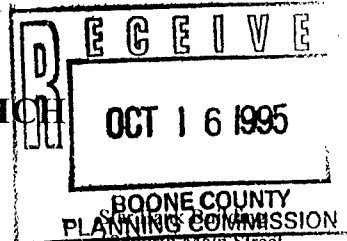


**MATHIS, DALLAS & FROHLICH**  
Attorneys at Law



*Kevin Wall  
New Box.*

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

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

October 13, 1995

PLEASE REPLY TO: FLORENCE OFFICE

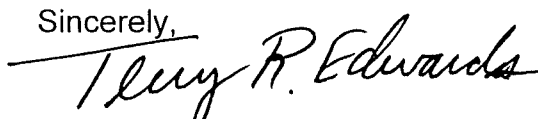
Mr. Kevin Costello, AICP  
Executive Director  
Boone County Planning Commission  
2995 Washington Street  
Burlington, KY 41005

Re: City of Walton Annexation of D & S Enterprises L.L.C. Property

Dear Kevin:

Please note that D & S Enterprises, L.L.C., has requested that the City of Walton annex its property, which is described in Deed Book 579, Page 74, a copy of which is enclosed for your review. In accordance with KRS 81A.420(3) and KRS 100.209, the City of Walton has elected to establish the zoning for the new territory prior to the completion of the annexation. Therefore, the City of Walton respectfully requests the Boone County Planning Commission to follow the procedure outlined in KRS 100.209 to make recommendations as to the zoning 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,  
  
TERRY R. EDWARDS  
Walton City Attorney

TRE:as  
enclosures  
cc: Mayor Phillip W. Trzop

10237

BOOK 579 PAGE 74

# DEED

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

FAIR CASH VALUE  
TRANSFER TAX

37.50 *3*

PIDN: \_\_\_\_\_  
GROUP: 2080  
PLAT: \_\_\_\_\_

## Know All Men By These Presents:

That PRESTON ALLEN AND HELEN JANE WALTERS ALLEN, HIS WIFE  
A/K/A HELEN WALTERS ALLEN, A/K/A HELEN ALLEN

whose mailing address is: 1909 Sweet Falls Ct. # 108 Las Vegas NV. 89128  
THIRTY SEVEN THOUSAND TWO HUNDRED FIFTY DOLLARS AND 00/100  
for and in consideration of \_\_\_\_\_ to them paid by the  
grantees herein, the receipt of which is acknowledged, do bargain, sell, and convey to:  
*ym* D & S ENTERPRISES, L.L.C.

heirs and assigns forever, the following described Real Estate, in the City of \_\_\_\_\_  
BOONE  
County of ~~KANAWHA~~ and Commonwealth of Kentucky, to-wit:

THE FOLLOWING IS A DESCRIPTION OF A PARCEL OF GROUND LYING  
AND BEING ON THE SOUTH SIDE OF OLD KENTUCKY ROUTE 16 1.05  
MILES NORTH OF WALTON IN BOONE COUNTY, KENTUCKY AND  
PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT A P.K. NAIL IN THE CENTER OF OLD KENTUCKY ROUTE  
16 NEAR THE INTERSECTION OF NEW KENTUCKY ROUTE 16 AND A  
CORNER TO ROBKE; THENCE WITH SAID LINE AND THE R/W OF NEW  
KENTUCKY ROUTE 16 S 79 DEGREES 49' E 63.2 FEET TO A POINT;  
THENCE WITH THE LINE OF ROBKE, S 8 DEGREES 41' W 290.6 FEET  
TO A POST; THENCE S 9 DEGREES 18' W 234.3 FEET TO A STEEL  
POST; THENCE WITH A NEW MADE LINE OF THE GRANTORS, N 77  
DEGREES 21' W 145.8 FEET TO A STEEL POST; THENCE N 1 DEGREE  
15' E 455.0 FEET TO A P.K. NAIL IN THE CENTER OF OLD  
KENTUCKY ROUTE 16; THENCE WITH THE CENTER OF SAID ROAD, N 74  
DEGREES 14' E 157.8 FEET TO THE PLACE OF BEGINNING,  
CONTAINING 2.06 ACRES, MORE OR LESS, EXCLUSIVE OF ALL  
RIGHT-OF-WAYS AND EASEMENTS OF RECORD.

