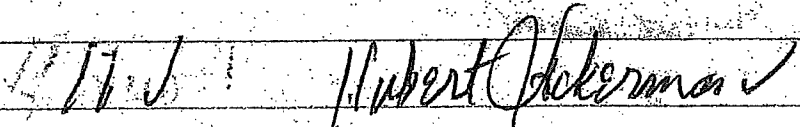
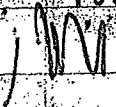
- 12320 Creek LN Night Workmen 

- 12479 Creek LN Robert B Walters 

- 12495 Creek LN

- 12450 Creek LN D. James Beck 

- 12515 Creek LN

- 12534 Creek LN 


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• 12511 CREEK LN

• 12549 CREEK LN ~~Walter J. Webb~~

• 12576 CREEK LN ~~Rebecca Strunk Mills~~
Rebecca Strunk Mills

• 12590 CREEK LN
Karen Murr ~~Karen Murr~~ Rick Murr Rick Murr

• 12601 CREEK LN
Jonathan Schneider ~~Jonathan Schneider~~

• 12625 CREEK LN
Nick Nelson ~~Nick Nelson~~ Morgan Nelson Morgan Nelson

• 12670 CREEK LN
JACK D. EMERSON ~~Jack D. Emerson~~ 859-495-4744

• 12651 CREEK LN ~~Verna Reed~~
12651 Creek Lane Cheryl Hart


• 12657 CREEK LN - Robert Lunn 859-445-9008

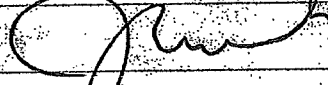
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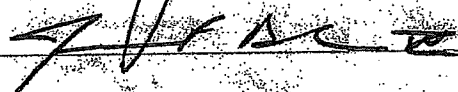
• 12757 Creek Ln Jim and David Warren
Jim and Doris Warren

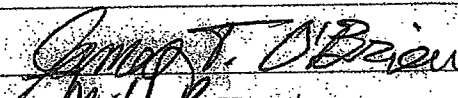
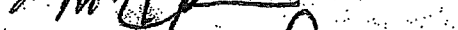
• 12655 Creek Ln,
Sun Jan

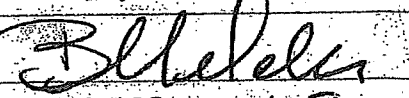
• 12705 Creek Ln

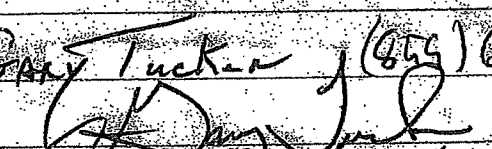
• 12745 Creek Ln Brian Stewart 

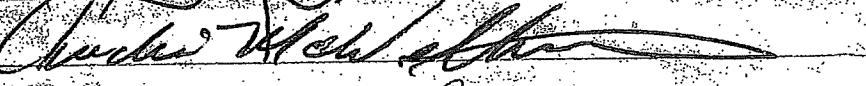
• 12754 Creek Ln Jack Nickerson 


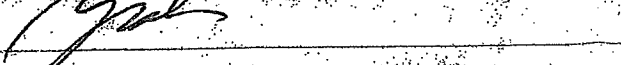
• 12746 Creek Ln JAMES DALTON 

• 12775 Creek Ln James T. O'Brien 
Michele O'Brien 

• 12770 Creek Ln Bryan Melcher 
859-397-7108

• 12822 Creek Ln Gary Tucker (855) 632-3821


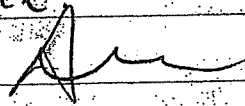
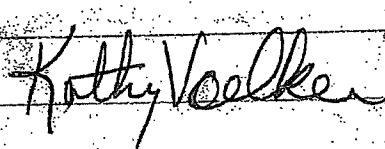
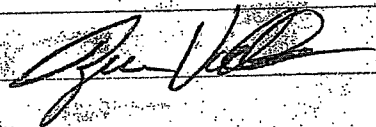
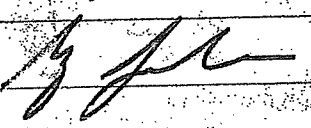
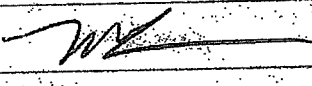
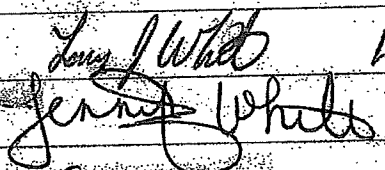
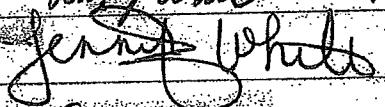
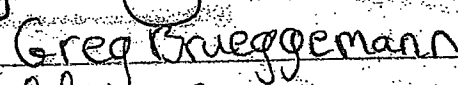

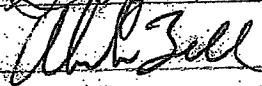
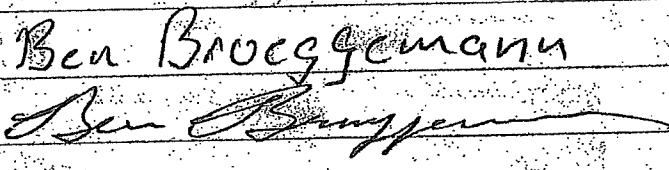
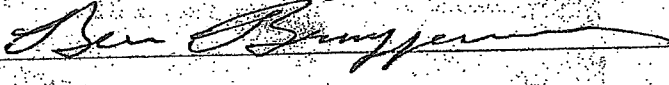
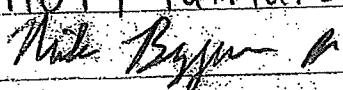

• 12801 Creek Ln 

• 12780 Creek Ln - Andrea Pateo 
Yu Yoshioka 

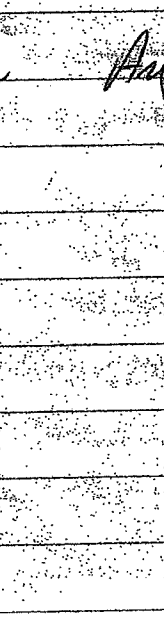
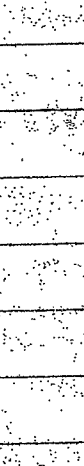
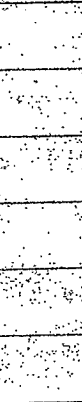
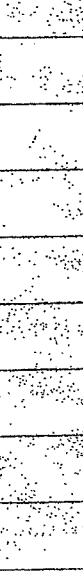
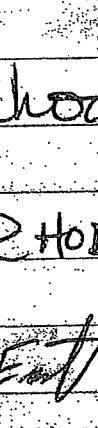
• 12845 Creek Ln

• 12844 Creek Ln Amber Dalton

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- 15520 Adams Cross Ln 
- 12757 Creek LN
- 15540 Independence LN  Kathy Voelker
- 15560 Independence LN  Ryan Voelker
- 15565 Independence LN  Chad Spillman
- 15541 Independence LN  Michael Reeves
- 15521 Independence LN  Terry J. White
 Jennifer White (Jennifer White)
- 11021 ~~Ad~~ Patriarch LN  Greg Brueggemann
 Greg Brueggemann
- 11020 Patriarch LN  Abe Bell
- 11030 Patriarch LN  Ben Brueggemann
 Ben Brueggemann
- 11044 Patriarch LN  Mike Brueggemann
Mike Brueggemann  Mike Brueggemann

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- 13033 webb lane John L Henley 
- 13105 webb lane James W'Flay 
- 13105 Webb lane Angela W'Flay 
- 13197 webb lane Mican ARROWOOD 
- 12900 Webb Lane Theresa Rhodes
- 12949 WEBB LANE BUTCH RHODES
- 13100 webb lane  Anthony Eickman

MEMORANDUM IN SUPPORT

TO: Boone County Planning Commission

FROM: Thomas W. Breidenstein, AICP, Esq. / Breidenstein Legal Services, LLC

SUBJECT: application for Zoning Map Amendment from A-1 to A-1/PD;
Adam Reid, Owner / Steve Berling, Applicant

DATE: September 6, 2023

This Memorandum is provided as a supplement to the presentation this evening by the Owner and Applicant, in support of their application for a Zoning Map Amendment for property located at 13203 Webb Lane, PIDN 043.00-00-016.02. (the "Application").

A. The Application is in Agreement with the Comprehensive Plan

The Application meets the criteria for a zoning map amendment from KRS 100.213(1) because it is in agreement with the adopted Comprehensive Plan (Our Boone County Plan 2040). The Future Land Use Map shows the future use of the subject property as predominately Rural Lands with some Developmentally Sensitive and Rural Density Residential. In addition to the requested excavation business, this property and its barns and other buildings will continue to be used for agricultural purposes, in agreement with Rural Lands designation in the Plan. Also, other provisions of the Comprehensive Plan support this request, specifically:

1. Boone County shall strive to achieve diversity and balance in land use while protecting natural resources and natural systems. (Overall Goal A, Objective 3).
2. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community. (Overall Goal A, Objective 4).
3. Provide appropriate services, housing, employment, and shopping opportunities in order to meet the needs of the population in all geographic areas of the County. (Demographics, Goal A, Objective 4).
4. Developmentally Sensitive and scenic areas shall be identified, mapped, and stabilized. Developments proposed in any of these areas shall be carefully designed and reviewed to minimize environmental impacts. (Environment, Goal A, Objective 3).

5. 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 A, Objective 7).
 6. 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).
 7. Industries shall be promoted in suitable locations to make the county a vital part of a strong regional economy. (Economy, Goal A, Objective 2).
 8. Local agriculture, business products, and services shall be encouraged and supported. (Economy, Goal A, Objective 4).
 9. The establishment of small business and incubator business assistance shall be encouraged. (Economy, Goal A, Objective 9).
 10. Boone County businesses are developed in appropriate locations and are compatible with surrounding land uses (Economy, Goal B).
 11. 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).
 12. Mixing of commercial and non-commercial uses shall occur in areas where consideration has been given to assure compatibility with surrounding land uses and natural systems. (Economy, Goal B, Objective 2).
 13. 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).
 14. 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).
-

B. The Application Conforms to Future Land Use Development Guidelines

Additionally, the Application will conform to the following *Future Land Use Development Guidelines* from Our Boone County Plan 2040:

1. Buffering - 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. (Land Use, Future Land Use Development Guidelines, Buffering, page 95).
2. Landscaping - 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. (Land Use, Future Land Use Development Guidelines, Landscaping, page 96).
3. Stormwater Management and Erosion Control - 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. (Land Use, Future Land Use Development Guidelines, Stormwater Management and Erosion Control, page 96).

4. Access Management - 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. (Land Use, Future Land Use Development Guidelines, Access Management, page 96).

5. Design, Signs, and Cultural Resource Preservation - 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. (Land Use, Future Land Use Development Guidelines, Design, Signs, and Cultural Resource Preservation, page 97).

C. The Application Fulfills the Planned Development Criteria

Finally, the Application fulfills the following applicable *Planned Development Criteria* from § 1506 of the *Zoning Regulations*:

1. Mixed Use Development and Pedestrian Orientation – The subject site will continue to be used for agricultural purposes, and for the Webb’s Excavating business.

2. Pedestrian Orientation – N/A as currently designed. A-1 districts in general do not lend themselves to pedestrian orientation. Nor does the intended use of the subject property lend itself to pedestrian usage. Additionally, there are no pedestrian improvements for miles to which this development could connect.

3. Compatibility of Uses - Measures have been designed to assure compatibility of the intended land uses within this Planned Development and adjacent sites. Such measures include the provisions of a buffer zone of existing mature vegetation, a privacy fence, and distance separation from other perceived incompatible uses. Compatibility measures / mitigation measures can be discussed further with the Zone Change Committee. Additionally, the business use of this property has proven itself compatible by the lack of any complaint until 2020.
4. Open Space - much open space is maintained and will remain open in a manner consistent with the agricultural nature of the area.
5. Multi-Modal Transportation System - N/A
6. Preservation of Existing Site Features - Existing topography, significant tree cover, tree lines along property lines, and water courses and water bodies are preserved and incorporated into the project design. A future farm pond is indicated on the Concept Development Plan, as may be needed following additional engineering review.
7. Landscaping - Substantial landscaping is preserved, particularly to the rear of the existing barn, where existing healthy and substantial trees are retained. Other areas of landscaping are not indicated, in order to preserve the open, agricultural nature of the area. However, the perceived need for additional landscaping can be discussed with the Committee.
8. Architecture – The consistent, agricultural architectural theme is preserved in this Planned Development. This theme uses traditional, regionally influenced architectural forms and elements, as is evident from photos of the existing barn. This theme relates to existing structures on the project site and adjacent sites.
9. Historic and Prehistoric Features – N/A
10. Signage – N/A – No signs are proposed.
11. Transportation Connections and Entry Points – N/A – No changes to the transportation network are planned or needed.
12. Conformance with Comprehensive Plan – as addressed previously.
13. Specific land use or corridor studies – N/A

14. Supplemental Performance and Development Standards – The Owner will conform to these, including site plan review, if required, but appropriate waivers are requested, as addressed in the Staff Report.



Writer's Direct:
Phone: (859) 426-2156
Fax: (859) 788-2011
Email: bsteffen@dbllaw.com

August 31, 2023

Via Email: mschwartz@boonecountyky.org

Michael D. Schwartz
Director, Zoning Services
Zoning Administrator
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

**Re: Webb's Excavation, LLC's Request For Zoning Map Amendment
Public Hearing – 7:30 p.m., Wednesday, September 6, 2023**

Dear Mr. Schwartz:

On August 29, 2023, this office provided materials on behalf of John Helmer, regarding Webb's Excavation, LLC ("Webb's"), zoning map amendment request. Attached are supplemental materials we are requesting that also be taken into consideration. Specifically, we are attaching eight photos and one video. If you have any questions, please contact me at 859-426-2156 or bsteffen@dbllaw.com.

