

REQUEST OF JAMES AND CAROL BURDEN
FOR A ZONING MAP AMENDMENT FROM
INDUSTRIAL ONE (I-1) TO RURAL SUBURBAN (RS)

NOVEMBER 18, 1987

This is the request of James and Carol Burden for a Zoning Map Amendment to change the current zoning designation of Industrial One (I-1) to Rural Suburban (RS) to allow the construction of a single-family residence. It is the intention of the applicant to rezone only the southern ± 12.75 acres of a 32.45 acre site. The property, which is located on the west side of Old Lexington Pike, north of Chambers Road and east of the Southern Railroad, is owned by James and Carol Burden.

Background

In 1980, property south of the Richwood interchange and east of the railroad was zoned Agricultural Estates (A-2). During the 1986 update, this large area, which extends from the Duro Bag site to the L & N Railroad was rezoned to Industrial One. The area's proximity to rail and the interstate, as well as its relative flatness, led to the Planning Commission and Fiscal Court approving the change to I-1.

History of the Site

The applicant has informed staff that the property he has recently purchased has some historical value. Apparently, this site was formerly called the Twin Oaks Farm, which was the home of a Kentucky Derby winner. The Historic Preservation Planner is not aware of the history of the property. Since only a few minor structures exist, this property is not listed on the Survey of Historic Sites in Kentucky: Boone County. The applicant should be prepared to speak on the historical value of the property and his intentions to restore the farm at the Public Hearing tonight.

Site Features

The subject property is relatively flat in the area the Burdens intend to build. To either side of this area (north and south) are natural drainage swales leading to the railroad. Soils of this property are of the Nicholson Series, which are characteristic of ridgetops, and which are moderately capable of supporting building construction.

Currently on the property are a number of small out-buildings which are remnants of the old farm. The basement of the old farm house is still evident. The applicant leases the property to an adjacent farmer who uses it for pasture.

Surrounding Land Use and Zoning

North: I-1; farmland
South: RS; single-family residences
East: I-1; farmland, woodland, low density residential
West: A-2; Southern Railway, Dixie Highway, farmland

Relationship to Comprehensive Plan

The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of the area Mr. Burden intends to rezone to be Medium Density Residential (three to eight dwelling units) and Low Density Residential (up to three dwelling units per acre). The remaining portion of the applicant's property (not subject to this request) is forecasted to be Industrial. The Land Use Element of the Plan makes the following statements about the area:

"The Richwood area will be developed primarily as both industrial and highway related commercial, with medium and low density residential occurring along Richwood Road and Chambers Lane." (p. L-21)


"Much of the residential and agricultural land use along the US 25 corridor will ultimately be replaced by a large industrial area stretching from the interchange area on the east of US 25 south to the railroad. This industrial development should occur by way of Lexington Pike as a frontage road and thus permitting the residence along US 25 to remain." (p. L-22)

Regarding the historic nature of the site, the objective of the Recreation element of the Plan reads:

Historically and culturally significant sites and structures of the county shall be protected and preserved, where possible." (p. G-5)

Conclusion

Should the Planning Commission recommend, and the Fiscal Court ultimately approve, this Zoning Map Amendment, no change to the Boone County Comprehensive Plan will be required.


Thomas W. Breidenstein
Zoning Enforcement Officer

TWB:mcb

S.G. Justice 11-18-87

TO THE PLANNING AND ZONING COMMISSION

LADIES AND GENTLEMEN:

The land in question that my wife, Carol, and I are asking to have rezoned lays between U.S. 25 and Old Lexington Pike, two miles south of Richwood. This land was in the Alan Gaines family of Walton for almost 100 years, as a horse farm to board, raise, and train horses. This farm was the home place of one of Kentucky's finest. This horse was born and raised on this farm, went on to win the Kentucky Derby, and may have been a Triple Crown winner. I am not sure of all facts concerning this horse at this time. The name of the horse was Valleyache. Also, there were other famous horses born there; names not known at this time. I will need to do further research to determine names of these horses.

What my wife and I would like to do some day is to restore the old home place where the house set, build something similar to the original one and restore the white wooden fence. In order to do this, we need to have at least 1,100 ft. of the 2,700 ft. road frontage rezoned from Industrial to Residential.