BEING THE SAME PROPERTY CONVEYED TO THE GRANTORS HEREIN BY  
DEED RECORDED IN DEED BOOK 424 PAGE 258 OF THE BOONE COUNTY  
CLERK'S RECORDS AT BURLINGTON, KENTUCKY.

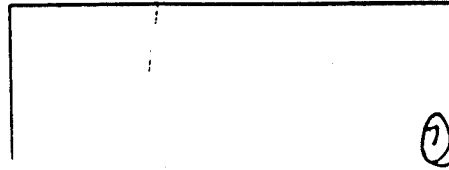
RECORDED  
INDEXED  
MAY 11 1980  
P 12 30  
CLERK

PROPERTY ADDRESS: 2 ACRE LOT RT. 16, BOONE COUNTY, KENTUCKY

GRANTEE MAILING ADDRESS: 149 Nicholas Dr, Boone Co, KY 41002

PREPARED BY: Return to,  
Ronald G. Mullen  
RONALD G. MULLEN, ATTORNEY  
2362 GRANDVIEW DRIVE  
FT. MITCHELL, KY 41017

CLERKS USE ONLY



12. wtd

Together with all the PRIVILEGES AND APPURTENANCES to the same belonging.

TO HAVE AND TO HOLD the same to the said

GRANTEES AS AFOREMENTIONED

heirs and assigns, forever, the Grantor S heirs, executors and administrators, HEREBY COVENANTING with the grantee S heirs and assigns, that the TITLE so conveyed is CLEAR, FREE AND UNINCUMBERED, and that THEY will WARRANT AND DEFEND the same against all legal claims whatsoever.

IN WITNESS WHEREOF, The said Grantor

PRESTON ALLEN AND HELEN ALLEN, HIS WIFE

hereunto set THEIR hand, this 29TH day of JUNE in the year 1995

<i>X Preston Allen</i> PRESTON ALLEN	<i>X Helen Walters Allen</i> HELEN WALTERS ALLEN
-----------------------------------------	-----------------------------------------------------

State of Kentucky  
County of Kenton

The foregoing instrument was acknowledged, subscribed and sworn to before me this 29TH day of JUNE, 1995  
by the Grantor WALTERS

PRESTON ALLEN AND HELEN ALLEN, HIS WIFE

Commission expires: *NANCY K. MULLEN*  
Notary Public, Kentucky, State of Large  
My Commission Expires Dec. 24, 1998

*Nancy K. Mullen*  
NOTARY PUBLIC  
(Title)

CERTIFICATE OF CONSIDERATION

Grantor and Grantee both certify, under oath, that the consideration reflected in this deed is the full consideration paid for the property and Grantee joins in this deed for the sole purpose of making this certificate about the consideration.

Sworn to this 29TH day of JUNE in the year 1995

GRANTOR

GRANTEE  
D & S ENTERPRISES, L.L.C.

<i>X Preston Allen</i> PRESTON ALLEN	<i>Daniel F. Childress</i> DANIEL F. CHILDRESS, PRESIDENT/MEMBER
<i>X Helen Walters Allen</i> HELEN WALTERS ALLEN	<i>Shawn Murray</i> SHAWN MURRAY, VICE PRESIDENT/MEMBER

State of Kentucky  
County of Kenton

The foregoing certification was acknowledged, subscribed and sworn to before me this 29TH day of JUNE, 1995  
by

WALTERS

PRESTON ALLEN AND HELEN ALLEN, HIS WIFE

~~D & S ENTERPRISES, L.L.C., BY DANIEL F. CHILDRESS, PRESIDENT AND MEMBER~~  
~~MEMBER AND~~  
~~SHAWN MURRAY, VICE PRESIDENT, PURSUANT TO A DULY AUTHORIZED~~  
CORPORATE RESOLUTION.

Commission expires: *NANCY K. MULLEN*  
Notary Public, Kentucky, State of Large  
My Commission Expires Dec. 24, 1998

*Nancy K. Mullen*  
(Title)

State of Kentucky, County of Boone  
JERRY W. ROUSE, Clerk of the Boone County  
Court, do certify that the foregoing  
Reed was, on the 5 day of

July  
1995 at 12:30 M, lodged in my office  
for record, and that it has been duly recorded in  
my said office, together with this and the  
certificate thereon endorsed.

Given under my hand this 5 day of July  
1995

JERRY W. ROUSE, CLERK

By Jesse Rouse D.C.

