

ORDINANCE NO. 08-13

AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY APPROVING THE ZONE CHANGE OF DENNIS MCKINNEY PROPERTY AT 3296 HWY 1016 FOR 1.66 ACRES 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, September 16, 2008 and voted to **DENY** the zone change based on the fact that it is not in keeping with the Comprehensive Plan. This property recently had a minor subdivision plat approved to create 3 new residential lots of which two new single family dwellings have been constructed within the past 12 months, and it is clear the best use for the property is residential and the proposed General Commercial Land Use designation is not appropriate.

WHEREAS, Madison County Fiscal Court heard testimony and voted to deny the Planning Commission's recommendation. The following findings of fact were made by the Fiscal Court to approve the Land Use Map Change request with conditions:

The findings of first that the major changes of a social, economic nature have taken place in the Highway 1016 area due to the new bypass, other properties being re-classified in the area to UC-4 and UC-5.

A vote to approve the land use change request from UC-7 Agriculture to UC-4 General Commercial with the following zoning conditions as allowed by KRS 100.3681:

- 1) The property can only be used as an indoor flea market only and be permitted to open only on Friday's and Saturday's.
- 2) A septic system shall be installed to provide public restrooms inside the building.
- 3) The parking area shall be paved.
- 4) A development plan must be approved by the Madison County Planning Commission.
- 5) A Certificate of Land Use Restriction shall be recorded.

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 Agriculture to UC-4 General Commercial classification:

SECTION I

A certain tract of land located in Madison County KY, and further described as follows:

Being all of Tract 2A (1.09 acres) as shown on Plat recorded in Plat Cabinet 24, Slide 199 in the Madison County Clerk's office, reference to which is hereby made for a more particular description.

BEING A PART OF the same property conveyed to Walker Broughton, a married man, by Deed dated July 25, 2007 and recorded in Deed Book 624, page 392 in the Madison County Court 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: October 7, 2008

MOTION BY: Larry Combs

SECONDED BY: Harold K. Botner

VOTE: YES NO

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

DATE OF SECOND READING: October 28, 2008

MOTION BY: Larry Combs

SECONDED BY: Harold K. Botner

VOTE: YES NO

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

[Signature]
MADISON COUNTY JUDGE EXECUTIVE

Attest:
[Signature]
MADISON COUNTY CLERK

**MADISON COUNTY
CERTIFICATION OF LAND USE RESTRICTION**

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Dennis McKinney
3296 Highway 1016
Berea, KY 40403

2. ADDRESS OF PROPERTY

3296 Highway 1016, Berea, KY 40403

3. NAME OF SUBDIVISION/DEVELOPMENT

4. TYPE OF RESTRICTION(S) (Check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Zoning Map Amendment
to Zone | <input type="checkbox"/> Conditional Use Permit |
| <input type="checkbox"/> Development Plan | <input type="checkbox"/> Other
specify |
| <input type="checkbox"/> Unrecorded Subdivision Plat | |
| <input type="checkbox"/> Variance | |

Conditional Zoning Condition

COMMENTS:

- 1) The property can only be used as an indoor flea market only and be permitted to open only on Friday's and Saturday's.
- 2) A septic system shall be installed to provide public restrooms inside the building.
- 3) The parking area shall be paved.
- 4) A development plan must be approved by the Madison County Planning Commission.
- 5) A Certificate of Land Use Restriction shall be recorded.

