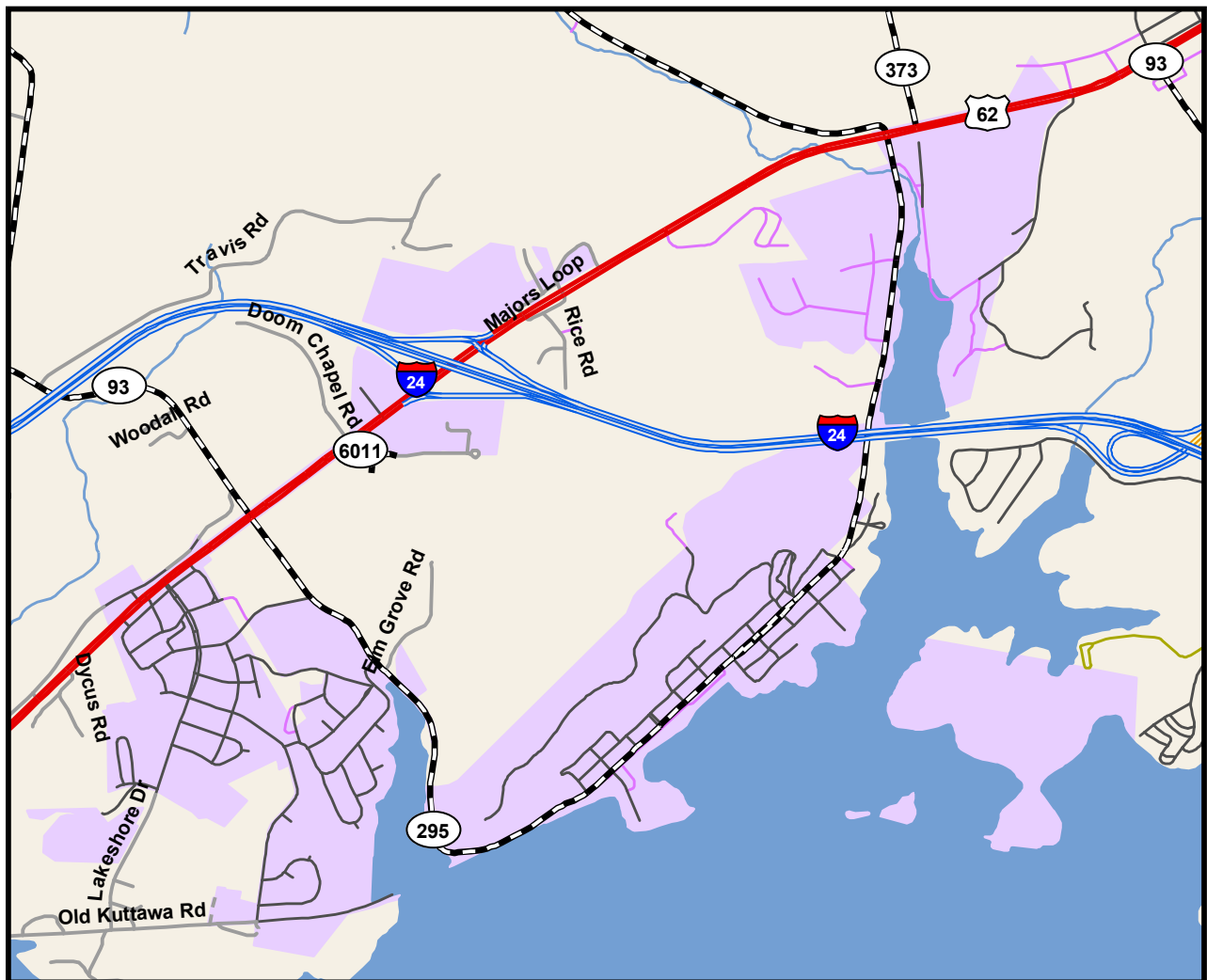


Kuttawa City Boundary Analysis

Kuttawa, Kentucky



April 18, 2011

Prepared by:

*The Pennyrile ADD
300 Hammond Drive
Hopkinsville, KY 42240*

Kuttawa City Boundary Analysis Kuttawa, Kentucky

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Appendix B	Kentucky Secretary of State Annexation Guidelines
Appendix C	Reduction of Territory, KRS 81A.440
Appendix D	Transfer of Incorporated Areas Between Cities, KRS 81.500

Introduction

The Pennyrile ADD was contracted by the City of Kuttawa, Kentucky to research and make recommendations concerning past city annexations with the intent of identifying errors that may have been incurred as a result of incorrect maps or legal descriptions in annexation ordinances that were forwarded to the Secretary of State's (S.O.S) Office. As part of this report, PADD staff will provide specific recommendations to address the best way to correct any annexation issues that have been identified by the S.O.S. office. The scope for this study is attached in *Appendix A, Memorandum of Agreement (MOA)*.

SUMMARY

Staff found eight (8) annexation/city boundary problems while researching this project. The first four (4) annexation issues listed below are ones in which the S.O.S. Office did not accept the roads that connected the annexed properties to existing city limits. These types of annexations are commonly referred to as corridor annexations. In these corridor annexations, if the right-of-way descriptions are not accepted by the S.O.S. Office, it sometimes creates "annexed islands" that are not currently connected to the city boundary. The other four (4) annexations identified have problems with different issues. The following are brief overviews of the eight (8) annexations that have problems:

- 1) Moon Bay Harbor tracts 1, 2 & 3 including the former Tarryon tracts (Ord.02-2-4-1). The S.O.S. Office did not accept the US 62 and KY 810 legal descriptions to connect these tracts to the main city boundary.
- 2) The former Cumberland House Restaurant property on US 62 (Ord. 02-05-06-1). The S.O.S. Office did not accept the US 62 right-of-way legal descriptions to connect this tract to the main city boundary.
- 3) The city sewer plant property (Ord. 98-10-5-6). The S.O.S. office did not accept the Service Road right-of-way legal description that connects the sewer plant property to the main city boundary. Also, the S.O.S. office had a mapping error that incorrectly shows the Sewer Plant property contiguous to the Lake Shore Drive right-of-way.
- 4) The northwest corner of I-24 and US 62 interchange that involves the property where the ice storm debris was stored (Ord. 98-10-5-5). This involves several properties including the Grady White/Jim Daniel's and Relax Motel properties. The S.O.S. Office did not accept the US 62 right-of-way legal descriptions to connect these tracts to the main city boundary.