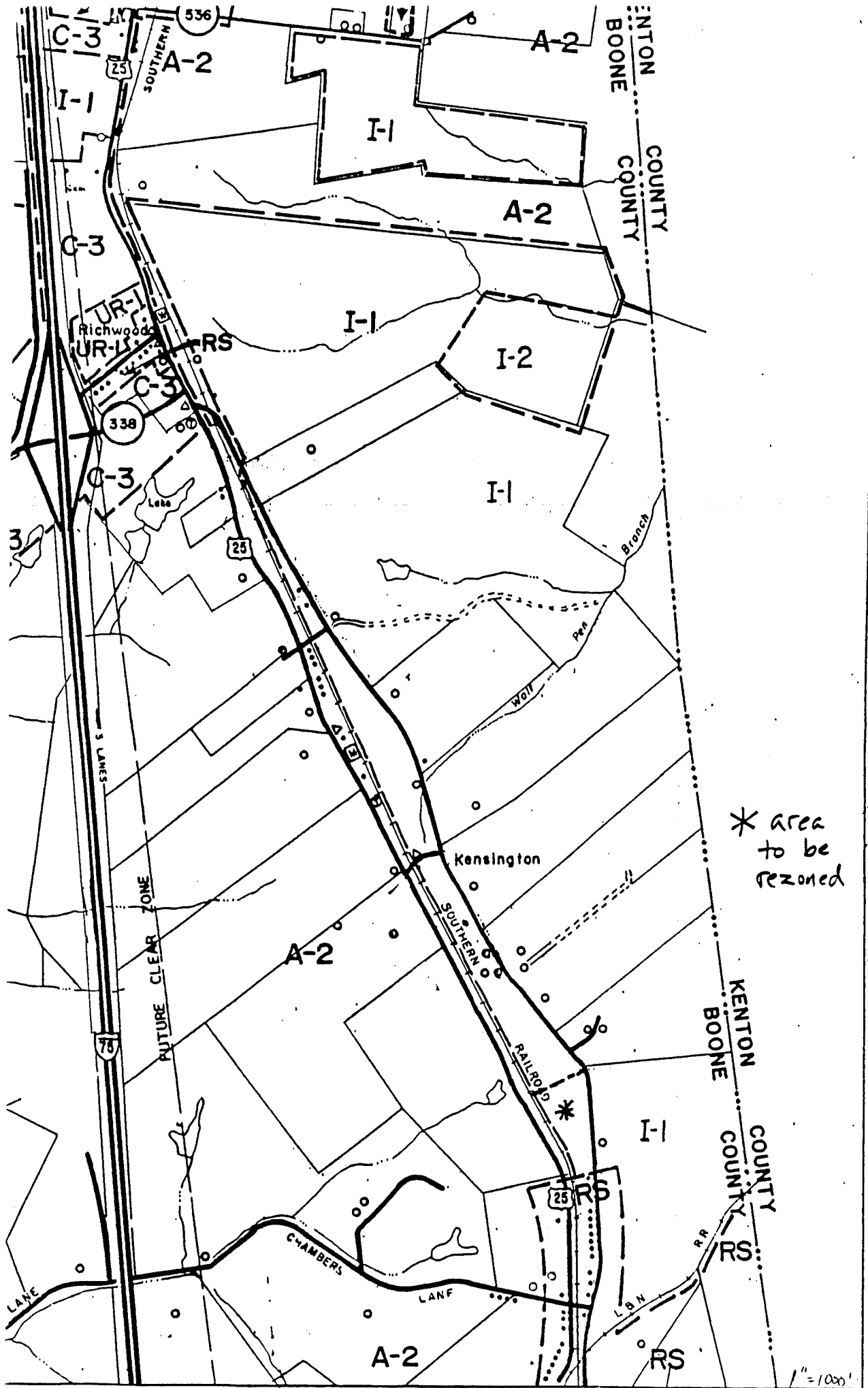
We are not asking for spot rezoning. We are only asking to extend the Residential Zone, which stops at our property line.

We appreciate your consideration in this matter.

