

ORDINANCE NO. 02-07

AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY APPROVING THE ZONE CHANGE OF THE LARRY TODD PROPERTY ON 666 MT. VERNON ROAD AND AUTHORIZING THE CHANGE ON THE OFFICIAL ZONING MAP OF MADISON COUNTY, KENTUCKY.

WHEREAS, the hereinafter described land is located in Madison County, Kentucky and

WHEREAS, the Madison County Planning Commission held a public hearing on Tuesday, February 19, 2002, and found that the existing zoning classification given to the property is inappropriate and that the proposed zoning classification of is appropriate; the proposed land use change is in conformance with the adopted comprehensive plan; and there was evidence that there had been major changes of an economic, physical, or social nature in the area that was not anticipated in the adopted comprehensive plan; and therefore recommend to the County Fiscal Court that the classification of the property involved herein be change from UC-7 Urban Agricultural to UC-5 Light Industrial.

NOW, THEREFORE BE IT ORDAINED AND ENACTED, by Madison County Fiscal Court that the land use classification of the following described property be changed by this ordinance from UC-7 Urban Agricultural to UC-5 Light Industrial classification.

SECTION I

A certain tract or parcel of land lying in Madison County, Kentucky, more particularly bounded and described as follows:

Tract No. 1: Beginning at a black oak stump in a branch thence S 6 W 11 chains 25 links to top of the ridge, thence with the center of the ridge S 80 W 2 chains 68 links S 68 W 3 5 chains 58 links to a large hickory; thence N 5 E 12 chains to a branch and small crabapple corner; thence with branch S 86 E 12 chains 75 links to the beginning, containing 15.37 acres more or less.

Tract No. 2: Beginning at a stone corner to Sam Lunsford at the County Road; thence west to a stone corner to Mrs. Ponder's lands, thence north with her line to a stone corner to same: thence north with same to a stone in Sam Lunsford's line; thence east with his line to stump on the side of branch; thence north with his line to a stone corner near his barn; thence east with his line to the beginning, and containing about 10 acres, be the same more or less.

Tract No. 1: which is above described is conveyed subject to the right of way of Oliver McCormick, his heirs and assigns, as described and reserved in the deed from said Oliver McCormick to Ballard Parks and Anna Lee Parks, which said deed is duly lodged for record in Deed Book No. 116 at page 600, in the office of the Clerk of the Madison County Court.

Tract No. 3: A certain tract or parcel of land situated near Slate Lick, Madison County, Kentucky, on the waters of Brushy Fork on Silver Creek bounded as follows: Beginning at a crabapple in a branch in Lunsford's line, thence S 5 W 12 chains to a large hickory corner on the ridge between Madison and Rockcastle Counties, thence N 77 W 8 chains 50 links to a dead pine, thence N 59 W 9 chains 25 links to a stake 2 pines and black oak pointers, thence N 7 ½ W 2 chains 75 to a chestnut oak on a stony point, thence S 86 W 6 chains 40 links to the beginning, containing 15.37 acres.

There is excluded from this conveyance a tract of land which was conveyed to Bob Rucker et al., to which reference is hereby made.

And being the same property conveyed to the children of Lee and Josie Smith by deed recorded in Deed Book 301, Page 690 of the Madison County Clerk's Office.

SECTION II

That the Director of Planning and Development make the appropriate changes to the Official Zoning Map of Madison County, Kentucky.

SECTION III

That the County Clerk cause this ordinance to be published in accordance with the appropriate Kentucky Revised Statutes.

DATE OF FIRST READING: Feb. 26, 2002
MOTION BY: Larry Combs
SECONDED BY: Forniss Parks

VOTE:	YES	NO
JUDGE, KENT CLARK	✓	
MAGISTRATE LARRY COMBS	✓	
MAGISTRATE FORNISS PARKS	✓	
MAGISTRATE WILLIAM TUDOR	✓	
MAGISTRATE BILLY RAY HUGHES	✓	

DATE OF SECOND READING: March

MOTION BY: Larry Combs

SECONDED BY: William Tudor

VOTE: YES NO

JUDGE, KENT CLARK
MAGISTRATE LARRY COMBS
MAGISTRATE FORNISS PARKS
MAGISTRATE WILLIAM TUDOR
MAGISTRATE BILLY RAY HUGHES

✓
✓
✓
✓
✓

Kent Clark
MADISON COUNTY JUDGE EXECUTIVE

Attest:

Mary Jane Sinter
MADISON COUNTY CLERK

**MADISON COUNTY
PLANNING and DEVELOPMENT**

321 North Madison Avenue
RICHMOND, KENTUCKY 40475
859-624-4734 / 624-4780
Fax # 859-624-4736

TO: Kent Clark, Madison County Judge Executive
Madison County Fiscal Court

DATE: February 20, 2002

RE: Planning Commission Recommendation
Larry Todd Property
666 Mt. Vernon Road, Berea, KY 40403

As a result of a public hearing held on February 19, 2002 at 6:00pm in the Fiscal Court Room, the Madison County Planning Commission heard and reviewed the following application for an amendment to the Land Use Management Map.

Larry Todd, 666 Mt. Vernon Road, proposed to change 20 +/- acres from its original classification of R-7 (Agricultural) to R-5 (Light Industrial). In accordance with KRS 100.213 the applicant's justification for the request was that the original land use classification was inappropriate and the proposed classification is appropriate.

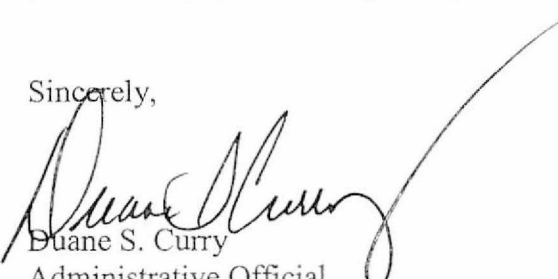
Therefore, the Madison County Planning Commission recommends the request for land use change be **APPROVED**:

Motion was made, seconded and approved by a unanimous vote to recommend to the Fiscal Court that the request to change the land use from R-7 (Agricultural) to R-5 (Light Industrial), for the above property, be approved and have made it a finding of fact that;

1) The Planning Commission felt that the property was originally zoned improperly.

Copies of the actual minutes from the public hearing are available upon request. Should you have any questions regarding this request, please call this office.

Sincerely,


Duane S. Curry
Administrative Official

\DC

Restricted/Automotive Recycling Dealer Applicants Only

You must supply the information requested below. In addition, please have the appropriate zoning official sign Item 4, below to certify that the proposed business complies with all local zoning laws.

1. If you are operating an automobile, vehicle, machinery or material recycling yard, you must either have a permit from the Kentucky Transportation Cabinet/Kentucky Department of Highways to operate that business or you may be exempt from the requirement to have a permit to operate that kind of business because of one of the following reasons:

- The place of business is over one thousand (1,000) feet from the right of way line of any road; OR
- The place of business is located in an industrially zoned area and is a conforming land use under applicable ordinances; OR
- The applicant has less than ten (10) junked, wrecked, or nonoperative vehicles parked, placed or otherwise located at the place of business at any one time.

2. If you have a Highway Department permit as described above, please provide a copy of that permit when you return this application.

3. If you are exempt from the Highway Department permit requirement because of one of the reasons shown in Item 1, above, please specify which of those reasons applies to your business.

4. Zoning Certification for Restricted/Automotive Recycling Dealer
If page 1 of this application shows that a restricted/automotive recycling dealer license is sought, the following certification must be made by the appropriate zoning official (or other official if the locality has no zoning):

This is to certify that the Madison County/City zoning authority has authorized the following address:

666 Mt. Vernon Rd

(street address of dealership)

as suitably and legally fit as a location from which the applicant may engage in the business of dismantling, salvaging, or recycling salvage vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation, in accordance with the terms of all applicable building codes, zoning and other land use regulatory ordinances.

[Signature]
 Signature of Appropriate Official
Co. Judge Eric
 Title
6/13/00
 Date

Dealer/Applicant Name LARRY TODD

**Application for Land Use Map Amendment
Madison County, Kentucky**

Date: 12/12/01

Fee: _____

1. Owner(s) of Property: Larry Todd
 2. Property Address: 401 Mt. Vernon Road, Ky 986-3860 666 Mt. Vernon Rd
 3. Designated Land Use: R-7 4. Proposed Use: R-5

5. Acreage: _____
 6. Surrounding Property:

	<u>Use</u>	<u>Land Use Map</u>
• North	AG	R-5
• East	AG	R-7
• South	AG	R-7
• West	I-75	R-7

7. Urban Services:

	<u>Exists</u>	<u>Provided By</u>
• Sewage	Septic	
• Refuse		
• Water	St. Mad. Water	
• Electric		
• Gas	N/A	
• Storm Sewers	N/A	
• Fire	Mad Co./Berea	
• Police	KSP/Sharid	

8. Justification for Requested Change (KRS.100.213)
Property was improperly zoned. Been Running Auto Salvage/Recycling Yard prior to zoning.

