

ORDINANCE NO. 11-14

**AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY APPROVING THE ZONE CHANGE OF JAMES TYREE, 3186 BATTLEFIELD MEMORIAL HIGHWAY, FOR 5.89 +- 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 13, 2011 to consider a Land Use Change Request Application from C-7 Agricultural to C-4 General Commercial. The applicant's request stated their justification for the proposed change is that the proposed change is in agreement with the adopted Comprehensive Plan because it lies within the Kingston Community designation as well as on a Rural Corridor, both of which the Comprehensive Plan identifies as areas where growth is encouraged and anticipated;

The comprehensive plan encourages development in the communities; and therefore feels the recommendation to the Fiscal Court should be to approve the proposed change from C-7 Agricultural to C-4 General Commercial.

**WHEREAS**, the Madison County Planning Commission upon hearing testimony made a motion with majority vote to recommend to the Madison County Fiscal Court to DENY the Land Use change request from C-7 Agricultural to C-4 General Commercial making a finding of fact that The original land use classification for the property was appropriate and that the proposed land use classification was not in agreement with the adopted Comprehensive Plan;

- a) It is not in the vision goals or strategies of the Comprehensive Plan or it's implementing regulations – the Land Use Regulations or the Subdivision Regulations;
- b) The proposal is developmental sprawl, spot zoning, detrimental to residential development, it is not in keeping with smart growth principles that has already been demonstrated in the Kingston Community; it is not adjacent to existing commercial property, there is no demonstrated need at this time for putting commercial property in the periphery of Kingston; Highway 421 is a narrow, 2-lane highway without shoulders and no sidewalks carrying high speed traffic; Highway 421 is identified in the Comprehensive Plan as a safety deficiency road and is in the state's 6-year plan for correction; a safety issue lies in front of Mr. Tyree's property and is identified specifically in the state plan that 421 /3376 also known as Dreyfus Road; the land is in an inundation zone of the Hays Fork Creek and the 100-year floodplain.

Vote was 3 yes to deny the proposed land use change request, 2-No and 1-member absent and 1 member absent.

**WHEREAS**, the Madison County Fiscal Court upon hearing testimony made a motion to approve the proposed land use change request and made a finding of fact that based upon the testimony and evidence presented by the applicant and his representative that the proposed land use change request is in agreement with the adopted Comprehensive Plan because the property lies within the Rural Community designation of Kingston Community which the Comprehensive Plan specifically encourages development to take place and to help revitalize the communities. Based upon the evidence presented by the applicant motion was made supporting the findings of fact presented by the applicant to justify the proposed change.

**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 C-7 Agricultural to C-4 General Commercial classification:

### **SECTION I**

A certain tract of land containing 5.89 acres, more or less, lying on the west side of Highway 421 in Madison County, Kentucky, and being known as Tract #1 as shown on a plat of record in Plat Cabinet 15, Slide 223, Madison County Clerk's Office, to which reference is hereby made for a more particular description; and the improvements thereon being known and designated as 460 Kingston Big Hill Road, Berea, Kentucky.

Being the same property conveyed to Susie L. Babb, by deed dated March 18, 1998, from Frankie Carpenter, a single person, and recorded in Deed Book 487 at Page 209, 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: November 9, 2011

Motion By: Greg King

Second By: Roger Barger

VOTE: YES NO

Judge, Kent Clark

Magistrate Larry Combs

Magistrate Roger Barger

Magistrate Greg King

Magistrate Billy Ray Hughes

✓  
✓  
✓

NO  
✓  
✓

Date of Second Reading: November 22, 2011

Motion By: Greg King

Second By: Billy Ray Hughes

Vote: YES NO

Judge, Kent Clark

Magistrate Larry Combs

Magistrate Roger Barger

Magistrate Greg King

Magistrate Billy Ray Hughes

✓  
✓  
✓

NO  
✓  
✓

Kent Clark  
Madison County Judge Executive

Attest;

Larry Combs  
MADISON COUNTY CLERK

## ORDER

### AN ORDER OF MADISON COUNTY, KENTUCKY DENYING THE LAND USE CHANGE REQUEST SUBMITTED BY JAMES TYREE TO THE MADISON COUNTY PLANNING COMMISSION ON SEPTEMBER 06, 2011.

**WHEREAS**, an application to change the land use classification from C-7 Agricultural to C-4 General Commercial was presented to the Planning commission on September 06, 2011 for the property located at 3186 Battlefield Memorial Highway, Berea, KY and the Planning Commission having recommended by vote of 3 yes, 2 no, 1 abstain and 1 member absent that the change be denied. The Commission presents the following finds of fact:

Motion was made by Paula Maionchi and seconded by David Bohannon to request to the Fiscal Court that the request to change the land use from C-7 Agricultural to C-4 General Commercial, for the above property, be denied and have made it a finding of fact that;

- 1) The land use change request is not in agreement with the adopted Comprehensive Plan in that;
  - a) The Comprehensive Plan and Land Use Regulations are the minimum standards to promote and protect the health, safety, general welfare, visual and historic character of Madison County and guide harmonious development of the community ;
  - b) The requested change is not in the vision and goals outlined in the Comprehensive Plan because it contributes to community sprawl and constitutes spot zoning because the property is not adjacent to other commercial property;
  - c) Developing this property as commercial would be detrimental to the residential development in the area;
  - d) It is not in keeping with the smart growth principles already being demonstrated in the Kingston community
  - e) There are several other commercial spaces for rent in the Kingston area and there has been no demonstration of the need for additional commercial property in the Kingston area;
  - f) Highway is listed by the Kentucky Transportation Cabinet as a "Safety System Deficiency Road" and is listed in the state's 6-year plan of correction;
  - g) A safety issue exists in front of Tyree's property at the intersection of Dreyfus Road based upon testimony from Tyree that traffic runs into his front yard from Dreyfus Road;
  - h) The land lies within floodplain area and is an inundation zone of Hayes Fork Creek and listed in the 100 year floodplain area.