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

Madison County Planning & Development
321 North Madison Avenue
Richmond, Kentucky 40475

6. DATE : October 28, 2008

Prepared by:

Marc Robbins
Attorney at Law
214 N. Third Street
Richmond, Kentucky 40475
859-623-4595

Signature of Completing Official

Duane S. Curry, Administrative Official
Name and Title of Completing Official

Application for Land Use Map Amendment
Madison County, Kentucky

Date: <u>7-20-2008</u>	Application Number		
Property Owner's Name(s): <u>Dennis & Regina McKinney</u>			
Property Owner's Address: <u>3296 Hwy 1016</u>			
City/State: <u>Berea, Ky</u>			
Zip Code: <u>40403</u>		Phone No. <u>(859) 985-9266</u>	
Address of Property Requesting Change: <u>3258 Hwy 1016 Berea, Ky 40408</u>			
Lot Number: <u>Tract 2A</u>		Subdivision Name:	
Existing Zoning: <u>residential</u>		Requested Zoning: <u>Business/Commercial UC-4</u>	
Total Acreage: <u>1.66</u>		Deed Book/Page Number: <u>D.B 629 Pg. 771</u>	
Surrounding Property Use/ Zoning Information			
Direction	Land Use	Zoning Classification	
<u>East</u>	<u>Residential</u>	<u>UC-1</u>	
<u>West</u>	<u>Residential</u>	<u>UC-1</u>	
<u>North</u>	<u>Residential</u>	<u>UC-1</u>	
<u>South</u>	<u>Residential</u>	<u>..</u>	
Urban Services Provided	Yes	No	Services Provided By
Sewage		<input checked="" type="checkbox"/>	<u>SEPTIC ONLY</u>
Garbage Disposal	<input checked="" type="checkbox"/>		
Water		<input checked="" type="checkbox"/>	
Police Protection	<input checked="" type="checkbox"/>		
Fire Protection	<input checked="" type="checkbox"/>		<u>4 INCH Water Line</u>
Gas		<input checked="" type="checkbox"/>	
Electric	<input checked="" type="checkbox"/>		
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.)

<p>The proposed land use map amendment is in agreement with the adopted comprehensive plan for the following reasons:</p> <p><i>The garage on this property was used in the past as a detail shop to clean automobiles and also used as an office for a car lot.</i></p>	
<p>b) That the existing zoning classification give to the property is inappropriate and the proposed zoning classification is appropriate for the following reasons:</p> <p><i>Hwy 1014 has other business in the general location of this property. Cutting Edge Tool Works, Living Water Thrift Store, The Fruit Market, Pigs Feet Hall, Bova Driving Range, Bova Wooden Center, Sandi's Auto Body, A+R pit stop</i></p>	
<p>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:</p> <p><i>Approximately 15 Business located on Hwy 1016 of which Half are located in the county.</i></p>	
<p style="text-align: center;"><u>Please attach additional pages if more space is needed...</u></p>	
<p>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 _____ (mo/year).</p>	
<p>Date: <i>7-20-08</i></p>	<p>Owner's Signature: <i>Darin McKing</i></p>

Market, and some Heating & Air

Application for Land Use Map Amendment
Madison County, Kentucky

This Section For Official Use Only

Date of Hearing: 9/16/08				
Motion made by Farmer to Deny				
Due to recent minor Plat of the property to create 3 new Residential Tracts and the recent construction of 2 New single family Dwellings within the past 12 months makes the current zoning appropriate.				
Motion Second by Paula Maionchi				
Vote: Yes 4 No 2 Abstain				
Reasons for NO votes:				
NO REASON STATED				
Wanda Pennington & Chandler Combs voted NO - NO REASON STATED				
Gary Auet was Absent.				
Fiscal Court Decision				
Upheld PC Decision		Over-turned PC Decision		Order/Ord. #
<u>Yes</u>	No	Yes	No	
Comments:				