**EXHIBIT "A"**

## STAFF REPORT

Request of **City of Walton** to consider an amendment to the Walton Zoning Map as a result of the annexation of a 2 acre tract located on south side of KY 16, Boone County, Kentucky.. The request involves recommending a zoning classification for the site based upon annexation into the City of Walton. The site is currently zoned Industrial One (I-1) and is owned by D&S Enterprises, L.L.C.

November 15, 1995

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 on the property and its relationship to the Comprehensive Plan. The tract, approximately 2 acres, is owned by D&S Enterprises, L.L.C. and is located on Walton-Nicholson Road, Boone County, Kentucky (See Map #1). The site was rezoned by the Boone County Fiscal Court in June of 1995.

### Surrounding Zoning and Land Uses (See Sheet #2)

East: Single family homes zoned Rural Suburban (RS)  
West: Single family homes zoned Rural Suburban (RS)  
South: H & M Construction zoned Industrial One (I-1)  
North: KY 16 and single family homes zoned Rural Suburban (RS)

### Relationship to the Comprehensive Plan

The 1995 Boone County Comprehensive Plan Land Use Map indicates the Future Land Use of this site as Industrial. The text of the Comprehensive Plan refers to this area in a general way stating "that Walton area should experience gradual commercial and industrial growth."

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

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

Staff Review

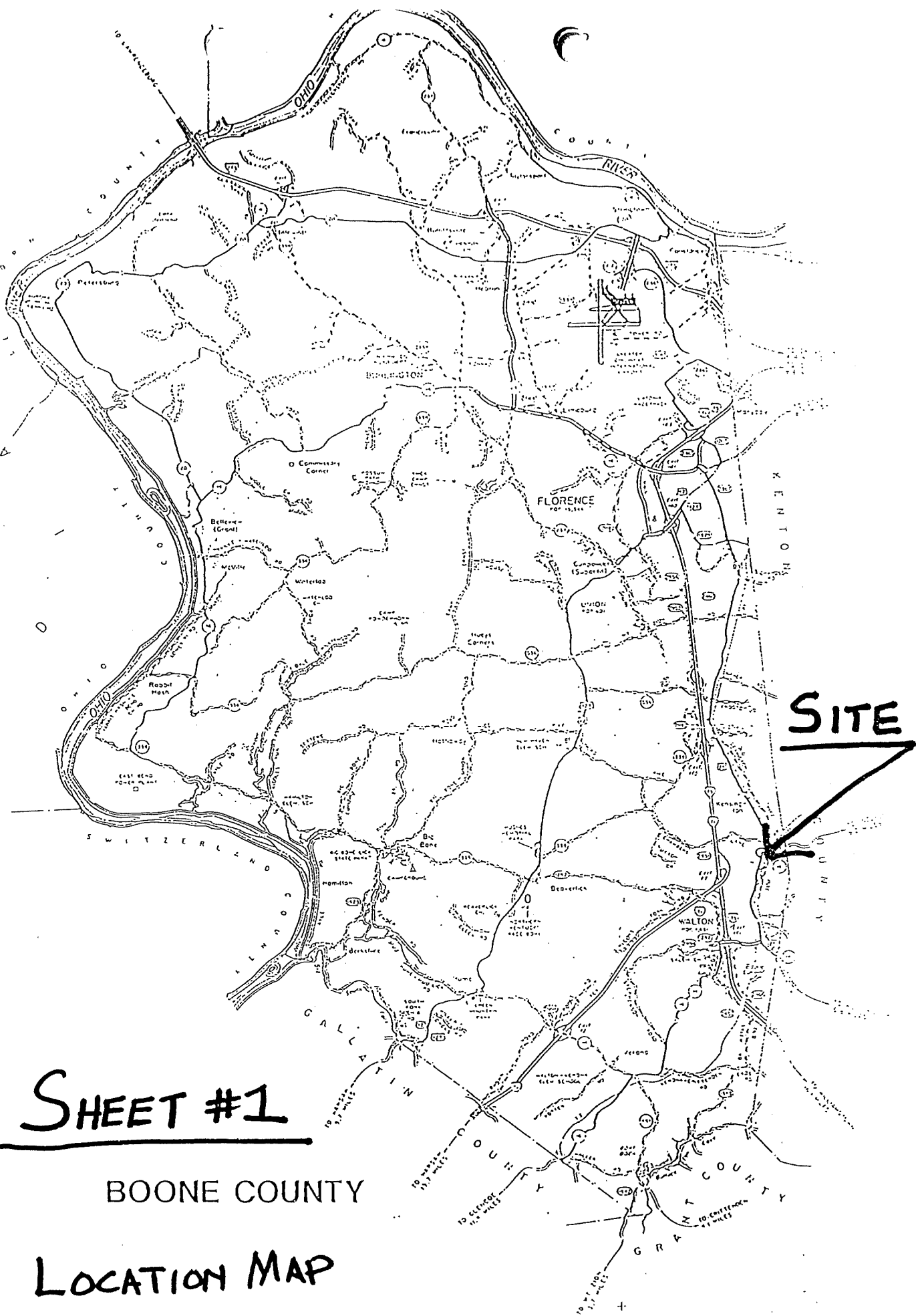
Staff believes that the existing zoning, Industrial One (I-1), on the approximate 2 acre tract is consistent with the Comprehensive Plan and the adjacent land uses. The annexation of the site does not necessitate a change in any of the established zoning regulations or the adopted 1995 Boone County Comprehensive Plan as they pertain to the City of Walton. Consequently, the annexation of the site into the City of Walton will not impact the current zoning of the property or the surrounding properties.