Call for vote on the motion was taken with results being a majority to request the Land Use Change Request be denied. Vote taken was as follows:

David Bohannon – Yes

Robert McKinney – No

Paula Maionchi – Yes

Robert Farmer – Yes

Shannon Pennington – Abstain

Alan Hatfield – Absent

Motion carried to deny the Land Use Change Request.

**NOW, THEREFORE BE IT RESOLVED** by the Madison County Fiscal court that the recommended denial of the land-use change requested by James Tyree. at the Madison County Planning Commission be accepted, and the land use change application on the property located at 3186 Battlefield Memorial Highway, Berea, KY, recorded on deed book 583 page 730, be denied.

DATE ADOPTED:  
MOTION BY:  
SECONDED BY:

VOTE:

YES

NO

County Judge Executive, Kent Clark  
Magistrate Larry Combs  
Magistrate Roger Barger  
Magistrate Greg King  
Magistrate Billy Ray Hughes

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Madison County Judge Executive

Attest:

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Madison County Clerk

SUPPLEMENTAL  
**APPLICATION FOR LAND USE MAP AMENDMENT**  
 OFFICE OF PLANNING AND CODE ENFORCEMENT, MADISON COUNTY, KY

**APPLICANT INFORMATION**

Property Owner's Name James and Kathleen Tyree Date July 29, 2011  
 Owner's Street Address 3186 Battlefield Memorial Highway Apartment/Unit #  
 City Berea State Kentucky ZIP 40403  
 Phone 859 228-0322 E-mail Address maytags24u@aol.com

**Address of Property  
 Requesting Zone Change**

Lot Number: Subdivision Name: Total Acres: 5.89  
 Existing Zoning Classification Agriculture C-7  
 Proposed Zoning Classification General Commercial C-4  
 Date Applicant Purchased Property December 13, 2004 Deed Book / Page Number DB 583; Pg. 730

**SURROUNDING PROPERTY USE / ZONING INFORMATION**

DIRECTION	CURRENT LAND USE	CURRENT ZONING CLASSIFICATION
EAST	Residential and Agriculture	R-1 and UC-7
WEST	Business/Commercial	C-7
NORTH	Residential, Agriculture, Commercial	C-7
SOUTH	Single Family Residential	RC-1

**URBAN SERVICES**

SERVICES PROVIDED	YES	NO	SERVICES PROVIDED BY
SEWAGE		X	
GARBAGE DISPOSAL	X		Rumpke of Kentucky
WATER	X		Madison County Utilities
POLICE PROTECTION	X		Kentucky State Police/Madison Co. Sheriff
FIRE PROTECTION	X		Madison County Fire Department
GAS	X		Delta Natural Gas
ELECTRIC	X		Bluegrass Energy
STORM SEWERS		X	
MUNICIPAL SEWERS		X	

**FINDINGS OF FACT, KRS 100.213**

In accordance with KRS 100.213 before any map amendment is granted, the planning commission or legislative body or fiscal court must find the proposed 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 and present evidence to support the specific findings of fact.**

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

See Attached

- b) The existing zoning classification given to the property is inappropriate and the proposed zoning classification is appropriate for the following reasons:

- 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 12/84 (mo. / year)

DATE

Owner's Signature:

*James Tyree*  
*James Tyree*

**ADDITIONAL INFORMATION REQUIRED**

The following items are required to be provided by the applicant before the application can be considered for placement on the Planning Commission Agenda:

Applicant's Attorney's Name: Walter G. Ecton, Jr.

*Walter G. Ecton, Jr.*

Attorney's Address 127 South Third Street, Richmond, Kentucky 40475 (859) 624-2252

ITEM	YES	NO	COMMENTS
DEED FOR THE PROPERTY	X		DEED MUST REFLECT ACTUAL ACRES TO BE RE-ZONED
VICINITY MAP	X		MAP MUST ACCURATELY DESCRIBE LOCATION OF PROPERTY
LIST OF ADJOINING PROPERTY OWNERS NAMES/ADDRESSES PER PVA	X		NAMES AND ADDRESSES MUST BE COMPLETE AND PER THE PVA RECORDS FOR ACCURACY
COMPLETED APPLICATION	X		APPLICATION MUST BE COMPLETED ENTIRELY AND SIGNED BY THE PROPERTY OWNER
APPLICATION FEES PAID	X		ALL ASSOCIATED FEES SHALL BE PAID IN FULL AT THE TIME OF MAKING APPLICATION

After recording please return to:  
COY, GILBERT & GILBERT

MADISON COUNTY  
D583 PG 730

## DEED

This deed of conveyance by and between **SUSIE L. BABB, a single woman**, of 1015 Crooksville Road, Richmond, Madison County, Kentucky, 40475, party of the first part, and **JAMES G. TYREE, JR. and KATHLEEN F. TYREE, husband and wife**, of 460 Kingston Big Holl Road, Berea, Madison County, Kentucky, 40403, parties of the second part,

WITNESSETH: That the first party, for and in consideration of the sum of ONE HUNDRED NINETY THOUSAND and NO/100 DOLLARS (\$190,000.00), pursuant to Land Contract dated March 25, 2004, of record in Miscellaneous Book MC183 at page 70, the receipt of which is hereby acknowledged, does hereby **BARGAIN, SELL, GRANT and CONVEY** unto the parties of the second part, for their joint lives with remainder in fee simple to the survivor thereof, his or her heirs and assigns, the following described property, located in Madison County, Kentucky, to-wit:

A certain tract of land **containing 5.89 acres, more or less**, lying on the west side of Highway 421 in Madison County, Kentucky, and being known as Tract #1 as shown on a plat of record in Plat Cabinet 15, Slide 223, Madison County Clerk's Office, to which reference is hereby made for a more particular description; and the improvements thereon being known and designated as **460 Kingston Big Hill Road, Berea, Kentucky**.