9. Brief Legal Description of Property:
SEE Copy of Deed

10. Additional Information:
County recently rezoned Lunsford Property adjoining on North to R-5.

11. The following items must accompany application:
 • Copy of Deed
 • Vicinity Map of Area request amendment
 • List of all adjoining property owners, names, addresses of property, addresses of owners, telephone numbers of owners.
 12. Applicant's Signature: I do hereby certify that, to the best of my knowledge and belief, all application materials are herewith submitted and the information is true and correct. I further certify that I am Owner of this property, since 1999 (date).

Date: 12/12/01 Signature(s): Larry Todd

APPENDIX D

Madison County Planning Commission
C/O Madison County Planning & Development Office
321 N. Madison Avenue, Suite B
Richmond, KY 40475

Date 12/18/01

Dear Property Owner:

The Madison County Planning Commission would like to inform you of a land use change request by a property owner in your neighborhood. We will hold a public hearing on this matter in order to provide county residents with an opportunity to support or object to the requested change. All pertinent information is listed below. If you need additional information, please contact the Administrative Official at the Madison County Planning & Development Office located at 321 N. Madison Avenue, Suite B (859) 624-4780.

Address of Property requested for Land Use Change: 401 Mt. Vernon Road
Berea, Ky

Land Use Change Requested: From: R-7 Ag To: R-5 Lt. Industry

Owner of Property requesting Land Use Change: LARRY Todd

Address of Owner: 401 Mt. Vernon Road, Berea, Ky 40403

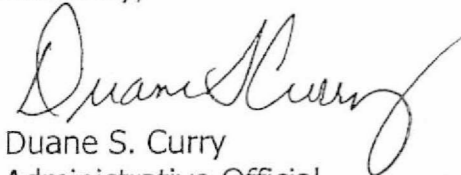
Name of Land Use Change Applicant: LARRY Todd

Address of Land Use Change Applicant: Same

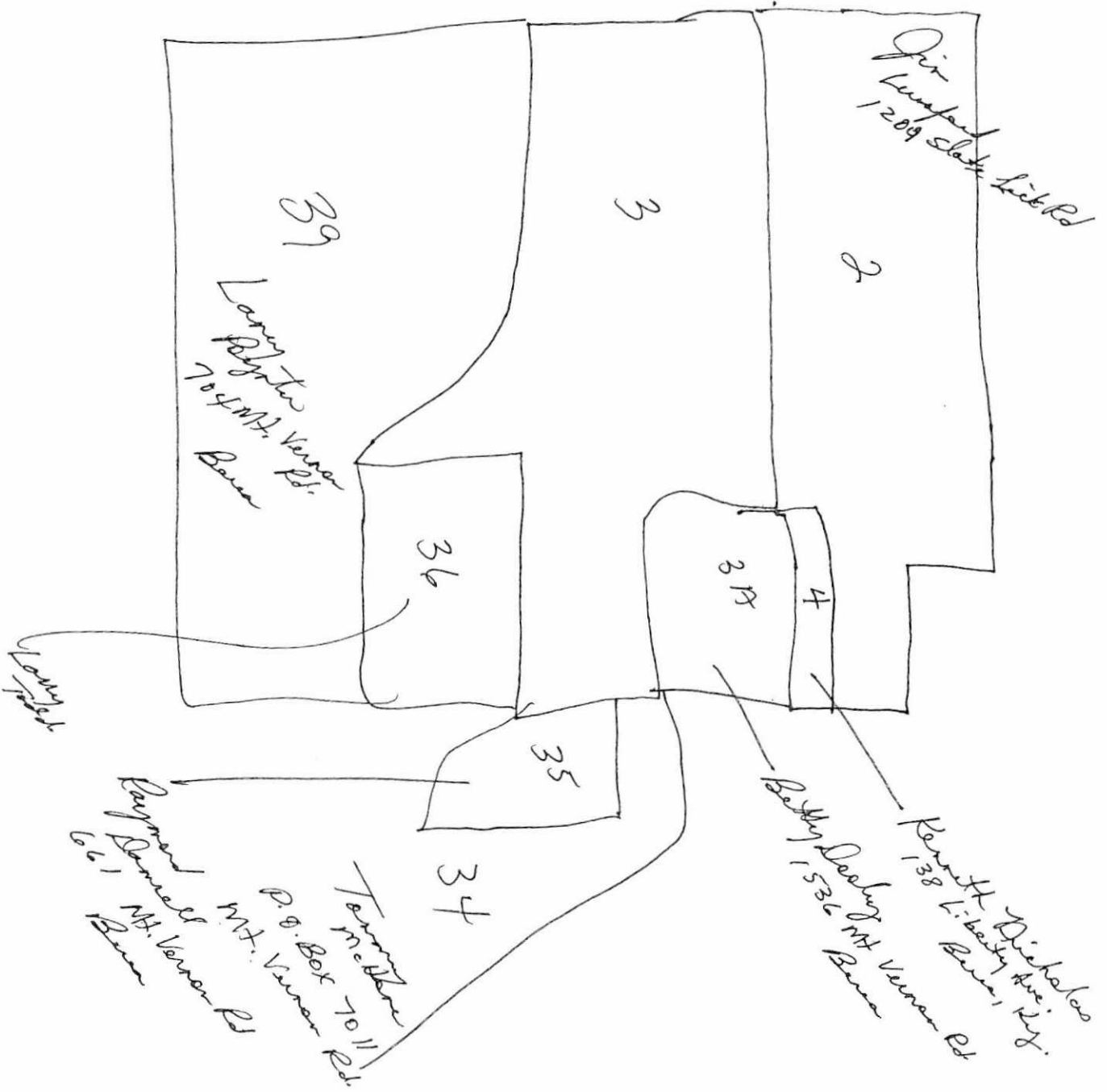
Date of Public Hearing: January 15, 2002

