

ORDINANCE NO. 08-05

**AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY  
APPROVING THE ZONE CHANGE OF LIGHT INDUSTRIAL, OF THE CHESTER  
E. POWELL AND HELEN POWELL, FROM UC-1 SINGLE FAMILY  
RESIDENTIAL TO UC-5 LIGHT INDUSTRIAL 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, January 22, 2008 and heard and reviewed the following application for an amendment to the land use management map to change the land use from UC-1 Single Family Residential to UC-5 Light Industrial. In accordance with KRS 100.213, Chester E. Powell submitted the following findings of fact:

- 1) The proposed land use map amendment is in agreement with the adopted comprehensive plan for the following reasons;
  - a. The property is contiguous with existing UC-4 designations.
  - b. The property has been and currently is used as an automobile salvage business, which use is a conditional use under a UC-5 zoning classification.
  - c. The roads and infrastructure are adequate to support the proposed development.
- 2) The existing land use designation give to the property is inappropriate and the proposed is appropriate for the same reasons as above.

Therefore, The Madison County Planning Commission recommends to the Madison County Fiscal Court that the classification of the property involved herein be change from UC-1 Single Family Residential 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-1 Single Family Residential to UC-5 Light Industrial.

DATE OF FIRST READING: Feb

MOTION BY: Larry L. Combs

SECONDED BY: Harold K. Botner Jr.

VOTE: YES NO

JUDGE, KENT CLARK  
MAGISTRATE LARRY COMBS  
MAGISTRATE ROGER BARGER  
MAGISTRATE WILLIAM TUDOR  
MAGISTRATE HAROLD K. BOTNER, Jr.

✓  
✓  
✓  
✓  
✓

DATE OF SECOND READING: February 29, 2008

MOTION BY: Larry L. Combs

SECONDED BY: Harold K. Botner Jr.

VOTE: YES NO

JUDGE, KENT CLARK  
MAGISTRATE LARRY COMBS  
MAGISTRATE ROGER BARGER  
MAGISTRATE WILLIAM TUDOR  
MAGISTRATE HAROLD K. BOTNER, Jr.

✓  
✓  
✓  
✓  
✓

[Signature]  
MADISON COUNTY JUDGE EXECUTIVE

Attest: [Signature]  
MADISON COUNTY CLERK



## *Madison County Planning & Development*

Building Inspections  
Code Enforcement  
Land-Use Regulations

321 N. Madison Ave.  
Suite B  
Richmond, KY 40475

GIS Mapping  
Floodplain Management  
911 Addressing

[www.madisoncountky.us](http://www.madisoncountky.us)

Date: January 7, 2008

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. Should 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:

1452 & 1454 Hwy 21, Berea, KY 40403

Land Use Change Requested: From: UC-1 To: UC-5

Owner of Property requesting Land Use Change: Chester E. Powell & Helen Powell

Property Owner's Address: 1452 & 1454 Hwy 21, Berea, KY 40403

Date of Public Hearing: January 22, 2008

Time and Location of Public Hearing: 6:00 PM  
Madison County Court House  
Fiscal Court Room  
101 W. Main Street  
Richmond, Kentucky 40475

Sincerely,

A handwritten signature in black ink, appearing to read "Duane S. Curry".