AND BEING THE SAME property conveyed to Susie L. Babb, by deed dated March 18, 1998, from Frankie Carpenter, a single person, and recorded in Deed Book 487 at page 209, in the office of the Madison County Clerk, Richmond, Kentucky.

Possession to said property shall be given upon delivery of deed.

**TO HAVE AND TO HOLD** the same, together with all appurtenances thereunto belonging unto the parties of the second part, for their joint lives with remainder in fee simple to the survivor thereof, his or her heirs and assigns forever.

Said party of the first part does hereby release and relinquish unto the said parties of the second part, their heirs and assigns, all of her right, title and interest in and to the above-described property, including homestead and all exemptions allowed by law, and hereby covenants to and with the said parties of the second part, their heirs and assigns, that she is lawfully seized in fee simple to said property and has good right to convey the same as herein done, and that said property is free and clear of all encumbrances of whatever nature and that she will **WARRANT GENERALLY** the title to said property.

Provided, however, there is excepted from the foregoing warranty and covenants, the following:

1. Any restrictive covenants of record in the Madison County Clerk's Office.
2. All conditions and/or restrictions, if any, affecting the property herein conveyed and contained on any plat of record in the aforesaid Clerk's Office.
3. Zoning and building restrictions, regulations and ordinances, if any.
4. Easements and rights-of-way of whatever nature and kind reserved and recorded in the aforesaid Clerk's Office.

**CONSIDERATION CERTIFICATE:** We, the undersigned, hereby certify that the consideration reflected in this deed is the full consideration paid for the property. The second parties join in this instrument for the sole purpose of certifying the consideration paid.

WITNESS the signatures of the parties, on this 13<sup>th</sup> day of December, 2004.

FIRST PARTY:

SECOND PARTIES:

Susie L. Babb  
SUSIE L. BABB

James G. Tyree, Jr.  
JAMES G. TYREE, JR.

Kathleen F. Tyree  
KATHLEEN F. TYREE

STATE OF KENTUCKY

COUNTY OF MADISON

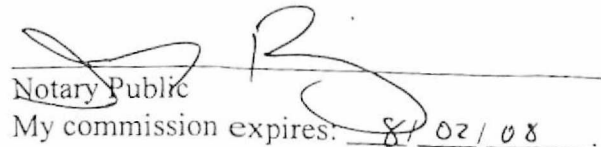
The foregoing Deed and Consideration Certificate was acknowledged and sworn before me by **SUSIE L. BABB, a single woman**, party of the first part, this the 13<sup>th</sup> day of December, 2004.

[Signature]  
Notary Public  
My commission expires: 8/02/08

STATE OF KENTUCKY

COUNTY OF MADISON

The foregoing Consideration Certificate was acknowledged and sworn before me by **JAMES G. TYREE, JR. and KATHLEEN F. TYREE, husband and wife**, parties of the second part, this 13<sup>th</sup> day of December, 2004.

  
Notary Public

My commission expires: 8/02/08

**Prepared by and after recording return to:**


COY, GILBERT & GILBERT

212 North Second Street

P.O. Box 1178

Richmond, Kentucky 40476-1178

(859) 623-3877

  
Mark A. Shepherd

DOCUMENT NO: 337593  
RECORDED ON: DECEMBER 22, 2004 10:07:24AM  
TOTAL FEES: \$12.00  
TRANSFER TAX: \$190.00  
COUNTY CLERK: WILLIAM E GABBARD  
COUNTY: MADISON COUNTY  
DEPUTY CLERK: JESSICA N CONNER  
BOOK D583 PAGES 730 - 732

**FINDINGS OF FACT AND  
RECOMMENDATION OF ZONING CHANGE**

received  
8/11/11

The Madison County Planning Commission held a public hearing on August 16, 2011, at 6:00 p.m. at the Fiscal Courtroom, Madison County Courthouse.

Walter G. Ecton Jr., as their counsel, presented James and Kathleen Tyree's application for a zone change for 3186 Battlefield Memorial Highway, Berea, Madison County, Kentucky from C-7 to C-4. From the presentation, the Commission makes the following Findings of Fact and Recommendations:

FINDINGS RE: OWNERSHIP / CURRENT LAND USE

- \_\_\_\_\_ The application for the zoning change was signed by all owners of the subject property.
- \_\_\_\_\_ The existing zoning is C-7 and the requested zoning is C-4. The property is currently used for agricultural and residential purposes.
- \_\_\_\_\_ The land surrounding the aforementioned property is zoned UC-7, RC-6, C-7, R-1 and RC-1 and is used for business and general commercial, education, single-family housing and agricultural.

FINDINGS RE: PUBLISHED NOTICE

- \_\_\_\_\_ A Notice of the hearing before the planning commission was published in *The Richmond Register* on August 8, 2011, as established by the Affidavit of the publisher with a copy of notice attached.
- \_\_\_\_\_ The notice of the hearing was published in *The Richmond Register* more than 7 days but less than 21 days before the hearing date.
- \_\_\_\_\_ The Notice included (i) street address of property in question or, if none, (ii) a geographic description of property sufficient to locate and identify the property, and the names of 2 streets on either side of the property which intersect the street on which the property is located.