Respectfully submitted,

Bradley J. Steffen

Enclosed:

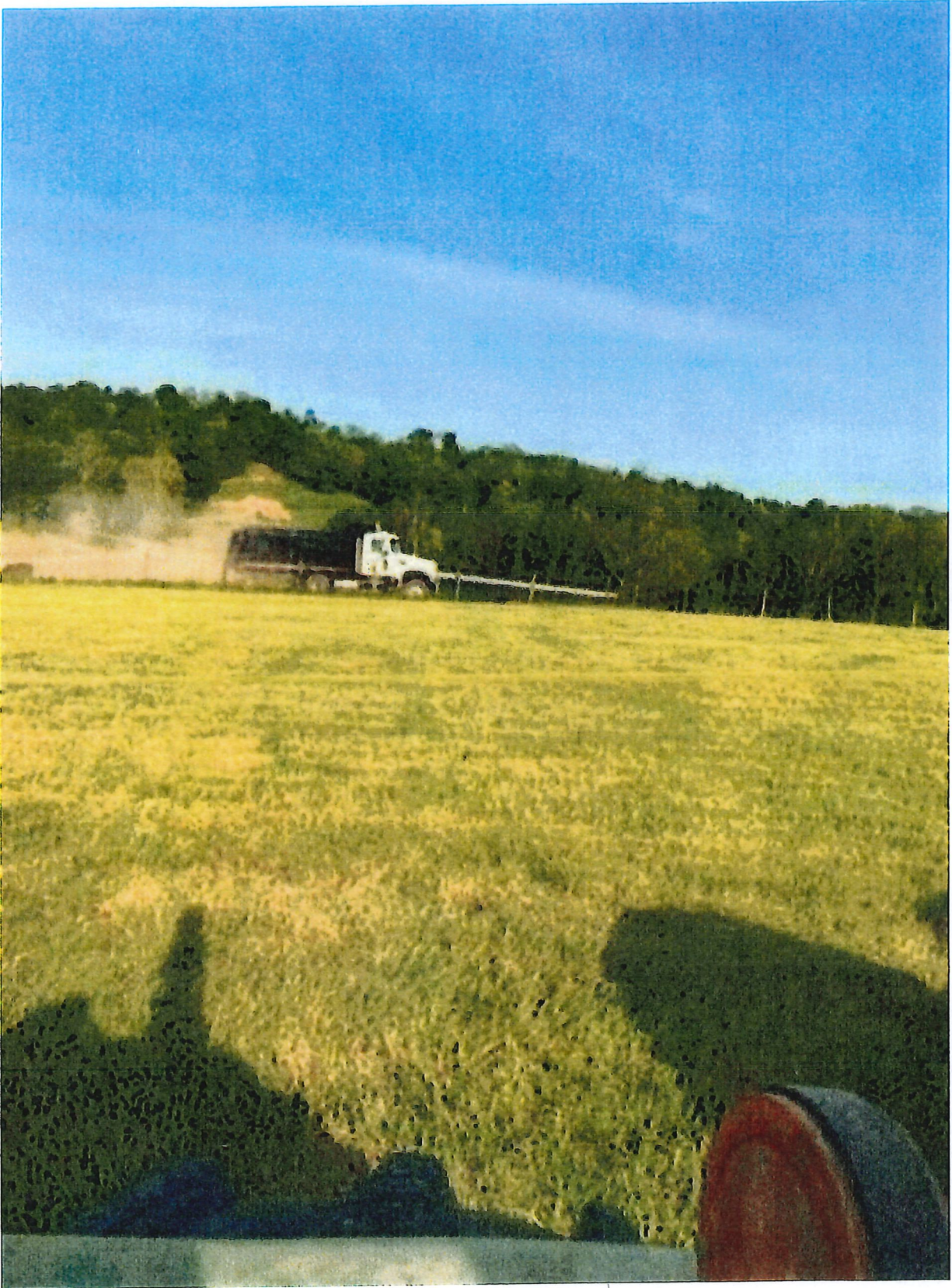
Exhibit A – Supplemental Photos
Exhibit B – Video

cc: plancom@boonecountyky.org

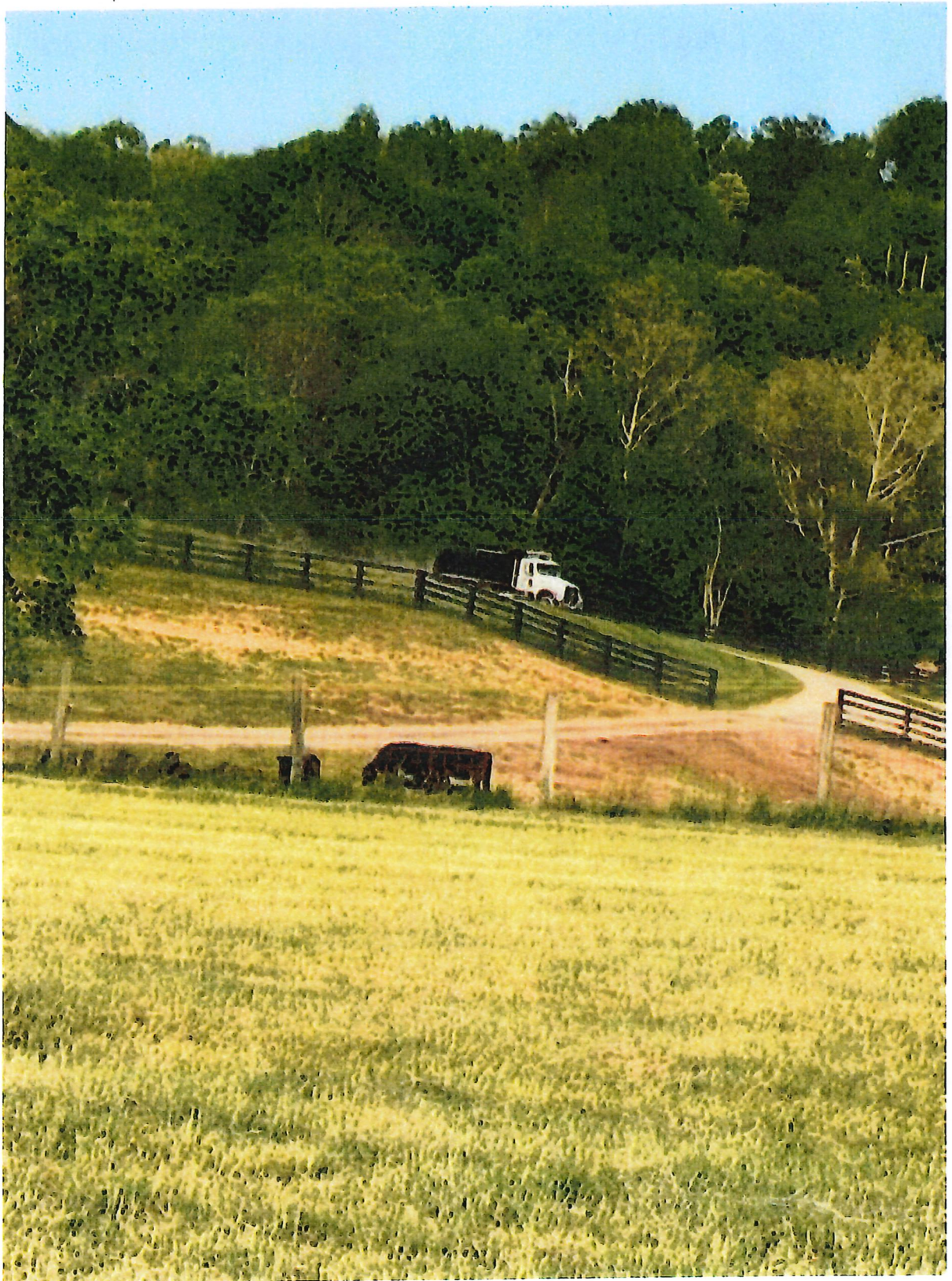
Dressman Benzinger LaVelle psc
Attorneys at Law

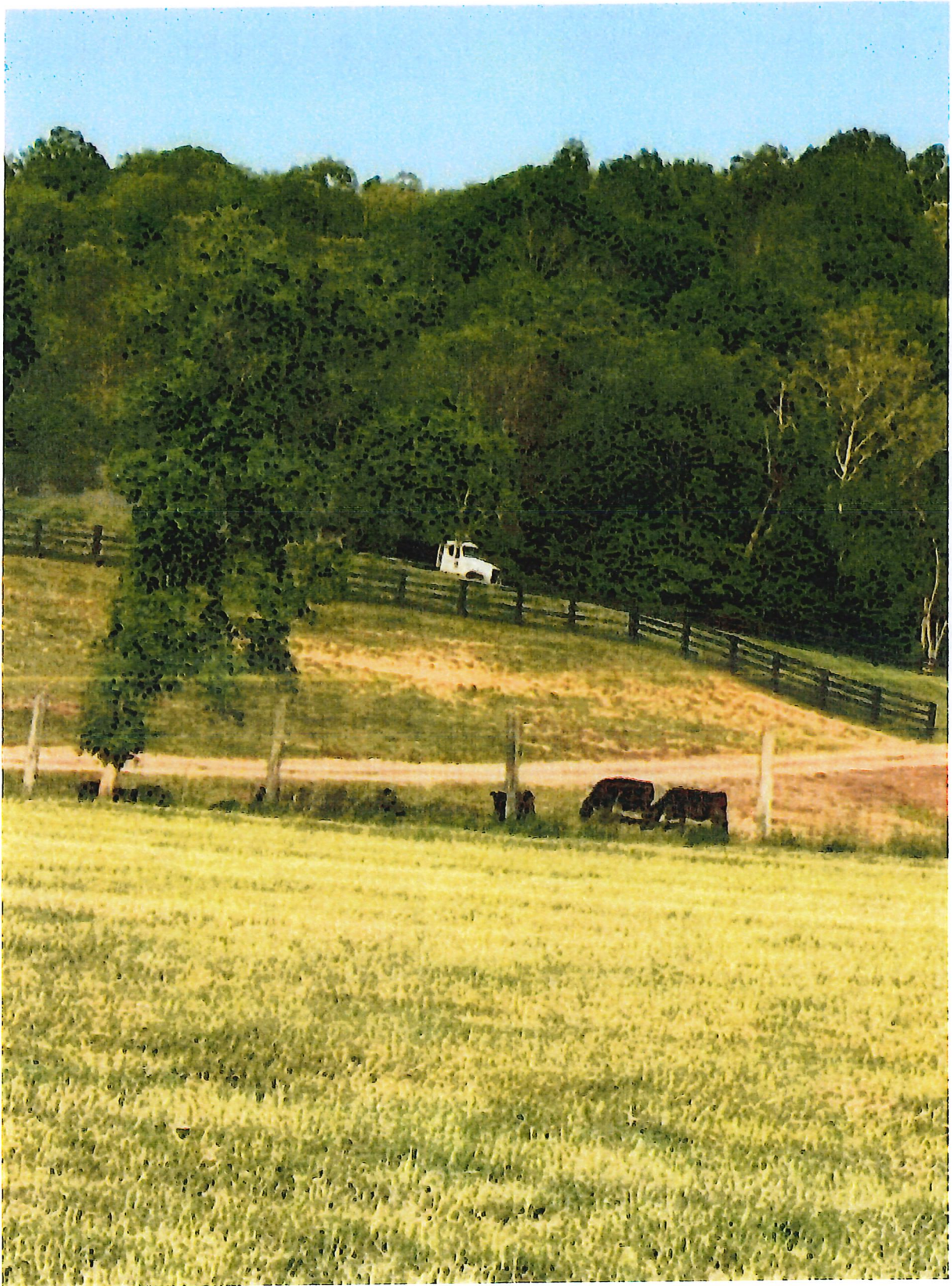
CINCINNATI OFFICE: 221 East Fourth Street, Suite 2500, Atrium Two • Cincinnati, Ohio 45202-4100 • Phone: (513) 241-4110 • Fax: (513) 241-4551
COVINGTON OFFICE: 109 East Fourth Street, Covington, Kentucky 41011 • Phone: (859) 341-1881 • Fax: (859) 788-2011
LOUISVILLE OFFICE: 321 West Main Street, Suite 2100, Waterfront Plaza • Louisville, Kentucky 40202-4284 • Phone: (502) 572-2500 • Fax: (502) 572-2503

EXHIBIT A

















Complaints about Webbs Excavation's Commercial Operations on Webb Lane

- Late 2020 Complaints sent to BCPC regarding the “commercial business [that] is operating [at 13203 Webb Lane].”
- December 2, 2020 Letter from Robert Krebs to Adam Reid (**Tab 1**). Barn “is being used for commercial purposes and not exclusively for agricultural purposes.”
- “If violations continue your Home Occupation permit may be revoked.”
- March 31, 2022 Letter from DBL to BCPC (**Tab 2**).
- “Mr. Reid’s continued operation of an excavation business at [13203 Webb Lane] has, for years, been detrimental and distracting to Mr. Helmer’s (and Mr. Helmer’s family’s) quiet enjoyment of their property.”
- The barn that is restricted to agricultural uses is being used to support the excavating business, and Mr. Helmer is concerned “about pollution from this business contaminating the creek at Mr. Helmer’s property.
- April 1, 2022 Letter from BCPC to DBL (**Tab 3**). BCPC “will not conduct any further enforcement *on this violation* until early June 2022 when the civil trial is to take place.”
- April 5, 2022 Letter from DBL to BCPC (**Tab 4**). Enforcement action over the operation of a commercial business is not related to civil trial over the existence of an easement.

April 6, 2022

Email from M. Schwartz to DBL (Tab 5).

“[W]e have already made the determination that a violation exists. We have also made the decision to give [Adam Reid] until early/mid June to resolve the issue. If there is no action to resolve the issue by that time, we will move to the next phase of our enforcement procedure. This will be the official filing of the complaint and then to take the issue to the County Attorney for further court action.”

October 3, 2022

Email from DBL to R. Krebs (Tab 6). Civil lawsuit was resolved in John Helmer’s favor on September 28, 2022. What enforcement actions will be taken “against Mr. Reid with respect to his violations of the zoning regulations?”

October 4, 2022

Email from R. Krebs to DBL (Tab 7).

“We will begin enforcement action once a final order is entered [in the civil lawsuit].” “I will also communicate with Mr. Reid’s attorney so they can start addressing our case.”

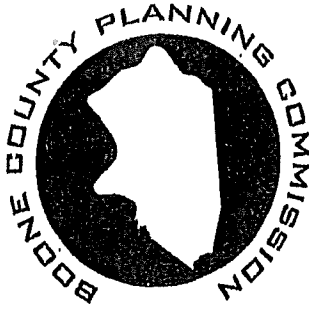
January 26, 2023

Final Order issued by Judge Brueggemann in favor of John Helmer. No appeal taken.

March 3, 2023

Letter from DBL to R. Krebs (Tab 8).

Civil lawsuit is final. What enforcement action will the BCPC “be taking against Mr. Reid” and when will that be done?