Duane S. Curry  
Administrative Official

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

Date:		Application Number	
Property Owner's Name(s): <i>CHESTER E. POWELL &amp; HELEN POWELL</i>			
Property Owner's Address: <i>200 GLADES STREET</i>			
City / State: <i>BEREA, KENTUCKY</i>			
Zip Code: <i>40403</i>		Phone No. <i>986-0724 ; 986-9482</i>	
Address of Property Requesting Change: <i>1452 &amp; 1454 Highway 21, Berea, KY 40403</i>			
Lot Number: <i>N/A</i>		Subdivision Name: <i>N/A</i>	
Existing Zoning: <i>UC-1</i>		Requested Zoning: <i>UC-5</i>	
Total Numbers of Acres: <i>12 Acres Approximately</i>			
<b>Surrounding Property Use/ Zoning Information</b>			
Direction	Land Use	Zoning Classification	
East	<i>Church</i>	<i>UC-4</i>	
West	<i>Residence/Farm</i>	<i>UC-4</i>	
North	<i>Farm</i>	<i>UC-7</i>	
South	<i>Church</i>	<i>UC-4</i>	
Urban Services Provided	Yes	No	Services Provided By
Sewage		<input checked="" type="checkbox"/>	
Garbage Disposal	<input checked="" type="checkbox"/>		<i>Waste Management (met Co)</i>
Water	<input checked="" type="checkbox"/>		<i>Southern Indiana</i>
Police Protection	<input checked="" type="checkbox"/>		<i>Madison County Sheriff</i>
Fire Protection	<input checked="" type="checkbox"/>		<i>Berea ; Madison Corp</i>
Gas		<input checked="" type="checkbox"/>	
Electric	<input checked="" type="checkbox"/>		<i>Bluegrass Energy</i>
Storm Sewers		<input checked="" type="checkbox"/>	
Municipal Sewer		<input checked="" type="checkbox"/>	
The following items are required to be provided by the applicant before the application can be considered for placement on the agenda:			
Item	Yes	No	Comments
Deed for the Property	<input checked="" type="checkbox"/>		Deed must reflect actual acreage to be re-zoned.
Vicinity Map	<input checked="" type="checkbox"/>		Map must accurately describe location.
List of Adjoining Property Owners Names/ Addresses	<input checked="" type="checkbox"/>		Names and Addresses must be complete and per PVA Records for accuracy.
Completed Application	<input checked="" type="checkbox"/>		Application must be completed entirely and signed by the owner or agent.
Application Fees Paid	<input checked="" type="checkbox"/>		Fees Must be Paid at time of making application.

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

In accordance with KRS100.213 before any map amendment is granted, the planning commission or legislative body or fiscal court must find that the map amendment is in agreement with the adopted Comprehensive Plan, or, in the absence of such a finding, that one (1) or more of the following apply and such finding shall be recorded in the minutes and records of the planning commission or fiscal court:

(It is the applicant's responsibility to determine the finding of fact and state specific reasons to justify the requested change.)

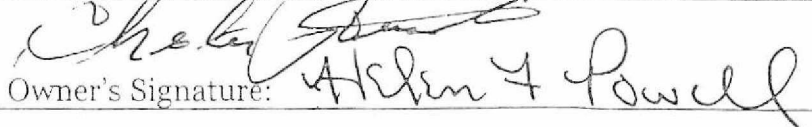
a) The proposed land use map amendment is in agreement with the adopted comprehensive plan for the following reasons:

b) That the existing zoning classification give to the property is inappropriate and the proposed zoning classification is appropriate for the following reasons: *The property has been and currently is used as an Automobile salvage business, which use is permitted conditionally under a UC-5 zoning classification. This property was originally zoned by City of Bell as single family residential. When zoning was turned over to Madison County, the existing zoning was accepted without review, although property was being used as an Auto salvage business.*

c) There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and which have substantially altered the basic character of such area based upon the following reasons:

**Please attach additional pages if more space is needed...**

**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 the owner of this property, since 01/1990 (mo/year).

Date: <u>12/27/07</u>	Owner's Signature: 
-----------------------	---

## Chester Powell

1. ✓ Robert Oliver  
Somit Oliver  
P.O. Box 226  
Berea, KY 40403
2. ✓ Robert Oliver  
Somit Oliver  
Route 1 Paint Lick Road  
Berea, KY 40403
3. Emanuel Baptist  
1456 Paint Lick Road  
Berea, KY 40403
4. ✓ Kentucky District Council of the Assemblies of God, Inc.  
P.O. Box 98  
Crestwood, KY 40014
5. Kentucky District Council of the Assemblies of God, Inc.  
Highway 21  
Berea, KY 40403
6. Kenneth Wittamore  
Route 1 Paint Lick Road  
Berea, KY 40403
7. Curry Farms FLP, LTD  
235 Moran Mill Road  
Richmond, KY 40475
8. Johnny Lee Todd  
104 Lilac Drive  
Berea, KY 40403
9. Margaret Davis  
Bobby K Davis  
120 Pine Valley Drive  
Berea, KY 40403

the Garla Johnson tract property line North 55 degrees 30 minutes East a distance of 250 feet to a pin; thence with the Garla Johnson tract property line South 34 degrees 30 minutes East a distance of 124.75 feet to a pin; thence with the Garla Johnson tract property line North 55 degrees 30 minutes East a distance of 50 feet to a pin; Thence with the Garla Johnson tract property line South 34 degrees 30 minutes East a distance of 460.14 feet to a pin, set in the northern R/W of Ky. 21; thence with the northern R/W of Ky. 21 North 49 degrees 56 minutes 49 seconds East a distance of 100.20 feet to the point of beginning; CONTAINS 11.479 ACRES more or less. This tract of land subject to all right-of-ways & easements whether shown or not; this description prepared from a physical survey conducted by Gary W. Holman Ky. L.S. 1837 on 3-14-89.