#### FINDINGS RE: POSTING OF NOTICE

- \_\_\_\_\_ A sign giving notice of the hearing was posted conspicuously on the property in question.
- \_\_\_\_\_ The sign was posted 14 consecutive days immediately prior to the hearing.
- \_\_\_\_\_ The sign contains the phrase "Land Use Change," with the proposed classification change in letters 3 inches in height, and shows time, place, and date of hearing in letters at least 1 inch in height.
- \_\_\_\_\_ The sign was constructed of durable material and states the telephone number of Madison County Planning office.

#### FINDINGS RE: MAILING OF NOTICE

- \_\_\_\_\_ The applicant confirmed that the identities and addresses of the owners of every parcel of property adjoining the property in question, as per the records maintained by the Madison County Property Valuation Administrator, and provided to the director for the planning commission.
- \_\_\_\_\_ The Director of the planning commission certified that notice of the hearing before the planning commission was given by him to such owners via first class mail at least 14 days in advance of the hearing.

#### FINDINGS RE: LEGAL JUSTIFICATION

- \_\_\_\_\_ The proposed map amendment is in agreement with the County's Adopted Comprehensive Plan.
- \_\_\_\_\_ The Adopted Comprehensive Plan anticipates and encourages development of small rural Madison County communities like Kingston. The official zoning map identifies Kingston as a designated Rural Community. The boundaries of Kingston as a designated Rural Community are identified on the Zoning Map and the subject property is within those boundaries. The Comprehensive Plan denotes these small rural communities as identified growth centers at pages 146 and 147. The Comprehensive Plan suggests a program to assist the small rural communities in

their revitalization and growth efforts. The Comprehensive Plan recommends that the Madison County Fiscal Court provide "seed" funds or other incentive to focus development of a community revitalization plan (as a pilot project) in one of these small communities and if successful then do the same with other of these small communities. The adopted comprehensive plan singles out Kingston, referencing that "Since the 2005 comprehensive plan one of the vital small communities has undergone a sample of this revitalization. The Kingston community has a new school building and several new residential developments as well as a neighborhood commercial development Center that provides daily convenience items such as clothes, toiletries, groceries, banking needs as well as plans for a medical doctor's office, beauty salon and possibly fast food opportunities. The Land-Use Regulations, too "envision[s] the revitalization of some of these communities to the point of being mini-rural growth centers around which small clusters of development might occur."

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The Comprehensive Plan also recommends growth and development within Rural Development Corridors. The adopted comprehensive plan identifies Highway 421, South as a Rural Development Corridor (RC) with a designation of TC-2. The subject property is on an arterial highway. Highway 421, South is one of four rural development corridors identified in the comprehensive plan as secondary development corridors. The comprehensive plan anticipates development on Highway 421 South. The 421 Rural Corridor is 500 foot in depth. According to the Comprehensive Plan, "The development corridors should be the areas where the growth and development be considered".

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The Adopted Comprehensive Plan recognizes that "the county has continued to encourage all development to occur within either the Urban Corridor or Rural Corridor or the Rural Community designated areas..." The subject property is in both a Rural Corridor and a Rural Community designated area.

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The proposed land use is compatible with the surrounding area. The property is presently zoned C-7 agricultural. This was default zoning when the zoning map was first adopted. The Comprehensive Plan anticipates commercial development of the subject property. Kingston already has a service station, Masonic Lodge, day care, shopping center, doctors office, beauty shop, truck/garage, and until recently a bank.

## RECOMMENDATIONS

Based on the Findings set out above, it is hereby recommended that a zone change from C-7to C-4 be granted, consistent with the Application.

Date: \_\_\_\_\_

\_\_\_\_\_  
Chairman, Madison County Planning  
Commission

## MEMORANDUM

TO: DUANE CURRY  
FR: JUBAL MILLER  
DA: August, 2011  
RE: Planning Commission – conflict of interest issue

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You have requested that I offer an opinion on a an issue that has been raised regarding whether a Planning Commission member should disqualify himself from voting due to an alleged conflict of interest.

### My understanding of facts are as follows:

A matter recently and upcoming before the Commission involves a zone change request for a parcel of land located in the Kingston community. The request is for a change from residential (or agricultural) to a commercial classification that would allow the property owner to open a small restaurant /ice cream shop. Commissioner Shannon Pennington has a close family member or members who own commercial property in the Kingston community, including his mother who has long operated a Shell-Mart in the heart of Kingston. None of the Pennington property is adjacent to the property at issue. Commissioner Pennington does not have a direct ownership interest in any commercial property in Kingston.

### The Law:

KRS 100.171 states that *Any member of the planning commission who has any direct or indirect interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question , and shall not be counted for the purpose of a quorum.*

Generally, when referring to a disqualifying conflict of interest for a public official the “interest must be a specific financial or proprietary interest by which the official would gain or lose something by virtue of his decision – not a mere abstract sympathy or bias. Within the meaning of the statute, a **direct interest** affects the official’s immediate financial or personal status. An **indirect interest** affects the affects the official through a third party, for instance, a close family member. Either interest, if present, would disqualify the official from participation.

