

CITY OF BEREA

STEVEN CONNELLY
MAYOR

PAUL S SCHRADER, PLS
LAND SURVEYOR-GIS COORDINATOR

GIS – SURVEY DEPARTMENT
212 CHESTNUT STREET BEREA, KENTUCKY 40403
(859) 986-8528 FAX (859) 986-7657
T.D.D.# 1-800-648-6057
November 03, 2006

Secretary of State Land Office
Room T40, Capital Annex
700 Capital Avenue
Frankfort, KY 40601
Attn: Ms. Kandie Adkinson

Re: Annexation Ordinance 20-04

Kandie,

I've enclosed a copy of Ordinance No. 20-04 enacted September 21, 2004. I've attached my legal description to the exhibit A of this ordinance.

Thanks again for all your help and patience.

Sincerely,

Paul S. Schrader, PLS
City Land Surveyor

cc: Governor's Office for Local Development

RECEIVED AND FILED
DATE *November 6, 2006*

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY *Kandie Adkinson*



CITY OF BERA

CITY ADMINISTRATORS OFFICE

STEVEN CONNELLY
MAYOR

212 CHESTNUT STREET • BERA, KENTUCKY 40403
(859) 986-8528 • FAX (859) 986-7657
T.D.D.# 1-800-648-6057

RANDY STONE
CITY ADMINISTRATOR

PROOF OF MUNICIPAL LEGISLATION

I, Randy Stone, City Clerk of the City of Berea, Kentucky, hereby certify that the attached is a true and accurate copy of Ordinance #20-04 adopted by the Berea City Council on September 21, 2004, and I am the custodian of the original, which is maintained at the City Clerk's Office, Berea City Hall, Berea, Kentucky.

October 19, 2006

Date

Randy Stone

Randy Stone, City Clerk

RECEIVED AND FILED
DATE November 6, 2006

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Handie Addison

ORDINANCE NO. 20 - 04

AN ORDINANCE OF THE CITY OF BEREА, KENTUCKY, ANNEXING CERTAIN REAL PROPERTY LOCATED NEAR BEREА, MADISON COUNTY KENTUCKY.

WHEREAS, in Ordinance No. 07-04, the City Council declared its intent to annex certain real property owned by Gilbert Family, LLC, located to the north of the current corporate limits; and

WHEREAS, as directed in Ordinance No. 07-04, the Planning Commission held a public hearing on August 24, 2004, and has recommended that the property annexed be assigned a zoning classification of B-2 (Major Commercial); and

WHEREAS, the City Council has determined that the tract of land to be annexed is adjacent and contiguous to the current corporate limits and which by reason of population density, use of the land, including subdivision of land, both existing and expected, the land to be annexed is suitable for development for urban purposes, so that the corporate boundaries of the City should be extended to include this area; and

WHEREAS, the City wishes to be able to be in the position to extend certain municipal services to this area; and

WHEREAS, the tract described herein is not already incorporated; and

WHEREAS, the owner of the property agrees to the annexation;

NOW, THEREFORE, the City Council of the City of Berea, Kentucky, does ordain as follows:

SECTION I

That the City of Berea, Kentucky, pursuant to KRS 81A.420 and KRS 81A.412, hereby annexes and makes a part of the corporate area certain tracts of property described as follows:
Attached as Exhibit A.

SECTION II

Upon the enactment of this ordinance, the territory described in Section I is part of the City of Berea for all purposes.

SECTION III

Pursuant to the recommendation of the Planning Commission at its August 24, 2004, regular meeting, and KRS 81A.420, KRS 81A.412, and KRS 100.209, the property annexed herein and described on Exhibit A is hereby assigned the zoning classification of B-2 (Major Commercial).

SECTION IV

The City Clerk or any other officer having custody of official maps or records of the City is hereby directed to amend such maps or records to reflect the annexation and zoning classification provided for and assigned herein.

SECTION V

All ordinance or parts of ordinances in conflict with this ordinance are hereby repealed.

FIRST READING: September 7, 2004.

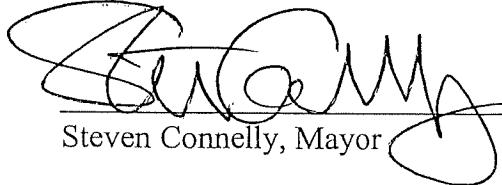
SECOND READING & ENACTMENT September 21, 2004.