- 5) The Buzzard Rock Resort Annexation (Ord. 02-05-13-01). The legal description of the property was found to be “unmappable” by the S.O.S. Office and the property is not currently recognized as being in the city limits of Kuttawa.
- 6) The northeastern city limit boundary involving the Mineral Mound Park property was determined to be in the incorrect location based on the Kuttawa Annexation of March 24, 1960.
- 7) The property currently owned by Mr. Don Kenady on the north side of US 62, which is commonly referred to as the old go-cart or *Nothing But Fun* property, has its parcel and building divided by the Kuttawa and Eddyville city limits boundaries (KRS 81.045 filing). Half of the building is in the City of Kuttawa and half is in the City of Eddyville.
- 8) Lot #20 of the Kuttawa Heights Subdivision on the northwest corner of Mt. Pleasant Rd and US 62 has been mapped in the wrong location by the S.O.S Office (Ord. 09-11-09-07). The S.O.S. Office has the current location incorrectly shown for Lot 20 in the New Circle Road and US 62 right-of-ways.

The problems and issues surrounding each of the eight (8) annexations listed above, together with recommendations and options to help solve or correct these boundary issues, are discussed in detail in the *Findings and Recommendations* section of this report.

BACKGROUND

The following is some general background information that is relevant to this study:

- In the State of Kentucky, there was legislation passed in 1981 that required all the cities in the State to file an official city limit boundary map with the Secretary of State’s Office (KRS 81.045). The intent of the KRS 81.045 filing was to provide the cities with an opportunity to correctly identify the city limit boundaries. Under this State Statute, each city was required to submit a map to the S.O.S. Office identifying the correct city boundary for their city. The Kuttawa KRS 81.045 filing is part of the boundary line issues in the Mineral Mound Park area and is discussed in the Mineral Mound Annexation *Findings and Recommendations* section of this report.
- It is a standard recommended practice to only annex along property lines or right-of-way lines. If a lot or parcel of land is split by an annexation, it causes problems for the PVA office to assess the property for city taxes. Therefore, all corrected legal descriptions are intended to run along property or right-of-way lines.

- Attached in *Appendix B, Kentucky Secretary of State Annexation Guidelines*, is annexation information developed by the S.O.S. Office that is provided in a summary format. Staff recommends that all surveyors hired to develop legal descriptions for revised annexation resolutions or ordinances review this summary. It will provide the surveyor's key information concerning the legal description requirements necessary to be accepted by the S.O.S. Office. It will also act as a checklist for the city staff to provide the correct information in all revised annexation resolutions and ordinances.
- The S.O.S. Office requires legal descriptions for annexations to be developed by surveyors. However, this does not necessarily mean that a new field survey has to be conducted. In most cases, an annexation's legal description can be developed using the existing legal descriptions in the deeds, right-of-way records of the District 1 Highway Office or other sources. However, occasionally, a surveyor will need to augment existing information with some field surveying.

FINDINGS AND RECOMMENDATIONS

The PADD staff plotted the legal descriptions in past annexations using PADD's GIS system to overlay them onto aerial photos and plat maps to analyze these descriptions for incorrect or missing "calls". If there were discrepancies identified by the PADD staff or the S.O.S. Office on past annexation ordinances, staff made recommendations based on what the city or PADD staff believes were the intended areas to be annexed. The city will be able to provide information in this report to land surveyors to assist them in the development of new legal descriptions that will be needed as part of any revised resolution or ordinance to correct the boundary lines.

Moon Bay Harbor Annexation (Ord.02-2-4-1)

The Moon Bay Annexation involves three (3) tracts of property, as well as sections of the US 62 and KY 810 right-of-ways that are west of the City of Kuttawa, and sections of Moon Bay and Tarryon-Too Roads. These three (3) tracts of property are indicated in *Exhibit A, Moon Bay Harbor Annexation (Ord. 02-2-4-1)*. The S.O.S. Office approved the legal descriptions for the three (3) tracts of property involved in the annexation. However, there were no legal descriptions for the right-of-ways that are mentioned in the annexation ordinance.

A new legal description needs to be developed for the right-of-ways involved in the annexation. The area this new legal description involves starts at the northwestern portion of the existing city limits of Kuttawa. Starting at a point approximately 1,000 feet southwest from the intersection of US 62 and Lakeshore Drive, then along the US 62/US 641 right-of-way, to a Point of Beginning (POB) which is the existing city limit boundary of Kuttawa. Then southwestward along both the north and south right-of-way property lines of US 62 to the US 62/KY 810 intersection, then south on KY 810 to the entrance of Moon Bay Road and then southeast to include that portion of Moon Bay Road from KY 810 to the tract of land identified in the Ordinance 02-2-4-1 legal

description as Tract 1. Then continuing south from the intersection of the KY 810/Moon Bay Rd intersection along the KY 810 corridor to the entrance of Tarryon-Too Road. Then south on Tarryon-Too Road to the tract of land identified in the Ordinance 02-2-4-1 legal description as Tract 2. The intent of this legal description is to identify a fourth tract (Tract 4) that can be used as a separate legal description in an attachment to a resolution to re-state and clarify the right-of-way boundaries. The legal description for these right-of-ways must include the entire width of the right-of-way along the corridors identified.

The surveyor must provide the legal description in two (2) formats. The first is in a map or plat format that identifies the *Point of Beginning* and has all the calls with the distances and bearings on each line on the map. The map must also show the existing city limits boundary. It must be developed by a Licensed Surveyor and have his/her Surveyor's Stamp on the map, license number and surveyor's signature. The second format is a written format where the legal description is in a document form that can be "cut and pasted" into a resolution. The legal description must also close.