Respectfully Submitted,



Jeffrey F. Hayes, AICP  
Planner

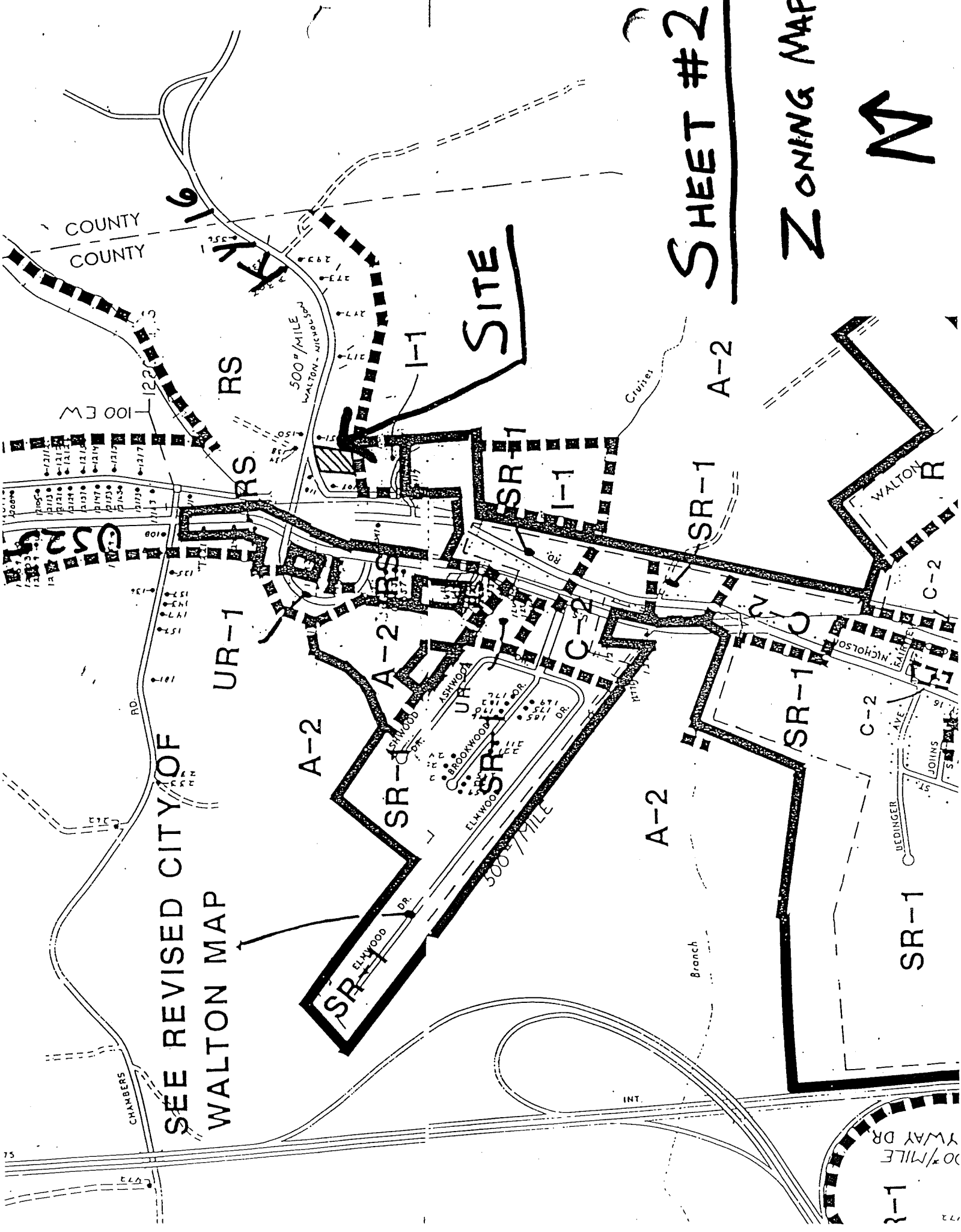
JFH/par



**SHEET #1**

BOONE COUNTY

LOCATION MAP



SEE REVISED CITY OF  
WALTON MAP

SHEET #2

ZONING MAP



BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
THIRD FLOOR SMALL COURTROOM 3-B  
November 15, 1995  
7:30 P.M.

PUBLIC HEARING

Commission members present: Mrs. Arnett, Mr. Bailey, Mr. Burch - Vice Chairman, Mr. Damstrom, Mr. Kirby, Jr., Mr. McMillian, Mr. Neltner, Mr. Ries, Mr. Rush, Mrs. Schaffer, Mr. Viox - Chairman, and Mr. White.

Mr. William Viox, Chairman, called the meeting to order at 7:45 P.M. and introduced the item on the Agenda:

1. Applicant: City of Walton  
Request: Zoning Map Amendment

The request of the City of Walton to consider an amendment to the Walton Zoning Map as a result of the annexation of a 2-acre tract on the south side of KY 16, Boone County, Kentucky. The request involves recommending a zoning classification for the site based upon annexation into the City of Walton. The site is currently zoned Industrial One (I-1) and is owned by D & S Enterprises, L.L.C..

Staff Member Jeff Hayes presented the Staff Report (see Staff Report).

There being no one present from the City of Walton, Chairman Viox asked if there were any comments from the public or from the Planning Commission.

Mr. Roy Collenson, owner of the property to the east of the site, stated that they were at the Planning Commission in March and in June for the rezoning, but he did not know anything about the current request until he got a Certified Letter about this meeting. He stated that at the time of the rezoning, Mr. Hayes stated that they did not change the zoning on the property and there was no property on Walton-Nicholson Road that would be zoned industrial.