BOONE COUNTY PLANNING COMMISSION

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

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

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

December 2, 2020

Adam Reid
13203 Webb Lane
Walton, KY 41094

RE: Violation of the Boone County Zoning Regulations at 13203 Webb Lane, Boone County,
PIDN 043.00-00-016.00

Dear Mr. Reid:

The Zoning Services Division of the Boone County Planning Commission has received complaints that a commercial business is operating on your property. In 2008 you were issued a Home Occupation permit with the condition that the equipment be parked inside the existing barn. Also on the application you stated that no other people (non-family) would be involved in the business activity. In 2015 you applied for a barn to be constructed on the property, this was done using farm exemption status. It appears that this "barn" is being used for commercial purposes and not exclusively for agricultural purposes. The property is currently zoned Agricultural One (A-1). This zoning district allows for a residence and agricultural uses and activities and not commercial businesses. A copy of your original home occupation permit application and regulations that were in effect at the time are enclosed. If the violations continue your Home Occupation permit may be revoked.

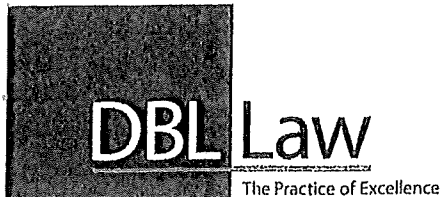
Thank you for your prompt attention to resolving this matter.

Sincerely,

Robert Krebs
Zoning Enforcement Officer

RK/ss

attachments



Writer's Direct:
Phone: (513) 639-7671
Fax: (513) 241-4551
Email: cmarkus@dbllaw.com

March 31, 2022

VIA ELECTRONIC MAIL

Robert Krebs
Zoning Enforcement Officer
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005
rkrebs@boonecountky.org

Re: Adam Reid/Violation of the Boone County Zoning Regulations at 13203 Webb Lane, Boone County, Kentucky (the "Reid Property")

Dear Mr. Krebs:

As you may recall, I represent John Helmer, who lives next to the Reid Property. I write regarding our discussions on March 9 and March 11 concerning Adam Reid's operation of an excavation business at the Reid Property in violation of the Boone County Zoning Regulations as set forth in your letter to Mr. Reid dated December 2, 2020.

I understood from our discussions that the Boone County Planning Commission will not pursue enforcement action against Mr. Reid until the lawsuit between Mr. Helmer and Mr. Reid has concluded. If my understanding is correct, I respectfully request on behalf of my client, Mr. Helmer, that the Commission reconsider its decision to refrain from pursuing enforcement action against Mr. Reid until the lawsuit has concluded and, instead, proceed with such action now.

In making this request, I note that the allegations in the lawsuit between Mr. Helmer and Mr. Reid are different than those that would be involved in an enforcement action by the Commission against Mr. Reid. As set forth in your letter to Mr. Reid, such an enforcement action would involve Mr. Reid's violations of his Home Occupation permit and the Boone County Zoning Regulations. There are no allegations in Mr. Helmer's lawsuit against Mr. Reid that Mr. Reid has violated the terms of his Home Occupation permit or the Boone County Zoning Regulations.

Furthermore, Mr. Reid's continued operation of an excavation business at the Reid Property has, for years, been detrimental and distracting to Mr. Helmer's (and Mr. Helmer's family's) quiet enjoyment of their property. As mentioned in your letter to Mr. Reid, in 2015 Mr.

Dressman Benzinger LaVelle psc
Attorneys at Law

KENTUCKY OFFICES: 109 East Fourth St., Covington, KY 41011 · Phone (859) 341-1881 · Fax (859) 341-1469
2100 Waterfront Plaza · 321 West Main Street · Louisville, Kentucky 40202-4284 · Phone (502) 572-2500 · Fax (502) 572-2503
OHIO OFFICE: Atrium Two · Suite 2500 · 221 East Fourth Street · Cincinnati, Ohio 45202-4100 · Phone (513) 241-4110 · Fax (513) 241-4551

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March 31, 2022

Page 2

Reid applied for a barn to be constructed at the Reid Property. But as you point out: "It appears that this 'barn' is being used for commercial purposes and not exclusively for agricultural purposes." When Mr. Reid began constructing the "barn," he told Mr. Helmer that the structure would be used for Mr. Reid's farming operation. However, Mr. Helmer reports that Mr. Reid has used the "barn" for his excavating business. My client has informed Mr. Reid that he is concerned about pollution from this business contaminating the creek at Mr. Helmer's property. Furthermore, Mr. Helmer reports that he has personally observed Mr. Reid using the "barn" to house dump trucks and excavating equipment. Indeed, Mr. Helmer has noticed that the Reid Property has become very active over the last six years as dump trucks regularly enter and exit the Reid Property to dump loads there (on some occasions, Mr. Helmer estimated that these dumps occurred as much as thirty to forty times a day). Mr. Helmer has further observed that many of these trucks are apparently not owned by Mr. Reid's company but appear to belong to other trucking companies.

This activity is not allowed under the Zoning Regulations and my client does not wish to live next door to an excavating business any longer. Therefore, I again request that the Commission reconsider its decision to forgo enforcement action against Mr. Reid until the conclusion of his lawsuit with Mr. Helmer and, instead, begin that process now.

As always, please feel free to call me if you have questions or wish to discuss. Thank you.

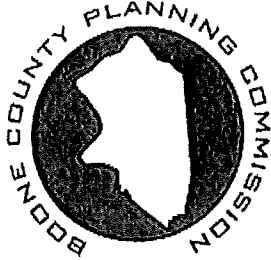
Very truly yours,

/s/ Christopher B. Markus

Christopher B. Markus

cc: Patrick R. Hughes

1024661.1



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

April 1, 2022

Christopher Markus
DBL Law
109 East Fourth Street
Covington, Kentucky 41011

RE: Adam Reid Violation at 13203 Webb Lane, Boone County, Kentucky

Dear Mr. Markus:

I have reviewed your letter, dated March 31, 2022. I have discussed the issue with our Zoning Enforcement Officer, Robert Krebs.

It is my understanding that Mr. Krebs has told both Mr. Reid and Mr. Helmer, through their attorneys, that the Boone County planning Commission will not conduct any further enforcement on this violation until early June 2022 when the civil trial is to take place.

While the zoning violation(s) and the civil trial issues may not be directly related, it is the practice of the Boone County planning Commission to work with property owners on the timing of violation compliance. The extension for compliance to early/mid June is not unreasonable.

At that time, whether the civil issues have been resolved or not, we will continue with our enforcement procedures.

Pursuant to Kentucky Revised Statute (KRS) 100.261, if you claim to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of any zoning enforcement officer, you can file an appeal to the Boone Board of Adjustment. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the official by filing with said officer and with the Boone Board of Adjustment a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record.

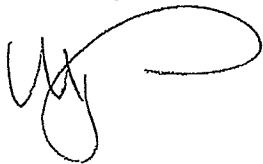
Christopher Markus
Reid Violation
April 1, 2022
Page 2

The Board of Adjustment application is available in the office of the Boone County Planning Commission or on its website at:

https://cms7files.revize.com/boonecountyky/document_center/PlanningCommission/Applications/BOA.pdf

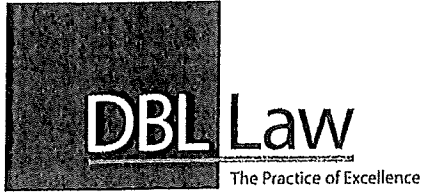
The application fee is \$716.00. Payment can be made in cash, credit card (3% service fee), or check (payable to Boone County Planning Commission).

Sincerely,

A handwritten signature in black ink, appearing to read 'MDS', with a large, sweeping flourish extending to the right.

Michael D. Schwartz
Director, Zoning Services
Zoning Administrator

MDS/ss



Writer's Direct:
Phone: (513) 639-7671
Fax: (513) 241-4551
Email: cmarkus@dbllaw.com

April 5, 2022

VIA ELECTRONIC MAIL

Michael D. Schwartz
Director, Zoning Services
Zoning Administrator
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005
rkrebs@boonecountyky.org

Re: Adam Reid/Violation of the Boone County Zoning Regulations at 13203 Webb Lane, Boone County, Kentucky (the "Reid Property")

Dear Mr. Schwartz:

I am in receipt of your letter dated April 1, 2022, regarding the zoning code violations occurring at the Reid Property. I appreciate you and Mr. Krebs taking the time to investigate this matter.

My client, John Helmer, was disappointed to learn that the Commission will not take any further enforcement action with respect to the zoning code violations at the Reid Property until June of this year. These violations have been ongoing for years (Mr. Krebs notified Mr. Reid of the violations in December 2020). And they continue to this day. For that reason, I respectfully disagree with your position that the extension for compliance to early/mid June is not unreasonable.

Further, I have to make clear that the zoning code violations are not at issue in the lawsuit Mr. Helmer filed against Mr. Reid. The case primarily involves a dispute over an easement which Mr. Helmer claims burdens the Reid Property. To be sure, the complaint also alleges that Mr. Reid's operation of an excavation business at the Reid Property is a breach of a private street agreement. *However, the complaint does not allege any violations of the zoning code or the terms of Mr. Reid's Home Occupation permit.* For these reasons (as well as those set forth in my letter to Mr. Krebs), I ask on behalf of my client that the Commission reconsider its decision to delay any enforcement action against Mr. Reid until June.

Dressman Benzinger LaVelle psc
Attorneys at Law

KENTUCKY OFFICES: 109 East Fourth St., Covington, KY 41011 · Phone (859) 341-1881 · Fax (859) 341-1469
2100 Waterfront Plaza · 321 West Main Street · Louisville, Kentucky 40202-4284 · Phone (502) 572-2500 · Fax (502) 572-2503
OHIO OFFICE: Atrium Two · Suite 2500 · 221 East Fourth Street · Cincinnati, Ohio 45202-4100 · Phone (513) 241-4110 · Fax (513) 241-4551

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April 5, 2022
Page 2

As a final point, I respectfully request a clarification of the statement in your letter that: "At that time [*i.e.*, early/mid June], whether the civil issues have been resolved or not, we will continue with our enforcement procedures." Has the Commission's investigation of the zoning code violations of the Reid Property concluded such that enforcement action will commence in June? Or, is June when the Commission's investigation against Mr. Reid begins, with any enforcement action to come at a later time?

Please feel free to call me if you have questions or wish to discuss. Thank you.

Very truly yours,

/s/ Christopher B. Markus

Christopher B. Markus

cc: Robert Krebs
Patrick R. Hughes

1026035.1

From: Michael Schwartz <mschwartz@boonecountyky.org>
Sent: Wednesday, April 6, 2022 5:14 AM
To: Markus, Christopher B. <cmarkus@dbllaw.com>
Cc: Robert Krebs <rkrebs@boonecountyky.org>
Subject: RE: Reid Violation

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Markus –

I understand that you and your client disagree with my determination. That is fine. As I stated in my letter, you can appeal that decision/determination to the Board of Adjustment.

To clarify our next action, we have already made the determination that a violation exists. We have also made the decision to give the property owner until early/mid June to resolve the issue. If there is no action to resolve the issue by that time, we will move to the next phase of our enforcement procedure. This will be the official filing of the complaint and then to take the issue to the County Attorney for further court action.

Michael D. Schwartz
Director, Zoning Services



BOONE COUNTY
PLANNING COMMISSION

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

From: Markus, Christopher B.
Sent: Monday, October 3, 2022 11:22 AM
To: Robert Krebs <rkrebs@boonecountyky.org>
Subject: Adam Reid/Violations of the Boone County Zoning Regulations at 13203 Webb Lane, Boone County, Kentucky

Bob:

Hope all is well. When we last spoke about the zoning violations at the Reid property, you stated that you were waiting on Judge Brueggemann to issue a ruling in the lawsuit between my client, John Helmer, and Mr. Reid. As you may recall from my letter to Michael Schwartz dated 4/5/22, Mr. Helmer's case against Mr. Reid primarily involved a dispute over an easement which Mr. Helmer claimed burdened the Reid property. As you can see from the attached Judgment and Order entered by Judge Brueggemann on Wednesday of last week, Judge Brueggemann ruled that the Helmer property is, in fact, benefitted by an easement encumbering the Reid property (under theories of express easement and easement by prescription). In light of this ruling, could you please let me know what enforcement action the Boone County Planning Commission will be taking against Mr. Reid with respect to his violations of the zoning regulations?

Thank you,

Chris

Christopher Markus
109 East Fourth Street
Covington, KY 41011
Direct: (859) 426-2126
General: (859) 341-1881 Fax: 859-788-2011
www.dblaw.com / cmarkus@dbl律.com



Cincinnati / Northern Kentucky / Louisville

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From: Robert Krebs <rkrebs@boonecountyky.org>

Sent: Tuesday, October 4, 2022 9:46 AM

To: Markus, Christopher B. <cmarkus@dbllaw.com>

Subject: RE: Adam Reid/Violations of the Boone County Zoning Regulations at 13203 Webb Lane, Boone County, Kentucky

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am in receipt of your email and the court judgement. Thank you for sending this to us. I have spoken to Michael Schwartz about the judgement and your question about enforcement action. We will begin enforcement action once a final order is entered. This appears to be in early to mid-November. I will also communicate this with Mr. Reid's attorney so they can start addressing our case. If you have any additional questions please feel free to contact me about those.

Robert Krebs

Boone County Planning Commission
Zoning Enforcement
rkrebs@boonecountyky.org



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



Writer's Direct:
Phone: (859) 426-2126
Fax: (859) 788-2011
Email: cmarkus@dbllaw.com

March 3, 2023

VIA ELECTRONIC MAIL

Robert Krebs
Zoning Enforcement Officer
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005
rkrebs@boonecountyky.org

Re: Adam Reid/Violation of the Boone County Zoning Regulations at 13203 Webb Lane, Boone County, Kentucky

Dear Mr. Krebs:

I write as a follow-up to our emails of October 3 and 4, 2022. In your email of October 3, you stated that the Boone County Planning Commission would begin an enforcement action against Adam Reid "once a final order is entered." On January 26, 2023, Judge Brueggemann issued his Final Judgment and Order in John Helmer's case against Mr. Reid. A copy of that Final Order and Judgment is enclosed. Could you please let me know what enforcement action the Boone County Planning Commission will be taking against Mr. Reid and when that enforcement action will be taken?

As always, please feel free to call me if you have questions or wish to discuss. Thank you.