CITY OF BEREА, KENTUCKY

ATTEST:

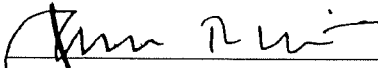

Clerk of the City Council

APPROVED:


Steven Connelly, Mayor

PREPARED BY:

COY, GILBERT & GILBERT
212 North Second Street
Richmond, Kentucky 40475
(859) 623-3877


James T. Gilbert

CITY OF BERA, KENTUCKY
PLANNING COMMISSION

In Re: Application for Zone Change for
Gilbert Family Property, LLC
US 25 North
Berea, Kentucky 40403

RECOMMENDATION OF ZONING CLASSIFICATION FOR ANNEXED PROPERTY

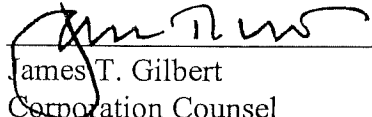
This matter having been heard on August 24, 2004, at a public hearing before the Berea Planning Commission, for the purpose of recommending the zoning classification to be assigned to the property to be annexed, and the Planning Commission having considered the fact that the City Council adopted Ordinance No. 7-04, declaring its intention to annex a certain approximately 54 acre tract located on US 25 North, owned by Gilbert Family Properties, LLC, and the Commission considering the records of the City of Berea, including the Comprehensive Plan, the request of the owner that the property be assigned a classification of B-2 (Commercial), and the statements and testimony offered by members of the general public; the Planning Commission makes the following Recommendation:

1. That because of the property's location on a major arterial route (U.S. 25), and in proximity of the proposed bypass, the most appropriate classification for the property to be annexed is B-2 (Commercial), and the Planning Commission therefore recommends that the property to be annexed be assigned the zoning classification of B-2 (Commercial).

Dated: ~~8~~ 1-13-05

By: Ira Neuman
Chairman, City Planning
Commission

Prepared by:


James T. Gilbert
Corporation Counsel

Ordinance 20-04 Legal Description

A certain tract or parcel of land lying contiguous to the City of Berea, Madison County, Kentucky; more particularly bounded and described as follows:

Beginning at a point where the current City of Berea corporate boundary intersects with the westerly right of way of Highway 25 North; said point being at the approximate NAD 1983 Kentucky South state plane coordinates of North 2,106,203 by East 2,065,325; thence with said current corporate limits of the City of Berea for fourteen (14) calls:

crossing the right of way of Highway 25 North N 89°00'00" E, 104.89 feet; with the easterly right of way of Highway 25 North S 00°15'38" W, 70.50 feet; with the lines of parcel #2 for twelve (12) calls: S89°44'22"E, 300.00 feet; N00°15'38"E, 312.85 feet; N82°05'57"E, 250.80 feet; N82°05'57"E, 981.58 feet, S 06°58'24"E, 240.34 feet; S06°38'53"E, 847.07 feet, S05°47'50"E, 584.23 feet; S00°21'40"W, 67.81 feet, S30°44'28"W, 81.11 feet; S52°02'29"W, 160.77 feet; S22°34'54"W, 100.06 feet; S62°19'08"W, 7.09 feet; thence leaving said corporate boundary and with new lines extending the corporate limits of the City of Berea for thirteen (13) calls: continuing with the lines of parcel #2 for three(3) calls:

S47°58'25"W, 401.94 feet; N37°23'59"W, 1439.42 feet; S65°42'23"W, 346.87 feet to a point in the easterly right of way of Highway 25 North; thence crossing the right of way of Highway 25 North to a point in the westerly right of way of highway 25 North N89°21'46"W, 120.00 feet; thence with the lines of parcel #1 for eight (8) calls:

S68°08'14"W, 434.00 feet; S65°27'38"W, 249.00 feet; N31°21'46"W, 145.25 feet; N14°21'46"W, 91.00 feet; S67°11'38"W, 123.65 feet; N25°21'46"W, 147.00 feet; N60°38'14"E, 756.00 feet; S89°21'46"E, 250.00 feet to a point in the westerly right of way of Highway 25 North; thence with the westerly right of way of Highway 25 North 00°38'14"E, 448.08 feet to the point of beginning and containing approximately 68 acres.

And being all of parcel #1 (Deed Book 355, Page 205) and parcel #2 (Deed Book 564, Page 317) and a portion of the right of way of US Highway 25 North.

