

BOONE COUNTY
PLANNING COMMISSION

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MATHIS, DALLAS & FROHLICH

Attorneys at Law

Willie Mathis, Jr., P.S.C.
Stephen K. Dallas, P.S.C.
Anthony W. Frohlich, P.S.C.
David W. Martin, P.S.C.
Terry R. Edwards, P.S.C.
Robert D. Neace
Gregory W. McDowell

March 5, 1993

Star Bank Building
19 North Main Street
Walton Kentucky 41094
(606) 485-7727

Star Bank Building
7992 Dixie Highway
P.O. Box 6205
Florence, Kentucky 41042
(606) 525-6161
FAX: (606) 525-6194

PLEASE REPLY TO: FLORENCE OFFICE

Mr. William D. Fromm, AICP
Director
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Re: City of Walton Annexation of Murphy-Catton Property

Dear Bill:

In accordance with our recent phone conversation, please note that, in accordance with KRS 81A.420(3) and KRS 100.209, copies of which are enclosed for your review, the City of Walton has elected to establish the zoning for the new territory prior to the completion of the annexation. The relevant language of KRS 81A.420(3) which permits this election is highlighted for your review.

Because the City has elected to establish the zoning for the new territory prior to the completion of the annexation, KRS 100.209 provides that the Planning Commission shall hold a public hearing, after the adoption of the ordinance stating the City's intention to annex property and prior to final action upon the ordinance of annexation, for the purpose of adopting the Comprehensive Plan Amendment and making its recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation. Notice setting forth the time, date, location and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation or transfer and to adjoining property owners in accordance with KRS 100.212(2). The City legislative body shall take final action upon the Planning Commission's recommendations prior to the adoption of the ordinance of annexation or transfer and shall include in the ordinance of annexation a map showing the zoning or other land use regulations which will be effective for the annexed property. The relevant language of KRS 100.209 is highlighted for your review.

CITY OF WALTON, KENTUCKY
ORDINANCE NO. 1993- 4

AN ORDINANCE STATING THE INTENTION OF THE CITY OF WALTON, KENTUCKY TO ANNEX CERTAIN UNINCORPORATED TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF WALTON, KENTUCKY.

WHEREAS, the City Council of the City of Walton, Kentucky desires to annex certain unincorporated territory contiguous to the present corporate limits of the City of Walton, Kentucky; and

WHEREAS, Michael D. Murphy and Marsha K. Murphy, husband and wife, and Mark A. Catton and Patricia F. Catton, husband and wife, being the owners of certain property adjacent to the City of Walton, Kentucky, have consented in writing to the annexation of their property; and

WHEREAS, the owners have waived the time period for a protest of KRS 81A.420(2) and (3) and have waived the provisions of KRS 81A.460, incorporated herein by reference.

NOW, THEREFORE, be it ordained by the City Council of the City of Walton, Kentucky as follows:

SECTION ONE

The City finds that the hereinafter described unincorporated territory is adjacent or contiguous to the boundary of the City of Walton, Kentucky, is urban in character or is suitable for development for urban purposes without unreasonable delay, and is not included within the boundaries of another incorporated city.

SECTION TWO

The City declares it desirable and states its intention to annex the unincorporated territory described in Exhibits A, B, C and D attached hereto and incorporated herein by reference as if fully set out herein.

SECTION THREE

All ordinances, resolutions or parts thereof, in conflict herewith, are to the extent of such conflict, hereby

repealed.

SECTION FOUR

If any section, paragraph, or clause of this Ordinance be held by a proper Court to be invalid, such invalidity shall not affect the remaining sections, paragraphs, or clauses, it being expressly declared that the remainder of such Ordinance would have been passed despite such invalidity.

SECTION FIVE

The time period for protest of KRS 81A.460 having been duly waived, the City shall proceed to annex such territory immediately upon enactment and publication of this Ordinance.

PASSED AND APPROVED UPON FIRST READING THIS THE 11th DAY OF January, 1993, BY 6 MEMBERS OF CITY COUNCIL.

PASSED AND APPROVED UPON SECOND READING THIS THE DAY OF February 8, 1993, BY 6 MEMBERS OF CITY COUNCIL AND ORDERED PUBLISHED AS REQUIRED BY LAW.

APPROVED:

William M. King
MAYOR WILLIAM M. KING

ATTEST:

Ruth Glenn
RUTH GLENN, CITY CLERK

EXHIBIT A


Group No. 2080

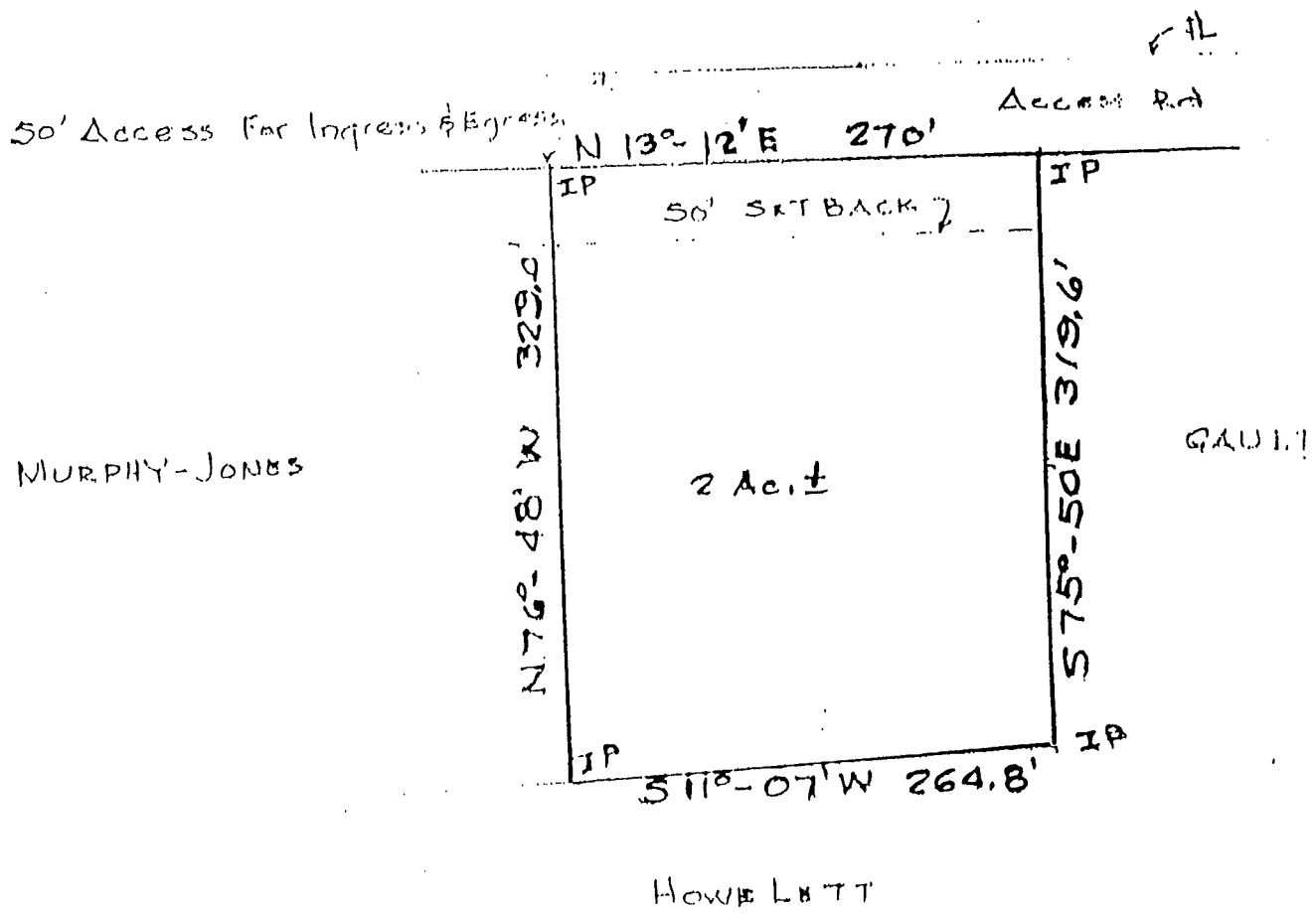
Beginning at a point being an iron pin in the corner with the Grantor and Gault said point of beginning to be in the east line of the Grantor property, 50 feet east of the Grantor's west property line, thence S 75-50 E 319.6 feet to a pin in the line of Howelett being the southwest corner of Gault, thence with said line S 11-07 W 264.8 feet to a point, thence N 76-48 W 329.0 feet to a point, said point being 50' east of the Grantor's west line, thence N 13-12 E 270 feet to the place of beginning, containing 2 acres more or less.

Being the same property conveyed to Michael D. Murphy and Mark A. Catton by William D. Murphy and Rose Ellen Murphy, husband and wife, and Donald S. Jones and Janet Jones, husband and wife, by deed dated November 26, 1986, and recorded in Deed Book 359, Page 262, Boone County Clerk's Records at Burlington, Kentucky.

I Certify That I Have Examined The Records of The Boone County Clerk, and, To The Best of My Knowledge, The Property Described on This Plat is The 1ST Subdivision of The Original Property Under The Present Ownership. I Certify That The Property Described on This Plat is in Compliance With The Applicable Zoning Regulations.

Signed: William D. Murphy
 Date: 10.27.86


 1" = 100'



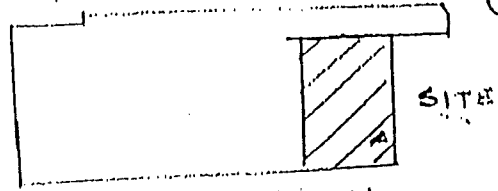
PARCEL TO BE CONVEYED BY
 W. D. MURPHY & D. S. JONES

TO WALTON RT. 25 TO RICHM

LEN RR 7

SOUTHERN RR 2

ACCESS RD



LOCATION PLAN

(1-1)
 Twb
 11/12/86

I hereby certify that this plat depicts survey made by me by the random method and

Approved By The Boone County Planning Commission for Recording

EXHIBIT C

Group No. 2080

A certain tract of land, being 1 mile North of Walton on the East side of the Southern Railway and South of the Emergency Access Road. County of Boone, State of Kentucky and being more particularly described as follows:

Commencing at set iron pin and cap in the Southwesterly corner of Gaults property South 13-12-00 West for a distance of 270.02 feet to THE REAL POINT OF BEGINNING.

Thence continuing South 76-48-00 East for a distance of 329.18 feet to a set iron pin and cap;

Thence continuing South 11-07-00 West for a distance of 236.40 feet to a recovered fence post;

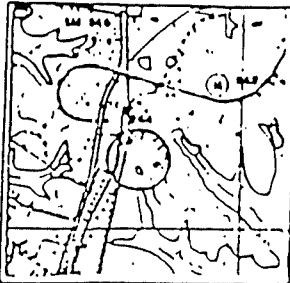
Thence continuing South 01-37-00 East for a distance of 25.96 feet to a set iron pin and cap;

Thence continuing North 76-48-00 West for a distance of 344.41 feet to a set iron pin and cap;

Thence continuing North 13-12-00 East for a distance of 261.34 feet, to THE REAL POINT OF BEGINNING

The above described parcel contains 2.0051 acres (87.342 square feet) and was surveyed by David E. Estes Corporation in September of 1992.