Very truly yours,

/s/ Christopher B. Markus

Christopher B. Markus

1180744.1

Dressman Benzinger LaVelle psc
Attorneys at Law

KENTUCKY OFFICES: 109 East Fourth St., Covington, KY 41011 · Phone (859) 341-1881 · Fax (859) 788-2011
2100 Waterfront Plaza · 321 West Main Street · Louisville, Kentucky 40202-4284 · Phone (502) 572-2500 · Fax (502) 572-2503

OHIO OFFICE: Atrium Two · Suite 2500 · 221 East Fourth Street · Cincinnati, Ohio 45202-4100 · Phone (513) 241-4110 · Fax (513) 241-4551

www.dbllaw.com

NO. OC-BC-046-08

**BOONE COUNTY PLANNING COMMISSION
HOME OCCUPATION PERMIT**

****NOTE: Prior to operating this home based business, an Occupational License/Payroll Tax Application must be obtained from Boone County Fiscal Court (859)-334-2144) and/or City of Florence (859)-647-5413).**

A Home Occupation Permit is hereby granted to Adam Reid

to operate a home based business consisting of an excavating business

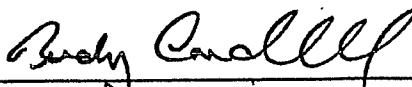
from a residence located at 13203 Webb Lane, Boone County, KY

The home based business must be operated in accordance with Article 31, Section 3142, of the Boone County Zoning Regulations, and is subject to the following conditions:

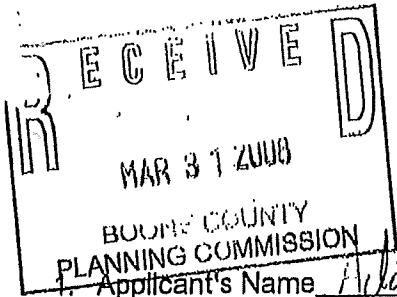
Keep equipment parked inside barn.

If complaints are received regarding the home based business, and after investigation they are determined to be justified, this permit will be voided.

3/31/08
Date



Rudy Cordell
Zoning Enforcement Officer



HOME OCCUPATION PERMIT APPLICATION

Applicant's Name Adam Reid Phone No. (859) 393-1027

Address 13203 webbln walton ky 41094

2. What type of business operation will be conducted? Excavation

3. Will any persons, other than members of the family reside on the premises, be engaged in the business operation? (please check answer)
NO YES IF YES, HOW MANY? _____

4. Where in the home will the business be conducted? _____

5. Will any merchandise or commodities be sold on the premises in connection with the Home Occupation?
NO YES IF YES, DESCRIBE _____

6. Will the Home Occupation change the exterior appearance of the building or premises by reason of sight, sound, odors, or vibrations discernible from abutting properties?
NO YES IF YES, DESCRIBE _____

7. Briefly describe the business activities and processes necessary to conduct the business (bookkeeping, deliveries, storage, etc.) parking equipment at Barn lot

8. Briefly describe the traffic that will be generated by the Home Occupation: None

9. Will any equipment be utilized with the Home Occupation? Dump Trucks

*\$50.00 Review Fee

I HEREBY ACKNOWLEDGE, BY SIGNATURE, THAT ALL OF THE ABOVE INFORMATION AND ANY ATTACHMENTS ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

DATE 3/31/08 APPLICANT'S SIGNATURE

FOR PLANNING COMMISSION USE ONLY:

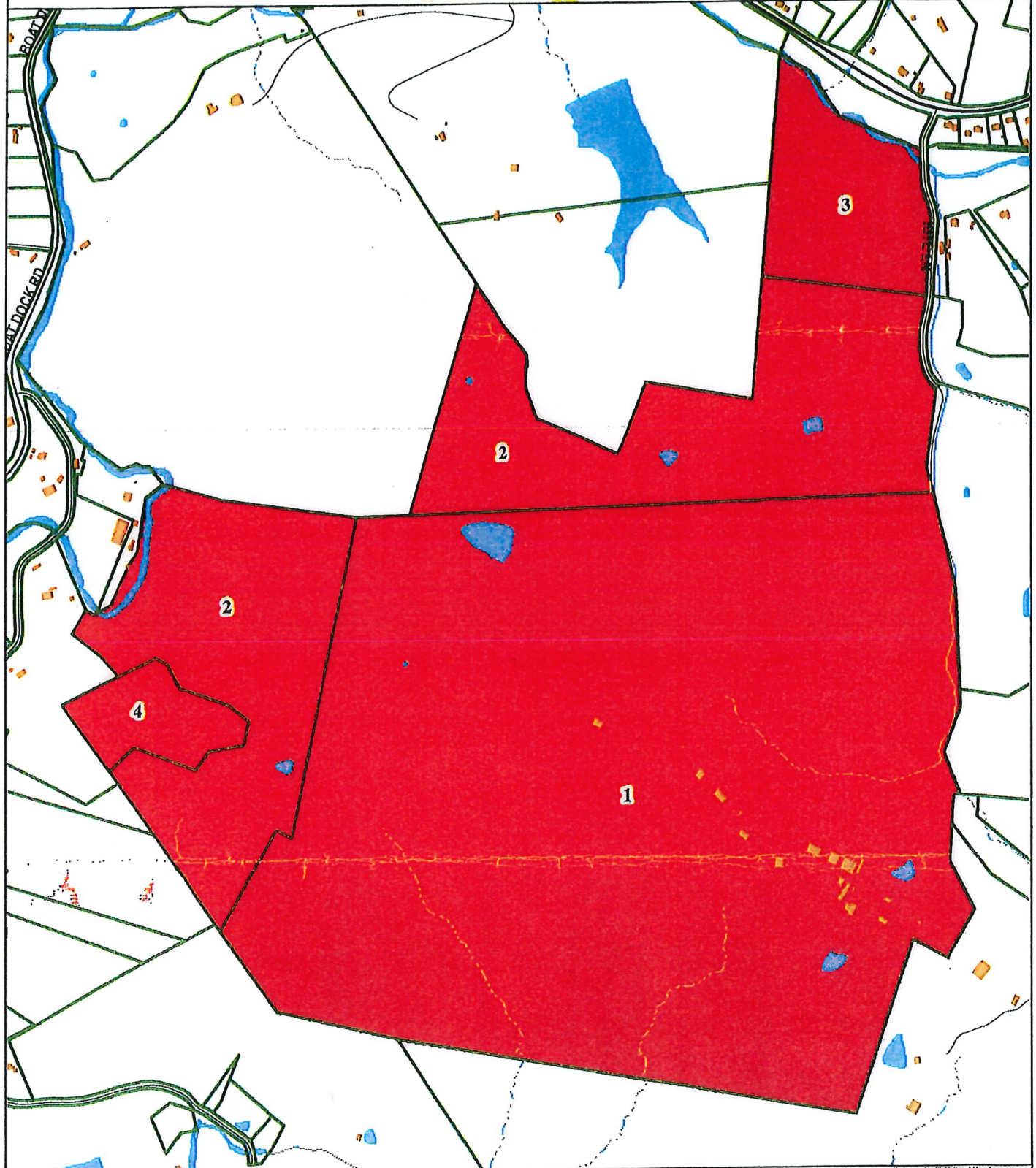
DATE RECEIVED 3/31/08 FEE PAID \$150.00 # 55922

APPROVED DATE 3/31/08 ZONING DIST. A-1 STAFF REVIEWER Rudy Conde

DENIED _____ REASON(S) _____

Boone County Agriculture District 14

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.

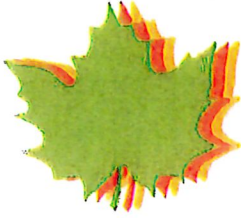
0 600 1,200 2,400 3,600 4,800 Feet

1 Inch = 977 feet

Boone County GIS - Putting Northern Kentucky on the Map



Map Created: 03/09/2016
ArcMap Document: AgDist14.mxd



Boone County Conservation District

6028 Camp Ernst Road, Burlington, KY 41005
Phone: 859-586-7903 ext. 3 Email: info@bccdky.org
www.bccdky.org

May 1, 2023

Buck Run Farm Trust
Attn.: John Helmer
12246 Kite Lane
Union, KY 41091

John,

The Kentucky Soil and Water Conservation Commission recertified Agricultural District #008-14 for a period of five (5) years. The district is now certified through April 24, 2028. At that time, it will need to be recertified again. A copy of the recertification letter has been included in this envelope.

Remember that it is your responsibility to notify BCCDKY if the land included in the Agricultural District #008-14 changes ownership or is no longer in agricultural production. You may withdraw your land from the district at any time, but you must inform BCCDKY *in writing* as soon as possible.

We appreciate your efforts and cooperation in conserving the natural resources in Boone County.

Please do not hesitate to call us with any issues or concerns.

Best,


Paula Link
District Operations Manager



**AGRICULTURAL DISTRICT PROGRAM
KENTUCKY SOIL AND WATER CONSERVATION COMMISSION
FRANKFORT, KENTUCKY**

RECERTIFICATION

THIS MATTER came before the Kentucky Soil and Water Conservation Commission for determination on the 24th day of April, 2023 as to the need, in the interest of the protection and enhancement of agricultural land as a viable segment of Kentucky's economy and as an important resource, for the **RECERTIFICATION** of Agricultural District #008-14 in Boone County, Kentucky. The original petition was recommended for approval by the Boone County Conservation District Board of Supervisors and certified by the Kentucky Soil and Water Conservation Commission at their scheduled meeting on the 14th day of July, 2007 as prescribed by law.

THE KENTUCKY SOIL AND WATER CONSERVATION COMMISSION has conducted an investigation into the question for the need of recertifying the existing Agricultural District based upon proceedings taken under the Agricultural District and Conservation Act (KRS 262.850) with reference to the recertification of such districts, and upon all questions relevant to such inquiries.

THE KENTUCKY SOIL AND WATER CONSERVATION COMMISSION has given due weight and consideration to the following: (1) the continued capability of the land to support agricultural production, (2) the continued viability of active farmlands, (3) the interest of landowners in continued participation, (4) current county development patterns and needs, and (5) the Boone County Conservation District Board of Supervisors' recommendation to recertify this Agricultural District.

IT IS THEREFORE DETERMINED:

1. That there is a need, in the interest of the protection and enhancement of agricultural lands as a viable segment of Kentucky's economy and as an important resource, for an Agricultural District to function in the territory; and
2. That the landowners owning land within said district are listed, with acreage owned, as follows:

LANDOWNERS	ACRES
1. Buck Run Farm Trust, John P. Helmer (Trustee), 12246 Kite Lane, Union, KY 41091	648.33
TOTAL:	648.33

NOTE: Agricultural District #008-14 is **RECERTIFIED** for the five-year period from **April 24, 2023** to **April 24, 2028** when it will come before its Conservation District Board and before the Commission for review and recertification. According to KRS 262.850, all landowners in this certified Agricultural District have the right to have their land assessed by their local Property Valuation Administrator at the land's agricultural value. This Agricultural District will remain in effect until terminated according to KRS 262.850.



Danny Shipley, Chairman
KY Soil & Water Conservation Commission

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY FISCAL COURTROOM
BURLINGTON, KENTUCKY
BUSINESS MEETING
OCTOBER 4, 2023
7:00 P.M.**

Chairman Rolfsen opened the Business Meeting at 7:00 p.m. and welcomed the audience to the Planning Commission's October 4, 2023 Business Meeting. Mr. Rolfsen then invited everyone to join him in reciting the Pledge of Allegiance.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mrs. Kathy Clark
Mr. Steve Harper, Temporary Presiding Officer
Mr. David Hincks
Mr. Rick Lunnemann
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mrs. Jackie Steele, Secretary/Treasurer
Mr. Tom Szurlinski
Mr. Steve Turner
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mrs. Pamela Goetting
Ms. Corrin Gulick, Vice Chairwoman
Mrs. Janet Kegley
Mr. Eric Richardson

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

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

APPROVAL OF THE MINUTES:

Chairman Rolfsen stated that the Commissioners received copies of the Minutes from the September 20, 2023 Business Meeting. He asked if there were any comments or corrections?

Mr. Szurlinski moved to approve the Minutes as presented. Mr. Hincks seconded the motion and it carried unanimously.

BILLS:

Mr. Kevin P. Costello, AICP, Executive Director, advised the Commissioners of the **Bills to be Paid**, which included a list of **Expenses** and **Salaries and Benefits** for a time period between September 7, 2023 and October 4, 2023.

EXPENSES:

Accounting Fees	\$ 2,843.00
Attorney Fees	4,600.00
Auto Expense	167.92
Consultant/Professional Svcs Fees	998.75
Filing Fees (CLURS)	900.00
GIS Operations	617.05
Legal Ads/Recruitment	688.90
Miscellaneous Expense	263.10
Office & Board Meeting Supplies	1,481.29
Office Equipment / Expense	1,003.69
Postage Expense	<u>500.00</u>

TOTAL: \$ 14,063.70

SALARIES AND BENEFITS:

FICA-BCPC Portion	\$ 6,567.12
Health/Dental/Life/LTD	16,371.43
Retirement – BCPC Portion	26,024.10
Salaries – Staff Expenses	89,936.44
Salaries – BCPC & BOA	<u>1,370.00</u>

TOTAL: \$ 140,269.09

GRAND TOTAL: \$ 154,332.79

Mrs. Steele moved that the bills (expenses and salaries and benefits) be approved and paid as presented and indicated approval of those items, which have been previously paid. Mr. Lunnemann seconded the motion and it carried unanimously.

ZONING MAP AMENDMENTS, David Hincks, Chairman, Michael Schwartz, Staff

1. Request of **Steve Berling (applicant)** for **Webbs Excavation LLC, per Adam Reid (owner)** for a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02. The request is for a Zoning Map Amendment to allow the storage of trucks and supplies for an excavation company.

Mr. Schwenke left the meeting room.

Staff Member, Todd Morgan, read the Committee Report, which recommended approval based upon Findings of Facts and Conditions for the Zoning Map Amendment. It was recommended for approval by a vote of 3-1 with Mrs. Kegley, Mr. Hincks and Mrs. Steele voting in favor of the request and Ms. Gulick voting against the request. The applicant has signed the Condition letter.

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

Mr. Steve Berling, applicant, stated that he was present to answer any questions and he is okay with the stated conditions. There is nothing to add at this time.