The right-of-way proposed in the new legal description is indicated in *Exhibit A, Moon Bay Harbor Annexation (Ord. 02-2-4-1)* and *Exhibit B, Moon Bay Right-of-Way Corridor Annexation*. The existing Moon Bay Harbor Annexation Ordinance 02-2-4-1 was recorded in the Lyon County Recorder's Office under Misc. Book 21, Pg 104. A certified copy of this ordinance will need to be attached to the new resolution.

EXHIBIT A
Moon Bay Harbor Annexation
ORD: 02-2-4-1

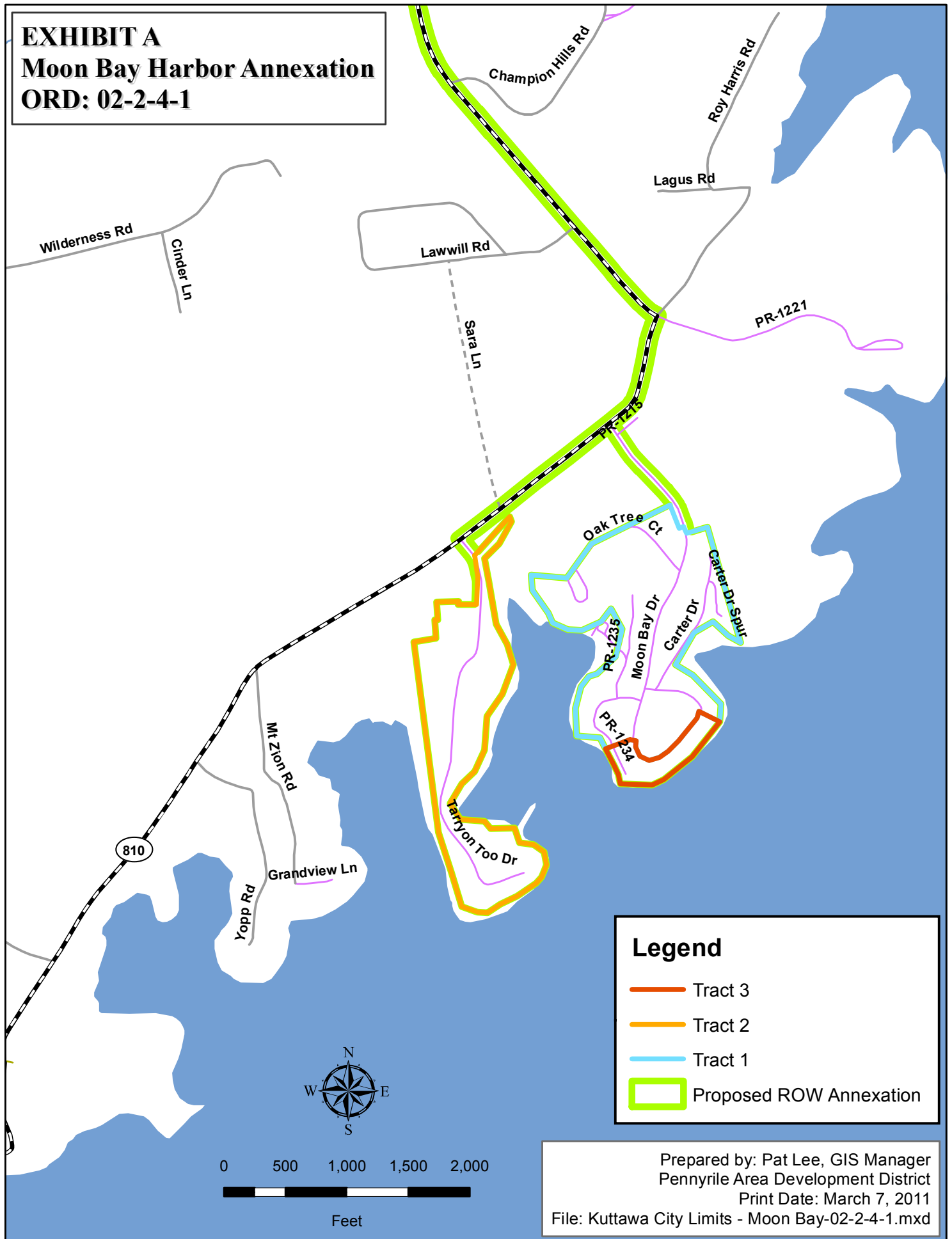




EXHIBIT B
Moon Bay Harbor
Right-of-Way Corridor Annexation

Legend

- Proposed ROW Annexation
- Kuttawa

Prepared by: Pat Lee, GIS Manager
Pennyryle Area Development District
Print Date: March 7, 2011
File: Kuttawa City Limits - Moon Bay ROW.mxd

0 1,000 2,000 3,000 4,000
Feet

 Proposed ROW Annexation
 Kuttawa

Former Cumberland House Restaurant Property on US 62 (Ord. 02-05-06-1)

This property is currently a small vacant lot located on the south side of US 62 near the Suwanee community between Parrish Road and KY 810 as show on *Exhibit C, Former Cumberland House Restaurant Property Annexation (Ord. 02-05-06-1)*. The Cumberland House Restaurant Annexation Ordinance 02-05-06-1 included a corridor annexation of the US 62 right-of-way. However, the legal description of the US 62 right-of-way was not included in the Ordinance and the S.O.S. Office does not recognize this R.O.W. as being annexed. This created an “annexed island”, which is currently not contiguous to the existing city limits.

The legal description that is being proposed for the Moon Bay Harbor corridor annexation will also solve the Cumberland House Restaurant corridor annexation. Therefore, if the city passes the revised Moon Bay Right-of-way annexation, this problem will also be corrected without having to pass any separate resolution.