Thank you,

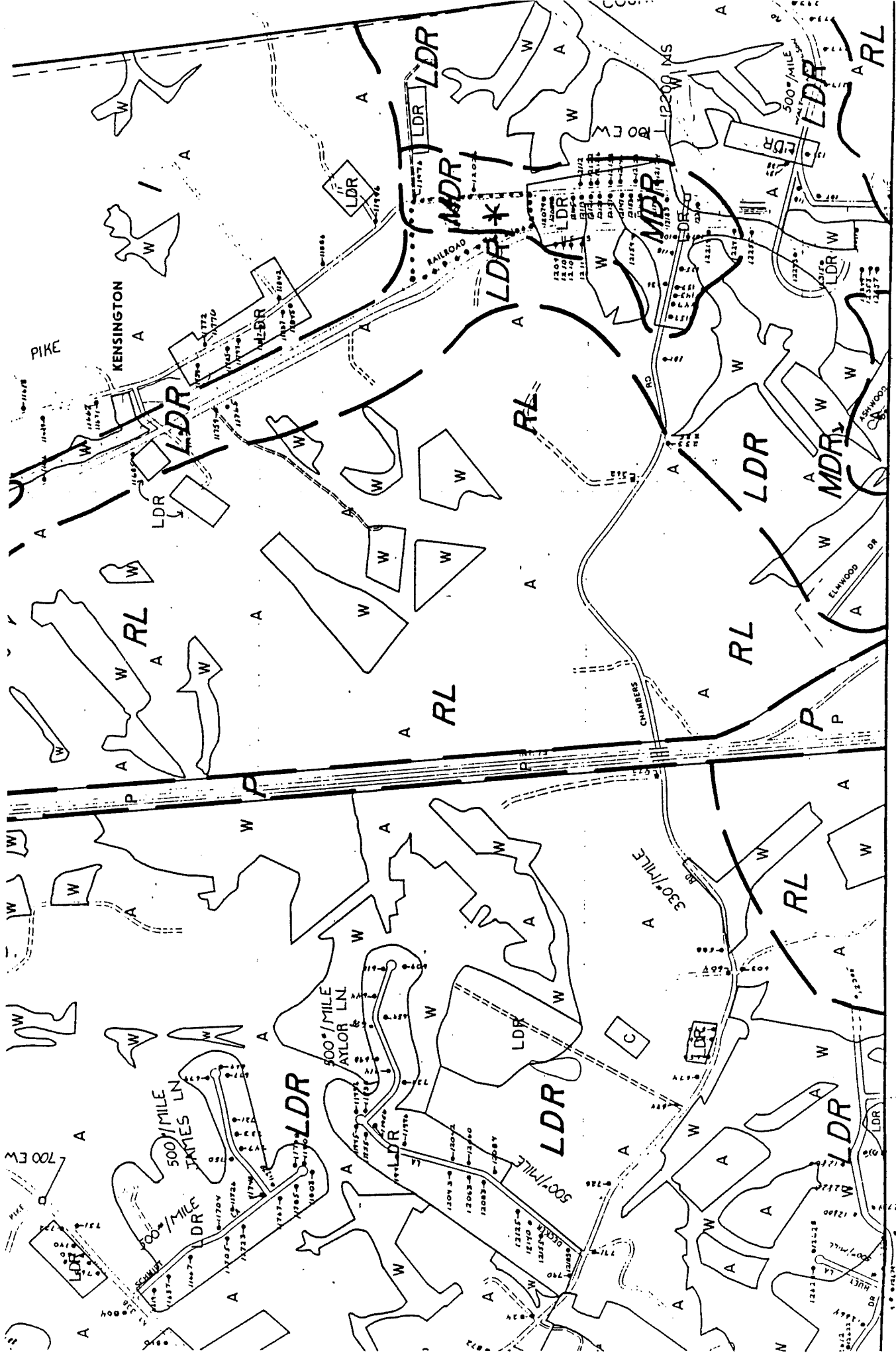
Carol and Jim Burden

RECEIVED
NOV 18 1981



* Area to be rezoned

1" = 1000'