Mr. John Helmer, 12246 Kite Lane, stated that Webb Excavation is literally in his backyard. There are trucks, semis with trailers, loaders and excavators. These vehicles are going in and out throughout the day. Trucks are bringing construction spoils onto Mr. Reid's property. There is no sanitary sewer in the area and no place to discharge oil from the trucks and material from a wash bay. It is loud and dusty. It is a nuisance. He has tolerated it for years and he is tired of it.

Mr. Chris Markus, counsel for Mr. Helmer, stated that the proposed Map Amendment cannot be granted because it does not comply with the Boone County Zoning Regulations since it must meet one of the three criteria-agreement with Comprehensive Plan, the existing zoning classification must be inappropriate and the proposed classification must be appropriate or there have been major changes in the area, which were not anticipated by the Comprehensive Plan and which have substantially altered the basic character of the area. The proposed Map Amendment, even with the conditions, does not meet a single criteria. The area surrounding the site is classified as Rural Lands (RL) and Developmentally Sensitive (DS). The proposed use is not consistent with Rural Land uses. The site is located near Big Bone Lick State Park. The purpose of the Map Amendment is to allow for a busy excavation business on 6 acres of the Reid property. That business allows for the use of large, noisy equipment and heavy machinery. It is not allowed in an agricultural zone. The existing zone for the property is agriculture and that is appropriate. The whole area is agricultural and residential in nature. There are no industrial type businesses in the area. Allowing the Map Amendment would allow illegal spot zoning. There have not been any major changes in the area that would justify the operation of an excavation business. It is rural agricultural land now and for hundreds of years ago. Finally, the conditions and restrictions would still violate the zoning regulations to allow an excavation business. The Planning Commission must reject the proposed conditions and Map Amendment application. The Planning Commission must follow its Zoning Regulations and Comprehensive Plan. The rules should apply to everyone equally. There should not be special exceptions for excavating businesses. Mr. Reid has a history of violating Zoning Regulations. Since December 2, 2020,

Zoning Enforcement Officer and the Director of Zoning Services has repeatedly in writing stated that Mr. Reid was in violation of the zoning rules for operating an excavating business in violation of his home occupation permit. He continues to violate it. His application must be denied.

Seeing no further comment, **Chairman Rolfsen asked if there was a motion? Mr. Hincks moved to approve the request by Resolution to the Boone County Fiscal Court based upon the Committee Report and subject to the Findings of Fact and Conditions. Mrs. Steele seconded the motion.**

Chairman Rolfsen asked if there were any comments or questions? Mr. Harper stated that he was sympathetic to Mr. Reid's situation. He has been successful. Typically, he would be in favor of helping business so long as it is not harmful. This is an example of spot zoning and it is in the middle of a lot of agricultural land. The activity level and business has grown quite a bit. He isn't in favor of it.

Mr. Szurlinski expressed the same sentiment. It is an agricultural area and an expanded business is not appropriate.

Mr. Bessler felt that with the additional conditions is making the applicant go through additional hoops in what he has been doing forever. For that reason, he is voting to approve the request.

Mrs. Steele stated that another characteristic of living on agricultural land is that everyone takes care of each other. By overwhelming support from most of the neighbors, especially along Webb Lane, she feels the use fits in with the agricultural area. She will vote yes on the request.

Mr. Hincks emphasized that it is a special area because of the neighbors. He feels that noise and dust usually happens on agricultural properties. Agricultural areas don't equate with wilderness. The Home Occupation Permit required Mr. Reid to keep his equipment in the barn. That will continue. He is the one employee. For those reasons, he is in favor of the request.

Chairman Rolfsen stated that he drove Webb Lane today and was passed by a dump truck coming out at 3:00 p.m. He looks at the facts and not the number of people for and against the project. Is the use compatible with the surroundings? Is the infrastructure in place? Has there been significant changes in the area? The current zoning of agriculture is appropriate. There is no A-1/PD district near there. It is a one lane road with truck traffic. Is it fair to the people that live around there? It is spot zoning and we have forced businesses out of residential areas and made them purchase commercial or industrial properties to expand their business because infrastructure could support it. Chairman Rolfsen warned the Board to be careful about setting a precedent.

Chairman Rolfsen asked for a vote on the original motion made by Mr. Hincks and seconded by Mrs. Steele. The vote found Mr. Bessler, Mr. Hincks and Mrs. Steele in favor of the motion and Mrs. Clark, Mr. Harper, Mr. Lunnemann, Mr. Rolfsen, Mr. Szurlinski, Mr. Turner and Mr. Vaught voting no. The motion to approve the request is defeated with 3 voting yes and 7 voting no.

Chairman Rolfsen asked Staff if there were Findings for Denial? Mr. Costello replied yes. Chairman Rolfsen asked Staff to read the Alternate Findings for Denial. Mr. Morgan distributed copies of the Findings for Denial and read the Findings for Denial into the public record (see

Exhibit 1).

Chairman Rolfsen asked if there was a motion to deny the request? Mr. Szurlinski moved to deny the request by Resolution to the Boone County Fiscal Court based upon the Alternate Findings of Fact for Denial as presented by Staff. Mr. Vaught seconded the motion. The vote found Mrs. Clark, Mr. Harper, Mr. Lunnemann, Mr. Rolfsen, Mr. Szurlinski, Mr. Turner and Mr. Vaught voting in favor of the denial and Mr. Bessler, Mr. Hincks and Mrs. Steele voting against the denial. The motion to deny the request passed by a vote of 7-3.

At this time, Mr. Schwenke returned to the meeting room.

ZONING MAP AMENDMENTS, Corrin Gulick, Chairwoman, Michael Schwartz, Staff

2. Request of **Florence (Dixie & Mt. Zion) WW LLC, per Danielle E Yance (applicant) for ARRM Properties, per Garry Setters (owner)** for a Zoning Map Amendment from Commercial One (C-1) and Industrial Two (I-2) to Commercial Services (C-3) for an approximate 2.6 acre area located at the northwest corner of the intersection of Dixie Highway (US 25) with Mt. Zion Road (KY 536), Boone County, Kentucky, and being the properties with the Parcel Identification Numbers (PIDN) of 074.00-00-033.02 and 074.00-00-034.00 and a portion of the property located at 130 Mt. Zion Road. The request is for a Zoning Map Amendment to allow a 5,919 square foot convenience store with gasoline pumps.

Staff Member, Steve Lilly, read the Committee Report, which recommended approval based upon Findings of Facts and Conditions. The applicant has signed the condition letter. Committee members, Mrs. Kegley, Mr. Hincks, Ms. Gulick and Mrs. Steele, voted unanimously in favor of the request.

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

Mr. Bill Skeebo, Kimley Horne, had no objections or comments. They agree with all of the conditions.

Seeing no further comment, **Mrs. Steele moved to approve the request by Resolution to the Boone County Fiscal Court based upon the Committee Report and subject to the Findings of Fact and Conditions. Mr. Hincks seconded the motion and it passed unanimously.**

NEW BUSINESS

WIRELESS COMMUNICATION FACILITY, Todd Morgan, Staff

3. Request of **VB BTS II, LLC – Vertical Bridge (Fortune Wireless), per Jason Riggs (applicant) for James B. Walton (owner)** for a Wireless Communication Facility at 5001 Burlington Pike, Boone County, Kentucky. The request is for a 205 foot tall self-supporting lattice tower, with a 5 foot high lightning rod, and associated antennas and ground equipment.

**CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN, Michael Schwartz,
Staff**

4. Request of **9541 US 42, LLC , per Thomas J. Ackerman (applicant) for the City of Union (owner)** for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.

ZONING MAP AMENDMENT, Steve Lilly, Staff

5. Request of **Rose Powell, on behalf of Rose and Donald Powell (applicant/owner)** for a Zoning Map Amendment from Rural Suburban Estate (RSE) and Agriculture (A-1) to Recreation (R) for an approximate 2.0 acre area located along the east side of Ryle Road, approximately 0.9 miles southwest of Beaver Road, having a Parcel Identification Number (PIDN) of 031.00-04-017.00. The request is for a zone change to allow a campground with personal boat and recreational vehicle storage.

ZONING MAP AMENDMENT AND CONCEPT DEVELOPMENT PLAN, Todd Morgan, Staff

6. Requests of **Continental Fund 734 LLC, per Lexi Goetsch (applicant) for Gregory Ammon and Helen Ammon (owners)** for: (1) a Zoning Map Amendment from Commercial Four/Planned Development (C-4/PD) and Suburban Residential Two/Planned Development (SR-2/PD) to Urban Residential Two/Planned Development (UR-2/PD) for a 14.25 acre area located at the southwest corner of Burlington Pike and Camp Ernst Road, at the terminus of Beil Road, and across from Patrick Drive, Boone County, KY. The site includes the properties at 2141 Burlington Pike and portions of 6089 and 6091 Camp Ernst Road. The request is for a zone change to allow 324 apartment units within nine (9) three-story buildings, a clubhouse/pool, and other accessory uses; (2) a Concept Development Plan in a Suburban Residential Two/Planned Development (SR-2/PD) zone for a 66.53 acre area located on portions of 6089 and 6091 Camp Ernst Road, Boone County, KY. The request is for a Concept Development Plan to allow Ammon Nursery to fully locate their business on a 66.53 acre remainder tract, relocate existing buildings and structures, and construct a new office/retail store, parking areas, gardens, and greenhouses.

Mr. Lunnemann moved to schedule the Public Hearings for Items #3 and #4 on November 1, 2023 at 7:30 p.m. in the Fiscal Courtroom. Dr. Clark seconded the motion and it passed unanimously.

Mr. Turner moved to schedule the Public Hearings for Items #5 and #6 on November 15, 2023 at 7:30 p.m. in the Fiscal Courtroom. Mrs. Steele seconded the motion and it passed unanimously.

H. Executive Director's Report:

- No Report

I. Committee Reports:

- Airport (Randy Bessler)
No Report
- Administrative/Personnel (Tom Szurlinski)
No Report
- Enforcement (Tom Szurlinski)
No Report
- Long-Range Planning/Comprehensive Plan (Bob Schwenke)
No Report
- Technical/Design Review (Rick Lunnemann)
No Report
- Executive (Charlie Rolfsen)
No Report

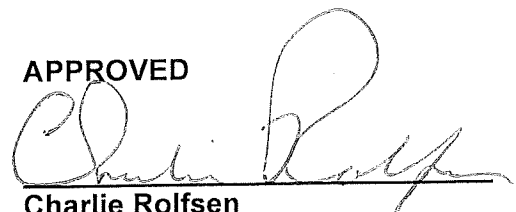
J. Vice-Chairwoman's Report: (Corrin Gulick)
No Report

K. OKI Report: (Randy Bessler)
No Report

I. Adjournment:

There being no further business to come before the Planning Commission, Mr. Bessler moved to adjourn the meeting. Mr. Vaught seconded the motion and it passed unanimously. The meeting was adjourned at 7:39 P.M.

APPROVED



Charlie Rolfsen
Chairman

Attest:



for _____
Kevin P. Costello, AICP
Executive Director

Exhibit 1 – Request of Steve Berling (applicant) for Webb Excavation, LLC Alternate Findings for Denial

**REQUEST OF STEVE BERLING (APPLICANT) FOR WEBB EXCAVATION, LLC
ALTERNATE FINDINGS FOR DENIAL**

FINDINGS OF FACT:

1. The Committee concluded that the proposed A-1/PD district, along with the submitted concept development plan, is not consistent with the Our Boone County Plan 2040 Future Land Use Plan Map which identifies the majority of the site for Rural Land which is described as low density residential uses of up to one dwelling unit per acre.

The proposed excavation business is classified as 'Construction Sales and Service' within the zoning regulations. This use is a permitted use within the C-3, I-1 and I-2 districts.

The proposed A-1/PD district, along with the submitted concept development plan, will allow an industrial use/development to be located within a rural/agricultural area.

2. The Committee concluded that the proposed A-1/PD district, along with the submitted concept development plan, is not consistent with several Our Boone County Plan 2040 Goals and Objectives.
 - a. Mixing of residential and other land uses shall be encouraged where appropriate (Overall Goal A, Objective 2).
 - b. Boone County shall strive to achieve diversity and balance in land use while protecting natural resources and natural systems (Overall Goal A, Objective 3).
 - c. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community (Overall Goal A, Objective 4).
 - d. Specific areas, innovative land use planning concepts, and design incentives shall be identified to encourage the preservation of agricultural lands (Natural and Cultural Resources Goal B, Objective 1).
 - e. Industries shall be promoted in suitable locations to make the county a vital part of a strong regional economy (Economy Goal A, Objective 2).
 - 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. Mixing of commercial and non-commercial uses shall occur in areas where consideration has been given to assure compatibility with surrounding land uses and natural systems (Economy Goal B, Objective 2).
 - h. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe access and adequate parking (Economy Goal B, Objective 3).

In making this finding, the Committee concludes that:

- a. The proposed industrial development is not consistent with the rural/agricultural character of the area.
- b. The proposed industrial development will have a negative impact on the natural viewshed of the area.
- c. The proposed industrial development is an illegal enlargement of a previously approved home occupation.

- d. The proposed industrial development is spread over an approximate 6.6 acre area rather than being clustered together in a more compact design.
3. The existing A-1 district is appropriate in that it permits rural residential development along with a variety of agricultural uses, all being consistent with the comprehensive plan.

The proposed A-1/PD district is inappropriate based on the following:

- a. The proposed A-1/PD district will allow the development of a use that is more suitable in an industrial district.
 - b. The proposed A-1/PD district is located in an area that is surrounded by A-1 and A-2 zoning.
 - c. The proposed A-1/PD district will allow the retention of an excavation business which creates noise and traffic that is not compatible with an agricultural area.
 - d. Webb Lane, being a one-lane gravel road, and Cleek Lane, being a narrow two-lane public road, is not adequate to accommodate excavation equipment and vehicles associated with the use proposed under the A-1/PD district.
4. The following list provides a summary of those requirements that are being requested to be waived/altered using the PD district regulations:
 1. Use of the site for 'Construction Sales and Service'.
 2. Provision for outdoor storage.
 3. Outdoor storage areas not being screened.
 4. Use of gravel surfaces on outdoor storage areas.

These exceptions are contrary to the zoning regulations and approval of the exceptions would create an incompatibility between the proposed use and the existing uses/character of the surrounding area.

5. There have been no major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

EXHIBIT

“B”

**REQUEST OF STEVE BERLING (APPLICANT) FOR WEBB EXCAVATION, LLC
ALTERNATE FINDINGS FOR DENIAL
(READ AT 10/4/23 BUSINESS MEETING)**

FINDINGS OF FACT:

1. The Committee concluded that the proposed A-1/PD district, along with the submitted concept development plan, is not consistent with the Our Boone County Plan 2040 Future Land Use Plan Map which identifies the majority of the site for Rural Land which is described as low density residential uses of up to one dwelling unit per acre.