And being the same property conveyed to Garla E. Johnson and Linda Johnson, husband and wife, from Glenn Jennings, Executor of the estate of Geneva Jennings, by deed dated December 1, 1988, and recorded in Deed Book 396, page 143, in the office of the Madison County Court Clerk.

TRACT 2:

A certain tract of land located on the north side of Ky. HWY 21 approximately one mile southwest of Berea, in Madison County, Kentucky, and being bounded by survey made November 24, 1981, by Charles E. Black, a licensed land surveyor (L.S. 670) and further described as follows:

Beginning at a steel pin in the north right of way line of KY HWY 21 and common corner to Emmanuel Baptist Church; thence leaving said right of way line with the line of Emmanuel Baptist Church, 2 calls, N 34° 30' 00" W 410.00 feet to a steel pin; thence S 55° 30' 00" W and passing at 247.59 feet to steel pin (by others), in all 250.00 feet to a steel pin and new corner to Mrs. Geneva L. Jennings; thence leaving new line of Emmanuel Baptist Church with new lines dividing the lands of Jennings, 5 calls, N 34° 30' 00" W 174.25 feet to a steel pin; thence N 55° 30' 00" E 250.00 feet to a steel pin; thence S 34° 30' 00" E 124.25 feet to a steel pin; thence N 55° 30' 00" E 50.00 feet to a steel pin; thence S 34° 30' 00" E 460.14 feet to a steel pin in the north right of way line of KY HWY 21; thence leaving the new lines of Jennings with said right of way line S 55° 39' 38" W 50.00 feet to the point of beginning and containing 1.53 acres. See also Plat recorded in Plat Book 8 at page 260.

And being the same property conveyed to Garla E. Johnson and Linda Johnson, spouses, from Robert Oliver and Somjit Oliver, spouses, by deed dated December 19, 1988, and recorded in Deed Book 396 at page 346, in the Madison County Court Clerk's Office.

WITNESS the signatures of the first parties, on this 24<sup>th</sup>  
day of January, 1990.

Garla E. Johnson  
Garla E. Johnson

Linda Johnson  
Linda Johnson

STATE OF KENTUCKY  
COUNTY OF MADISON

I, a Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed was this day produced before me and signed and acknowledged by Garla E. Johnson and Linda Johnson, husband and wife, to be their act and deed in due form of law, and the same with this certificate is duly certified to the proper office for record.

Given under my hand and seal of office, on the 24<sup>th</sup> day of January, 1990.

Sandra A. Bolin  
Notary Public

My commission expires: 12/23/91

I hereby certify that the foregoing instrument was drafted by:

COY, GILBERT & GILBERT  
212 North Second Street  
Richmond, Kentucky 40475  
(606) 623-3877

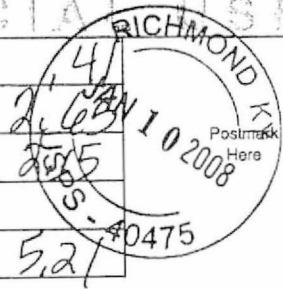
By: Sandra A. Bolin  
Sandra A. Bolin

Recorded in the 24 day of Jan 1990  
at the County Clerk's Office  
by Mary M. Young

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KY District Council of the Assemblies of God, Inc.  
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 Berea, KY 40403



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4047501560

KY District Council of the Assemblies of God, Inc.  
 Highway 21  
 Berea, KY 40403

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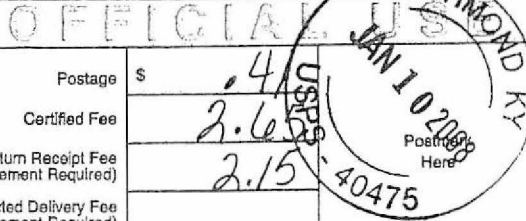
KY District Council of the Assemblies of God, Inc.  
 PO Box 98  
 Crestwood, KY 40014

2. Article Number

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KY District Council of the Assemblies of God, Inc.  
 PO Box 98  
 Crestwood, KY 40014