Mr. Hayes explained that initially when they applied for the zone change, there was going to be a Committee recommendation for denial. The applicant asked to defer the request and came back with revisions that met the Committee's approval. Mr. Collenson was not there for the second go around and he may not have been aware of the rezoning. Mr. Hayes stated that he may have spoken with Mr. Collenson after the first meeting. He stated that the matter was deferred by the applicant and it was announced at the following Business Meeting that the request was deferred.

Mr. Collenson stated that he was not notified of anything.

Counselor Wilson explained that when an item is deferred, it is up to the people interested to keep in touch.

Mrs. Collenson stated that they were advised that they would get another Registered Letter if the matter was brought up again. Mr. Collenson stated that he did not hear anything until he got the Registered Letter.

Counselor Wilson stated that there was a Committee Report to deny the request, but it was never passed as a recommendation and, instead, the matter was deferred. There was not a second application and the matter continued on being reviewed per the deferral and resulted in the zone change.

Mr. Hayes advised that the zone change was passed by the Fiscal Court in June, 1995. Chairman Viox stated that the Fiscal Court had its own hearing and the zoning was changed. The property has been zoned I-1 since last June and this hearing is to see if the zoning is proper when it is annexed into the City of Walton.


Mr. Collenson questioned the property on either side. Chairman Viox explained that this request involves only the piece of property owned by D & S.

Mr. Dan Childress from D & S Enterprises explained that he applied for annexation to the City of Walton to get water. He was told that the change only affected this property and did not affect any neighbors.

There being no further comments, Chairman Viox stated that the Committee Meeting for this item will be on December 6, 1995 at 7:45 P.M. in this room. This item will be on the Agenda for the Business Meeting on December 6, 1995 at 8 P.M..