The proposed excavation business is classified as 'Construction Sales and Service' within the zoning regulations. This use is a permitted use within the C-3, I-1 and I-2 districts.

The proposed A-1/PD district, along with the submitted concept development plan, will allow an industrial use/development to be located within a rural/agricultural area.

2. The Committee concluded that the proposed A-1/PD district, along with the submitted concept development plan, is not consistent with several Our Boone County Plan 2040 Goals and Objectives.

- a. Mixing of residential and other land uses shall be encouraged where appropriate (Overall Goal A, Objective 2).
- b. Boone County shall strive to achieve diversity and balance in land use while protecting natural resources and natural systems (Overall Goal A, Objective 3).
- c. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community (Overall Goal A, Objective 4).
- d. Specific areas, innovative land use planning concepts, and design incentives shall be identified to encourage the preservation of agricultural lands (Natural and Cultural Resources Goal B, Objective 1).
- e. Industries shall be promoted in suitable locations to make the county a vital part of a strong regional economy (Economy Goal A, Objective 2).
- 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. Mixing of commercial and non-commercial uses shall occur in areas where consideration has been given to assure compatibility with surrounding land uses and natural systems (Economy Goal B, Objective 2).
- h. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe access and adequate parking (Economy Goal B, Objective 3).

In making this finding, the Committee concludes that:

- a. The proposed industrial development is not consistent with the rural/agricultural character of the area.
- b. The proposed industrial development will have a negative impact on the natural viewshed of the area.
- c. The proposed industrial development is an illegal enlargement of a previously approved home occupation.

- d. The proposed industrial development is spread over an approximate 6.6 acre area rather than being clustered together in a more compact design.
3. The existing A-1 district is appropriate in that it permits rural residential development along with a variety of agricultural uses, all being consistent with the comprehensive plan.

The proposed A-1/PD district is inappropriate based on the following:

- a. The proposed A-1/PD district will allow the development of a use that is more suitable in an industrial district.
 - b. The proposed A-1/PD district is located in an area that is surrounded by A-1 and A-2 zoning.
 - c. The proposed A-1/PD district will allow the retention of an excavation business which creates noise and traffic that is not compatible with an agricultural area.
 - d. Webb Lane, being a one-lane gravel road, and Cleek Lane, being a narrow two-lane public road, is not adequate to accommodate excavation equipment and vehicles associated with the use proposed under the A-1/PD district.
4. The following list provides a summary of those requirements that are being requested to be waived/alterd using the PD district regulations:
 1. Use of the site for 'Construction Sales and Service'.
 2. Provision for outdoor storage.
 3. Outdoor storage areas not being screened.
 4. Use of gravel surfaces on outdoor storage areas.

These exceptions are contrary to the zoning regulations and approval of the exceptions would create an incompatibility between the proposed use and the existing uses/character of the surrounding area.

5. There have been no major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

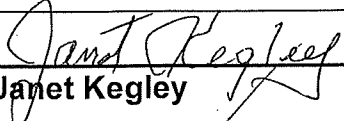
TO: Boone County Planning Commission
FROM: David Hincks, Chairman
DATE: September 20, 2023

REMARKS:

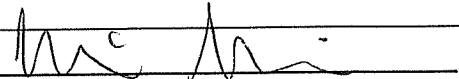
We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

ZONING MAP AMENDMENTS, David Hincks, Chairman, Michael Schwartz, Staff

2. Request of **Steve Berling (applicant)** for **Webbs Excavation LLC, per Adam Reid (owner)** for a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02. The request is for a Zoning Map Amendment to allow the storage of trucks and supplies for an excavation company.



Janet Kegley
For Project Absent
Against Project
Abstain Deferred



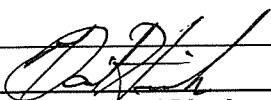
Corrin Gulick
For Project Absent
Against Project
Abstain Deferred

Rick Lunnemann
For Project Absent
Against Project
Abstain Deferred

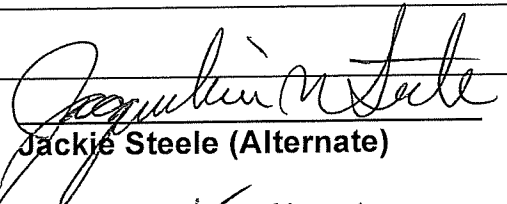
Kathy Clark (Alternate)
For Project Absent
Against Project
Abstain Deferred

Steve Harper
For Project Absent
Against Project
Abstain Deferred

Steve Turner (Alternate)
For Project Absent
Against Project
Abstain Deferred



David Hincks (Chairman)
For Project Absent
Against Project
Abstain Deferred



Jackie Steele (Alternate)
For Project Absent
Against Project
Abstain

TOTAL: DEFERRED 3 FOR PROJECT ABSENT
 1 AGAINST PROJECT ABSTAIN

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
SEPTEMBER 6, 2023
7:30 P.M.**

Chairman Rolfsen opened the Public Hearing at 8:05 p.m. and welcomed the audience to the Planning Commission's September 6, 2023 Public Hearings.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mrs. Kathy Clark
Mr. Steve Harper, Temporary Presiding Officer
Mr. David Hincks
Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Charlie Rolfsen, Chairman
Mrs. Jackie Steele, Secretary/Treasurer
Mr. Tom Szurlinski
Mr. Steve Turner

COMMISSION MEMBERS NOT PRESENT:

Mrs. Pamela Goetting
Mr. Eric Richardson
Ms. Corrin Gulick, Vice Chairwoman
Mr. Bob Schwenke
Mr. Kenny Vaught

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Michael D. Schwartz, Director, Zoning Services

Chairman Rolfsen introduced the first item on the Agenda:

ZONING MAP AMENDMENTS, Michael Schwartz, Staff

1. Request of **Steve Berling (applicant)** for **Webbs Excavation LLC, per Adam Reid (owner)** for a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02. The request is for

a Zoning Map Amendment to allow the storage of trucks and supplies for an excavation company.

Staff Member, Michael Schwartz, referred to his PowerPoint presentation (See Staff Report). The site is 6.6 acres in size but is part of a larger tract of 189 acres. It is located at the terminus of Webb Lane, which is a private street. The first building on the subject site was constructed between 1960-1969. The second one was built between 1974-1981. There was a home occupation permit issued to allow an excavation business to operate on the subject property in 2008 but the rules did not allow employees and the storage of trucks. A pole barn was permitted in 2015 as part of an agricultural use. The site is currently zoned A-1. Everything around the site is either single family residential use or an agricultural purpose. Pages 1 & 2 of the Staff Report refers to the applicable regulations that apply to the request. The site slopes downward east to west on an average grade of 11%. The 2040 Future Land Use Map designates the site as Rural Density Residential (RD), 1 dwelling unit per acre, Rural Lands (RL) and Developmentally Sensitive (DS). Pages 3-5 of the Staff Report reference the Comprehensive Plan. Mr. Schwartz showed some photographs of the site and adjoining properties. He presented the Concept Development Plan showing the retention of the three existing buildings, the retention of all 3 gravel area, the retention of the concrete paved areas, the construction of two 3,600 square foot buildings, a provision of additional concrete areas, the extension of one of the existing outside gravel areas, the construction of a retaining wall and a provision for a future pond. Other non-compliance issues can be found on Pages 5 & 6 of the Staff Report. The use is defined as construction sales and service. Staff would like to note that the distance between the proposed use and the western property line is about 88 feet and the distance between the proposed use and the use on the adjacent property is about 180 feet. Staff has received an email from an adjacent property owner that is attached to the Staff Report and additional material has been placed at each Commissioner's seat. Again, the request is to rezone the site from A-1 to A-1/PD to allow the continuation and expansion of the excavation business.

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

Mr. Tom Breidenstein, attorney and planner, introduced his client's team members.

Mr. Stacey Graus, attorney, gave a historical review of the subject property. He represented Mr. Adam Reid in a lawsuit regarding his property. There was a trial involving the neighboring property owner, Mr. John Helmer. Mr. Helmer had an access easement that allowed him to cross onto Mr. Reid's property when his property flooded. The subject property has been in the Reid/Webb Family since 1953. In March, 2006, Mr. Reid created an LLC to form an excavation business. He started out very small and in 2008, he received approval from the Planning Commission to operate his business at 13203 Webb Lane. The application noted that he would be parking his equipment and trucks in a barn. He received a Home Occupation Permit and operated there for years. By 2015, the business grew and he needed a larger place. The excavation equipment he owns now is rarely on his property. It is usually at job sites. Mr. Graus explained how the business operates.

His farm has become a staging area for his business. He built the barn in 2015 to house the equipment on the property. Mr. Reid doesn't want to grow any further. It is manageable now. Mr. Graus stated that Mr. Reid and Mr. Helmer were close friends and helped each other. In 2019, something changed. There was an issue on one of the jobs they were doing together. Towards the end of 2019, Mr. Helmer told Mr. Reid that he had an easement through Mr. Reid's property and Mr. Reid was not in agreement. Mr. Helmer filed a lawsuit against Mr. Reid involving the easement. It was resolved in January, 2023. In December, 2020 a complaint was made and a Notice of Violation was given to Mr. Reid. It was thought everything would be resolved after the lawsuit was over. Mr. Reid uses his equipment to maintain Webb Lane – a private road. He also uses his equipment to maintain his farm.

Mr. Adam Reid, 13203 Webb Lane, distributed a handout (see Exhibit 1) and gave an overview of past history. His grandfather bought the farm in 1953. He moved on to the farm in 1983. He met Mr. Helmer and helped him with the farm. They became good buddies. He has helped him with balling hay and taking care of his livestock. They undertook between 75–100 jobs together between 2008-2018. The easement issue soured the relationship. He started the business in 2006 and applied for a Home Occupation Permit. He did not intentionally or deceitfully grow the company. He was unaware if he hired someone or bought additional equipment or a truck, he would have to go back to get permissions. He has 12 guys, 9 of which go to the shop and the other 3 go directly to the job site. He has been in business for 17 years. He just wants to be left alone. He will build the extra buildings and pond if necessary. He has 7 dump trucks and flatbed trucks. They work from 7:30 a.m. to 5:00 p.m. Mr. Reid showed photographs of the site and Mr. Helmer's property as well as employee events. Mr. Reid stated that he circulated a letter to get support from the neighbors. He used a photograph to show the houses he visited to get support along Cleek Lane, Patriot Court and Webb Lane. He asked the audience to stand if they supported him.

Mr. Steve Berling, Engineer, met with Staff to discuss what improvements to the site should be made to make the site look better – inside storage and parking, retaining wall, privacy fence, etc. Mr. Reid will make these improvements to be a good neighbor. Chairman Rolfsen asked if all the equipment and trucks would be stored inside? Mr. Berling replied yes. A privacy fence and trees would also be installed to screen parking. A pond could also be put in to handle storm water.

Mr. Breidenstein distributed a memorandum that addresses the statutory requirements for the Zoning Map Amendment request (Exhibit 2). He believes that the request conforms to the Comprehensive Plan. The use is a mixed use – an agricultural use and the excavation business. Therefore, it meets the Future Land Use Map designation of Rural Lands (RL). In addition, Pages 1-2 of the memorandum gives other references to the Comprehensive Plan, particularly the Goals and Objectives. On Page 3 there is an argument that the applicant also meets the Future Land Use Development Guidelines. It deals with buffering, landscaping, access management and storm water management. The proposed use is a very low traffic generator – 9 trips in and out. The architecture of the site is consistent with what is located in the area. It is a barn like others in in area. The applicant is not proposing any signs. The application meets the Planned

Development (PD) criteria (Section 1586 of the Zoning Regulations). Both uses on the property are compatible as they have existed since 2008. The first and only complaint was made in 2020. The affected property owner is not impacted in terms of traffic by the excavation or construction use. Mr. Breidenstein asked for a favorable recommendation for the Planning Commission.

At this time, Chairman Rolfsen asked if anyone in the audience who was in favor or against the request or have questions? He asked the audience to not repeat the same set of concerns or comments over and over. Mr. Costello reminded the audience that all comments have to be land use related.

Mr. Dwight Workman, 12320 Cleek Lane, has never experienced any traffic issues related to the request. No one has been run off the road. It is a clean operation. It would be a travesty if he was not allowed to continue his business at the same location. He supports Adam Reid.

Mr. Jon Schneider, 12601 Cleek Lane, stated that he supports Adam Reid. He has never had any trouble with the road and the business as he and his wife walked it daily. The business is good for Walton, Cleek Lane and Webb Lane. Traffic is not an issue. There is no noise from the trucks.

Mr. Rob Turner, 12657 Cleek Lane, stated that there is a lot of equipment that goes in and out of Cleek Lane because it is an agricultural area. There is no issue with traffic on Cleek Lane, Webb Lane or Patriot Lane. He appreciates how well Mr. Reid keeps his property clean. It doesn't make sense to spend more money to make one person happy.

Mr. Mike Arrowood, 13197 Webb Lane, stated that the request is a business that is growing in Boone County. Mr. Reid's employees come from all over and are dedicated to the area.

Ms. Lauren Gilmore, 12300 Cleek Lane, stated that Mr. Reid has helped her take care of her property since her husband has multiple sclerosis. He gives a lot to the neighborhood by using his equipment and vehicles. Mr. Reid is only using 6 acres of his property for the business use. She supports him.

Mr. Brad Steffen, attorney for Mr. John Helmer, introduced Mr. Helmer.

Mr. John Helmer, 12246 Kite Lane, stated that he has been on the farm since 1969. He gave a history of his family farm. His property is part of Agricultural District #14. He is committed to agriculture. He wants to keep it that way and wants to follow the Comprehensive Plan. He noted that his plumbing business is located at U.S. 25. It is zoned I-1. Having an excavation business located next door to him is a nuisance. It is loud with trucks in and out. They have construction spoils. At one point, there were 40 trucks a day going in and out of the site dumping dirt. He doesn't have a personal vendetta against Mr. Reid. He is happy for his success. It is a construction company that needs to be in an area that is zoned properly. Thus, it won't negatively impact the neighbors. The Comprehensive Plan doesn't say anything about operating a construction company in the area. It says agriculture. That is what we are and his family is committed to

remaining agriculture. Therefore, he is asking the Board to deny the Zoning Map Amendment. It is out of place. It is time to relocate his business.