Northwest Corner of I-24 and US 62 (Ord. 98-10-5-5)

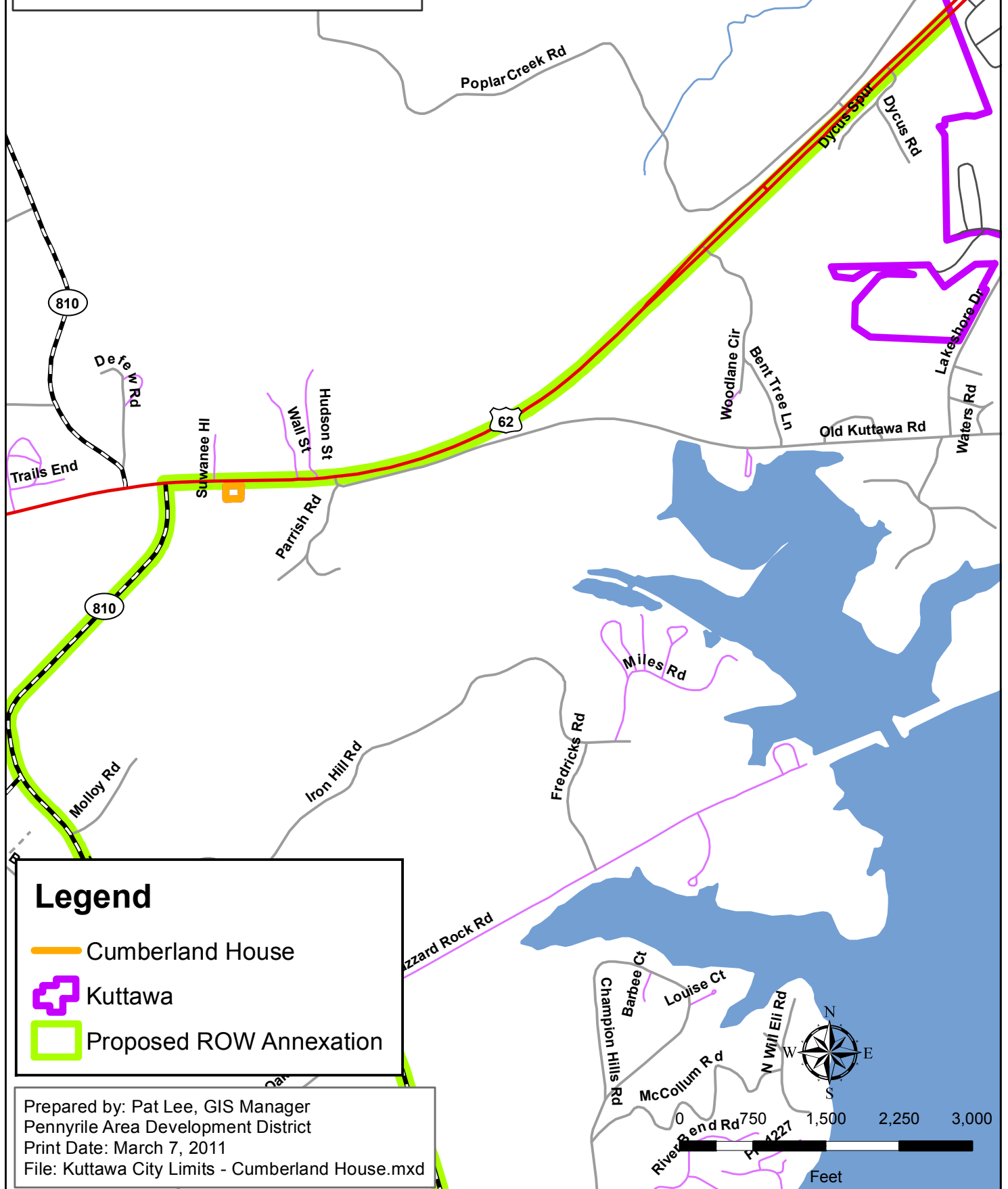
There are three (3) separate annexations that are involved in this northwest corner of this interchange. The largest parcel annexed near the northwest corner of the I-24 and US 62 interchange involves the Grady White/Jim Daniel’s property where the ice storm debris was stored (Ord. 98-10-5-5). The second annexation included the Relax Motel properties (Ord. 00-2-7-1), which included several small lots in the Kuttawa Heights Subdivision. The third annexation involved a one lot (Lot #20) annexation in the Kuttawa Heights Subdivision with Ordinance 09-11-09-07. All three (3) of these annexed areas are shown in *Exhibit D, Northwest Corner of I-24 and US 62 Interchange Annexations*.

The first parcel annexed north of the I-24 interchange was the White/Daniel’s property. The S.O.S. Office did not accept the US 62 right-of-way legal descriptions in the original 98-10-5-5 ordinance that connects the White/Daniel’s parcel to the main city boundary on the south side of I-24.

A new legal description needs to be completed for this section of US 62 from the south side of I-24 to the north side of the I-24, Exit 40 interchange, to include all of the US 62 R.O.W. to the northern part of the White/Daniel’s property. See Exhibit D which shows the section of the US 62 ROW that should be included in the revised legal description.

The original 98-10-5-5 Ordinance was filed in the Recorder’s Office in Misc. Book 21, Page 91. A resolution to amend the legal description of the US 62 ROW legal description in Ord. 98-10-5-5 should be submitted to the S.O.S. Office. A certified copy of the original ordinance will need to be attached to the new resolution.