Being the same property conveyed to Michael D. Murphy and Mark A. Catton by Donald S. Jones and Janet Sohn Jones, husband and wife, and William D. Murphy and Rose Ellen Murphy, husband and wife, by deed dated November 5, 1992, and recorded in Deed Book 496, Page 218, Boone County Clerk's Records at Burlington, Kentucky.



VICINITY MAP

This parcel, in and of itself, does not meet the existing Boone County zoning regulations for use as a buildable site.

Date 11/9/92 Current Zoning I-1

GROUP NO. 3080

NOTARY PUBLIC
I, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY DO CERTIFY THAT THE PLAT SHOWN HEREON WAS ON THE DAY OF 11-3-92, 1992 PRODUCED TO ME AND ACKNOWLEDGED BY ROBERT C. DAILEY TO BE THEIR ACT AND DEED.

NOTARY PUBLIC
MY COMMISSION EXPIRES

FOR NON-BUILDABLE LOTS
LAND SURVEYOR'S CERTIFICATE
I CERTIFY THAT THIS PLAT OF LAND IN AND OF ITSELF DOES NOT MEET THE CURRENT ZONING REGULATIONS FOR USE AND IS BEING TRANSFERRED FOR NON-BUILDING PURPOSES.

ROBERT C. DAILEY 11-3-92 DATE

BOONE COUNTY PLANNING COMMISSION
APPROVAL CERTIFICATE
APPROVED FOR RECORDING THE TRANSFER OF PROPERTY ONLY BY THE BOONE COUNTY PLANNING COMMISSION THIS 11-3-92 DATE OF November, 1992.

Walter R. Vort
CHAIRMAN'S SIGNATURE

NOTE: THE BEARINGS AND DISTANCES SHOWN HEREON ARE BASED UPON EXISTING DEEDS AND PLATS OF RECORD FOUND IN THE BOONE COUNTY CLERK'S OFFICE, LOCATED AT THE BOONE COUNTY COURTHOUSE, CITY OF BURLINGTON, KENTUCKY.

SURVEYOR'S CERTIFICATE
I CERTIFY THAT THIS PLAT HAS BEEN PREPARED BY ME OR UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH THE KENTUCKY MINIMUM SURVEYING STANDARDS, AND COMPLES WITH ALL REQUIREMENTS OF THE BOONE COUNTY ZONING AND SUBDIVISION REGULATIONS, AND THAT DEDICATED AREAS INCLUDING PUBLIC WAYS OR STREETS ARE CURRENTLY OWNED BY THE PROPERTY OWNER.

ROBERT C. DAILEY 11-3-92 DATE

COUNTY CLERK'S CERTIFICATE
I, JERRY W. ROUSE, BOONE COUNTY COURT CLERK, CERTIFY THAT THIS PLAT WAS PRESENTED TO ME IN BOONE COUNTY ON THIS 11-3-92 DAY OF November, 1992 AND MADE A PART OF THE RECORDS OF THIS OFFICE.

JERRY W. ROUSE
BOONE COUNTY COURT CLERK



GRAPHIC SCALE 1" = 100'

Table with 2 columns: Field Name and Value. Fields include DRAWN BY (TWS), DATE (10-02-92), SCALE (1" = 100'), and FILE NO. (92J158).

CONVEYANCE PLAT FOR MURPHY CATTON WOOD WORKING FROM W.D. MURPHY & D.S. JONES. David E. Estes Engineering, Inc. CIVIL ENGINEERING AND LAND SURVEYING.

(3) The procedure for amending the zoning regulation text and map shall be as set forth in KRS 100.211.

HISTORY: 1988 c 19, § 1, eff. 7-15-88
1986 c 141, § 17; 1966 c 172, § 31

CROSS REFERENCES

Judicial notice by courts of comprehensive zoning plan and regulations. 422.015

NOTES ON DECISIONS AND OPINIONS

315 SW(2d) 404 (Ky App 1991), *Sladon v Shawk*. The definition of "agricultural use" in KRS 100.111(2) has nothing to do with the kinds of uses which may be permitted within an area zoned agricultural; the ultimate authority to establish various zones and the uses permitted within each of these zones is given to local governments to be exercised through zoning regulations.

100.208 Transferable development rights

(1) Any city, county, or urban-county government which is part of a planning unit may provide, by ordinance, for:

- (a) The voluntary transfer of the development rights permitted on one (1) parcel of land to another parcel of land;
- (b) Restricting or prohibiting further development of the parcel from which development rights are transferred; and
- (c) Increasing the density or intensity of development of the parcel to which such rights are transferred.

(2) The ordinance shall designate and show on the zoning map areas from which development rights may be transferred and areas to which such rights may be transferred and used for development. These zones may be designated as separate use districts or as overlaying other zoning districts.

(3) Any city within a county that adopts an ordinance providing for the transfer of development rights, may also adopt a transfer of development rights ordinance and the county and city by adoption of mutual provisions may provide for the transfer of development rights on land located in one to land located in another.