* Return to:
Coy Gilbert & Gilbert

EXHIBIT
A

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COMMONWEALTH OF KENTUCKY
MADISON CIRCUIT COURT
DIVISION NO. I
CIVIL ACTION FILE NO. 03-CI-23

MADISON COUNTY
D564 PG 317

JAMES CURTISS BENGE, and his wife,
SUSAN KAY BENGE

PLAINTIFFS

vs.

MASTER COMMISSIONER'S DEED

SHARON BENGE NICELY, and her husband,
CARLIS RAY NICELY;
FIRST SOUTHERN NATIONAL BANK

DEFENDANTS

* * * * *

Now pending in the Madison Circuit Court, Orders were entered on the 29th day of May, 2003 and the 7th day of August, 2003, 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 2nd day of October, 2003, for the sum of THREE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$380,000.00); and whereas, the report of said sale was approved and confirmed by said Court on the 20th day of October, 2003; and whereas, on the 20th day of October, 2003, an Order was entered directing the Master Commissioner to execute a Deed of Conveyance for said property to GILBERT FAMILY PROPERTIES, LLC, the Assignee of the purchaser at said sale.

NOW THEREFORE, THIS INDENTURE made and entered into this the 20th day of October, 2003, by and between JAMES CURTISS BENGE, and his wife, SUSAN KAY BENGE, SHARON BENGE NICELY, and her husband, CARLIS RAY NICELY; FIRST SOUTHERN NATIONAL BANK, by David R. Baird, Master Commissioner of said Court, P. O. Box 605, Richmond, Kentucky, 40476-0605, parties of the first part, and GILBERT FAMILY PROPERTIES, LLC, c/o James T. Gilbert, 212 North Second Street, Richmond, Kentucky, party of the second part,

WITNESSETH: That for and in consideration of these premises and for the further consideration of THREE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$380,000.00), 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 party of the second part, its successors and assigns, forever, in fee simple, the following described property, to-wit:

A certain tract or parcel of land, within improvements thereon, lying on the East side of U.S. Highway No. 25 in Berea, Madison County, Kentucky, and being more particularly described as follows:

Beginning at a fence post, the same being a common corner between Sherman Bengé, Mrs. Carl McCray and Gip Callico properties; thence with the fence between Sherman Bengé and Mrs. Carl McCray property South 86 degrees 00 minutes West 905.0 feet to a stake; thence with the fence between Sherman Bengé and Mrs. McCray South 85 degrees 30 minutes West 617.0 feet to a fence post on the State Highway Department Right of Way on U.S. 25; thence with the fence along U.S. 25 right of way South 4 degrees 45 minutes West 1030.0 feet to the center of Silver Creek, corner to White Tract; thence in part with White and Bicknell North 65 degrees 00 minutes East 350.0 feet to a point in the center of Silver Creek, the same being a corner between Sherman Bengé and Bicknell property, thence with the fence between Sherman Bengé and Bicknell property South 33 degrees 30 minutes East 1470.0 feet to a fence post, the same being a corner to the Baker and Oliver property; thence with the fence between Sherman Bengé and Oliver and Baker North 52 degrees 30 minutes East 410.0 feet to a stake; thence with Baker & Oliver property North 70 degrees 30 minutes East 360.0 feet to a 15 inch Walnut tree on East side of Silver Creek same being a corner to the Walter Casey property thence in part with Walter Casey and Gip Callico North 12 degrees 30 minutes West 400.0 feet to Elm tree on East Bank of Silver Creek same being a corner between Sherman Bengé and Gip Callico North 4 degrees 00 minutes West 1460.0 feet to the beginning corner, this tract contain 59.85 acres, more or less.

EXCLUSION NO. 1:

There is excluded from the above-mentioned the following described property, to wit:

A certain tract of land lying in Madison County, Kentucky, on the waters of Silver Creek, and on the east side of U.S. Highway 25, Berea-Richmond Road, approximately 0.37 miles north of the Berea City Limits, as shown on a plat entitled "Property Survey for HOGG ENTERPRISES, INC." prepared by Alvin E. Martin, Jr., Registered Land Surveyor 1254, dated January 28, 1985, a copy of which is recorded in Plat Book 7 at page 251 in the Madison County Court Clerk's office, and said plat is made a part of this conveyance the same as if it were hereto attached, said property being more particularly described as follows:

D564
MADISON COUNTY
PG 318

lands of Bengé and Sexton for two calls: S 04 deg 33' 00" W, 347.34 feet to a set iron pin with cap #2914; N 85 deg 26'54" W, 231.15 feet to a corner common to Hogg Enterprises, Inc., (DB 368, pg 161) and Bengé and Sexton; thence with the former line of Hogg Enterprises, Inc., N 04 deg 33'00" E, 312.85 feet to the point of beginning and containing 1.75 acres.

