

ZONING MAP AMENDMENT REQUEST BY W.D. MURPHY
FOR PROPERTY LOCATED IN BOONE COUNTY, KENTUCKY

This is a Zoning Map Amendment request by W.D. Murphy (applicant) for Ronald R. Tackett (owner) to rezone a 13.29 acre parcel of land located east of Old KY 16 and Southern Railway and north of Walton in Boone County, Kentucky. The property is currently zoned Agricultural Estates (A-2). A request is being made to rezone the 13.29 acre parcel Industrial One (I-1).

Surrounding Zoning and Land Uses

The surrounding zoning of the 13.29 acre parcel and immediate area consists of Rural Suburban (RS) to the north and west of the site and Agricultural Estates (A-2) to the south and east of the site. The existing land uses include medium density residential to the west of the site and agricultural to the north, south, and east. The Colonel Abner Gaines House is located approximately 300 feet and across the Southern Railway from the proposed site. This house is on the National Register of Historic Places.

Relationship to Comprehensive Plan

The 1980 Boone County Comprehensive Plan Land Use Map indicates a future land use for this site as Industrial. The location of the 13.29 acre site and the general area are referred to in the current Comprehensive Plan text in a number of ways:

- 1) Page 3.5 mentions industrial development in the Walton area. "Industrial development is also currently planned in Walton adjacent to the Southern Railway in the existing urban service area. Expansion of the Florence urban service area south of the Northern Kentucky Industrial Park will support industrial development planned east of U.S. 25, extending to just north of Walton."

"Industrial land uses should be permitted once adequate infrastructure is available in this area or provided as part of the proposed development. Warehousing type industrial development, which would be most compatible with residential uses west of U.S. 25, is recommended for the east side of U.S. 25, extending to the Southern Railway. East of the railroad, rail oriented light manufacturing, processing, and warehousing uses are encouraged."

Page 3.13 refers to a specific area in Walton, "Industrial development is planned southeast of the central area, adjacent to the Southern Railway; in the southwest, adjacent to the Louisville and Nashville Railroad; and southwest of the I-75/KY 14-16 interchange."

Page 3.16 describes the Richwood and Walton area. "The urban service area is also planned for expansion to serve areas east of U.S. 25, extending south from Maher Road to just north of Walton, and east to the Kenton County boundary. This area is planned for future industrial

development, given the availability of highway and rail transportation once adequate infrastructure is available or provided as part of the proposed development."

Page 4.4 mentions the importance of utilizing the county's rail system. "The Comprehensive Plan does accommodate and encourage use of existing facilities, particularly through industrial development in the Walton area adjacent to the Southern and L & N Rail Lines."

In summary, the current Boone County Comprehensive Plan Land Use Map and text recommends that the 13.29 acre site and some of the immediate area be industrial given the access to adequate urban services and rail.

Concept Development Plan

The applicant would like to rezone the 13.29 acre parcel in order to construct a 3,000 square foot metal building and operate a wood products (furniture construction) facility. The 3,000 square foot facility would be developed on a 2.0 acre parcel. The remaining amount or 11.29 acres will be subdivided at a later date. The site has a substantial amount of mature trees located along each property line. This tree line serves as a good, natural buffer between the single-family residences, the Southern Railway line and the site. A pond also exists on the site and the applicant has indicated that it will be drained. Utilities to the site will consist of connecting into an existing 10 inch water main along the western border of the site. A septic tank system will have to be built to serve the site.

Access to the site will involve the utilization of the emergency access road. Vehicles will be using this road and drive north to KY 16. The railroad grade crossing is not conducive for industrial traffic or commercial traffic. The grade crossing is narrow and elevated and is not suited for truck traffic or automobile traffic on a regular basis. On October 14, 1980, Boone County Fiscal Court and the Cincinnati, New Orleans and Texas Pacific Railway Company entered into agreement concerning this grade crossing (see attached letter and agreement). The purpose of this grade crossing is to serve emergency vehicles only. Proper signage and perhaps a unique access design would allow traffic to enter and exit the site without using the existing grade crossing. Depending upon the nature and scale of industrial development on the site, the emergency access road leading to KY 16, may have to be widened to serve two-way truck traffic.