(4) "Transferable development rights" means an interest in real property that constitutes the right to develop and use property under the zoning ordinance which is made severable from the parcel to which the interest is appurtenant and transferable to another parcel of land for development and use in accordance with the zoning ordinance. Transferable development rights may be transferred by deed from the owner of the parcel from which the development rights are derived and upon the transfer shall vest in the grantee and be freely alienable. The zoning ordinance may provide for the method of transfer of these rights and may provide for the granting of easements and reasonable regulations to effect and control transfers and assure compliance with the provisions of the ordinance.

HISTORY: 1990 c 286, § 1, eff. 7-13-90

100.209 Amendment of comprehensive plan prior to annexation permitted; land use management regulation in newly annexed or reclassified territory

(1) When a city which has adopted zoning or other land use regulations pursuant to this chapter proposes to annex unincorporated or accept the transfer of incorporated territory, it may amend its comprehensive plan and official zoning map to incorporate and establish zoning or other

land use regulations for the property proposed for annexation or transfer prior to adoption of the ordinance of annexation or transfer. If the city elects to follow this procedure, the planning commission shall hold a public hearing, after the adoption of the ordinance stating the city's intention to annex or transfer property and prior to final action upon the ordinance of annexation or transfer, for the purpose of adopting the comprehensive plan amendment and making its recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation or transfer. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation or transfer and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the planning commission's recommendations prior to adoption of the ordinance of annexation or transfer and shall include in the ordinance of annexation or transfer a map showing the zoning or other land use regulations which will be effective for the annexed or transferred property. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation or transfer, the newly annexed or transferred territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation or transfer until those restrictions are changed by zoning map amendments or other regulations in accordance with this chapter.

(2) When a city is created or when a city of the fifth or sixth class is reclassified to a city of the fourth class or higher in a county containing a city of the first class, and the intent is to regulate land use within the confines of the city, the process for adopting or amending the comprehensive plan and adopting zoning or other land use regulations shall be as provided for in this chapter. Until such actions have been taken, the properties within the city shall remain subject to the land use restrictions, if any, as applied prior to the creation or reclassification of the city.

HISTORY: 1992 c 17, § 6, eff. 2-28-92
1990 c 362, § 4; 1986 c 141, § 18

100.211 Procedure for amending zoning map and text of regulation; notice; hearing; time limit for final action

(1) A proposal for a zoning map amendment may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with an owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by this chapter and make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the various legislative bodies or fiscal courts involved. The findings of fact and recommendation shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval. It shall take

may be the transfer of incorporated territory between two (2) cities pursuant to KRS 81.500.

HISTORY: 1992 c 17, § 2, eff. 2-28-92
1984 c 416, § 15; 1980 c 303, § 1

81A.412 Annexation permitted when each of the owners provides written consent

A city may annex any area which meets the requirements of KRS 81A.410, if each of the owners of record of such land consents in writing to the annexation. In such event, the city shall not be required to wait the sixty (60) day period provided for in KRS 81A.420(2) prior to enacting a final ordinance annexing the area.

HISTORY: 1988 c 6, § 1, eff. 2-12-88

81A.420 Ordinance declaring intent to annex: election on proposed annexation; when city may enact ordinance

(1) When a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. The ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory.

(2) If following the publication of the annexation ordinance pursuant to subsection (1) of this section and within sixty (60) days thereof, or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days of February 12, 1988, fifty percent (50%) of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after the petition is presented to the county clerk:

(a) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of _____?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex;

(b) If less than fifty-five percent (55%) of those persons voting oppose annexation, the unincorporated territory shall become a part of the city; and

(c) If fifty-five percent (55%) or more of those persons voting oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose.

(3) In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received by the mayor as set out herein, or within sixty (60) days of the certification of election results in which less than fifty-five percent (55%) of those persons voting opposed annexation, the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. If the city has

elected to establish the zoning for the new territory prior to the completion of the annexation pursuant to KRS 100.209, the ordinance shall include a map showing the zoning. Upon the enactment of this ordinance, the territory shall become part of the city for all purposes.

HISTORY: 1990 c 362, § 12, eff. 7-13-90
1988 c 6, § 2; 1986 c 141, § 43; 1982 c 360, § 20; 1980 c 303, § 3

NOTES ON DECISIONS AND OPINIONS

709 SW(2d) 835 (Ky App 1986), *Huls v Winchester*. A petition in opposition to annexation of unincorporated territory under KRS 81A.420(2) requires the signatures of either fifty per cent of the voters or fifty per cent of the property owners in the area for an election to be held, and a petition signed by the only registered voter in the area is sufficient to require an election.

684 SW(2d) 23 (Ky App 1984), *Jeffersontown v Hurstbourne*. Where two cities seek to acquire the same territory, one by incorporation and one by annexation, the first municipality to take statutory steps toward acquiring the territory is entitled to proceed to completion; thus, the city that filed its petition for incorporation in February 1982 (although notice was not filed until later) has jurisdiction of the territory over the city that commenced annexation in March 1982, because the filing of the petition is the first step in an incorporation proceeding.

684 SW(2d) 23 (Ky App 1984), *Jeffersontown v Hurstbourne*. First municipality to take statutory steps towards acquiring territory outside its limits is entitled to proceed to completion.

81A.425 Notice of proposed annexation to property owners; exception; publication of annexation ordinance; action to void annexation

(1) Notwithstanding the provisions of KRS 83A.060(7) and except as otherwise provided in this section, a city which proposes to annex unincorporated territory shall send notice of the proposed annexation to each property owner whose property is proposed to be annexed into the city.

(2) The notice shall be sent to each property owner listed on the records of the county property valuation administrator as of January 1 of the year in which the ordinance proposing to annex property is to be enacted.