Mr. Drew Finn, 12226 Kite Lane, stated that he moved the location of his new home due to Mr. Reid's business. It cost him more money. He is against Mr. Reid's business expansion. It is noisy as he farms his property. He asked the Board to reject the application.

Ms. Kristen Lewis, 12495 Cleek Lane, stated that she owns 33 acres that adjoins the Reid property. She looks over 2 nice farms. She didn't realize that 2 times a day there would be dust and noise. She has been run off the road by one of Mr. Reid's trucks. The road is only one lane. It needs to be improved to accommodate trucks. The use in question will lower her property value since it isn't agricultural or a large lot residential subdivision. Ms. Lewis noted that she had a recent discussion with Mr. Reid regarding no complaints about the use and he can continue to operate because of no complaints. It is not right that the law can continue to be broken. If she would have known this, she would have complained within the 10 year period. She asked the Board to deny the request because she has to look at it every day.

Mr. Don Volland, 1471 Greenery Drive, stated that he was Ms. Lewis' realtor when she bought her 33 acre farm. Cleek Lane is on a ridge as it sits up high. All the houses look down on the beautiful farms. Now they are looking down on an industrial site. Property taxes may be reduced because of lower property values in the area. It is the wrong place for an industrial site.

Mr. Albert Smolko, 12515 Cleek lane, expressed a concern about stormwater from the proposed buildings. There are problems now because of one of the buildings. There are also people shooting guns in the area and on the property. He also has ditched his vehicle because of traffic. The road isn't wide enough. The 2015 building was supposed to be used for agricultural uses. He is against the proposed project.

Mr. Brad Steffen, attorney, stated that an excavation business does not belong in an agricultural district. This is about land use. The proposed map amendment is not in agreement with the Boone County Comprehensive Plan. The existing zoning classification is appropriate as it is uniform to the surrounding area. There have been no changes within the area that have substantially altered the basic characteristics of the surrounding land. Mr. Steffen referred to his memo dated August 29, 2023. It was attached to the Staff Report. The Boone County Zoning Regulations identifies and prohibits uses that are permitted in the A-1 zoning district. It also states the following uses that are prohibited - all of which Mr. Reid wants to engage in further – construction sales and service, the outdoor storage of construction equipment, large, heavy, industrial equipment, truck repair facilities, office and small equipment and engine repair. Mr. Steffen reviewed the purpose of an agricultural district – to preserve and protect the supply of productive agricultural lands and other open space providing for non-urban uses. Mr. Helmer has recertified his property as an Agricultural District. Mr. Steffen reviewed the requirements of a Planned Development (PD) zone. A Planned Development allows uses that are compatible and a benefit to the community. An excavating company in the middle of an agricultural area is not compatible. Further, a PD district

shall not adversely affect an adjacent property. The Staff Report shows that the site is surrounded by single family dwellings and agricultural zones. Mr. Steffen pointed out the Future Land Use recommendations for the area – Rural Lands and Developmentally Sensitive. It recommends the preservation of the existing environment. Mr. Reid's request is spot zoning since the area is surrounded by agriculture. Mr. Steffen introduced a letter and pictures dated August 31, 2023. (see Exhibit 3). It shows Mr. Reid bringing fill material to his property from various job sites. It is more than 9 truck loads of dirt/debris. He is also allowing other companies to dump material. Mr. Steffen also provided a video of equipment being brought in off Cleek Lane. Mr. Steffen also distributed a booklet describing Mr. Reid's activities and violations (see Exhibit 4). In late 2020, complaints were submitted to the Planning Commission for a commercial business operating off Webb Lane (Mr. Reid). On December 2, 2020, Mr. Bob Krebs sent a letter to Mr. Reid about the violation of the 2008 Home Occupation Permit. At that time, the barn was being used for commercial purposes and not exclusively for agricultural purposes. A copy of Mr. Reid's Home Occupation Permit was distributed (see Exhibit 5). The permit requires all equipment to be stored inside the barn. It did not include the workshop approved in 2015. The equipment is not being kept in the barn. Mr. Reid built the workshop under the guise of being used for agricultural purposes. He expanded his excavation business. There continues to be a concern about runoff from the outside storage of equipment and trucks into the streams and creeks. It flows into Mr. Helmer's property. Additional correspondence from the Boone County Planning Commission was sent to Mr. Reid about his violation and remedies. Then, the easement lawsuit is also being dealt with in the Summer, 2023. Mr. Schwartz in April determined a violation exists and gives Mr. Reid until early/mid-June to resolve the issue or else face action by the County Attorney's office. In October, 2022, the civil lawsuit was settled. In March, 2023, Mr. Helmer asked what were the next steps to enforce the regulations. Mr. Reid has disregarded the Planning Commission's previous approvals. Mr. Steffen provided a map of Mr. Helmer's Agricultural District #14 (see Exhibit #6). The recertification is good for 5 years. It is about land use. The PD is surrounded by agricultural uses. All of the activities by Mr. Reid contradict the zoning ordinance. He asked to enforce the zoning ordinance, that Boone County Comprehensive Plan be recognized and the Zoning Map Amendment request be denied. Mr. Steffen also asked if he could question Mr. Reid?

Chairman Rolfsen asked if any Commissioner had any questions or comments for the applicant. He asked if Mr. Helmer wanted the business moved completely from the property? Mr. Helmer replied yes. It is inappropriate for the area. It should be moved to an area where it is zoned properly and not negatively impact its neighbors.

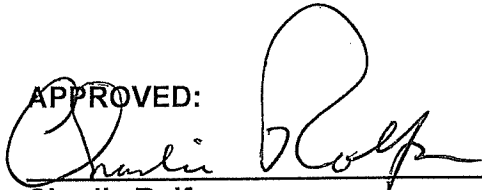
Mr. Turner asked how the business affects the Agricultural District in question? Mr. Helmer responded that it doesn't affect the reclassification. The Reid property is not in the Agricultural District #14.

Mr. Steffen inquired if he could ask Mr. Reid a question? Mr. Wilson replied yes but all questions have to be directed to the Chairman. Mr. Steffen asked about putting dirt and fill on the subject property? Where is it coming from and how often? Does he charge for it? Do other companies dump on the site?


Mr. Reid responded that he has had others dump dirt as part of a job. He has filled in areas to build on. He does not charge to dump because it is for him only.

Mr. Graus asked Mr. Reid if he was willing to restrict from bringing fill in the future in order to continue to operate? Chairman Rolfsen asked if the applicant would restrict the dump trucks bringing fill material. Mr. Reid replied yes.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on September 20, 2023 at 5:00 P.M. This item will be on the Agenda for the Business Meeting on October 4, 2023 at 7:00 p.m. in the Fiscal Courtroom. Chairman Rolfsen closed the Public Hearing at 9:48 p.m.

APPROVED:

Charlie Rolfsen
Chairman

Attest:


Kevin P. Costello, AICP
Executive Director

- Exhibit #1: Signatures for Support of Webb Excavation
- Exhibit #2: Memorandum from Tom Breidenstein, Esq
- Exhibit #3: DBL Law Memo – Brad Steffen
- Exhibit #4: Complaints about Webb Excavation Packet
- Exhibit #5: Home Occupation Permit
- Exhibit #6: Boone County Conservation District Letter & Map

SUPPORTING INFORMATION

7/20/2023

**LEGAL DESCRIPTION
ZONE CHANGE AMMENDMENT
ADAM REID – WEBB EXCAVATION
PARCEL “A” – 6.568 ACRES
13023 WEBB LANE
WALTON, KENTUCKY 41094**

Beginning at a found iron pin (LS 3423) at the south east corner of the Buck Run Farm Trust Property, described in Deed Book 1107 at Page 689 of the Boone County Clerk’s Office in Burlington, Kentucky; thence, along eastern line of said property and the western line of the Adam Reid Property described in Deed Book 1097 at Page 304 of said records N 20°-31’-32” E 224.49 feet to a point being the northwest corner of Parcel “A”; thence, thru the Adam Reid Property and along the northern line of Parcel “A”, S 51°-12’-19” E 612.14 feet to a point; thence, N 28°-34’-11” E 158.20 feet to a found iron pin at the southwest corner of the Kirsten Lewis Property described in Deed Book 1087 at Page 559 of said records; thence, along the south west line of the Lewis Property, S 32°-15’-12” E 198.00 feet to a found iron pin; thence, along the southern line of the Lewis Property, N 82°-45’-40” E 164.46 feet to the north east corner of Parcel “A”; thence, thru the Reid Property and along the eastern line of Tract 1 described in Deed Book 1097 at Page 304, S 12°-24’-53” W 153.45 feet to the south east corner of Parcel “A”; thence, thru Tract 1 of the said Reid Property and along the south east line of Parcel “A”, S 80°-00’-59” W 144.91 feet to the western line of Tract 1; thence, continuing thru the Reid Property, S 80°-00’-59” W 271.07 feet to a point; thence, along the south west line of Parcel “A”, N 71°-22’-50” W 598.80 feet to the south west corner of Parcel “A”; thence, along the western line of Parcel “A”, N 20°-31’-32” E 230.00 feet to the PLACE OF BEGINNING.

Parcel “A” – 6.568 Acres

Zone – A-1/PD



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

September 21, 2023

Adam Reid
Webbs Excavation, LLC
13203 Webb Lane
Walton, Kentucky 41094

RE: Request of Steve Berling (applicant) for Webbs Excavation LLC, per Adam Reid (owner) for a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02. The request is for a Zoning Map Amendment to allow the storage of trucks and supplies for an excavation company.

Dear Mr. Reid:

The following represents the recommended conditions of approval for the above referenced application as discussed by the Planning Commission at their September 21, 2023 meeting. As you verbally agreed to these conditions at that meeting, 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 no later than September 29, 2023.


CONDITIONS

1. There shall be no maintenance activity on any of the excavation equipment, except within a completely enclosed building.
2. All business vehicles shall be stored within completely enclosed buildings.
3. There shall be no outdoor storage of any equipment/implements that are associated with the excavation business.
4. There shall be no signage associated with the excavation business.
5. There shall be no fill material brought onto the site that is associated with the excavation business.
6. Equipment that is associated with the excavation business shall only be allowed to brought into/out of the site between 7:00 am and 9:00 pm.
7. The gravel area to the rear of the existing building shall not be enlarged beyond its current boundary.

REID

Webb Excavation – Webb Lane
September 21, 2023
Page 2

Sincerely,

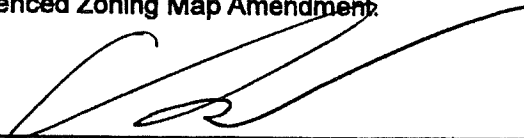


Michael D. Schwartz
Director, Zoning Services

MDS/ss

AGREEMENT

The property owner and developer of the approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, agrees to the conditions listed herein for the above referenced Zoning Map Amendment.



Adam Reid (owner/developer)

9-25-23

Date

ORDINANCE 2023-26

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT, KENTUCKY RECOMMENDING DENIAL, FOR A REQUEST OF STEVE BERLING (APPLICANT) FOR WEBBS EXCAVATION LLC, PER ADAM REID (OWNER) FOR A ZONING MAP AMENDMENT FROM AGRICULTURE (A-1) TO AGRICULTURE/PLANNED DEVELOPMENT (A-1/PD) FOR AN APPROXIMATE 6.6 ACRE AREA LOCATED AT THE TERMINUS OF WEBB LANE, BOONE COUNTY, KENTUCKY, AND BEING PART OF THE PROPERTY WITH THE ADDRESS OF 13203 WEBB LANE AND PART OF THE PROPERTY WITH THE PARCEL IDENTIFICATION NUMBER (PIDN) OF 043.00-00-016.02, BOONE COUNTY, KENTUCKY.

WHEREAS, the Boone County Planning Commission received a request for a Zoning Map Amendment to the Boone County Zoning Map and such Zoning Map Amendment being a zone change from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02, 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 of Fact recommending denial for the Zoning Map Amendment.

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

Section One

That the request for a Zoning Map Amendment for the real estate which is more particularly described below is hereby denied, this Zoning Map Amendment being a zone change from Agriculture (A-1) to Agriculture/Planned Development (A-1/PD) for an approximate 6.6 acre area located at the terminus of Webb Lane, Boone County, Kentucky, and being part of the property with the address of 13203 Webb Lane and part of the property with the Parcel Identification Number (PIDN) of 043.00-00-016.02, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in an Agriculture (A-1) zone is more particularly described in DEED BOOK: 1097, PAGE NO: 304 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

Section Two

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

The Findings of Fact recommending denial are marked as "Exhibit B."