Conclusion

In conclusion, the proposed zone change and Concept Development Plan should be evaluated in terms of meeting the goals and objectives of the Boone County Comprehensive Plan. Also, access to this parcel or the proposed traffic route to the site is a key issue concerning this request. The request would require a change in the Boone County Zoning Map from Agricultural Estates (A-2) to Industrial One (I-1) should the request be eventually granted by the Boone County Fiscal Court.

Respectfully submitted,



Kevin P. Costello
Assistant Director/Senior Planner



Southern Railway System

Transportation Department
S. Main Street
Somerset, Kentucky 42501
April 18, 1986 d

RECEIVED

APR 21 1986

C B BAILIFF
SUPERINTENDENT

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TELEPHONE
(606) 679-8580

Mr. Kevin P. Costello
Asst. Director/Sr. Planner
Boone County Planning Commission
P. O. Box 697 - 2950 Washington Square
Burlington, Kentucky 41005.

Dear Mr. Costello:

Reference your letter of April 9, 1986, and your notice to Southern Railway Company of the public hearing that is to be held concerning a request for a zone change for a 13.29 acre tract located on the east side of old KY 16 near Southern Railway property north of Walton, Kentucky.

In discussing this matter with Trainmaster F. W. Grove, it appears that should the Planning Commission approve the zone change, there could possibly be an increase in traffic over the railroad track at MP 13.56.

Enclosed please find copy of an agreement between the CNO&TP Railway Company and Boone County Kentucky Fiscal Court dated October 14, 1980, for the road crossing located at MP 13.56 in Walton, Ky. This letter is to serve notice to the Planning Commission that the Railway Company objects to any zone change which would violate the provisions of said agreement. Specifically, please see paragraph 8 which reads in part, "said grade crossing shall be used for emergency vehicles only".

Should you have any questions or if I can be of further assistance, please feel free to contact my office or Mr. F. W. Grove, Lexington, Kentucky.

Very truly yours,



C. B. Bailiff,
SUPERINTENDENT

Cy - F. W. Grove:

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THIS AGREEMENT, made and entered into this 14th day of October, 1980, by and between

THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY, an Ohio corporation

hereinafter styled "Railroad", party of the first part; and

BOONE COUNTY FISCAL COURT, an agency of the State of Kentucky

hereinafter styled "Permittee", party of the second part;

W I T N E S S E T H: That

WHEREAS, Permittee, at its expense, is constructing, reconstructing, widening or otherwise changing or improving a portion of a private road or highway (hereinafter referred to as "grade crossing") for the exclusive use of emergency vehicles and not as a public thoroughfare, upon and across, at grade, the right of way or property and track(s) of Railroad, at WALTON, Boone County, Kentucky, located substantially as shown on the attached print hereinafter referred to; and

WHEREAS, Permittee has requested Railroad to perform certain work in connection with the improvement of said grade crossing, for the exclusive use of emergency vehicles, all of which Railroad is willing to do, but upon the terms and conditions hereinafter expressed and contained;

NOW, THEREFORE, the PARTIES HERETO, agree as follows:

1. Railroad, to the extent that its title enables it so to do, and without warranty, hereby grants unto Permittee the right to improve said grade crossing upon and across, at grade, the right of way and track(s) of Railroad, at WALTON, Boone County, Kentucky at Milepost 19.56, -----

-----; said grade crossing being substantially as shown in red on print of Drawing No. TA-80-0297, dated July 24, 1980-----

-----, attached hereto and made a part of this agreement; RESERVING, however, unto Railroad the right to continue to maintain, repair, renew and operate its railroad and appurtenances across said grade crossing, and to construct such additional track(s) and other railroad facilities across said grade crossing and to maintain, repair, renew and operate the same as in the judgment of Railroad may be requisite; it being understood that if Railroad elects or is required to construct any additional tracks or other structures or facilities thereon, and shall find it necessary to disturb said grade crossing or any portion of said proposed highway located within the limits of said right of way in so doing, Permittee will, at its own expense, upon notice in writing so to do served upon it by Railroad, make such changes in said grade crossing or in said highway as may be necessary to accommodate the work of Railroad.