(3) The notice shall be sent by first-class mail no later than fourteen (14) days prior to the meeting at which the ordinance proposing the annexation shall receive its second reading. The city clerk shall certify the list of property owners to whom the notice was sent and the certified list shall be made a part of the official record of the meeting at which the ordinance proposing the annexation receives its second reading.

(4) The notice shall include the time, date, and location of the meeting at which the proposed ordinance shall receive its second reading, and a copy of the proposed ordinance.

(5) The provisions of this section shall not apply in any case in which the property owners of record have consented in writing to the proposed annexation as provided in KRS 81A.412.

(6) Notwithstanding the provisions of KRS 424.130, following the second reading and enactment of an ordinance proposing to annex property, a city shall be required to publish the ordinance only once in accordance with KRS 83A.060(9).

(7) The ordinance which effectuates an annexation shall be voidable in an action brought in the Circuit Court of

March 5, 1993
Page -2-

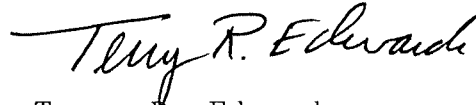
Therefore, the City of Walton respectfully requests the Boone County Planning Commission follow the procedure outlined in KRS 100.209 to adopt the Comprehensive Plan Amendment and to make recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation by the City.

If you have any questions regarding this matter, please contact me. As always, thank you for your assistance and cooperation.

Awaiting your reply,

Sincerely,

MATHIS, DALLAS & FROHLICH



Terry R. Edwards
Walton City Attorney

TRE:as

cc: Mayor William M. King
Murphy Catton Woodworking, Inc.

EXHIBIT "A"

STAFF REPORT

Request of the **City of Walton** to annex ±4 acres located south of Walton-Nicholson Road and east of the Southern Railway, Boone County, Kentucky. The site is currently owned by **W.D. Murphy and Murphy-Catton Woodworking, Incorporated** and is zoned Industrial One (I-1).

April 7, 1993

In accordance with Kentucky Law (K.R.S. 81A.420 and K.R.S. 100.209) the City of Walton has requested that the Boone County Planning Commission hold a Public Hearing in order to make a recommendation regarding the effect of the annexation, if any, on the current Industrial One (I-1) zoning of the property. The 4± acre tract is owned by Murphy-Catton Partners and is located at 115 Walton-Nicholson Pike, Boone County, Kentucky (see sheet #1).

Site Characteristics

The site is located off a deadend street of varying pavement widths with access from Kentucky 16. There is heavy vegetation consisting of mature trees that boarder the site on both the east and west property lines. The topography of the site is generally lower than the surrounding land uses by 20-30 feet with the railroad forming the west property line.

This site was recently granted approval of a Change in Concept Development Plan by the Boone County Planning Commission and received a zone change on May 7, 1986 from Agricultural Two (A-2) to Industrial One (I-1).

Surrounding Land Uses and Zoning (see sheet #2)

North: Residences zoned A-2 and RS
South: Active agricultural land zoned A-2
East: Farm land zoned A-2
West: Southern Railroad and residences zoned SR-1 and RS

Relationship to the Comprehensive Plan

The 1990 Boone County Comprehensive Plan Land Use Map indicates the future land use for this site as Industrial. The text of the Comprehensive Plan refers to this area in a general way stating "that the Walton area should experience gradual commercial, residential, and industrial growth."

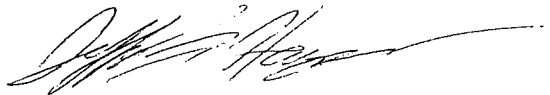
The Goals and Objectives section of the Comprehensive Plan indicate how and where industrial uses should develop:

1. Industrial development shall be encouraged to locate near railroads, highways and airports.

Staff Review

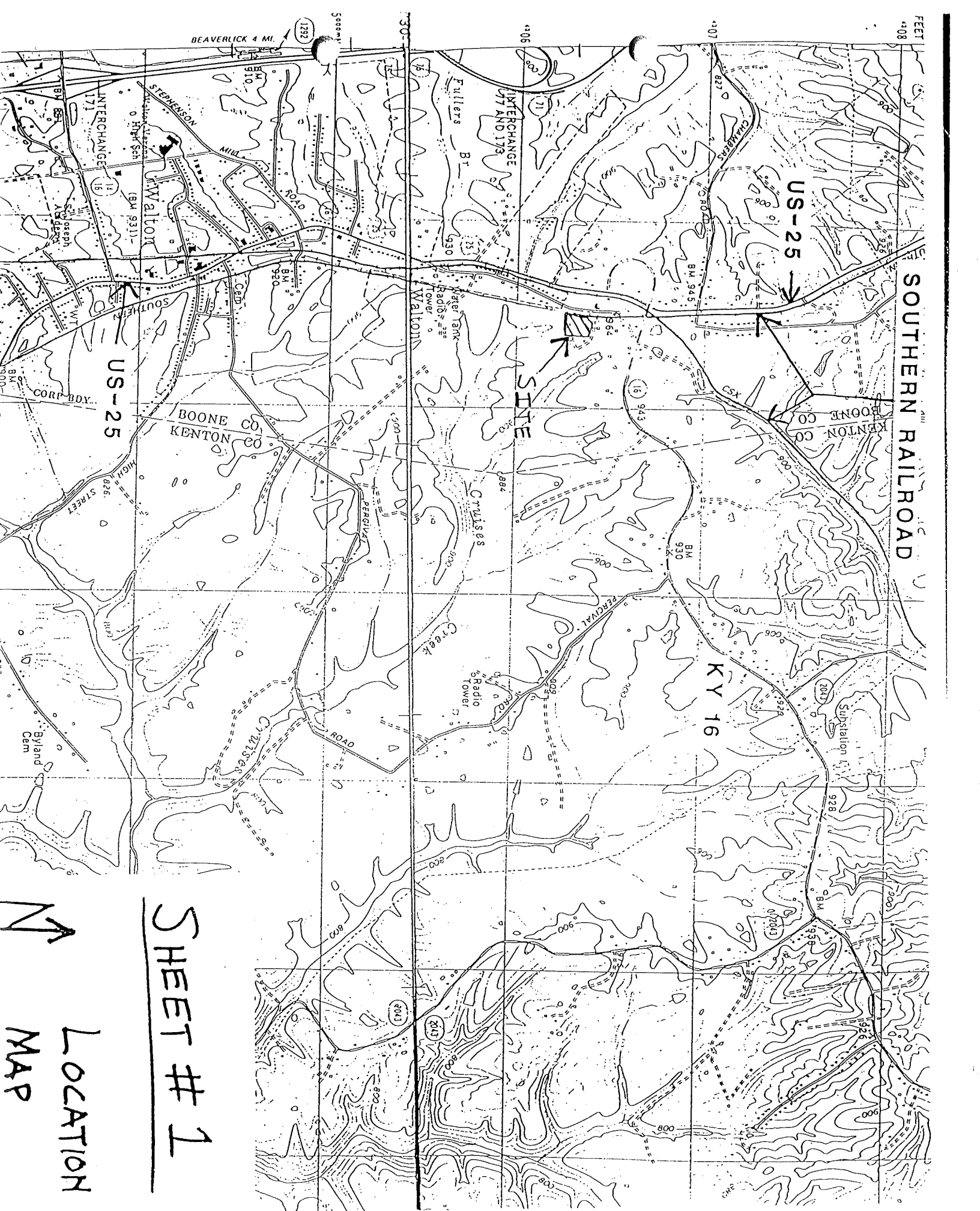
Staff believes that the existing zoning, Industrial One (I-1), on the 4± acre tract is consistent with the Comprehensive Plan and the adjacent land uses. The annexation of the site does not necessitate a change in zoning to be in accordance with the 1990 Boone County Zoning Regulations as they pertain to the City of Walton. Consequently, the annexation of the site will not impact the current zoning of the property.