PS Form 3800, June 2002

See Reverse for Instructions

- Agent  
 Addressee  
 Date of Delivery: 1/10/08  
 Yes  
 No

Merchandise

- Yes

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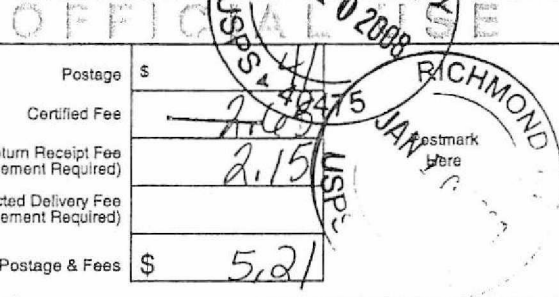
Curry Farms FLP, LTD  
 235 Moran Mill road  
 Richmond, KY 40475

2. Article Number

(Transfer from service label)

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<b>Total Postage &amp; Fees</b>	<b>\$ 5.21</b>

Sent To: Curry Farms FLP, LTD  
 Street, Apt or PO Box: 235 Moran Mill road  
 City, State: Richmond, KY 40475

PS Form 3800, August 2006

See Reverse for Instructions

**DELIVERY**

- Agent  
 Addressee  
 C. Date of Delivery: 1/14/08  
 Item 1?  Yes  
 How?  No

Mail Receipt for Merchandise

- Yes

**SENDER: COMPLETE**

- Complete item 4 if Restricted
- Print your name so that we can contact you
- Attach this receipt or on the front of the envelope

1. Article Address

Ralph  
PO Box  
Berea

2. Article Number  
(Transfer from)

7007 1490 0002 7778 2195

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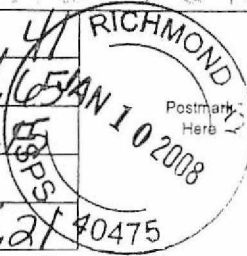
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Ralph & Somiit Oliver  
 PO Box 226  
 Berea, KY 40403



**DELIVERY**

Agent  
 Addressee  
 C. Date of Delivery  
 JAN 10 2008  
 Signature  
 No

USPS

Mail receipt for Merchandise  
 Yes

**SENDER: COMPLETE**

- Complete item 4 if Restricted
- Print your name so that we can contact you
- Attach this receipt or on the front of the envelope

1. Article Address

Ralph &  
Route 1  
Berea, KY

2. Article Number  
(Transfer from)

9006 0810 0006 6546 6795

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Restricted Delivery Fee (Endorsement Required)		
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Ralph & Somiit Oliver  
 Route 1 Paint Lick Road  
 Berea, KY 40403



**DELIVERY**

Agent  
 Addressee  
 C. Date of Delivery  
 JAN 10 2008  
 Signature  
 No

USPS

Mail receipt for Merchandise  
 Yes





## *Madison County Planning & Development*

Building Inspections                      321 N. Madison Ave.                      GIS Mapping  
Code Enforcement                              Suite B                              Floodplain Management  
Land-Use Regulations                      Richmond, KY 40475                      911 Addressing

www.madisoncountky.us

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

FROM:                      Duane S. Curry, Planning Administrator

DATE:                      January 23, 2008

RE:                      Planning Commission Recommendation  
                                 Chester & Helen Powell Property, 1452 & 1454 Highway 21W, Berea

The Madison County Planning Commission held a Public Hearing on January 22, 2008 at 6:00pm for the purpose of reviewing an application for an amendment to the Land Use Management Map.

Chester Powell Property, located at 1452 and 1454 Highway 21 West, proposed to change 14.98 acres +/- from its original classification of UC-1 (Single Family Residential) to UC-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 due to the fact the property was being used as an auto salvage yard before zoning was adopted and is still being used as such. The Light Industrial Use is a more appropriate Land Use Designation.

Upon hearing testimony and the findings of fact presented by the applicant, the Madison County Planning Commission recommends the request for land use change be

**APPROVED:**

Motion was made, seconded and approved to recommend to the Fiscal Court that the request to change the land use from UC-1 (Single Family Residential) to UC-5 (Light Industrial), for the above property, be approved and have made it a finding of fact that;

- 1) The existing land use designation is not appropriate and the proposed is appropriate based upon the following;
  - a) The area along Highway 21 is already industrialized with other industrial uses such as auto salvage yards and Allen Company plant area;
  - b) The property has been and is still being used as an industrial use;
  - c) The property currently joins other property currently classified as UC-4 General Commercial.

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.