2. Railroad will, for the accommodation of, and at the expense of Permittee, perform the work of improving the portion of said grade crossing between the rails in said track(s) and to the outside ends of the crossties on each side thereof, and shall revise, relocate and reconstruct signal facilities and other railroad facilities in such manner as may be necessary to this project, and Permittee will pay to Railroad, promptly upon bill rendered therefor, the actual cost of all work performed by Railroad in connection with the improvement of said grade crossing, including but not limited to the expenditures herein expressly described. If the cost of said work to be performed by Railroad has not been estimated, such estimate is attached hereto and made a part of this agreement.

3. Permittee will, at its own expense, improve said grade crossing (except the portion thereof, to be improved by Railroad as aforesaid) including all necessary grading and drainage. Upon completion of the improvement of said grade crossing, Permittee will maintain the same at its own expense, and in all respects in accordance with the requirements of Railroad looking to the safe and

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convenient operation of its said line of railroad.

4. Permittee agrees to indemnify and hold Railroad, and any other corporation controlling, controlled by or under common control with Railroad, harmless from and against all loss, damage, liability or expense arising from injury or damage to any person or property while Permittee is engaged in the work of improving or maintaining said grade crossing across the property and track(s) of Railroad as hereinabove provided.

5. It is agreed that Railroad shall be exempt from any and all charges or assessments of any kind or character on account of the improvement or maintenance of said grade crossing within the limits of said right of way or property, or on account of any other thing done or omitted to be done by Permittee in connection therewith.

6. Should the use of said grade crossing be abandoned, then all rights hereby granted to Permittee shall thereupon cease and terminate and Permittee will, at its sole cost and in a manner satisfactory to Railroad, remove the portion of said grade crossing located within the limits of said right of way of Railroad, and restore Railroad's property to condition existing prior to the improvement or location of said grade crossing within the limits of said right of way; provided Railroad, at its option, may remove the crossing proper within the track area and restore its property and Permittee will, in such event, upon bill rendered pay to Railroad the entire cost incurred by it in such removal and restoration.

7. If future highway traffic conditions require that said grade crossing be protected by automatic signalling devices, or require the separation of grades at said grade crossing, Permittee will at no expense to Railroad install and maintain said signalling devices or construct and maintain such grade separation structures as may be necessary, without contribution by Railroad to the cost of said signalling devices or structures.

8. It is hereby agreed and understood by the parties hereto that said grade crossing shall be used for emergency vehicles only. To this end, Permittee shall construct and maintain, at Permittee's sole cost and expense, at a point to be designated by the Superintendent of Railroad, or his duly authorized representative, a signboard clearly indicating that said crossing is for emergency vehicles only.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

In presence of:

C.H. Johnson
As to Railroad

THE CINCINNATI, NEW ORLEANS AND TEXAS
PACIFIC RAILWAY COMPANY,

By *W.D. McLean*
Vice President

In presence of:

John W. Lewis
As to Permittee

BOONE COUNTY FISCAL COURT,

By *Rance Ferguson*
Boone Co. Judge/Clerk

MCB:jat
8/18/80
67-MCB-794

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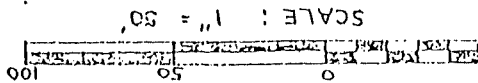
71-80-0297

DO NOT SCALE THIS DRAWING FOR DIMENSIONS NOT GIVEN			
NO.	DATE	VAL. MAP	FILE NO.
526	7-24-00	1956	71-80-0297
SCALE	1" = 50'		