TRACT "B"

Beginning at an iron pin with cap #1254 found in the easterly right of way of U.S. highway 25 at a corner common to Hogg Enterprises, Inc., and Bengé & Sexton; thence with line of Hogg Enterprises, Inc. S 85 deg 26'54" E, 300.00 feet to a corner formerly common to Hogg Enterprises, Inc., and Bengé & Sexton; thence a new division line through the lands of Bengé and Sexton for three calls: S 85 deg 26'54" E, 231.15 feet to a set iron pin with cap #2914; S 04 deg 33'00" W, 184.39 feet to a set iron pin with cap #2914; N85 deg 26'54" W, 531.15 feet to an iron pin with cap #2914 set in the easterly right of way of U.S. Highway 25; thence with the easterly right of way of U.S. Highway 25 N 04 deg 33'00" E, 184.39 feet to the point of beginning and containing 2.25 acres.

This exclusion number 2 is the same property conveyed unto Hogg Enterprises, Inc. by Deed of Conveyance from James Curtiss Bengé, et al., said Deed being dated the 5th day of December, 1994, and of record in Deed Book 450 at page 522.

There is included with the hereinabove described property, all easements, licenses and/or right of ways inuring to the benefit of the above-described property by virtue of any conveyances to or from prior title holders in the chain of title for said property.

AND BEING a portion of the same property conveyed unto the Plaintiff, James Curtiss Bengé and the defendant, Sharon Bengé Nicely, by deed of conveyance dated the 5th day of June, 1992, and of record in Deed Book 425 at page 123 in the Madison County Clerk's Office, Richmond, Kentucky.

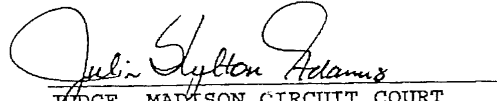
TO HAVE AND TO HOLD the said property, together with all the rights, privileges and appurtenances thereunto belonging unto the party of the second part, its successors and assigns, forever, in fee simple.

IN TESTIMONY WHEREOF, said David R. Baird, as Master Commissioner aforesaid, has hereunto subscribed his name this the 20th day of October, 2003.



DAVID R. BAIRD
MASTER COMMISSIONER
MADISON CIRCUIT COURT

EXAMINED AND APPROVED, this the 20th day of October, 2003.


JUDGE, MADISON CIRCUIT COURT
DIVISION NO. I

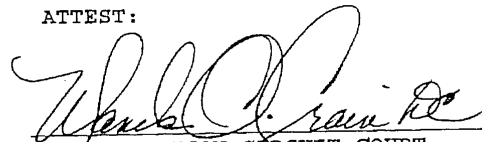
D564
MADISON COUNTY
PG 321

STATE OF KENTUCKY

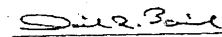
MADISON CIRCUIT COURT

The Master Commissioner, on the 20th day of October, 2003, produced to the Court the following Deed to GILBERT FAMILY PROPERTIES, LLC, which was examined and approved by the Court, and the said Commissioner acknowledged the same to be his act and deed; whereupon the same was Ordered to be and is hereby certified to the proper office for record.

ATTEST:


CLERK, MADISON CIRCUIT COURT

PREPARED BY:


DAVID R. BAIRD, MASTER COMMISSIONER
MADISON CIRCUIT COURT

CERTIFICATE

The undersigned Grantor and Grantee 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

Subscribed, sworn to and acknowledged before me by DAVID R. BAIRD, MASTER COMMISSIONER, this 20th day of October, 2003.

Peggy D. Austin
Notary Public, State at Large, KY
My commission expires: 03/16/2007

GRANTEE:

GILBERT FAMILY PROPERTIES, LLC

By: James T. Gilbert
Title: Member

Subscribed, sworn to and acknowledged before me by James T. Gilbert, Member of GILBERT FAMILY PROPERTIES, LLC, this the 20th day of October, 2003.

Wm D. Faulkner
Notary Public, State at Large, KY
My commission expires: 5-6-2007

0-7-83
Delivered to
By: May M. Ireland

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MADISON CIRCUIT COURT
DIVISION ONE
Civil Action, File Number: 83-CI-019

WHEREAS, IN THE ACTION OF:

GRANT WALKER

PLAINTIFF

VS.