1986-1988

* Area to be rezoned

I-1

Area to Rezone

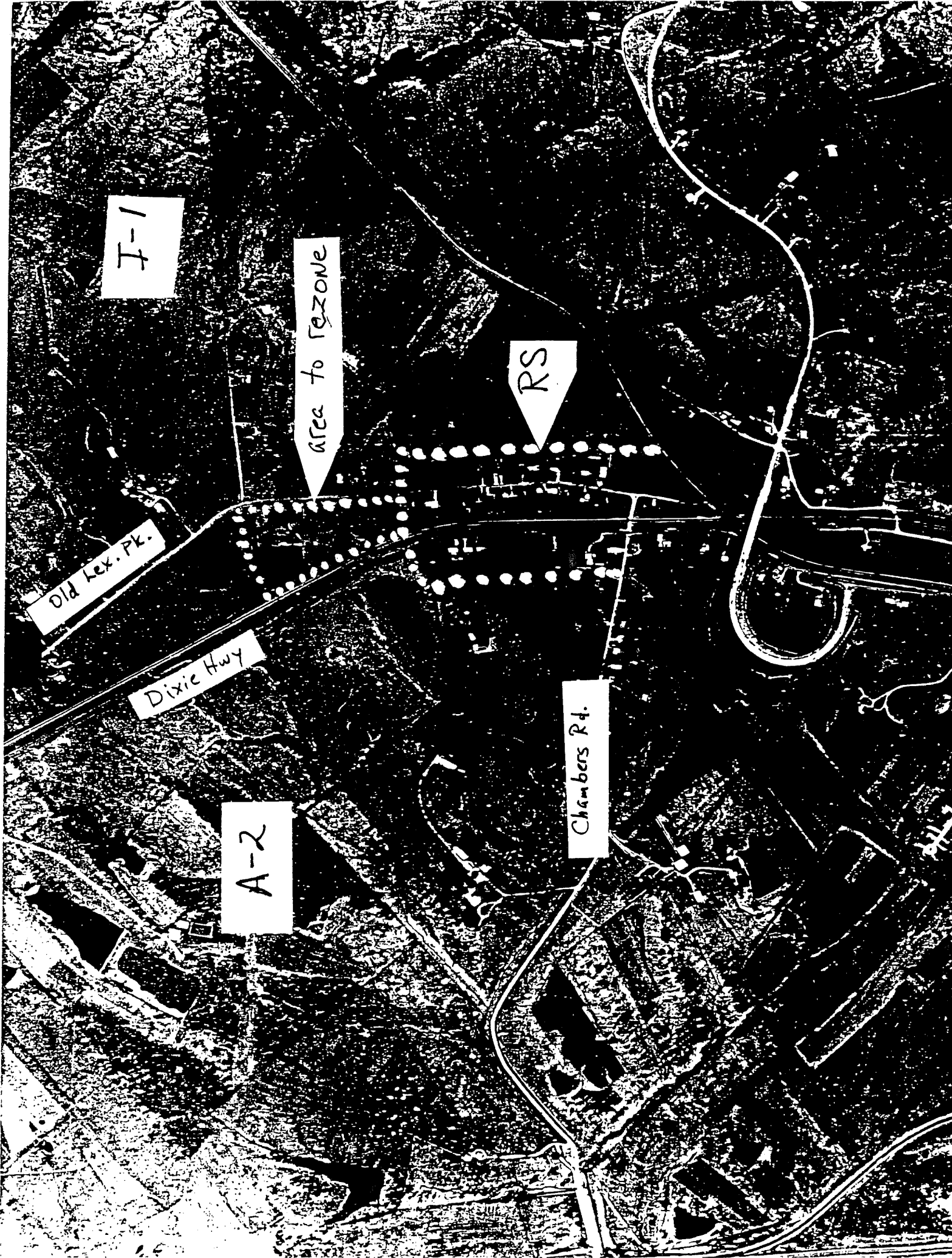