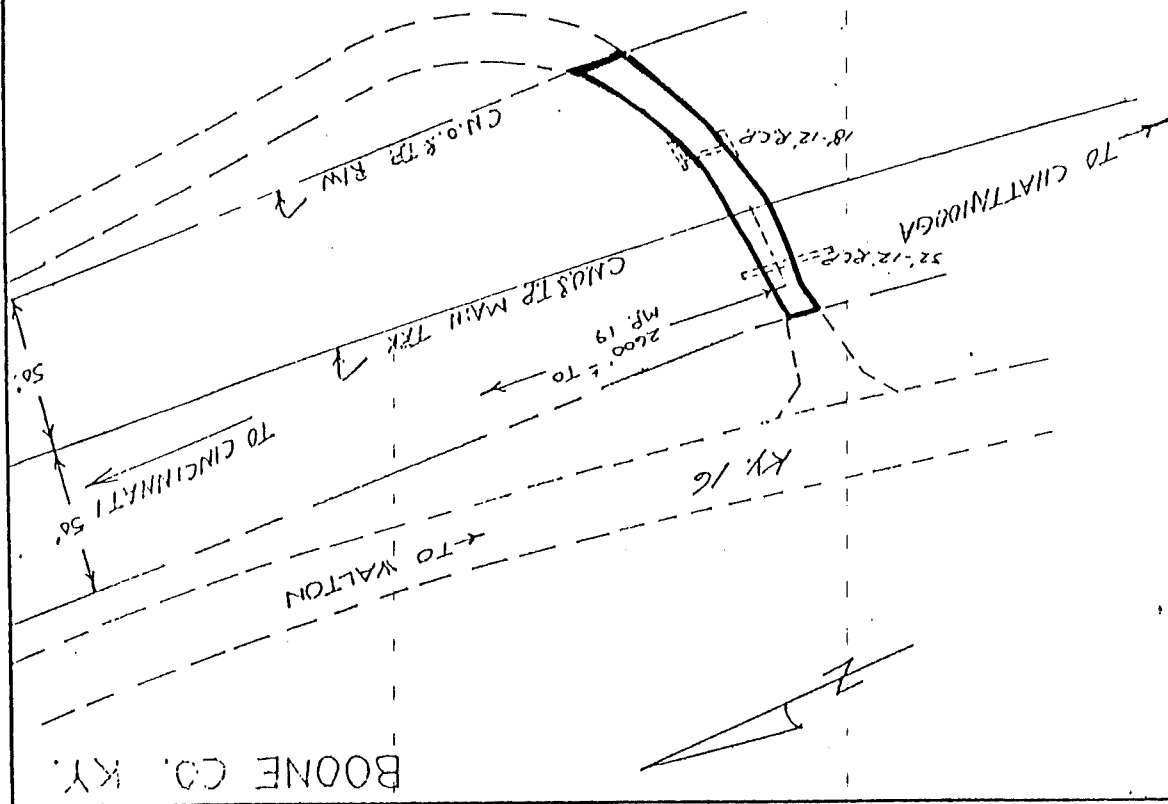
WALTON, KY
 EMERGENCY ACCESS ROAD FOR
 BOONE COUNTY FISCAL COURT

SOUTHERN
 RAILWAY SYSTEM
 C.N.O. & T.P.
 OFFICE OF CHIEF ENGINEER
 ATLANTA, GA.

REVISIONS	DATE	BY	DESCRIPTION



EMERGENCY ACCESS ROAD
 FOR BOONE COUNTY FISCAL
 COURT OUTLINED RED.