Kentucky courts have established the following guidelines for interpreting the conflict of interest proscription in KRS 100.117(1):

1. A Planning and Zoning official may not use his office to further his own personal or financial interests.
2. A direct or indirect Interest in one of the parties or the subject matter before the Commission is disqualifying.
3. A Commissioner’s ownership of land that would be directly enhanced or diminished in value by his decision is disqualifying. Ownership of such land by a close family member would be a disqualifying indirect interest.
4. The purpose of the statute is to prevent the direct or indirect financial enhancement of a Commission member by his actions on the Commission.
5. A mere **speculative interest** which requires the intervention of a series of events over which the Commission member has no control does not give rise to a disqualifying interest. It has

been said that *a statutory conflict requires more than a raised eyebrow; it requires some demonstrable likelihood that a conflict will arise.*

**ANALYSIS AND CONCLUSION:**

The issue then is whether the proposed addition of more commercial property in Kingston directly or indirectly enhances the value of property Commissioner Pennington's family.

In my opinion, any enhancement or diminution in value of such property would be far too speculative to rise to the level of a conflict for the Commissioner. The opening of a restaurant nearby may well enhance or could well diminish the value of the Shell Mart, but only after the intervention of a series of events over which Commissioner Pennington has no control.

I should state that this analysis might be different if the stated purpose of the zone change was to make possible the operation of a Gas Mart that would be in direct competition with the business of Commissioner Pennington's close family member.

MADISON COUNTY HEALTH DEPARTMENT

**We value your opinions.  
Please take our Customer Satisfaction Survey  
located on our website.**

**[www.madisoncountyhealthdept.org](http://www.madisoncountyhealthdept.org)**



214 Boggs Lane  
Richmond, KY  
859-623-7312

1001 Ace Drive  
Berea, KY  
859-986-1027

**CABINET FOR HEALTH SERVICES  
DEPARTMENT FOR PUBLIC HEALTH  
ONSITE SEWAGE DISPOSAL SYSTEM  
CONSTRUCTION APPLICATION AND PERMIT**

12-12-97  
Date

(1) 993548-06A  
Site Evaluation No.

Madison  
County or District Health Department

(2) 97-3548-506  
Permit Number

Name of Applicant: Charles Arvin Name of Owner: Frankie Carpenter / Suzie Bobb

Location/Address of Property: KYAZI

1. Work to be performed by: Homeowner ☐ Certified Installer ☒  
Name Charles Arvin Certification No. 7741

2. New System ☐ Existing System: Alteration ☐ Repair ☐

If new system, draw system layout on back of this sheet showing: All system components; their size, length, or type as applicable; and the system in relation to the property lines and the structure it serves. Note: System must be placed in the area staked off on the property for this purpose. All system or site modifications required for site approval must be included.

If existing system, draw system layout on back of this sheet showing: System as it presently exists, with altered, added, repaired, or replaced components, lateral lines, etc., circled; show their size, length, or type as applicable.

3. Type of System Proposed: 1000 gallon tank  
486' lateral

(If low pressure pipe system, design, and materials worksheets must be submitted with this application.)

**NOTE TO APPLICANT:** This sheet as well as all attachments, or drawings, constitutes the permit to install, alter, or repair an onsite sewage disposal system. Any changes made to the system without the written approval of the above listed health department shall void this permit.

**AFFIDAVIT FOR HOMEOWNER INSTALLED SYSTEM ONLY**

I propose to install my own onsite sewage disposal system in accordance with 902 KAR 10:081, and 902 KAR 10:085, and I fully understand my responsibilities under the applicable Law and Regulations as to the installation of my system. I agree to the terms and restrictions of this permit, and further agree to notify the above listed health department to request inspection of my work at the initial and final stages of installation.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

**FOR DEPARTMENT FOR HEALTH SERVICE USE ONLY**

Not to be filled out by Applicant

Permit Fee	Method of Payment <u>620</u>	<input type="checkbox"/> Approved for Permit -- ACTION CODE P
State Fee: \$ <u>30.00</u>	<input type="checkbox"/> Cash <input checked="" type="checkbox"/> Check	<input type="checkbox"/> Approved with Modifications (shown on drawing)
Local Fee: \$ <u>195.00</u>	<input type="checkbox"/> Money Order	<input type="checkbox"/> Disapproved
Total Fee: \$ <u>225.00</u>		