RS

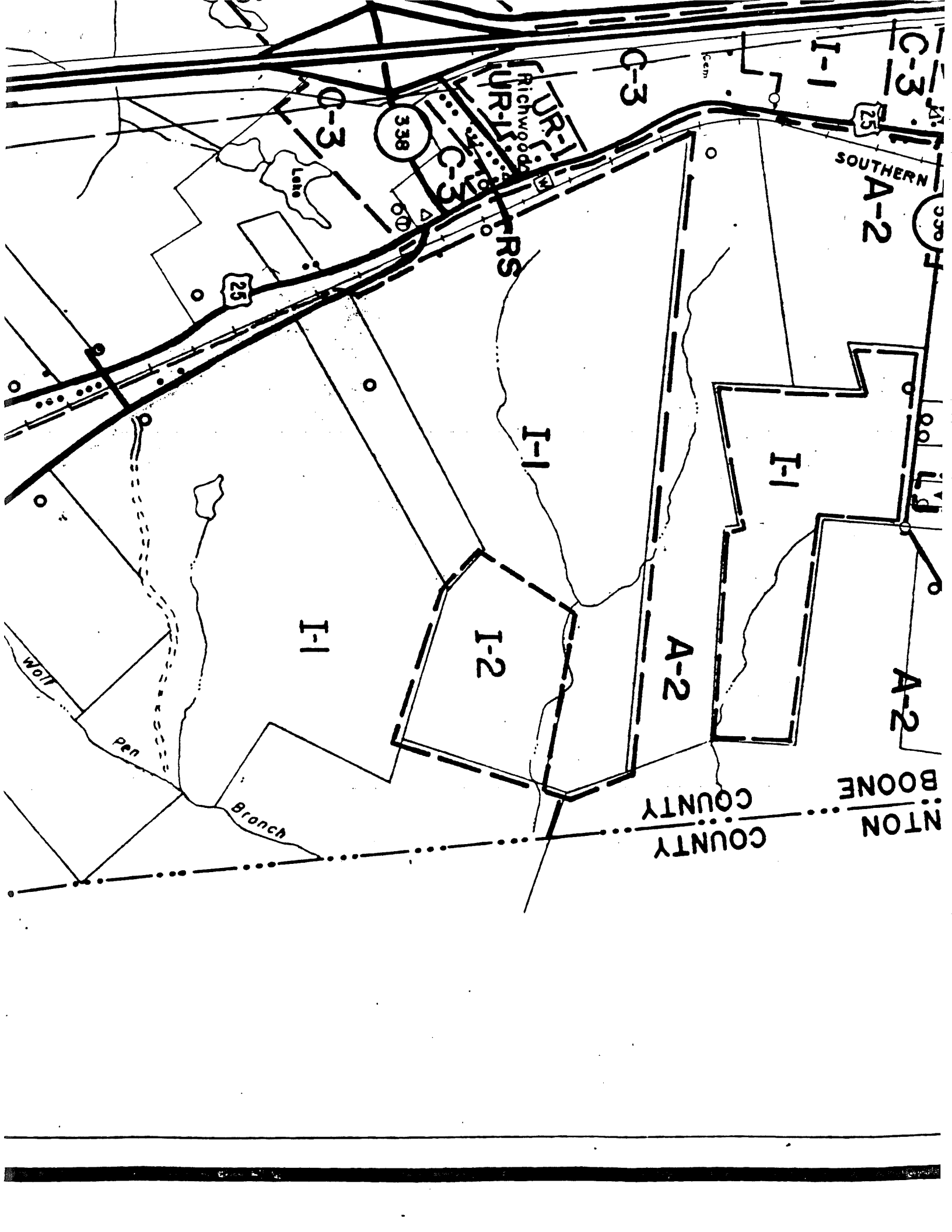
Old Lex. Pk.

Dixie Hwy

Chambers Rd.