To WALTON

U.S. RT. 25

To RICHWOOD

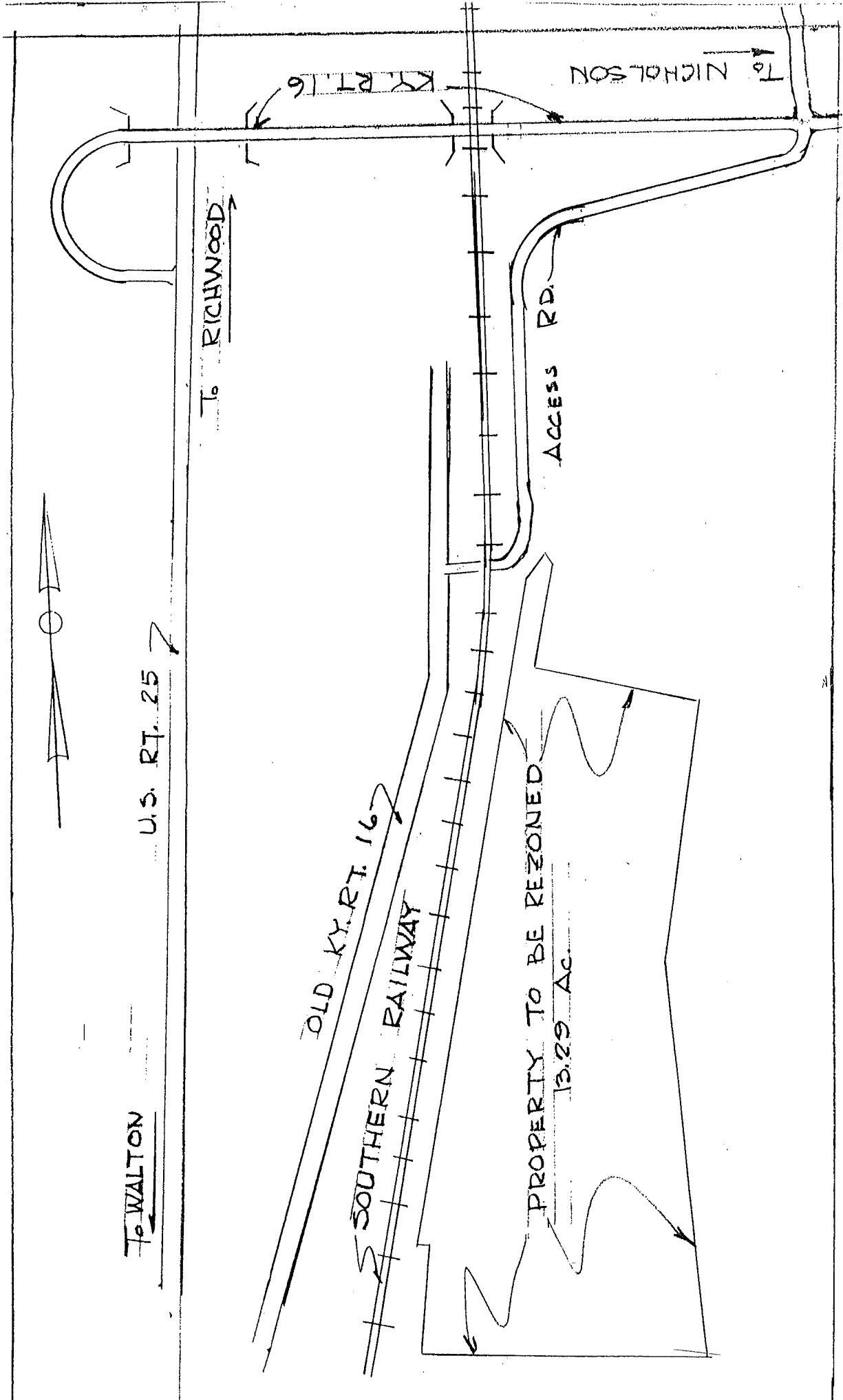
OLD KY. RT. 16
SOUTHERN RAILWAY

PROPERTY TO BE REZONED
13.29 Ac.

ACCESS RD.

To NICHOLSON

KY RT. 16



Public Hearing #4

Chairman Kroger opened the Public Hearing on the request of W. D. Murphy (agent) for Ronald Tackett (owner) for a zone change from Agricultural Estate, A-2 to Industrial One, I-1. The 13.29 acre site is on the east side of Old KY 16 and the Southern Railway, north of Walton, Kentucky.

Staff member Kevin Costello presented slide presentation of the proposed site and surrounding area.

Mr. W. D. Murphy, agent for the request, explained the property was currently zoned A-2 and they wanted to develop the property into an I-1 zoning. Mr. Murphy stated they wanted to build a 3,000 foot building on two acres of the thirteen acres. Mr. Murphy stated the type of work that would be done within the building would be woodwork and he noted it would be a job shop not a production shop. Mr. Murphy stated there would be no work outside only inside. Mr. Murphy noted they would try and control the I-1 use if remaining lots were sold off to something similar to the proposed request. Mr. Murphy stated there was a pond located on the site that would be drained and he noted there was a natural drainage on the property that ran into a creek. Mr. Murphy closed by stating the building would be a small woodworking shop and they hope to expand the shop in the future.

April 23, 1986

PAGE EIGHT

Chairman Kroger inquired of audience's support, opposition or questions on the proposed request.

Mr. James Warren, adjoining property owner, stated he had no objection to the request.

Mr. J. B. McCoven, resident of the area, inquired if the applicant was presently being monitored by the Environmental Protection Agency for any reason. Mr. Murphy stated no, they used paints, woodworking glue, formica, etc., no harsh chemicals.

Chairman Kroger inquired of the name of the company. Mr. Murphy stated "Murphy Catton Woodworking".

Mr. Burch inquired of the access for the traffic that would come and go to the shop. Mr. Burch expressed concern of the danger using the railroad crossing. Mr. Murphy stated there was a frontage road that existed presently that came off of KY 16 right as you crossed the Bridge to US 125. Mr. Murphy noted the railroad crossing was a terrible crossing and had not and would not be used.