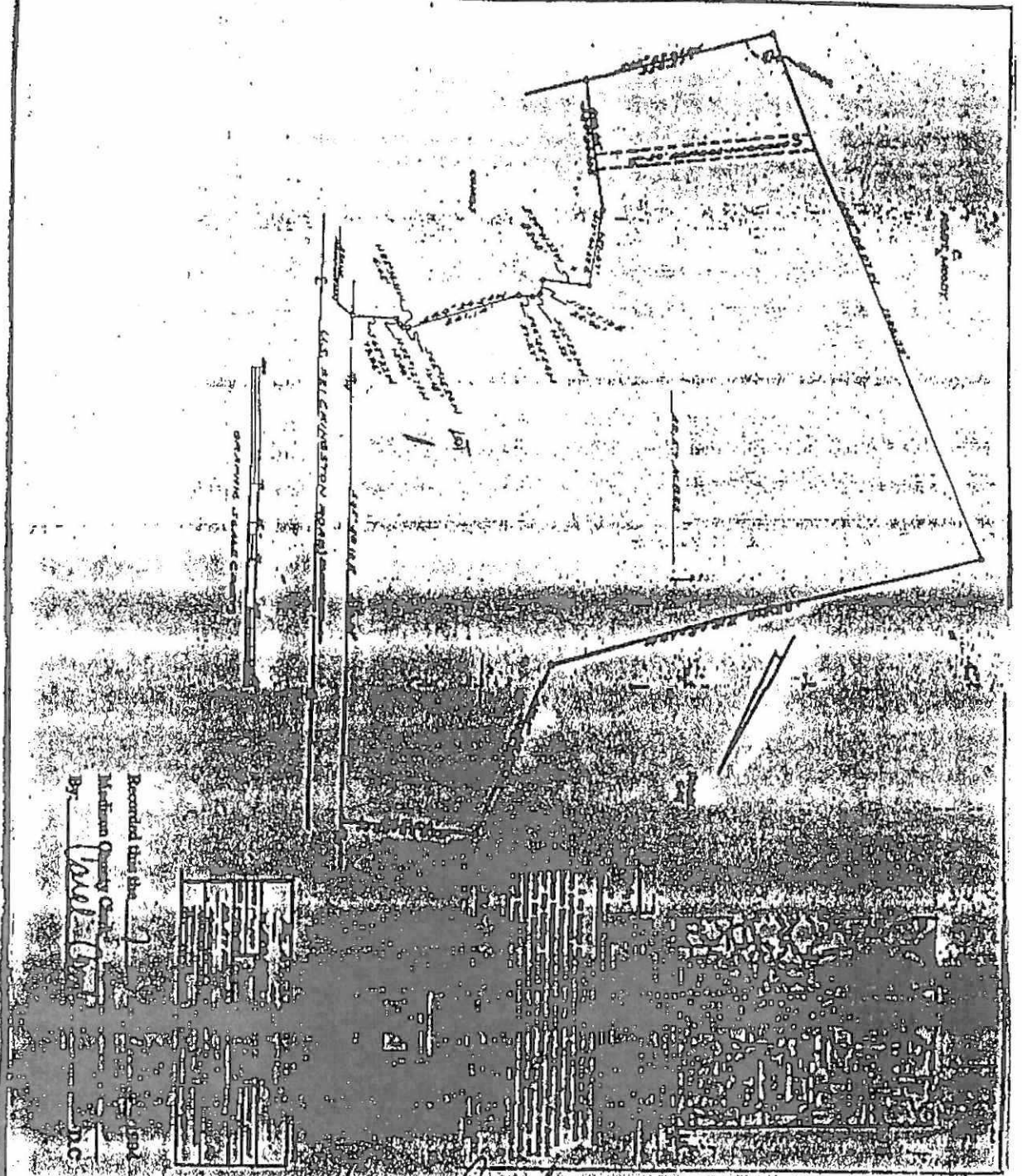
Modifications Required/Reason for Disapproval 24" trench depth

DISCLAIMER: THE MADISON COUNTY HEALTH  
DEPARTMENT AND THE CERTIFIED INSPECTOR DO  
NOT REPRESENT OR WARRANT THE OPERATION OR  
FUNCTIONING OF THIS OR ANY ONSITE SEWAGE  
DISPOSAL SYSTEM FOR ANY PERIOD OF TIME

[Signature]  
Signature

217  
Certification Number

12-12-97  
Date



Recorded this the 7  
Madison County Clerk  
By: Paul J. [Signature]

Recorded this the 4 day of April 1999 BOOK 440 PAGE 698

Madison County Clerk Mary Jane [Signature]

D.G. 398 PAGE [ ]

DFS-319 (Rev. - 4-92)

CABINET FOR HUMAN RESOURCES  
DEPARTMENT FOR HEALTH SERVICES

ONSITE SEWAGE DISPOSAL SYSTEMS APPLICATION FOR SITE EVALUATION

(1) 94-2548-064

Application No.

3-7-94

Date Received

MADISON

County

TO BE COMPLETED BY APPLICANT

Owner's Name (If Different) FRANKIE CARPENTER

Applicant's Name TONY Broughton Present Address 573 McKee Rd

City BeReA State Ky Zip Code 40403 Phone No. 606-986-9113

Location of Property Highway 421

Subdivision \_\_\_\_\_ Lot No. 1 Block No. \_\_\_\_\_

Dimensions of Lot \_\_\_\_\_ Square Footage \_\_\_\_\_ Acreage 1/22

ATTACH TO THIS APPLICATION THE FOLLOWING:

1. Location map to reach the site.
2. Site drawing showing property lines and dimensions of same; location of existing structures; wells, ponds, streams, gullies, swamps, etc.; easements, roads, drives, right-of-ways; if present.
3. Proposed (or existing) location of structure(s) to be served by the system; proposed system location.

1. Copy of Deed

TYPE OF STRUCTURE PROPOSED

Single Family Residence ☒ No. of Bedrooms 2 Garbage Disposal ☐ Yes ☒ No Basement ☐ Yes ☒ No

Commercial ☐ Type of Business \_\_\_\_\_

Public Facility ☐ Type of Facility \_\_\_\_\_

No. of Design Units \_\_\_\_\_ Gallons/Unit/Day \_\_\_\_\_ Total Daily Waste Flow \_\_\_\_\_

For commercial and public facilities refer to Table 1, Section 8. System Sizing Standards  
(Pages 49-52) of 902 KAR 10:085 for design daily waste flow sizing based on type of facility.

☒ I (or my designated agent), \_\_\_\_\_ wish to be present during the site evaluation.

☐ I, \_\_\_\_\_, do not wish to be present during the site evaluation, and waive this right.

TO BE COMPLETED BY LOCAL HEALTH DEPARTMENT

\* Evaluation Fee: \$ 80.00

Paid By: Cash ☐ Check ☒ Money Order ☐

Date for Evaluation: \_\_\_\_\_

Time \_\_\_\_\_ A.M.  
P.M.

NOTE: Backhoe pits may be required for evaluation.