The Chairman closed this Public Hearing.

APPROVED:

  
\_\_\_\_\_  
William R. Viox, Chairman

Attest:

  
\_\_\_\_\_  
Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
COURTROOM 3-B, THIRD FLOOR  
BUSINESS MEETING  
December 6, 1995  
8:00 P.M.

---

---

Mr. William Viox, Chairman, called the meeting to order at 8:12 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett  
Mr. William Bailey  
Mr. Fred Burch, Vice Chairman  
Mr. Phil Damstrom  
Mr. Robert Kirby, Jr.  
Mr. Mike McKinney  
Mr. Don McMillian  
Mr. Bob Millay  
Mr. Barry Neltner  
Mr. Robert Ries  
Mrs. Linda Schaffer  
Mr. William Viox, Chairman  
Mr. Earl White

COMMISSION MEMBERS NOT PRESENT:

Mr. Ralph Rush  
Mrs. Carol Smith, Secretary/Treasurer

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director  
Mr. Dave Geohegan, AICP  
Mr. Jeff Hayes, AICP  
Ms. Jan Hancock, Secretary  
Mr. Kevin Wall, AICP

Mr. McMillian moved that the salaries, benefits, and bills due be approved and paid as presented; and indicated approval of those items which have been paid. Mr. Ries seconded the motion and it carried unanimously.

ANNOUNCEMENT:

Chairman Viox announced that the next Business Meeting will be held in the renovated courtroom across the hall.

UNFINISHED BUSINESS:

1. Zoning Map Amendment

The request of the City of Walton to consider an amendment to the Walton Zoning Map as a result of the annexation of a 2-acre tract on the south side of KY 16, Boone County, Kentucky. The request involves recommending a zoning classification for the site based upon annexation into the City of Walton. The site is currently zoned Industrial One (I-1) and is owned by D & S Enterprises, L.L.C..

Staff Member Jeff Hayes presented the Committee Report which recommended that the current zoning not be changed as a result of annexation, based on the findings of fact (see Committee Report).

Mr. Damstrom moved to adopt the Committee Report. Mr. Millay seconded the motion.

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

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

2. Zoning Map Amendment

The request of the Boone County Historic Preservation Review Board (applicant) for Lowell L. Scott (owner) for a Zoning Map Amendment for Rabbit Hash, a 3.5-acre site located in the vicinity of 10046 Lower River Road, Boone County, Kentucky. The request is to add the Historic District (H) Overlay Zone to the current Rural Suburban Estates/Small Community (RSE/SC) Zone.

Mr. Costello advised that Ms. Cabot was not present due to a car accident today. Mr. Costello presented the Committee Report which recommended approval of the request based on the findings of fact (see Committee Report).

There being no discussion, Mr. Kirby moved by resolution to the Boone County Fiscal Court to approve the request based on the Committee Report. Mr. Neltner seconded the motion and it carried unanimously.

EXHIBIT "B"

# COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Fred Burch, Chairman

DATE: December 6, 1995

RE: Request of City of Walton to consider an amendment to the Walton Zoning Map as a result of the annexation of a 2 acre tract located on south side of KY 16, Boone County, Kentucky.. The request involves recommending a zoning classification for the site based upon annexation into the City of Walton. The site is currently zoned Industrial One (I-1) and is owned by D&S Enterprises, L.L.C.


REMARKS:


We, the Committee, recommend that the current zoning of Industrial One (I-1) not be changed as a result of annexation of the 2 acre tract into the City of Walton. Based upon the following findings of fact, the Committee can find no impact from annexation upon the current zoning of the property or the surrounding property.

Findings of Fact

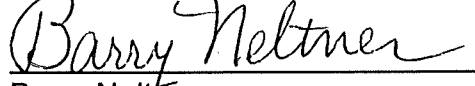
1. The 1995 Boone County Comprehensive Plan indicated that the site will be developed for industrial purposes. Specific references to the Comprehensive Plan are made in the November 15, 1995 Staff Report.
2. The site is subject to a previously approved Zoning Map Amendment request and conditions.

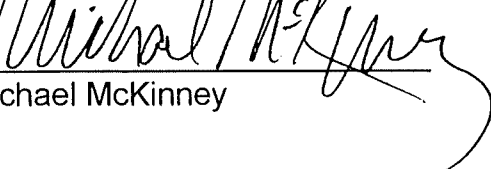
A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request.