Mr. Davis stated it was his understanding that as of April 23, 1986 the Highway Department and the Railroad had agreed there would be a permanent barrier placed at the railroad crossing with no access across the tracks anymore.

Chairman Kroger noted correspondence directed to Mr. Costello from the Railroad with an attached agreement between the County and the Railroad indicating the railroad crossing was to be used specifically for emergency entrance or crossing only. Chairman Kroger stated in the letter the Railroad was objecting to any zoning that would be tied to the railroad crossing. Further discussion followed on the railroad crossing.

Hearing no further comments or questions, Chairman Kroger closed the Public Hearing.

Zoning Map Amendment

A request of W. D. Murphy (agent) for Ronald Tackett (owner) for a zone change from Agricultural Estate, A-2 to Industrial One, I-1. The 13.29 acre site is on the east side of Old KY 16 and the Southern Railway, north of Walton, Kentucky.

Staff member Kevin Costello briefly described the proposed request.

Director Gerald Newton read Committee Report which recommended approval. (See attached "Exhibit A")

Chairman Kroger inquired if Mr. W. D. Murphy, agent for the proposed request, understood the conditions within the Committee Report. Mr. Murphy requested condition #2 of the Committee Report be re-stated.

Mr. Newton re-stated condition #2 of the Committee Report.

Chairman Kroger inquired if Mr. Murphy agreed to all the conditions within the Committee Report. Mr. Murphy stated yes.

Chairman Kroger inquired of audience's support, opposition or comments on the proposed request.

Mr. Collins moved the request of W. D. Murphy (agent) for Ronald Tackett (owner) for a zone change from Agricultural Estate, A-2 to Industrial One, I-1 located on the east side of Old KY 16 and the Southern Railway, north of Walton, Kentucky be approved by Resolution to the Boone County Fiscal Court based upon Committee and Staff Reports. The motion was seconded by Mr. McMillian.

Mr. Davis stated he believed the proposed request would create an island of Industrial use that he did not feel was necessary in the particular area at the present time. Mr. Davis felt the proposed use would be better used in an existing Industrial area and that Industrial uses should be kept within an Industrial Park. Mr. Davis noted he was not in favor of the proposed request.

Mr. Barnett stated he did not like to see a request come before the Commission that did not agree to the Comprehensive Plan or lend itself to the Comprehensive Plan. Mr. Barnett stated the proposed request did agree to the Comprehensive Plan if the proposed property in the future was developed into an Industrial Subdivision. Mr. Barnett stated he did not feel the proposed property was suitable for commercial uses but rather an industrial use. Mr. Barnett noted he would like to see the zone

change approved.

A roll call vote was taken:

Ayes: Messrs: Barnett, Collins, Delong, Greene, Jones, McMillian, Neltner and Chairman Kroger.

Nay: Messrs: Davis and Martin.

The motion carried.

Chairman Kroger recommended Mr. Murphy stay in contact with Fiscal Court's Agenda for action on the request.

Committee Report

TO: Boone County Planning Commission

FROM: Don Davis, Chairman

DATE: May 7, 1986

RE: Request of W. D. Murphy (agent) for Ronald Tackett (owner) for a zone change from Agricultural Estate, A-2 to Industrial One, I-1. The 13.29 acre site is on the east side of Old KY 16 and the Southern Railway, north of Walton, Kentucky.

REMARKS:

The Committee recommends approval of both the zone change request and the submitted Concept Development Plan based upon the following findings of fact and conditions.

1) The zone change request is consistent with the 1980 Boone County Comprehensive Plan Land Use map and text. Both the map and text recommend as industrial land use for the site and immediate area.

The text discusses industrial land uses for the site of pages 3.5, 3.15, 3.16, and 4.4 and specifically mentioned in the staff reports.

2) The Committee recommends approval of the submitted Concept Development Plan with the following conditions.