MASTER
COMMISSIONER'S
DEED

CHINA MAE WALKER, a widow;
URANIUS HERD, single;
CHARLES MASON, and HOWARD
MASON, and UNKNOWN CHILDREN
OF MINA MASON; THE UNKNOWN
CHILDREN OF LUCIAN HERD, if
any,

DEFENDANTS

SINGLE TAX \$13.00
PAID 9-20-83
C.S. WAGERS, CLERK
BY May M. Ireland, D.C.

MADISON CIRCUIT COURT
SEP 30 10 55 AM 1983
CLERK

Now pending in the Madison Circuit Court, an Order was entered on the 7th day of July, 1983, directing Paul E. Fagan, 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 27th day of August, 1983, for the sum of TWELVE THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$12,800.00), and whereas, the report of said sale was approved and confirmed by said Court on the 29th day of September, 1983; and whereas, on the 29th day of September, 1982, an Order was entered directing the Master Commissioner to execute a Deed of Conveyance for said property to EDGAR A. GILBERT and OZELLA H. GILBERT, purchasers at said sale.

NOW, THEREFORE, THIS INDENTURE made and entered into this the 29th day of September, 1983, by and between GRANT WALKER; CHINA MAE WALKER, a widow; URANIUS HERD, single; CHARLES MASON, and HOWARD MASON, and UNKNOWN CHILDREN OF MINA MASON; THE UNKNOWN CHILDREN OF LUCIAN HERD, if any, by PAUL E. FAGAN, as Master Commissioner of said Court, parties of the first part, and EDGAR A. GILBERT and OZELLA H. GILBERT, of ROUTE 1, Berea, Kentucky 40403, parties of the second part,

MASTER COMMISSIONER
MADISON CIRCUIT COURT

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 PAUL E. FAGAN, 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 fee in the survivor of them, his, her, or their heirs and assigns forever, the following described property, to-wit:

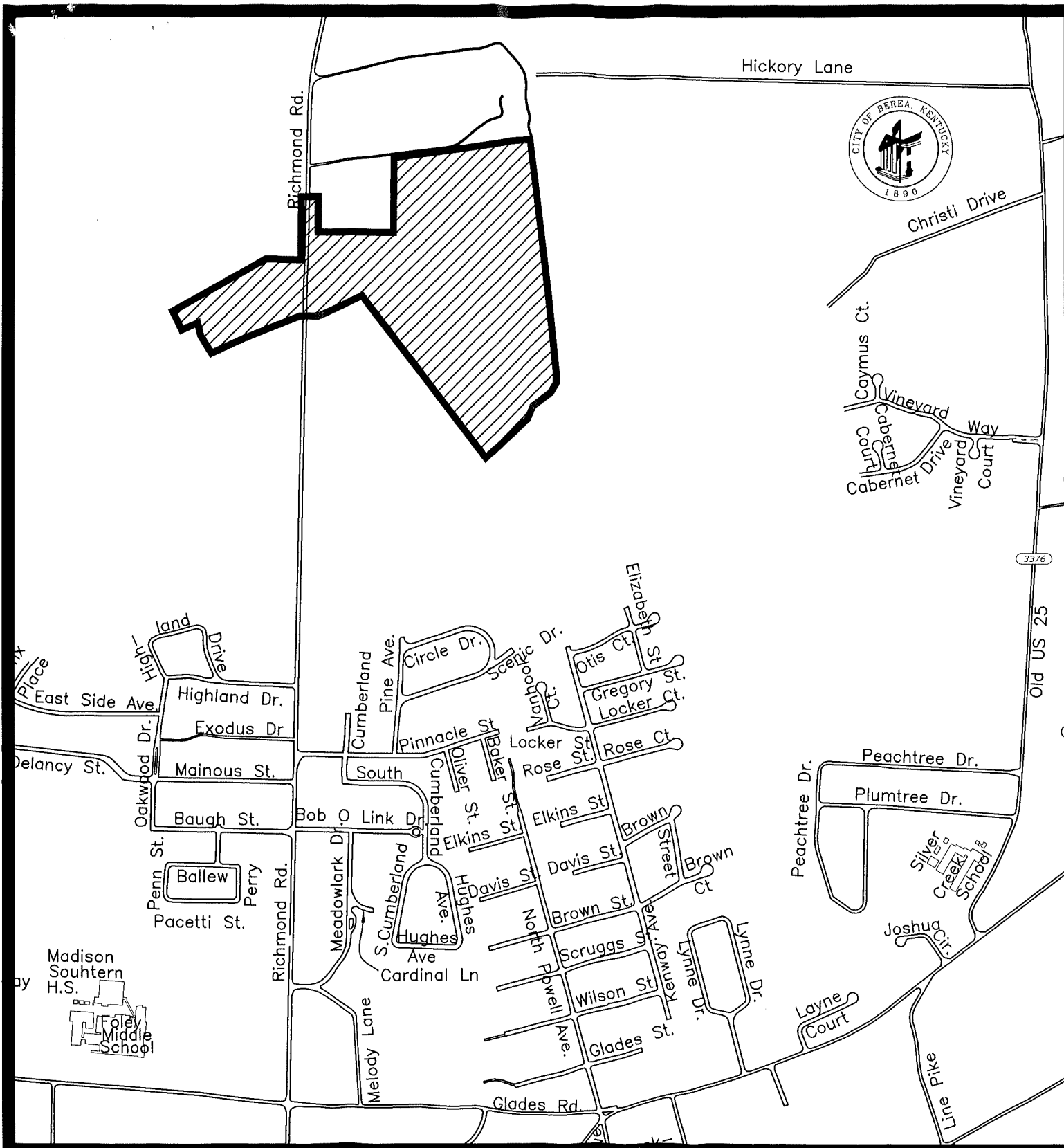
TRACT NO. 4: Located on the west side of new U.S. Highway No. 25 two miles north of Berea, Madison County, Kentucky, on the waters of Silver Creek.