Respectfully Submitted,



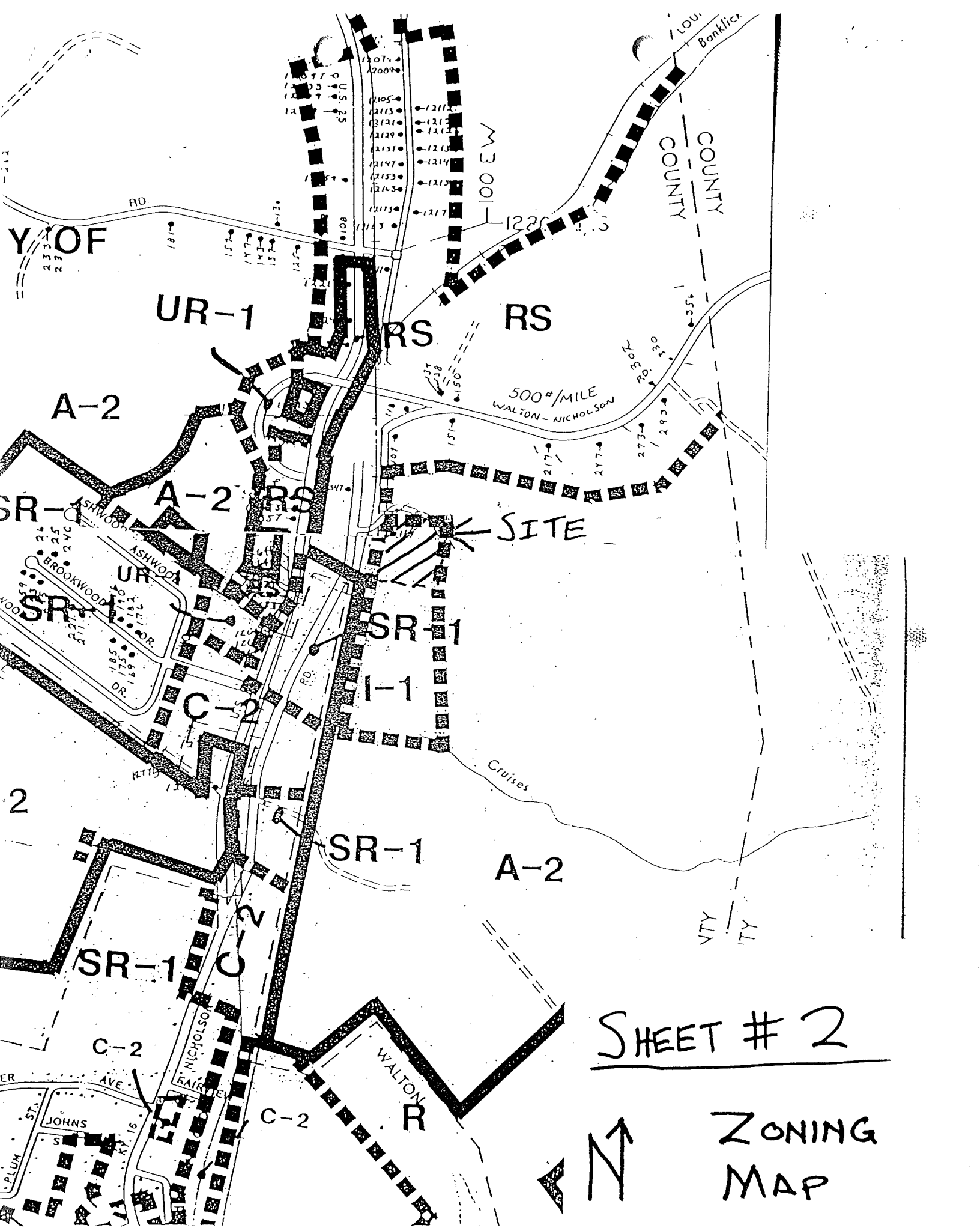
Jeffrey F. Hayes
Planner I

JFH/par



SHEET # 1

MAP LOCATION



SHEET # 2

ZONING
MAP



Mr. Burch introduced the last item on the Agenda:

3. Applicant: City of Walton
Request: Annexation

The request of the City of Walton to annex approximately four acres located south of Walton-Nicholson Road and east of the Southern Railway, Boone County, Kentucky. The site is currently owned by W. D. Murphy and Murphy-Catton Woodworking, Inc. and is zoned Industrial One (I-1). The purpose of the Public Hearing is to determine the impact of annexation upon the current zoning of the property.

Staff Member Jeff Hayes presented the Staff Report which included a slide presentation (see Staff Report).


Mr. Burch asked if there was anyone present from the City of Walton in regard to this request. There was no response.

Mr. Burch asked if there was anyone present who wished to speak either for or against this request. There was no response.

Mr. Burch asked if there were any comments or questions from the Commission. There was no response.

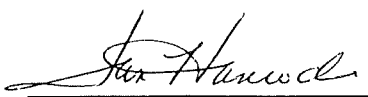
Mr. Burch stated that this item will be on the Agenda for the Business Meeting on April 21, 1993 at 8 P.M.. Mr. Burch closed this Public Hearing.

APPROVED:



Fred R. Burch, Vice Chairman

Attest:



Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION
BUSINESS MEETING

April 21, 1993 - 8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:05 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett
Mr. William Bailey
Mr. Phil Damstrom
Mr. Melvin DeLong
Mr. Robert Kirby, Jr.
Mr. Gayle McElroy
Mr. Don McMillian
Mr. Barry Neltner
Mr. Thurman Owens
Mr. Robert Ries
Mr. Ralph Rush
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

Mr. Fred Burch, Vice Chairman
Mr. R. N. Greene
Mrs. Carol Smith

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Approval of the Minutes:

Chairman Viox stated that each Commission member had received copies of the Minutes of the Public Hearings and the Business Meeting of April 7, 1993. He asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. McMillian moved that they be approved as mailed. Mr. Rush seconded the motion and it carried unanimously.

8. Annexation Request by the City of Walton

The request of the City of Walton to annex approximately four acres located south of Walton-Nicholson Road, east of the Southern Railway, Boone County, Kentucky. The site is currently owned by W. D. Murphy and Murphy-Catton Woodworking, Inc. and is zoned Industrial One (I-1). The purpose of the request is to determine the impact of annexation upon the current zoning of the property.

Mr. Costello read the Committee Report (see Committee Report).

There being no discussion, Mr. Kirby moved, based on the Staff and Committee Reports, by resolution to the City of Walton that the zoning not be changed as a result of annexation. Mr. Ries seconded the motion and it carried unanimously.

9. Site Plan Review

The request of James W. Berling (applicant) for Hans Philippo (owner) for a revision to a previously approved Site Plan on a 1.33-acre site at 5744 Commercial Drive, Boone County, Kentucky. The site is zoned Industrial One (I-1).

Mr. Costello presented the Staff Report which included a review of the Site Plan (see Staff Report). A separate landscaping plan has been submitted. The request meets the minimum requirements and Staff recommended approval.

Mr. McMillian presented the Committee Report which recommended approval of the request based on the Staff Report (see Committee Report).

Mr. McMillian moved that the request be approved based on the Staff and Committee Reports. Mr. Owens seconded the motion.

Mr. DeLong questioned the hard surfacing of the site. Mr. Costello advised that they are planning to phase the hard surfacing over the next three years, similar to Richwood Flea Market. The owner cannot do the paving all at once.

Mr. Neltner noted that the building is on top of the storm sewer. Mr. Costello advised that the storm sewer and the building were constructed some years ago. Chairman Viox stated that this situation is shown on the 1989 plan.

There being no further comments, Chairman Viox asked for a vote on the motion made by Mr. McMillian and it carried unanimously.

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Gayle McElroy, Chairman

DATE: April 21, 1993

RE: Request of the **City of Walton** to annex ±4 acres located south of Walton-Nicholson Road and east of the Southern Railway, Boone County, Kentucky. The site is currently owned by **W.D. Murphy and Murphy-Catton Woodworking, Incorporated** and is zoned Industrial One (I-1). The purpose of this request is to determine the impact of annexation upon the current zoning of the property.

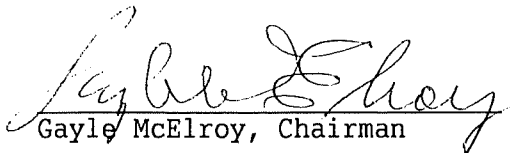
REMARKS:

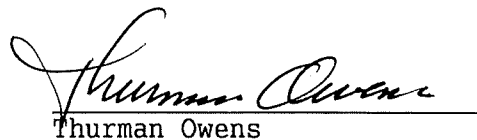
We, the Committee, recommend that the current zoning of Industrial One (I-1) not be changed as a result of annexation of the ±4 acre tract into the City of Walton. Based upon the following findings of fact, the Committee can find no reason to change the zoning of the property.