Madison  
County or District Health Department

Barry S. Juba  
Certified Inspector

CABINET FOR HEALTH SERVICES  
DEPARTMENT FOR PUBLIC HEALTHONSITE SEWAGE DISPOSAL SYSTEM  
CONTINUOUS INSTALLATION INSPECTION REPORT

(2) 57-3548-506

Permit No.

Location/Address of Property: 265421 County: MadisonName of Owner: Suzie Babb  
Frankie Carpenter Name of Installer: Charles ArvinPrivate Installation: ☐ Commercial Installation: ☐ Other: \_\_\_\_\_

## Excavation (Service Type - 05)

- |  | YES                      | NO                       |   | YES                      | NO                       |
|--|--------------------------|--------------------------|---|--------------------------|--------------------------|
| 1. Area staked off for system, undisturbed, not regraded.        | <input type="checkbox"/> | <input type="checkbox"/> | 4. System layout complies with design as approved.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. System laid out in this area.                                 | <input type="checkbox"/> | <input type="checkbox"/> | 5. Soil moisture check made by installer before excavation (Group IV Soils Only); and passed (no smearing). | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. System laid out on surface and grades shot before excavation. | <input type="checkbox"/> | <input type="checkbox"/> | 6. Excavation work meets standards for grade, depth, lateral(s) length, spacing, etc.                       | <input type="checkbox"/> | <input type="checkbox"/> |

Deficiencies to be corrected before approval is granted (if any): \_\_\_\_\_

Deficiencies Corrected (if any): Yes ☐ No ☐ Initial Installation Approved Yes ☐ No ☐

Inspected by: \_\_\_\_\_ Certificate Number: \_\_\_\_\_ Date: \_\_\_\_\_

NOTE: If the excavation inspection is waived, installer's affidavit must be attached. ACTION CODE #K

## Installation (Service Type - 01)

- Excavation installation work undisturbed, unaltered Yes ☒ No ☐
- System properly installed as to grade, (to be checked by certified inspector with transit and leveling rod) size, type, length of laterals, curtain drains, other site modifications, etc. Yes ☒ No ☐
- List component code number(s) for:
  - Septic Tanks(s) KY-CLO-6037
  - Aerobic Unit \_\_\_\_\_
  - Dosing Tank/Holding Tank \_\_\_\_\_
  - Alternating Valve \_\_\_\_\_
  - Distribution Box(s) KY-CE-6037
  - Non-Perforated Piping SDR-35
  - Pipe Manufacturer's Name TDA
  - Perforated Lateral Piping F-405
  - Pipe Manufacturer's Name ADS
  - Pump(s) Model No. —
  - Manufacturer's Name \_\_\_\_\_
  - Switches, Controls, Model No's. —
  - Manufacturer's Name: \_\_\_\_\_
  - Other (Describe) —
  - Code or Model No. \_\_\_\_\_
  - Type of trench fill material used: Crushed Limestone ☒ Gravel ☐ Crushed Furnace Slag ☐ Pea Gravel ☐ Sand ☐ Average Diameter of Trench Fill Material 1 1/2 in.
  - Type of trench barrier material used: Straw ☒ Hay ☐ Spun Polyester ☐ Other Synthetic Material ☐ Thickness of barrier material used 2-4 in.

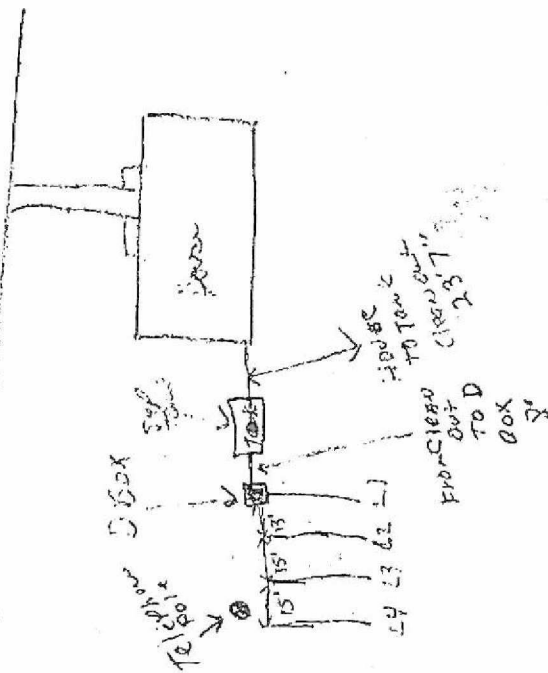
Deficiencies to be corrected before approval is granted (if any): \_\_\_\_\_

Deficiencies Corrected (if any): Yes ☐ No ☐ Final Installation Approved: Yes ☒ (Action Code A) No ☐ (Action Code Y)Inspected By: Marvin Dixon Certificate Number: 82-217

County or District Health Department

Date 6-26-78

# Klausuren Rd



From ECU 2010  
 TO Line 3-14  
 Line 4-  
 Line 31'6"  
 to box 31'6"

30' in ECU  
 Line

CABINET FOR HUMAN RESOURCES  
DEPARTMENT FOR HEALTH SERVICES

ONSITE SEWAGE DISPOSAL SYSTEMS  
SITE EVALUATION

(1) 94-3548-064

Madison

County

Application No.