EXHIBIT C
Cumberland House Annexation
ORD: 02-05-06-1



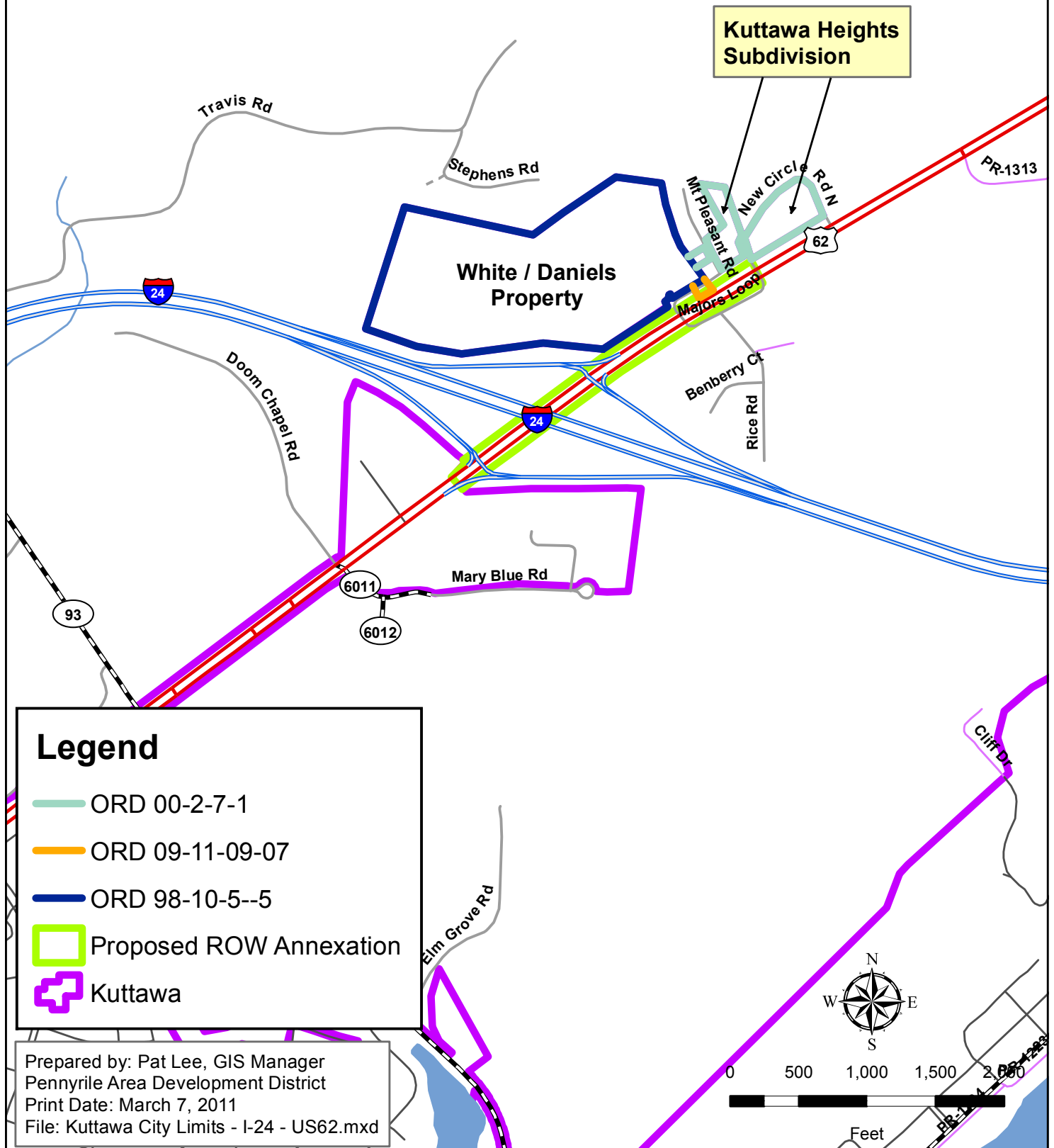
Legend

- Cumberland House
- ⬡ Kuttawa
- ▭ Proposed ROW Annexation

Prepared by: Pat Lee, GIS Manager
Pennyriple Area Development District
Print Date: March 7, 2011
File: Kuttawa City Limits - Cumberland House.mxd

EXHIBIT D

Northwest Corner of I-24 and US62 Interchange Annexations



The surveyor must provide the legal description in two (2) formats. The first is in a map or plat format that identifies the *Point of Beginning* and has all the calls with the distances and bearings on each line on the map. The map must also show the existing city limits boundary. It must be developed by a Licensed Surveyor and have his/her Surveyor's Stamp on the map, license number and surveyor's signature. The second format is a written format where the legal description is in a document form that can be "cut and pasted" into a resolution. The legal description must also close.

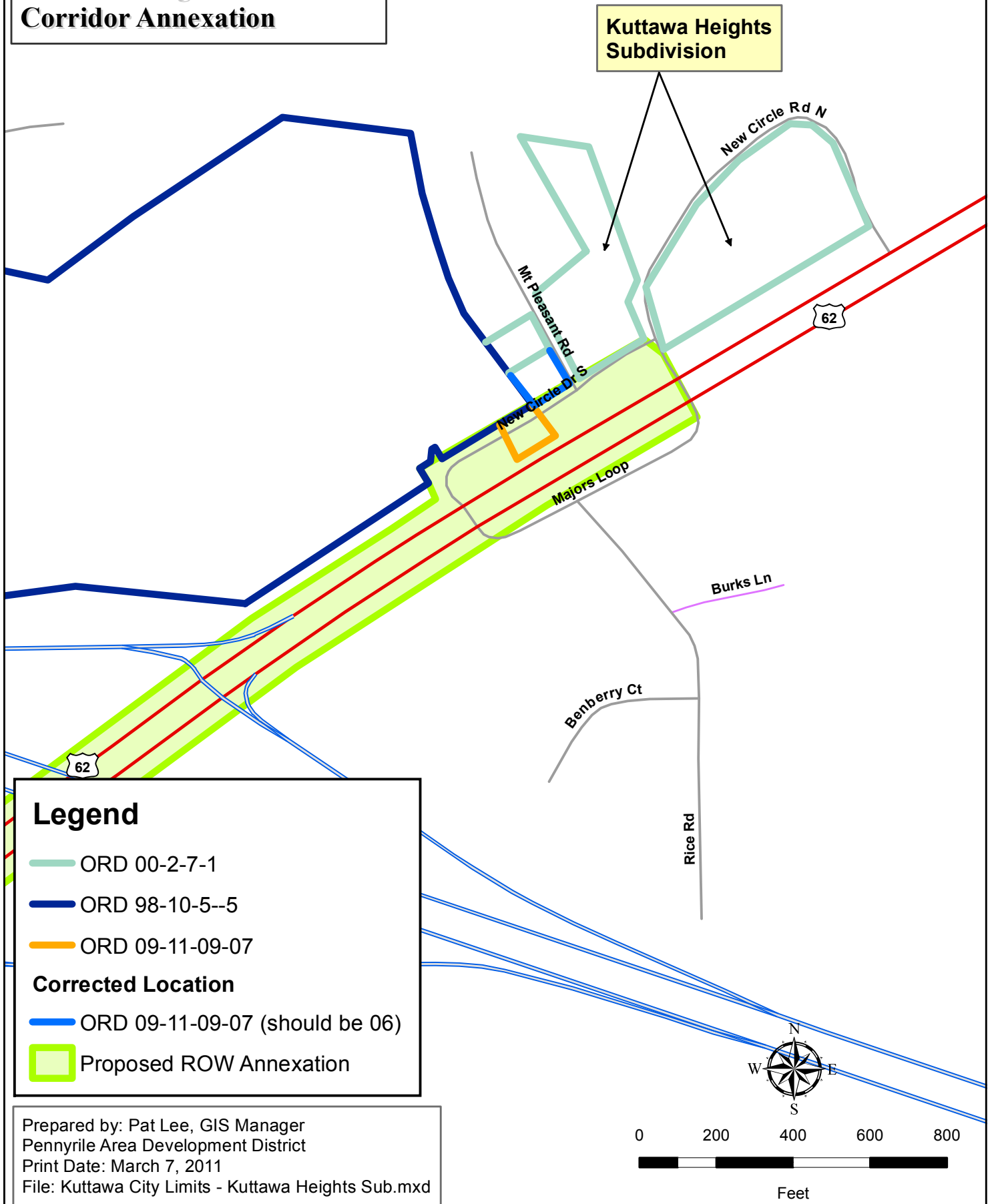
Kuttawa Heights Subdivision Annexations (Ord. 00-2-7-1)