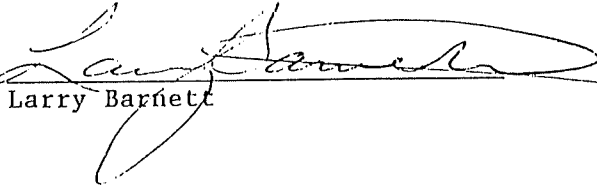
a) The applicant shall be required to apply for a Change in Concept Development Plan which involves a public hearing when the remaining amount or 11.29 acres is subdivided and developed. The main reason for this hearing is to determine the impact of any future development on the site with regard to infrastructure capacity, road improvements and access to rail. The submitted Concept Development Plan indicates that a 3,000 square foot metal building will be built on a 2.0 acre parcel. The remaining amount or 11.29 acres is left vacant as indicated on the plan.

3) The applicant shall be required to limit traffic to the access road which leads north to KY 16. Traffic from the 13.29 acre site shall not be permitted crossing, which would violate the agreement between Boone County Fiscal Court and CNO & TP Railway Company (dated October 14, 1980).

4) The applicant shall be required not to remove or disturb the existing tree line or vegetation surrounding the site.

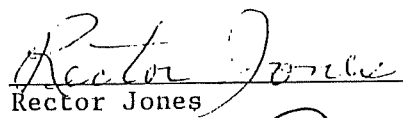
We the Committee recommend approval of the zone change request of the 13.29 acre site from Agricultural Estates, A-2 to Industrial One, I-1.

Don Davis, Chairman

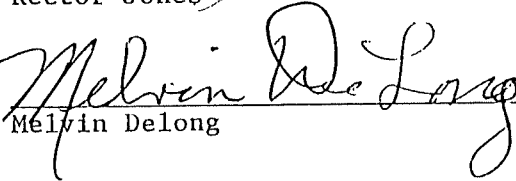


Larry Barnett

Fred Burch



Rector Jones



Melvin DeLong

William Viox

ORDINANCE NO. 920.94

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT ADOPTING A MAP AMENDMENT TO THE BOONE COUNTY KENTUCKY, ZONING MAP, SUCH MAP AMENDMENT BEING A ZONE CHANGE FROM AGRICULTURAL ESTATE TO INDUSTRIAL ONE FOR PROPERTY LOCATED ON THE EAST SIDE OF OLD KY (16) AND SO. RAILWAY NORTH OF WALTON AS REQUESTED BY W.D. MURPHY (AGENT) FOR RONALD TACKETT (OWNER) AND AS RECOMMENDED FOR APPROVAL BY THE BOONE COUNTY PLANNING AND ZONING COMMISSION VIA RESOLUTION NO. (R-27-86). (A 13.29 ACRE SITE)

WHEREAS, the Boone County Fiscal Court received a request from the Boone County Planning & Zoning Commission for a Map Amendment for a zone change from Agricultural Estate to Industrial One for certain real estate which is more particularly described below, and;

WHEREAS, the Boone County Fiscal Court has recognized the conducted Public Hearing by the Boone County Planning Commission, serving as a due process trial-type hearing, and its findings of fact recommending approval of the zone change request, and;

WHEREAS, the Fiscal Court of Boone County, Kentucky, deems it necessary to enact this Ordinance, to preserve and protect the health, safety and convenience of the inhabitants of Boone County pursuant to the Fiscal Court's authority under KRS 67.083 and Chapter 100 of the Kentucky Revised Statutes.

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

SECTION I

That the zone change for the real estate which is more particularly described below shall be and is hereby approved and adopted, this map amendment being a zone change from Agricultural Estate to Industrial One. The real estate which is the subject of this zone change recommendation is more particularly described as follows, to wit:

See attached legal description which is incorporated by reference as if fully set out herein.

(ATTACHMENT - EXHIBIT "A")

SECTION II

That as a basis for the recommendation of approval and adoption of the zone change request the findings of fact of the Boone County Planning and Zoning Commission, as set forth in its Minutes and official records for this zone change request, shall be and are hereby incorporated by reference as if fully set out in this Ordinance.

(ATTACHMENT - EXHIBIT "B")

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

Introduced, seconded and given first reading on the 3rd day of June, 1986.

Adopted by the Fiscal Court of Boone County after second reading at a regular meeting on the 17th day of June, 1986, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the Boone County Fiscal Court Clerk and declared to be in full force and effect.

Bruce Ferguson

Bruce Ferguson
Boone County Judge/Executive

ATTEST:

Jerry W. Rouse

Jerry W. Rouse
Boone County Clerk

Submitted by:

Larry Crigler

Larry Crigler
County Attorney

07/03/86

(DATE PUBLISHED)