Owner's Name Frankie Carpenter

Lot Address

HWY 421 (Kingman)

Applicant's Name Tony Broughton

Address

Evaluation Factors	Proposed System Area	Alternative Area 1
1. Topography (slope %)	<u>2 %</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> PS U	S PS U
2. Landscape Position	<u>Stream Terrace</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> PS U	S PS U
3. Soil Texture and Group	<u>SL, SCL Group</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> <u>0-42"</u> PS U	S PS U
4. Soil Structure	<u>SAB/AD</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> PS U	S PS U
5. Internal Soil Drainage	<u>Mottled 30"</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> PS U	S PS U
6. Soil Depth (in.)	<u>OK to 42"</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> PS U	S PS U
7. Restrictive Horizons (in.)	<u>OK to 42"</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> PS U	S PS U
8. Available Space <u>2 1/2 R</u>	<span style="border: 1px solid black; border-radius: 50%; padding: 2px;">S</span> PS U	S PS U
9. Overall Site Classification	S <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">PS</span> U	S PS U
10. Soil Series (if available)		

S = SUITABLE

PS = PROVISIONALLY SUITABLE

U = UNSUITABLE

11. List site and/or system modifications or alternatives required for site approval and the specific area selected for system installation:

750 gallon tank

"Equal Flow distribution"

324' lateral line

22'-24" trench depth

FILLED OR DISTURBED SITES ONLY

12. Percolation Test Required: Yes ☐ No ☐

13. Percolation test instructions: Test to be run in flagged area at depth of \_\_\_\_\_ in. Presoaking of test holes to be in accordance with Section 6.4( ) Test measurements to be conducted in accordance with Section 6.5( ).

Attach copy of application and site plan. Draw in evaluation areas and designate area selected for system installation (flagged area).

Date Requested \_\_\_\_\_ Start \_\_\_\_\_ A.M. \_\_\_\_\_ P.M.

Marvin Dixon  
Certified Inspector

CE-217  
Cert. No.

Date Completed 3-16-94 End \_\_\_\_\_ A.M. \_\_\_\_\_ P.M.

Madison  
County or District Health Department

I feel that a restaurant and ice cream parlor in the community of Kingston would be both a welcomed addition as well as a needed asset. By signing this document, I am showing my support for the this business and will happily welcome it into the community.

- 1.2 Matthew & Leslie Tuckett
- 3 Kate Isaacs
- 4 Christy Isaacs
- 5 Judy May
- 6 Reuben Price
- 7 Jean Daughdall
- 8 Alma Hegggee
- 9 Cecilia
- 10 Andrew Daughdall
- 11 Adrienne Daughdall
- 12 4
- 13 Anthony Linn
- 14 [Signature]
- 15 Sharon Isaacs
- 16 Sharon Jones
- 17 Val Miller
- 18 Tom Mitchell
- 19 Steve Cain

- 20 Brandy Cain
- 21 [Signature]
- 22 Cecelia Johnson
- 23 Joyce Edson
- 24 [Signature]
- 25 Margaret Wilson
- 26 Madeline Wilson
- 27 William Wagers
- 28 Seraldine Wagers
- 29 Booie H. Wagers
- 30 Nate Wagers
- 31 Gregory Collins
- 32 Gary Collins
- 33 Teresa Collins
- 34 Rodney Collins
- 35 Jessica
- 36 Randy Collins
- 37 Vernon & Peggy Parker
- 38.

I feel that a restaurant and ice cream parlor in the community of Kingston would be both a welcomed addition as well as a needed asset. By signing this document, I am showing my support for the this business and will happily welcome it into the community.

1. Kaitlyn Tompkins
2. April Bormes
3. Shirley England
4. Y. R. Pott
5. Jim Wetherken
6. David Nixon
7. Ashley Harrison
8. Ray Beard
9. Sam King
10. Amanda Rogers
11. Amber Daniels
12. Kyle Daniels
13. Alex Daniels
14. Nelsy Marinelli
15. Dr. Jeannette Jones
16. Brook Wilkerson
17. Dawnie Hill
18. Paul E. Gordon

19. Keith Stewart
20. Rebecca M. [Signature]
21. [Signature]
22. [Signature]
23. Golden-B [Signature]
24. [Signature]
25. Chris Ridge
26. Kathi Ridge
27. [Signature]
28. Edna Burns
29. Judy Banks
30. Reed Banks
31. Virginia Scott
32. [Signature]
33. [Signature]
34. [Signature]
35. Scott & Lucinda Robinson
36. [Signature]
37. [Signature]

I feel that putting a Restaurant and Ice Cream Parlor in the Community of Kingston would be an added asset. By signing this document I am showing my support and welcome this business to the Community.

1. John Blanton 859-893-6363
2. Whitney French 859-353-1053 26.
3. Carla Cole 859-440591 27.
4. FRID J. VALU-NN 556-861-2478 28.
5. Dail Vaughn (859) 661-3044 29.
6. Alyssa Stopp (859) 228-0842
7. Julie Hafford
8. Karen Grant
9. Kinley Shearer 857-985-1583
10. Mary 78 859-985-1176
11. Aaron Smith
12. Amanda Clowers-Alney
13. Timothy Alney
14. Jan A. Moore
15. Robert L. Craft
16. Carolyn Craft
17. Sam Briggs
18. Jessica Curick
19. Melinda Coyle
20. Matt Mitchell
21. Victoria Campbell
22. Wesley Ooten
23. Ronnie Eldridge
24. Bill Todd
- 25.

I feel that a restaurant and ice cream parlor in the community of Kingston would be both a welcomed addition as well as a needed asset. By signing this document, I am showing my support for the this business and will happily welcome it into the community.

1. Jammy Morgan
2. Cheryl Morgan
3. Bob Wood
4. Kayci Murphy
5. Dusty Parker
6. James Parker
7. Melisa Mason
8. Mackenzie Mason
9. Leslie Macintosh
10. Paul W. Lee
11. Jeff Hester-Maffson
12. Jennifer Coleman
13. Chad Rice
14. Ashley Dullinger
15. Jennifer
16. Rachael Preme