A-2





C-3

I-1

O-3

SOUTHERN
A-2

338

O-3

Richwood
UR-15

RRS

25

I-1

I-1

I-1

I-2

A-2

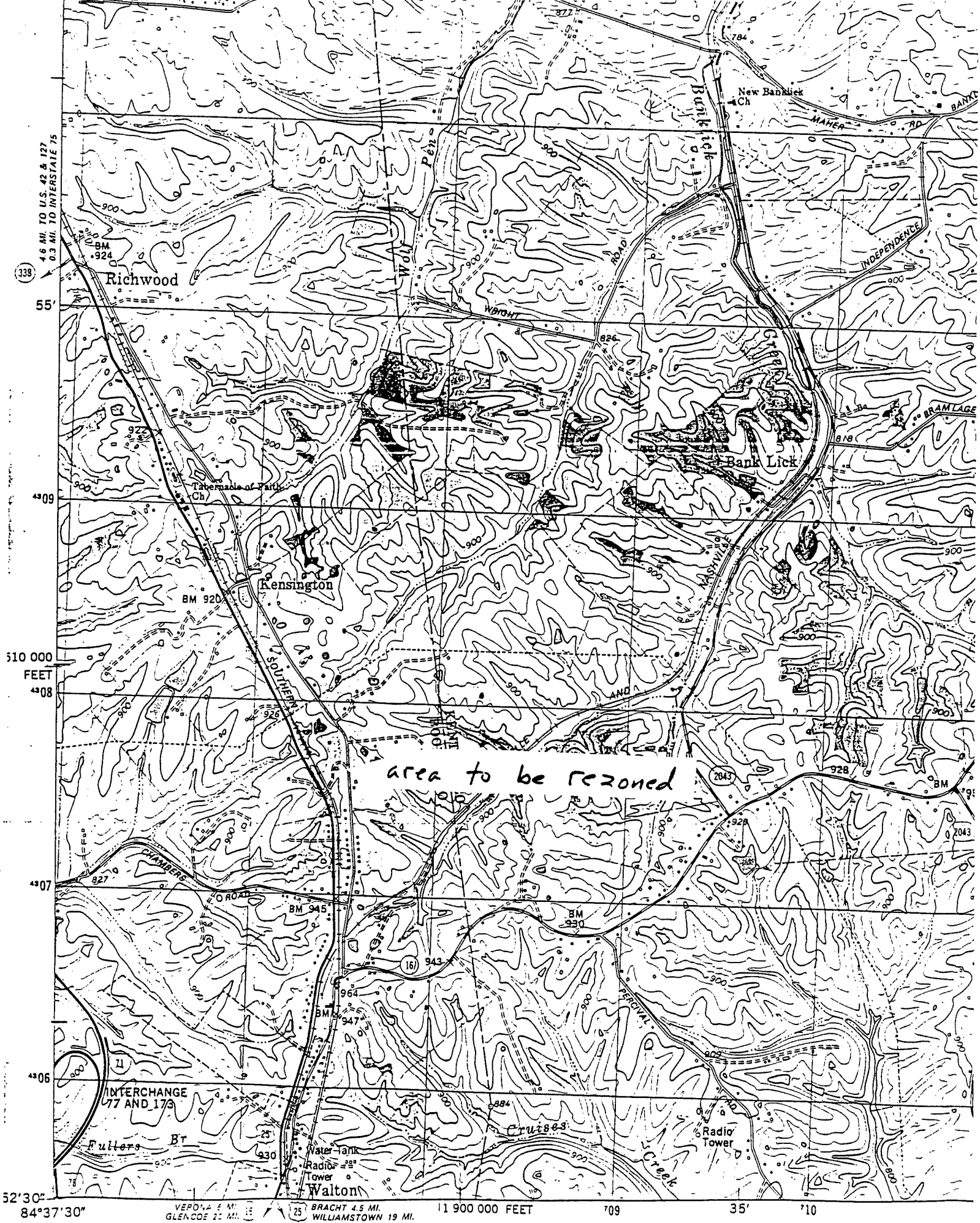
A-2

NITON COUNTY
BOONE COUNTY

Branch

Pen

LOW



APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: JAMES R. & CAROL J. BURDEN Owner
 Address: Box 28A, JONES ROAD WALTON Ky 41094 Agent
 Telephone: 356-6957 or 721-3024

Location: Old Lexington Pike, WALTON, Ky.

Name of Property Owner: JAMES R. & CAROL J. BURDEN

Address of Property Owner: Box 28A, JONES ROAD, WALTON, Ky 41094

Zoning District: BOONE COUNTY Area in Acres: ± 12.75 ac of 32.45 ac site

Deed Book: 92 Page Number: 170 Group Number: 2072

Description of Request: Rezone from I-1 to RS (Tom - this is about 12.75 acres to be rezoned)

Applicant's Signature: James R. Burden Carol J. Burden

Property Owner's Signature: James R. Burden Carol J. Burden

Application Fee: \$445.00 FOR PLANNING COMMISSION USE ONLY Date Received: 10-19-87 By: JAV

Referred To: Tom Bredenstein Meeting Date: Next Business 10-21-87

Action Taken: _____ Date of Action: _____

PH 11-15-87 7:00

EXHIBIT "A"

The real estate for which the Zoning Map Amendment is requested is more particularly described as follows:

Located generally in Boone County Group #2072 on the west side of the Old Lexington Pike, between it and the railroad, north of Chambers Road and described thus: BEGINNING at the intersection of the south line of the old Kensington Subdivision property with the east line of the Cincinnati Southern Railroad right-of-way; thence with said line of said railroad and tangents of a curve therein S 26-26 more or less E 2498.9 feet, S 7-13 E 298.06 feet or sufficient to reach the south line of the original Alan Gaines farm property (also the south line of a lot of approximately 1 acre); thence therewith N 81-16-20 E 200 feet to a point in the Old Lexington Pike; thence along the general course of said Pike and with tangents of a curve therein N 1-30 W 1481 feet, N 37-55 W 1524 feet to the south line of the old Kensington Subdivision tract; thence therewith S 63-34 W 515 feet to the place of beginning CONTAINING 32.45 acres and subject to legal highways and legal easements of record and in existence.

The above described parcel comprises that portion of the Alan Gaines farm property lying east of U.S. Hwy. #25 and ~~the railroad~~ and is part of that conveyed to Alan Gaines in Deed Book 92, Page 170 Group #2072 of the Boone County Clerk's records at Burlington, Kentucky.

EXHIBIT "B"

Mr. Fred Burch opened the Public Hearing for the second item on the agenda.

2. Applicant: James R. and Carol J. Burden (owners)
Request: Zoning Map Amendment

This was a Public Hearing on a request of James R. and Carol J. Burden (owners) for a Zoning Map Amendment for a portion of a 32.45-acre tract located on Old Lexington Pike, Boone County, Kentucky. The request is to rezone the southern portion of the property (approximately 20 acres) from Industrial One (I-1) to Rural Suburban (RS).