The Kuttawa Heights Subdivision annexations involving properties on Mt. Pleasant and New Circle Roads are not contiguous to the White/Daniel's property. The annexation ordinance 00-2-7-1 did not include any portion of Mt. Pleasant Rd or New Circle Road right-of-ways in the original annexation. Therefore, these annexed Kuttawa Heights Subdivision lots in Ordinance 00-2-7-1 are not contiguous to the White/Daniel property or any other part of the existing city limits. The original 00-2-7-1 Ordinance was filed in the Recorder's Office in Misc. Book 21, Page 99. Staff recommends a resolution, separate from the White/Daniel resolution, be adopted to correct this problem.

A new legal description has already been completed for this section of US 62 from the north side of the White/Daniel's US 62 R.O.W annexation, northward along the US 62 ROW to the northern intersection of Circle Drive and US 62. See *Exhibit E, Kuttawa Heights Subdivision Corridor Annexation*, which shows the section of the US 62 ROW that should be included in the revised legal description, as well as the sections of New Circle Drive right-of-way that affronts US 62. The right-of-way legal description that was developed for the White/Daniels property annexation (Exhibit D) by Four Rivers Engineering will also solve this annexation issue. Therefore, as long as the White/Daniels annexation (Ord. 98-10-5-5) is corrected by a resolution and the new ROW legal description is approved, it will not require an additional ordinance or resolution to resolve this issue.

EXHIBIT E

Kuttawa Heights Subdivision Corridor Annexation



The City Sewer Plant Property Annexation (Ord. 98-10-5-6)

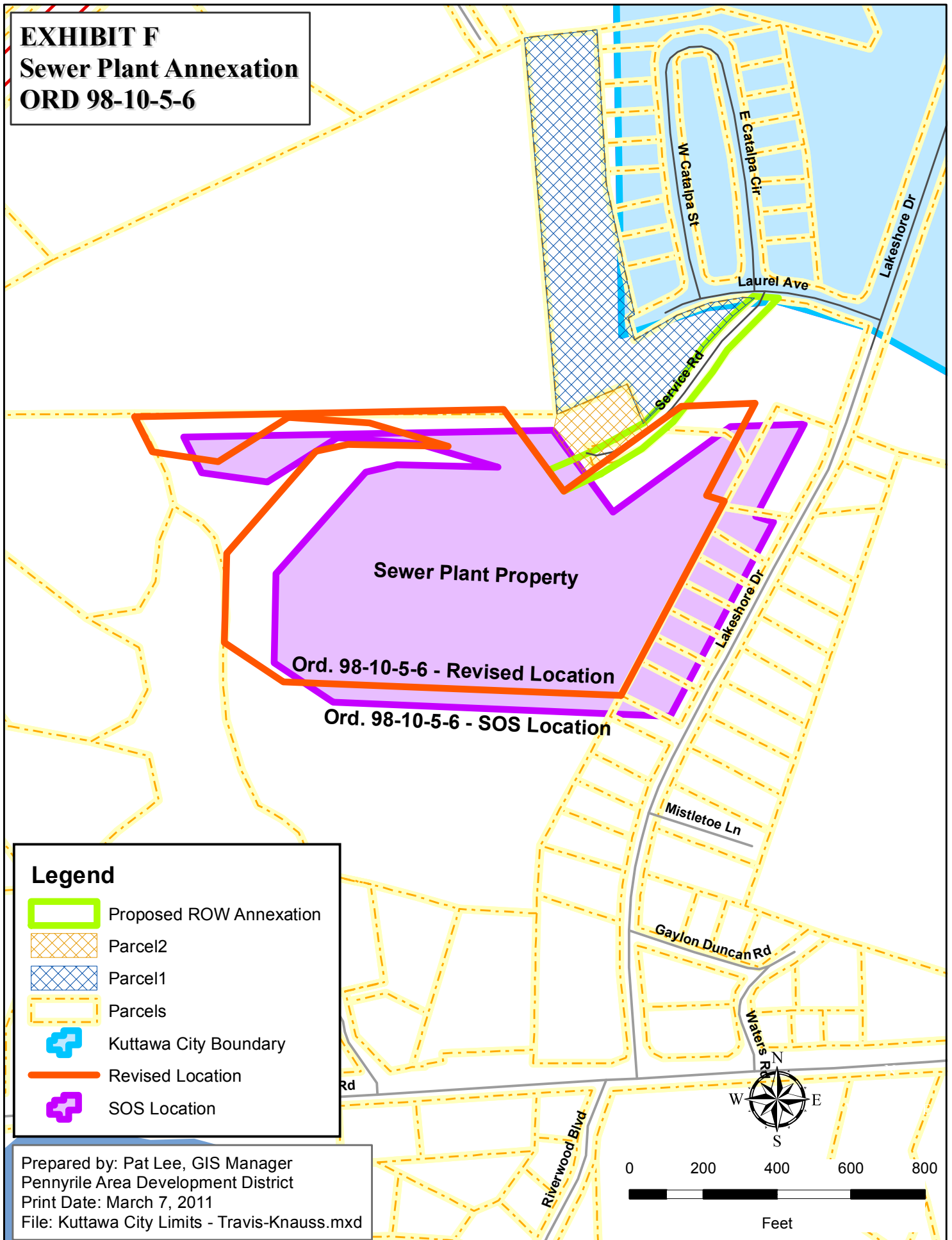
The Kuttawa City Sewer Plant property is located on the southeast of the city as shown in *Exhibit F, Sewer Plant Property Annexation*. There appears to be two (2) issues with the city sewer plant property annexation. The first issue involves the lack of any corridor annexation or inclusion of another parcel(s) that would connect the sewer plant property to the existing city limits. It is not that the S.O.S. Office did not accept the legal description that involved a right-of-way or other parcels that would have made the sewer plant property contiguous to the existing city limits; rather, there was no right-of-way or any other means of connecting the sewer plant property to the existing city boundary mentioned in Ordinance 98-10-5-6.