William + Peggy Woods
1277 Blue Lick Rd.
Berea, KY 40403

Mason Alexander
304 Wilson Ln.
Berea

Dennis McKinney
314 Wilson Ln. / 3288 1016 / 3296 1016
Berea

Johnnie Smith
320 Wilson Ln.
Berea

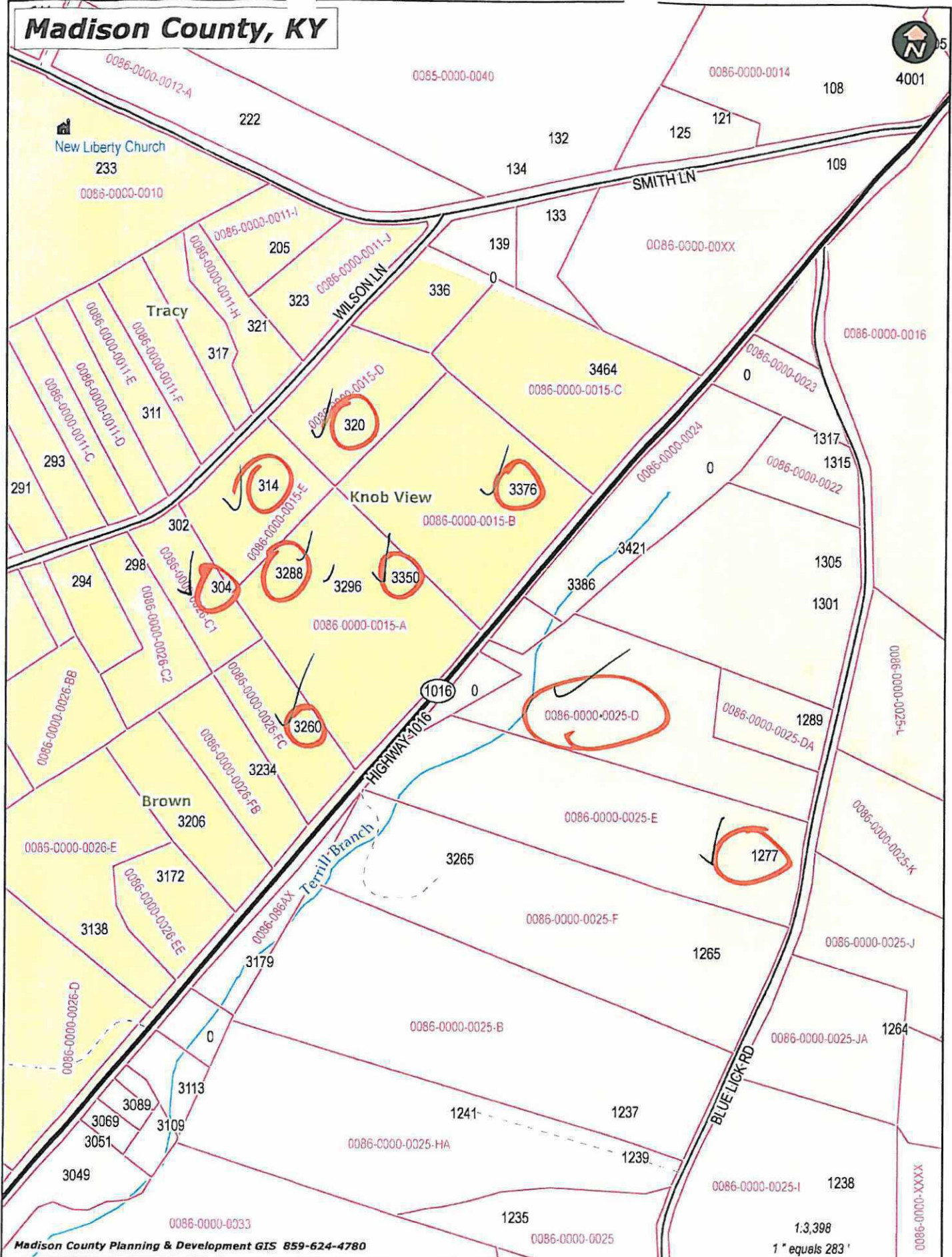
Blake Shepherd
3350 Hwy. 1016
Berea

Rick Mullins
3376 Hwy. 1016
Berea

Aaron Griffith
3260 Hwy 1016
Berea

Sean Kingery
1289 Blue Lick Rd.
Berea

Madison County, KY



New Liberty Church
233

Tracy

Knob View

Brown

Terrill Branch

SMITH LN

WILSON LN

HIGHWAY 1016

BLUE LICK RD