Time and Location of Public Hearing: 6:00pm Madison Court House
Fiscal Court Room

Sincerely,



Duane S. Curry
Administrative Official



**MADISON COUNTY
PLANNING and DEVELOPMENT OFFICE**

321 N. Madison Avenue, Suite B
Richmond, Kentucky 40475
606-624-4780 / 624-4734
Fax – 606-624-4736

September 12, 2001

Mr. Larry Todd
401 Mt. Vernon Road
Berea, Kentucky 40403

RE: Expanding Salvage Yard

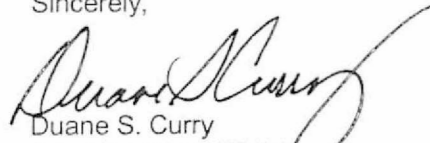
Dear Mr. Todd,

Please be advised this office has been advised that you have expanded your area of operation for the salvage yard located on Mt. Vernon Road of which I have confirmed with photos taken of the area expanded in to. Your property currently has a zoning classification of R-7, Rural Agricultural, which does not permit an automobile salvage yard. I realize your operation was present prior to zoning, however because the zoning is not appropriate your property is an existing non-conforming use. Non-conformities are permitted to continue, however they cannot expand their scope and area of operation. Therefore by your expanding the area of your salvage yard you have violated the current zoning regulations. At this point I see you have only a couple of options, they are as follows:

- 1) Complete the attached application to request a zone change on the property to make your property in compliance with the current zoning regulations;
- 2) Remove the vehicles from the recently expanded area and continue to operate within the same confines as you were at the time of adoption of the zoning laws.

If you plan to seek the zone change and have any questions please feel free to contact me. Otherwise we will need to hear from you and be given a time frame as to when you can achieve compliance with the regulations. I have sent to you copies of this information in the past, however have had no response from you. I must make it clear that something must be done to have your property to comply with the current regulations. Should you have any questions or concerns you wish to discuss with me please feel free to contact me. Thanks for your cooperation and immediate response in this matter.