BEGINNING at a stake in the west right of way line of said highway, 60 feet from the centerline thereof at station 471/56 and corner to Tract No. 3, thence with said Tract No. 3 N 86 W 250 feet to a stake, thence S 64 W 756 feet to a stake on bluff, common to Robert Blythe. Thence with said Blythe S 22 E 147 feet to a stake on said bluff, thence N 86 E 132 feet to a stake in the center of Silver Creek, corner to Tract No. 5, thence with said Tract No. 5, N 85 E 478 feet to a stake. Thence N 4 E 200 feet to a stake, thence S 86 E 250 feet to a stake in the west right of way line of U.S. Highway No. 25 at station 473.56. Thence with said west right of way line N 4 E 200 feet to the beginning, containing five acres.

TRACT NO. 5: Located on the west side of the new U.S. Highway No. 25 two miles north of Berea, Madison County, Kentucky, on the waters of Silver Creek.

BEGINNING at a stake in the west right of way line of said highway and 60 feet from the centerline thereof at station 473/56 and corner to Tract No. 4, thence with Tract No. 4 N 86 W 250 feet to a stake, thence S 4 W 200 feet to a stake, thence S 85 W 478 feet to a stake in the center of Silver Creek, corner to Tract No. 4 and Robert Blythe. Thence with said Blythe, up said creek, S 11 E 91 feet to a stake in the center of creek. Thence S 28 E 495 feet to a stake near the intersection of branches in the old creek bed. Thence with the old creek bed S 88 E 142 feet to a stake near a large elm. Thence continuing with the meanders of the old creek bed (location identified by Uranius Herd and Joe Gilbert) north 62 E 72 feet, thence N 9 W 81 feet, thence N 28 W 118 feet, thence N 31 W 90 feet, thence N 12 W 111 feet to the center of main stream of Silver Creek. Thence up said creek N 71° 30' E 434 feet to a stake in the west right of way line of Highway No. 25, thence with said west right of way line N 4 E 200 feet to the beginning.

AND BEING the same property conveyed to Grant Walker by deed dated March 31, 1949, and recorded in Deed Book 144, at page 597; and to Grant Walker and Sophia Walker by deed dated September 15, 1949, and recorded in Deed Book 144, at page 598, both of which are of record in the Madison County Court Clerk's Office; and for the remainder of the source of title reference is made to Civil Action File Number: 83-CI-019 styled Grant Walker vs. China Mae Walker, et al, in the office of the Madison Circuit Clerk.



CITY OF BEREA PROPOSED ANNEXATION

OVERSIZE MAP INCLUDED WITH
SUBMISSION.

To research the map, contact the
Office of Secretary of State
or the County Clerk.