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Burch asked if there was anyone present who wished to speak in behalf of the request.

Mr. James Burden stated that he grew up in this area and helped to farm this land when he was a child. He and his wife recently purchased the property. Mr. Burden referred to the letter he had written to the Commission (see copy attached to the Staff Report), in which he states that he and his wife want to restore the old home place by building a similar structure to the original and restoring the fencing. He stated that they are not asking for spot zoning, but are asking to extend the Residential Zone which stops at their property line. He stated that this is a beautiful site and was once a very successful horse farm. They also want to put the old sign back up.

Mr. Burch asked if there were any further comments or if there was anyone present in opposition to the request.

Mr. John Benton, owner of the property across the street from the site at 1106 Lexington Pike, stated that he is not opposed to Mr. Burden building on this site. He is not opposed to one residence, but is afraid that there may be more. He noted that the Comprehensive Plan indicates the area for industrial use and that he can foresee residential land owners opposing industrial use in the future. He stated that Mr. Burden could go to the Board of Adjustment and ask for an exception instead of rezoning the site.

Counselor Wilson stated that a residential use would be considered pre-existing, non-conforming, but it may be considered to have been abandoned since a number of years have passed. He noted that a non-conforming use would not be allowed to expand. Later in the hearing, Mr. Burden advised that the farm house has been gone at least 60 years. Counselor Wilson advised that it would not be a pre-existing, non-conforming use considering the time span.

Mr. McMillian stated that he knows Mr. Burden. He asked if the same buffer area would be required between this site and the industrial uses if the site were rezoned.

Mr. Breidenstein advised that a buffer area would be required.

Mr. Burch asked if it would be the same buffer area that would currently be required.

Mr. Costello advised that the site is currently zoned Industrial One and there would be no buffering required, unless required by the Commission. He stated that the Staff and Commission would most likely recommend a buffer area to separate residential and industrial uses. He noted another instance where this situation occurred and buffering was required.

Mr. McMillian asked if Mr. Burden would be required to buffer his property against the industrial use.

Counselor Wilson stated that this is a 32-acre parcel and that the zone change request is only for 12 acres. He questioned if Mr. McMillian was asking whether the 12 acres would be required to be buffered from the other 20 acres. Mr. McMillian indicated that this was his question.

Mr. Costello replied that it would have to be buffered and advised that if Mr. Burden sells the other 20 acres, he could indicate the buffering on the deed.

Mr. Burch noted that Mr. Burden owns both pieces of property and is in control of the situation.

Mr. McMillian noted that Mr. Burden does not own the property across the road and asked if the roadway would be considered a buffer area.

Mr. Costello advised that should the property across the road develop as an industrial use and be located across the street from a residence, he would require a buffer area. He noted that if there would be parking in front of the industrial use that would also require a buffer.

Mr. Burden stated that he has talked to the adjoining property owners and they are in favor of his request.

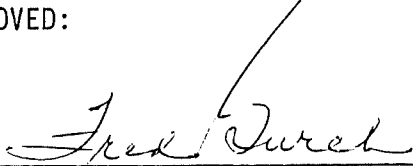
Mr. Benton asked if they were to sell their property for industrial purposes, would a buffer be required.

Mr. Costello advised that if this site were to remain industrial, they may not, but buffering could be required.

Mr. Burch asked if there were any further comments or questions.

Hearing no further discussion, Mr. Burch advised that this request will be on the agenda for the Business Meeting on December 2, 1987 at 8 P.M. and closed this Public Hearing.

APPROVED:



Fred Burch

ATTEST:



Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

December 2, 1987 8:00 P.M.

Mr. Paul Kroger, Chairman, called the meeting to order at 8:35 P.M..

COMMISSION MEMBERS PRESENT:

Mr. Larry Barnett
Mr. Fred Burch
Mr. Lawrence Collins
Mr. Melvin DeLong
Mr. R. N. Greene
Mr. Rector Jones
Mr. Paul Kroger, Chairman
Mr. Don McMillian
Mr. Charles Moore
Mr. Barry Neltner
Mr. Floyd Sharp
Mrs. Carol Smith
Mr. William Viox

COMMISSION MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Kroger noted that each member had received a copy of the Minutes of the Business Meeting and Public Hearings of November 18, 1987 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Viox moved that the Minutes of the Business Meeting and Public Hearings of November 18, 1987 be approved as mailed. Mr. McMillian seconded the motion and it carried unanimously.