Sincerely,


Duane S. Curry
Administrative Official



Larry Todd Salvage
07/17/01



**MADISON COUNTY
PLANNING & DEVELOPMENT**

321 N. Madison Avenue
Richmond, Kentucky 40475
859-624-4780 / 624-4734
Fax – 859-624-4736

MEMORANDUM

TO: Planning Commission Members

FROM: Duane Curry, Administrative Official



DATE: February 15, 2002

RE: Land Use Change Applications

Following is some additional information you find relevant as you consider the Land Use Change applications we will be discussing at the Business Session:

Larry Todd Property, Mt. Vernon Road – R-7 to R-5

This property lies on Mt. Vernon Road approximately 2 miles from Chestnut Street in Berea. The property is just south of Mr. James Lunsford property that this commission approved a land use change from R-7 to R-5 Industrial. Mr. Todd has been using a portion of this property for an auto salvage yard since prior to the adoption of zoning in the County. Back in July 2001 this office received a complaint that Mr. Todd was expanding his salvage yard by clearing additional land and providing additional space for the storage of wrecked automobiles. We notified Mr. Todd at that time that his property was not zoned for an auto salvage yard therefore, his use was considered a non-conforming use which could not be expanded or enlarged. We notified him to cease his expansion work and seek a land use change for the property if he wishes to continue the expansion. If Mr. Todd's land use change is approved by this commission and Fiscal Court he will be required to submit a site development plan to the Planning Commission. I have attached a copy of the Development Plan Checklist that is a part of the current regulations. The regs would require the development plan to be drawn by an engineer to reflect all of the requirements such as drainage, erosion control, paving of driveways and parking areas, landscape buffers and screening and etc.

Smallwood
8-24-98
5-15-98

COMMONWEALTH OF KENTUCKY
MADISON CIRCUIT COURT
DIVISION NO. I
CIVIL ACTION FILE NO. 97-CI-01119

LARRY TODD

PLAINTIFF

vs.

MASTER COMMISSIONER'S DEED

BETTY JEAN SMALLWOOD, aka BETTY JEAN NICHOLS,
and KENNETH NICHOLS, spouses; HOWARD SMITH and
JULIE SMITH, spouses; CHARLES RAY SMITH and
MARY SMITH; CECIL SMITH and MARGE SMITH, spouses,
and MADISON COUNTY

DEFENDANTS

* * * * *

Now pending in the Madison Circuit Court, an Order was entered on the 21st day of May, 1998, directing David R. Baird, Master Commissioner of said Court, to expose for sale at public auction the property hereinafter described; and whereas, said property was sold in accordance with said Order on the 17th day of July, 1998, for the sum of FIFTY-SEVEN THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$57,100.00); and whereas, the report of said sale was approved and confirmed by said Court on the 20th day of August, 1998; and whereas, on the 20th day of August, 1998, an Order was entered directing the Master Commissioner to execute a Deed of Conveyance for said property to LARRY TODD, purchaser at said sale, and WANDA TODD, Assignee of purchaser at said sale.

NOW THEREFORE, THIS INDENTURE made and entered into this the 20th day of August, 1998, by and between LARRY TODD; BETTY JEAN SMALLWOOD, aka BETTY JEAN NICHOLS and KENNETH NICHOLS, spouses; HOWARD SMITH and JULIE SMITH, spouses; CHARLES RAY SMITH and MARY SMITH; CECIL SMITH and MARGE SMITH, spouses; and MADISON COUNTY, by David R. Baird, Master Commissioner of said Court, P. O. Box 605, Richmond, Kentucky, 40476-0605, parties of the first part, and LARRY TODD and WANDA TODD, husband and wife, 239 Mt. Vernon Road, Berea, KY 40403, parties of the second part,

BOOK 492

PAGE 373

WITNESSETH: That for and in consideration of these premises and for the further consideration of the full payment of the purchase price aforesaid, the receipt of which is hereby acknowledged, the parties of the first part, by DAVID R. BAIRD, as Master Commissioner aforesaid, have sold, and by this writing, do hereby GRANT AND CONVEY unto the parties of the second part, as tenants by the entireties and not as tenants in common, for and during their natural lives with the remainder to the survivor of them, his, her, or their heirs and assigns, forever, in fee simple, the following described property, to-wit:

Being located near Berea, in Madison County, Kentucky, and which is more particularly described as follows:

Tract No. 1: Beginning at a black oak stump in a branch thence S 6 W 11 chains 25 links to top of the ridge, thence with the center of the ridge S 80 W 2 chains 68 links S 68 W 3 5 chains 58 links to a large hickory; thence N 5 E 12 chains to a branch and small crabapple corner; thence with branch S 86 E 12 chains 75 links to the beginning, containing 15.37 acres more or less.