Section Three

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

First Reading the 28th day of November 2023

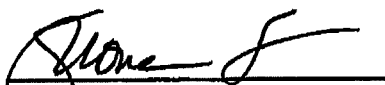
Second Reading the 5th day of December 2023

Adopted this 5th day of December 2023 Yes 3 No 1



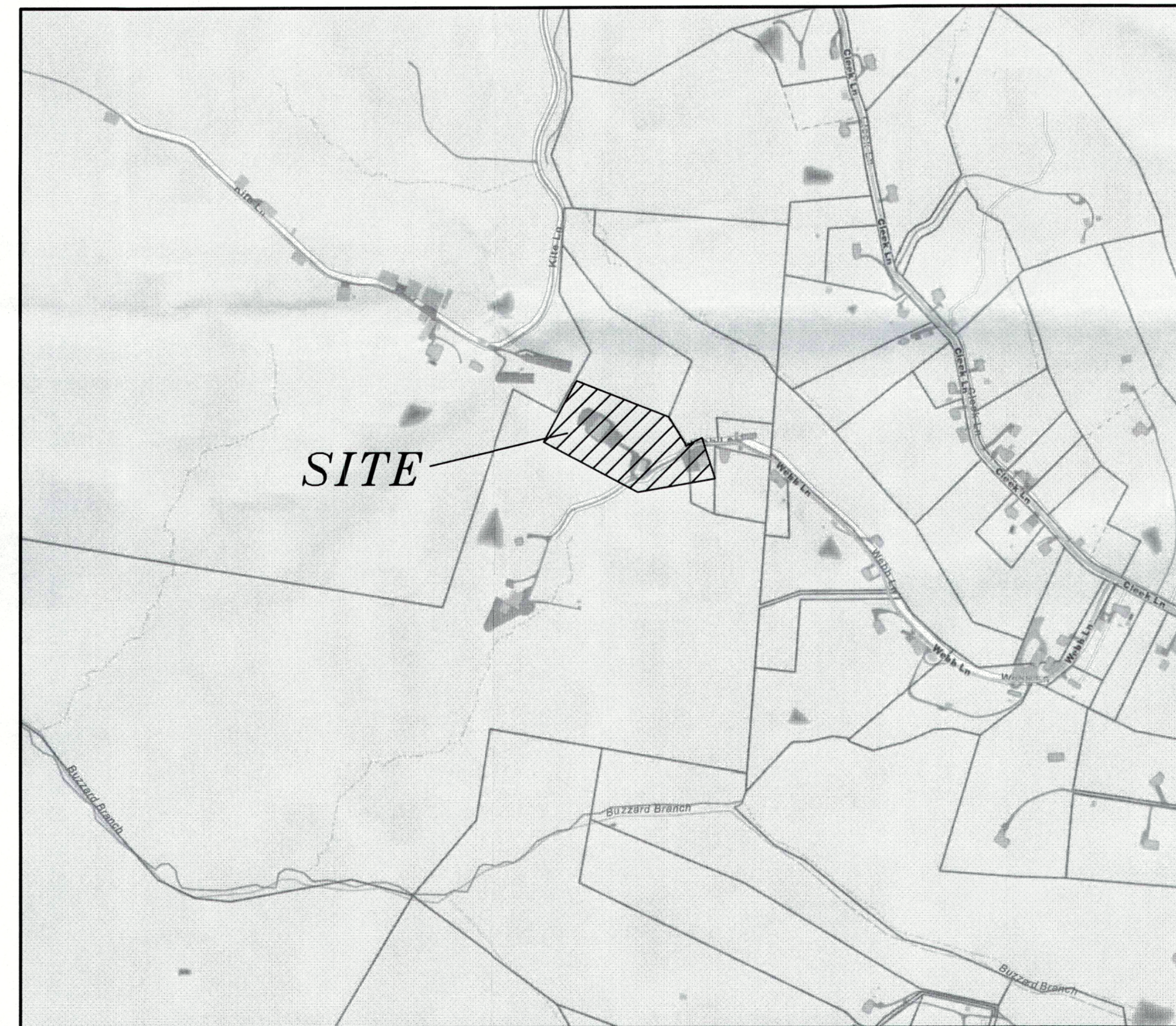
Gary W. Moore, Judge/Executive
Boone County Fiscal Court

ATTEST:

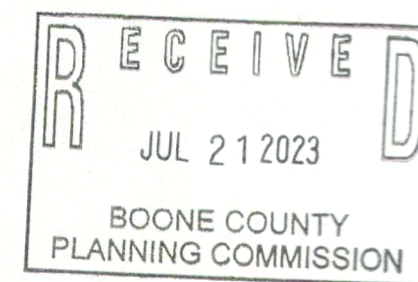


Shona Schulkers,
Fiscal Court Clerk

ZONE CHANGE PLAN
ADAM REID- WEBB EXCAVATION
13203 WEBB LANE
WALTON, KENTUCKY 41094



VICINITY MAP
NO SCALE



SURVEYOR
STEVEN A. BERLING
1671 PARK ROAD - SUITE ONE
FT. WRIGHT KY 41011
PHONE NO: (859) 331-9191
L.S. 3602

JULY 20TH 2023

OWNER
ADAM REID
13203 WEBB LANE
WALTON KY 41094
PHONE NO: (859) 485-1223

BUCK RUN FARM TRUST
DEED BOOK: 1107
PAGE: 689

13203 WEBB LANE
ADAM REID
DEED BOOK: 1097
PAGE: 304
043.00-00-016.01

12495 CLEEEK LANE
KIRSTEN LEWIS
DEED BOOK: 1087
PAGE: 559
043.00-00-016.04

ADAM REID
13203 WEBB LANE

13203 WEBB LANE
ADAM REID
DEED BOOK: 1097
PAGE: 304
043.00-00-016.02
1.41 AC - TRACT 1

13197 WEBB LANE
MICAH ARROWOOD
DEED BOOK: 1185
PAGE: 411

13203 WEBB LANE
ADAM REID
DEED BOOK: 1097
PAGE: 304
043.00-00-016.01

A-1/PD
6.568 Ac.

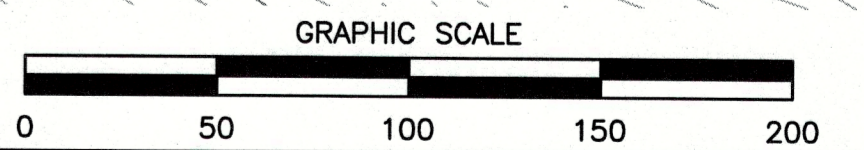
PROPOSED RETAINING WALL:

MAX HEIGHT: 13'
TOP ELEVATION: 644.00'

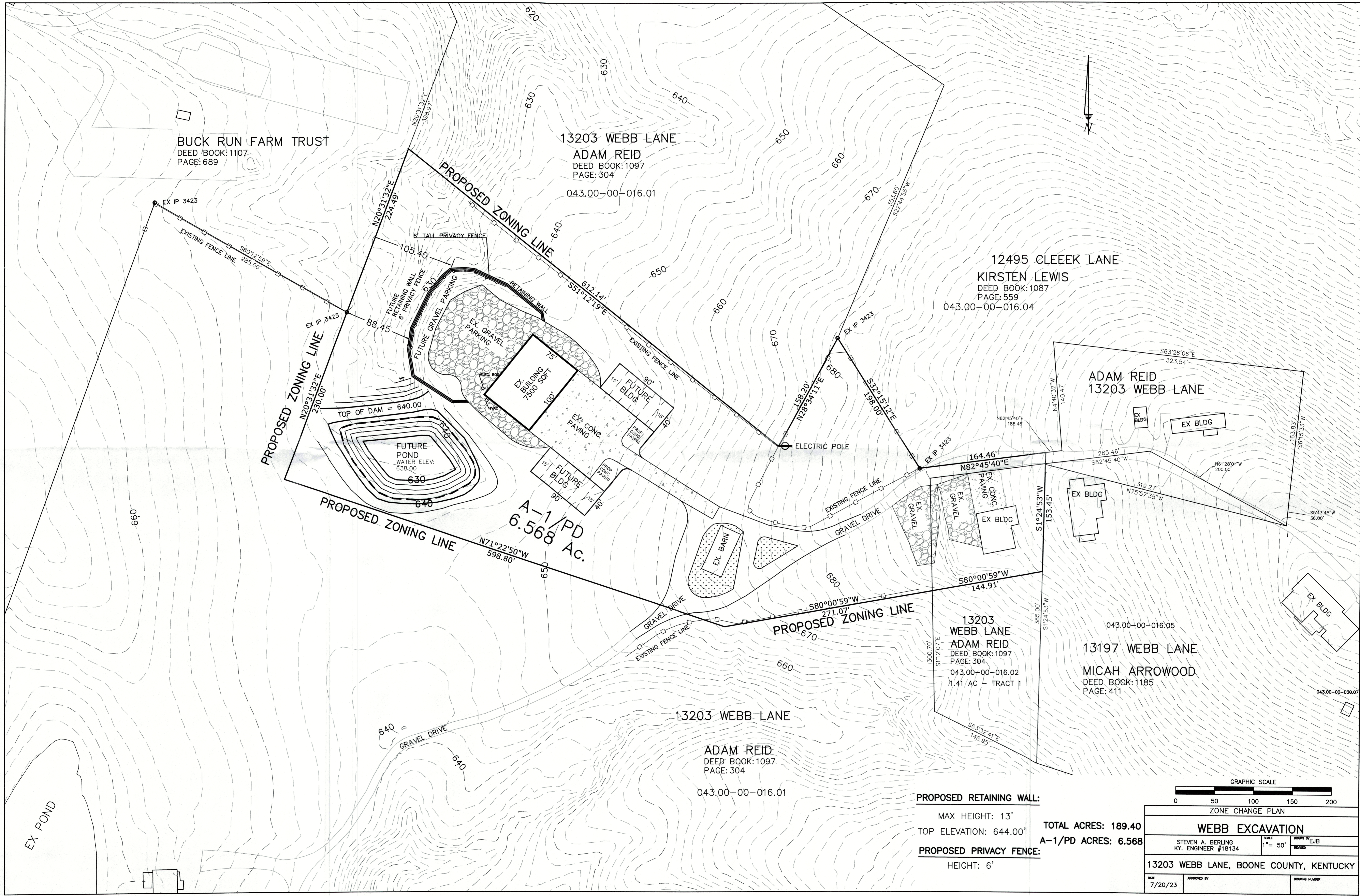
PROPOSED PRIVACY FENCE:

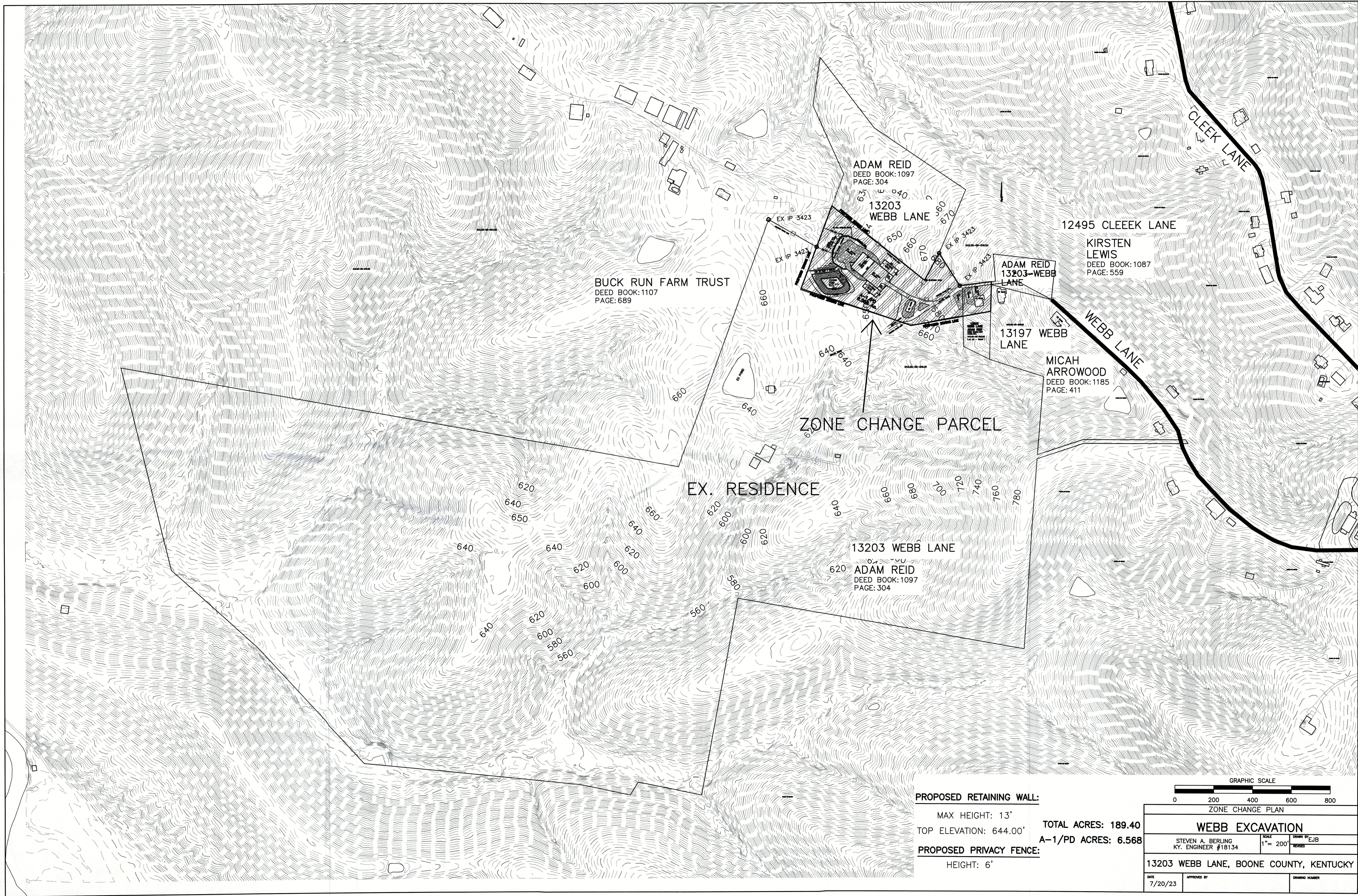
HEIGHT: 6'

TOTAL ACRES: 189.40
A-1/PD ACRES: 6.568



ZONE CHANGE PLAN		
WEBB EXCAVATION		
STEVEN A. BERLING KY. ENGINEER #18134	SCALE 1" = 50'	DRAWN BY EJB
13203 WEBB LANE, BOONE COUNTY, KENTUCKY		
DATE 7/20/23	APPROVED BY	DRAWING NUMBER





BUCK RUN FARM TRUST
DEED BOOK: 1107
PAGE: 689

ADAM REID
DEED BOOK: 1097
PAGE: 304

13203
WEBB LANE

12495 CLEEK LANE

KIRSTEN LEWIS
DEED BOOK: 1087
PAGE: 559

ADAM REID
13203-WEBB LANE

13197 WEBB LANE

MICAH ARROWOOD
DEED BOOK: 1185
PAGE: 411

ZONE CHANGE PARCEL

EX. RESIDENCE

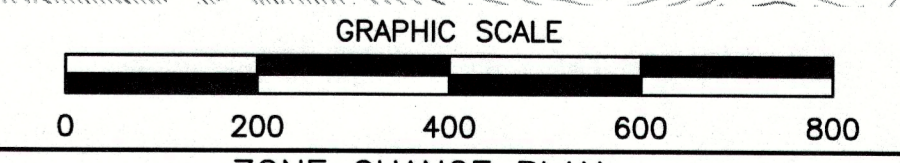
13203 WEBB LANE

ADAM REID
DEED BOOK: 1097
PAGE: 304

PROPOSED RETAINING WALL:

MAX HEIGHT: 13'
TOP ELEVATION: 644.00'
PROPOSED PRIVACY FENCE:
HEIGHT: 6'

TOTAL ACRES: 189.40
A-1/PD ACRES: 6.568



ZONE CHANGE PLAN		
WEBB EXCAVATION		
STEVEN A. BERLING KY. ENGINEER #18134	SCALE 1" = 200'	DRAWN BY: EJB REVISIONS
13203 WEBB LANE, BOONE COUNTY, KENTUCKY		
DATE 7/20/23	APPROVED BY	DRAWING NUMBER