There are two (2) options that could be used to correct the lack of a connecting parcel(s) or road to make the sewer plant property contiguous to the existing city limits. The first option is that there could be a second legal description developed for the Sewer Plant Service Road right-of-way that connects the sewer plant property to the main city boundary. This corridor legal description should be identified as Tract 2, and be a separate legal description from the sewer plant property. The second option is to annex the “old sewer plant” parcel and the open space lot that was platted as part of the Catalpa Circle Subdivision. These two (2) parcels are indicated on *Exhibit F, Sewer Plant Property Annexation*.

This will require an ordinance, rather than a resolution, to correct the property boundary regardless of which of the two (2) options (I.E., the Service Road right-of-way or the two parcels mention above) to use in the proposed new annexation ordinance. The surveyor must provide the legal description in two (2) formats. The first is in a map or plat format that identifies the *Point of Beginning* and has all the calls with the distances and bearings on each line on the map. The map must also show the existing city limits boundary. It must be developed by a Licensed Surveyor and have his/her Surveyor’s Stamp on the map, license number and surveyor’s signature. The second format is a written format where the legal description is in a document form that can be “cut and pasted” into an ordinance. The legal description must also close.

The second issue concerning this annexation is that the S.O.S. Office has the sewer plant parcel contiguous to the right-of-way of Lake Shore Drive. PADD staff believes this was a mapping mistake on the part of the S.O.S. Office. PADD staff is working on correcting the mistake which will move the sewer plant parcel lines and city limits to the western boundary of the lots that affront Lake Shore Drive as shown on *Exhibit F, Sewer Plant Property Annexation*.

EXHIBIT F
Sewer Plant Annexation
ORD 98-10-5-6



Prepared by: Pat Lee, GIS Manager
Pennyrile Area Development District
Print Date: March 7, 2011
File: Kuttawa City Limits - Travis-Knauss.mxd

The Buzzard Rock Resort Annexation (Ord. 02-05-13-01)

The Buzzard Rock Resort property is located on the Lake Barkley shoreline southwest of Kuttawa. A map of the Resort property and the Buzzard Rock access road is shown on *Exhibit G, Buzzard Rock Resort Annexation and Access Road (Ord. 02-05-13-01)*.

The legal description of the Buzzard Rock Resort annexation was found to be “unmappable” by the S.O.S. Office, and the property is not currently recognized as being in the city limits of Kuttawa. The legal description provided to the City by the Buzzard Rock developers was missing calls with bearing and distances, which basically did not meet the requirements for legal descriptions by the S.O.S. Office.

The staff has been informed that the Buzzard Rock Resort owners are in the process of having a surveyor develop a new legal description that can be used in a resolution to amend the legal description in Ordinance 02-05-13-01. The Ordinance was filed in the County Recorder’s Office under Miscellaneous Book 21, page 119. A certified copy of the original ordinance will need to be attached to the new resolution.