Tract No. 2: Beginning at a stone corner to Sam Lunsford at the County Road; thence west to a stone corner to Mrs. Ponder's lands, thence north with her line to a stone corner to same; thence north with same to a stone in Sam Lunsford's line; thence east with his line to stump on the side of branch; thence north with his line to a stone corner near his barn; thence east with his line to the beginning, and containing about 10 acres, be the same more or less.

Tract No. 1: which is above described is conveyed subject to the right of way of Oliver McCormick, his heirs and assigns, as described and reserved in the deed from said Oliver McCormick to Ballard Parks and Anna Lee Parks, which said deed is duly lodged for record in Deed Book No. 116 at page 600, in the office of the Clerk of the Madison County Court.

This conveyance is made subject to a deed of easement from the first parties by Eugene S. Wiggins, Special Commissioner, Madison County Court, to the Commonwealth of Kentucky, which said deed is duly lodged for record in Deed Book No. 156, at page 337, in the office of the Clerk of the Madison County Court, to which reference is hereby made.

There is also excluded from the above described tracts of land a certain tract of land which was conveyed to Dan Chestnut by Delia Ponder, a single woman, by deed bearing 29th day of January, 1938, which said deed is for record in Deed Book No. 118, at page No. 118, in the office of the Clerk of the Madison County Court, to which reference is hereby made.

1 1/2 acres

CERTIFICATE

The undersigned Grantor and Grantees do hereby certify, pursuant to KRS Chapter 382, that the consideration reflected in the deed is the full consideration paid for the property herein conveyed. We further certify our understanding that falsification of the stated consideration or sale price of the property is a Class D felony, subject to one to five years imprisonment and fines up to \$10,000.00.

GRANTOR:

David R. Baird

DAVID R. BAIRD, MASTER COMMISSIONER
MADISON CIRCUIT COURT

Subscribed, sworn to and acknowledged before me by DAVID R. BAIRD, MASTER COMMISSIONER, MADISON CIRCUIT COURT, this 20th day of August, 1998.

David R. Baird

Notary Public, State at Large, KY
My commission expires: 11-19-98

GRANTEES:

Larry Todd

LARRY TODD *by Steven Guntly*

Wanda Todd

WANDA TODD *by Steven Guntly*

Subscribed, sworn to and acknowledged before me by LARRY TODD *by Steven Guntly, agent,* and WANDA TODD, ^{by Steven Guntly, agent,} husband and wife, this the 20th day of August, 1998.

William E. Johnson

Notary Public, State at Large, KY
My commission expires: 8-26-98

DOCUMENT NO: 209301
RECORDED ON: AUGUST 20, 1998 11:30:54AM
TOTAL FEES: \$16.00
COUNTY CLERK: MARY JANE GINTER
COUNTY: MADISON COUNTY
DEPUTY CLERK: MARY JANE GINTER
BOOK 492 PAGES 373-377

Restricted/Automotive Recycling Dealer Applicants Only

You must supply the information requested below. In addition, please have the appropriate zoning official sign Item 4, below to certify that the proposed business complies with all local zoning laws.

1. If you are operating an automobile, vehicle, machinery or material recycling yard, you must either have a permit from the Kentucky Transportation Cabinet/Kentucky Department of Highways to operate that business or you may be exempt from the requirement to have a permit to operate that kind of business because of one of the following reasons:

- The place of business is over one thousand (1,000) feet from the right of way line of any road; OR
- The place of business is located in an industrially zoned area and is a conforming land use under applicable ordinances; OR
- The applicant has less than ten (10) junked, wrecked, or nonoperative vehicles parked, placed or otherwise located at the place of business at any one time.

2. If you have a Highway Department permit as described above, please provide a copy of that permit when you return this application.

3. If you are exempt from the Highway Department permit requirement because of one of the reasons shown in Item 1, above, please specify which of those reasons applies to your business.

4. Zoning Certification for Restricted/Automotive Recycling Dealer
If page 1 of this application shows that a restricted/automotive recycling dealer license is sought, the following certification must be made by the appropriate zoning official (or other official if the locality has no zoning)

This is to certify that the Madison County/City zoning authority has authorized the following address:

666 Mt. Vernon Rd

(street address of dealership)

as suitably and legally fit as a location from which the applicant may engage in the business of dismantling, salvaging, or recycling salvage vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation, in accordance with the terms of all applicable building codes, zoning and other land use regulatory ordinances.

[Signature]
 Signature of Appropriate Official
Co. Judge Eric
 Title
6/13/00
 Date

Dealer/Applicant Name LARRY TODD