3. Zoning Map Amendment

A request of James R. and Carol J. Burden (owners) for a Zoning Map Amendment for a portion of a 32.45-acre tract located on Old Lexington Pike, Boone County, Kentucky. The request is to rezone the southern portion of the property (approximately 13 acres) from Industrial One (I-1) to Rural Suburban (RS).

Mr. Gerald Newton, Director, read the Committee Report which recommended approval based on the finding of fact (see Committee Report).

Chairman Kroger asked the applicant if he was in agreement with the Committee Report.

Mr. James Burden indicated his agreement to the Committee Report.

There being no further discussion, Mr. Jones moved by resolution to the Boone County Fiscal Court that the request be approved as recommended by the Staff and Committee Reports. Mr. Greene seconded the motion and it carried unanimously.

At this time, Chairman Kroger read the letter received from the Y.M.C.A. requesting that the \$225 fee be waived for the selling of Christmas trees. The trees are being sold at the Tri-City branch of the Y.M.C.A. in Florence. Mr. Schutte and Ms. Beverly Long were present from the Y.M.C.A..

Mr. Viox moved that the fee be waived as requested. Mr. Jones seconded the motion and it carried unanimously.

4. Site Plan Review

A request of Paul Hemmer Construction (applicant) for Florence Park Developers I (owner) for Site Plan Review to construct a four-story, 100 unit, assisted living facility located off KY 18, Florence, Kentucky. The site is zoned Public Facilities/Planned Development (PF/PD). (An adjustment to agenda fee has been paid.)

Staff Member, Kevin Costello, presented the Staff Report which recommended deferral until the December 16, 1987 Business Meeting (see Staff Report).

Mr. Gerald Newton, Director, read the Committee Report which recommended deferral until the December 16, 1987 Business Meeting based on the Staff Report.

Mr. Barnett noted that this request had been deferred previously.

Mr. Costello agreed and advised that their architect, who is located in Iowa, is making changes to the Site Plan. He noted that time limitations have been waived and there is a letter to that effect on file.

ORDINANCE 920.139

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT ADOPTING A MAP AMENDMENT TO THE BOONE COUNTY, KENTUCKY, ZONING MAP, FOR A 32.45 ACRE SITE SUCH MAP AMENDMENT BEING A ZONE CHANGE FROM INDUSTRIAL ONE (I-1) TO RURAL SUBURBAN (RS) GENERALLY LOCATED ON OLD LEXINGTON PIKE, BOONE COUNTY, KENTUCKY, AS REQUESTED BY JAMES R. AND CAROL J. BURDEN (OWNERS) AND AS RECOMMENDED FOR APPROVAL BY THE BOONE COUNTY PLANNING & ZONING COMMISSION VIA RESOLUTION R-63-87.

WHEREAS, the Boone County Planning Commission received a request for approval for a Zoning Map Amendment to the Boone County zoning map and such Zoning Map Amendment being a zone change from Industrial One (I-1) to Rural Suburban (RS) for the southern portion of a 32.45 acre site (approximately 13 acres) generally located on Old Lexington Pike, Boone County, Kentucky, which is more particularly described below; and,

WHEREAS, the Boone County Planning Commission as the planning unit for unincorporated Boone County was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval of the zoning map amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOONE COUNTY PLANNING COMMISSION AS FOLLOWS:

SECTION I

That the zoning map amendment for the real estate which is more particularly described below shall be and is hereby recommended for approval, this Zoning Map Amendment being a zone change from Industrial One (I-1) to Rural Suburban (RS) for the southern portion of a 32.45 acre site (approximately 13 acres) generally located on Old Lexington Pike, Boone County, Kentucky. The real estate which is the subject of this zoning map amendment recommendation for approval is more particularly described in attached "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, and the finding of facts of the Boone County Fiscal Court, if any, and any conditions and/or stipulations mandated by the Boone County Fiscal court, if any, 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 (ATTACHED - EXHIBITS "B" AND "C")

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 twenty-second day of December, 1987.

Adopted by the Fiscal Court of Boone County after Second Reading at a Regular Meeting on the fifth day of January, 1988, 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:

R. Scott Kimmich
R. SCOTT KIMMICH
FISCAL COURT CLERK

SUBMITTED BY:

Larry Crisler
LARRY CRISLER
BOONE COUNTY ATTORNEY

Jan. 14, 1988
DATE PUBLISHED