Findings of Fact

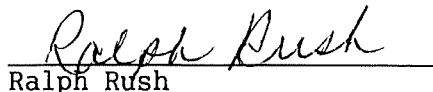
1. The 1990 Boone County Comprehensive Plan indicated that the site will be developed for industrial purposes. Specific references to the Comprehensive Plan are made in the April 7, 1993 Staff Report.
2. The site is subject to a previously approved Zoning Map Amendment request and conditions. Currently, there is an industrial use on the property and this use has been constructed in conformance with the approved Concept Development Plan.

A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request.


 Gayle McElroy, Chairman


 Thurman Owens

 Fred Burch


 Ralph Rush


 Phil Damstrom

 Carol Smith


 Barry Neltner

Mr. Burch introduced the last item on the Agenda:

3. Applicant: City of Walton
Request: Annexation

The request of the City of Walton to annex approximately four acres located south of Walton-Nicholson Road and east of the Southern Railway, Boone County, Kentucky. The site is currently owned by W. D. Murphy and Murphy-Catton Woodworking, Inc. and is zoned Industrial One (I-1). The purpose of the Public Hearing is to determine the impact of annexation upon the current zoning of the property.

Staff Member Jeff Hayes presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Burch asked if there was anyone present from the City of Walton in regard to this request. There was no response.

Mr. Burch asked if there was anyone present who wished to speak either for or against this request. There was no response.

Mr. Burch asked if there were any comments or questions from the Commission. There was no response.

Mr. Burch stated that this item will be on the Agenda for the Business Meeting on April 21, 1993 at 8 P.M.. Mr. Burch closed this Public Hearing.

APPROVED:

Fred R. Burch, Vice Chairman

Attest:

Jan Hancock, Recording Secretary

CITY OF WALTON, KENTUCKY
ORDINANCE NO. 1993- 14

AN ORDINANCE OF THE CITY OF WALTON, KENTUCKY, APPROVING AND ADOPTING A ZONING CLASSIFICATION FOR CERTAIN PROPERTY THAT HAS BEEN PROPOSED FOR ANNEXATION TO THE CITY OF WALTON, KENTUCKY. (PROPERTY: +4 ACRE SITE OWNED BY W.D. MURPHY AND MURPHY-CATTON WOODWORKING, INCORPORATED GENERALLY LOCATED SOUTH OF WALTON-NICHOLSON ROAD AND EAST OF THE SOUTHERN RAILWAY, BOONE COUNTY, KENTUCKY.)

WHEREAS, the City of Walton, Kentucky is a legislative body member of the Boone County Planning Commission, a joint county-wide planning unit or commission established under Chapter 100 of the Kentucky Revised Statutes; and

WHEREAS, the City of Walton, Kentucky, has passed and published Ordinance No. 1993-4, stating its intention to annex certain unincorporated territory, which is more particularly described below, contiguous to the present corporate limits of the City of Walton, Kentucky; and

WHEREAS, the Boone County Planning Commission as the planning unit for the City of Walton, Kentucky, was requested to hold a Public Hearing and recommend to the City the zoning classification of such property upon annexation, in accordance with applicable law; and

WHEREAS, the Boone County Planning Commission has conducted the Public Hearing and made its recommendation to the City.

WHEREAS, KRS 100.209 provides that the city legislative body shall take final action upon the planning commission's recommendation prior to the ordinance of annexation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WALTON, KENTUCKY, AS FOLLOWS:

SECTION I

A certain portion of property owned by W.D. Murphy and Murphy-Catton Woodworking, Incorporated generally located south of Walton-Nicholson Road and east of the southern Railway, Boone County, Kentucky, such property being considered for annexation to the City of Walton, Kentucky, shall not be rezoned and the current zoning of Industrial One (I-1) shall not be changed on the +4 acre tract upon annexation. The real estate which is the

subject of this approval is more particularly described in Deed Books 359, 496, Pages 262, 218, respectively (as supplied by the applicant) in the Boone County Clerk's Office.

SECTION II

The recommendation of the Planning Commission for this request is set forth in its minutes and official records which are hereby incorporated by reference as if fully set out in this Ordinance and marked as "Exhibit A."

The Committee's recommendation for this request is based on the findings of fact as set forth in the Committee Report and marked as "Exhibit B."

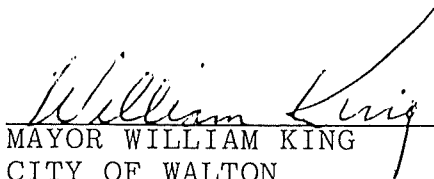
SECTION III

This Ordinance and the Boone County Zoning Regulations, including the zoning map, adopted and approved, and their parts, sections, subsections, clauses, and provisions are hereby declared to be severable. If a Court having jurisdiction invalidates any part, section, subsection, clause or provision of this Ordinance or the Boone County Planning and Zoning Regulations, including the Boone County Zoning map, all other parts, sections, subsections, clauses, or provisions shall remain valid and effective as they are severable.

FIRST READING: June 14, 1993

SECOND READING: July 12, 1993

APPROVED:


MAYOR WILLIAM KING
CITY OF WALTON

ATTEST:


RUTH GLENN, WALTON CITY CLERK