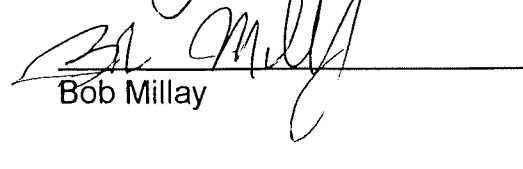
  
 \_\_\_\_\_  
 Fred Burch, Chairman

  
 \_\_\_\_\_  
 Phil Damstrom

  
 \_\_\_\_\_  
 William Bailey

  
 \_\_\_\_\_  
 Barry Netter

  
 \_\_\_\_\_  
 Michael McKinney

  
 \_\_\_\_\_  
 Bob Millay

BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
THIRD FLOOR SMALL COURTROOM 3-B  
November 15, 1995  
7:30 P.M.

PUBLIC HEARING

Commission members present: Mrs. Arnett, Mr. Bailey, Mr. Burch - Vice Chairman, Mr. Damstrom, Mr. Kirby, Jr., Mr. McMillian, Mr. Neltner, Mr. Ries, Mr. Rush, Mrs. Schaffer, Mr. Viox - Chairman, and Mr. White.

Mr. William Viox, Chairman, called the meeting to order at 7:45 P.M. and introduced the item on the Agenda:

1. Applicant: City of Walton  
Request: Zoning Map Amendment

The request of the City of Walton to consider an amendment to the Walton Zoning Map as a result of the annexation of a 2-acre tract on the south side of KY 16, Boone County, Kentucky. The request involves recommending a zoning classification for the site based upon annexation into the City of Walton. The site is currently zoned Industrial One (I-1) and is owned by D & S Enterprises, L.L.C..

Staff Member Jeff Hayes presented the Staff Report (see Staff Report).

There being no one present from the City of Walton, Chairman Viox asked if there were any comments from the public or from the Planning Commission.

Mr. Roy Collenson, owner of the property to the east of the site, stated that they were at the Planning Commission in March and in June for the rezoning, but he did not know anything about the current request until he got a Certified Letter about this meeting. He stated that at the time of the rezoning, Mr. Hayes stated that they did not change the zoning on the property and there was no property on Walton-Nicholson Road that would be zoned industrial.

Mr. Hayes explained that initially when they applied for the zone change, there was going to be a Committee recommendation for denial. The applicant asked to defer the request and came back with revisions that met the Committee's approval. Mr. Collenson was not there for the second go around and he may not have been aware of the rezoning. Mr. Hayes stated that he may have spoken with Mr. Collenson after the first meeting. He stated that the matter was deferred by the applicant and it was announced at the following Business Meeting that the request was deferred.

Mr. Collenson stated that he was not notified of anything.

Counselor Wilson explained that when an item is deferred, it is up to the people interested to keep in touch.

Mrs. Collenson stated that they were advised that they would get another Registered Letter if the matter was brought up again. Mr. Collenson stated that he did not hear anything until he got the Registered Letter.

Counselor Wilson stated that there was a Committee Report to deny the request, but it was never passed as a recommendation and, instead, the matter was deferred. There was not a second application and the matter continued on being reviewed per the deferral and resulted in the zone change.

Mr. Hayes advised that the zone change was passed by the Fiscal Court in June, 1995. Chairman Viox stated that the Fiscal Court had its own hearing and the zoning was changed. The property has been zoned I-1 since last June and this hearing is to see if the zoning is proper when it is annexed into the City of Walton.

Mr. Collenson questioned the property on either side. Chairman Viox explained that this request involves only the piece of property owned by D & S.

Mr. Dan Childress from D & S Enterprises explained that he applied for annexation to the City of Walton to get water. He was told that the change only affected this property and did not affect any neighbors.

There being no further comments, Chairman Viox stated that the Committee Meeting for this item will be on December 6, 1995 at 7:45 P.M. in this room. This item will be on the Agenda for the Business Meeting on December 6, 1995 at 8 P.M..

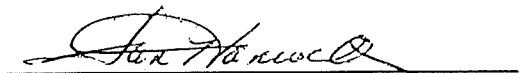
The Chairman closed this Public Hearing.

APPROVED:



William R. Viox, Chairman

Attest:



Jan Hancock, Recording Secretary