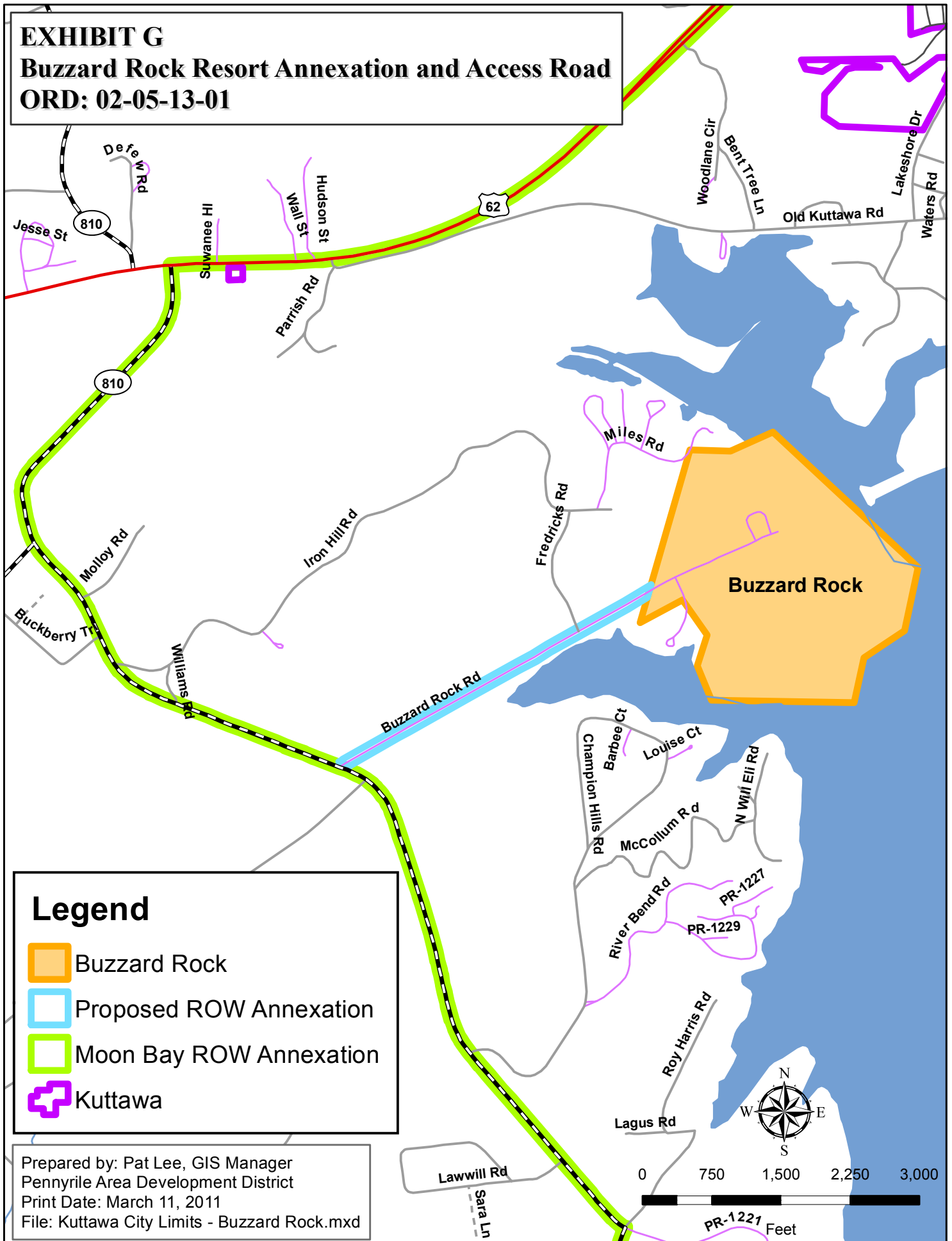
The revised legal description will need to have two (2) separate descriptions under two (2) tracts. The description for the Buzzard Resort property needs to be listed as Tract 1. The legal description for the Buzzard Rock Road right-of-way from KY 810 east to the resort property needs to be listed as Tract 2.

The surveyor must provide the legal description in two (2) formats. The first is in a map or plat format that identifies the *Point of Beginning* and has all the calls with the distances and bearings on each line on the map. The map must also show the existing city limits boundary. It must be developed by a Licensed Surveyor and have his/her Surveyor’s Stamp on the map, license number and surveyor’s signature. The second format is a written format where the legal description is in a document form that can be “cut and pasted” into a resolution. The legal description must also close.

EXHIBIT G

Buzzard Rock Resort Annexation and Access Road

ORD: 02-05-13-01



Parcels North of US 62, Mineral Springs Annexation (Ord. June 27, 1960) including the Nothing But Fun (old go-cart) Property

There are four (4) small portions of parcels on the north side of US 62 that is in the City of Kuttawa, and were part of a June 27, 1960 larger annexation commonly referred to as the Mineral Springs Annexation. These four (4) parcels that were affected by this 1960 annexation were also included on the City of Kuttawa's KRS 81.045 filing and shown to be in the city boundary of Kuttawa in 1981.

The four (4) parcels north of US 62 are shown on *Exhibit H, Mineral Springs Annexation, Parcels North of US 62 including the Nothing But Fun Property (Ord. June 27, 1960.)*

One of these four (4) properties on the north side of US 62 is currently owned by Mr. Don Kenady, which is commonly referred to as the old go-cart or *Nothing But Fun* property. The *Nothing But Fun* parcel and building is divided by the Kuttawa and Eddyville city limits boundaries (KRS 81.045 filing). Half of the Old Go-Cart building is in the City of Kuttawa and half is in the City of Eddyville. The same is true of the parcels west and north of the *Nothing But Fun* (old go-cart) property.

The entire area in the City of Kuttawa boundary that is north of US 62 under the June 27, 1960 annexation is 5.57 acres. Only the Old Go-Cart property is currently paying Kuttawa city taxes for one-half of the property and one-half of the building. The other half of the Old Go-Cart property is taxed by the City of Eddyville. The city boundaries of Kuttawa and Eddyville of this area are shown on *Exhibit I, Kuttawa and Eddyville Boundaries North of US 62*. Exhibit I also indicates the location of the closet municipal sewer line to these properties. The City of Eddyville currently has municipal sewer available within 400 feet of these properties.

The City of Kuttawa has the following options concerning the four (4) parcels involved in this 5.57 area north of US 62:

- a. Do nothing and leave the city boundary lines as they exist.
- b. Sever some or all of the parcels north of US 62 in a de-annexation.
- c. Negotiate with the City of Eddyville to swap territory via agreed upon annexations and de-annexations.

In ***Appendix C, Reduction of Territory***, KRS 81A.440 (D) establishes the requirements for the reduction of boundaries that are applicable to second through sixth class cities. Although there are two sites with some commercial development on these four (4) parcels in question within the 5.57 acre area, the area is uninhabited in that there are no registered voters that reside in it.

In ***Appendix D, Transfer of Incorporated Areas Between Cities***, KRS 81.500 establishes the requirement for transferring adjoining incorporated areas of two (2) cities. This would be relevant to Option C above that involves swapping territories.

EXHIBIT H
Mineral Springs Annexation Parcels
North of US62 including the
Nothing But Fun Property
ORD June 27, 1960

Triangle area
5.577 acres

Funway Dr

PR-1302

PR-1307

Crossover

62

62

Legend

-  Kuttawa
-  Parcels

Prepared by: Pat Lee, GIS Manager
Pennyrite Area Development District
Print Date: March 9, 2011
File: Kuttawa City Limits - ORD June 27 1960.mxd

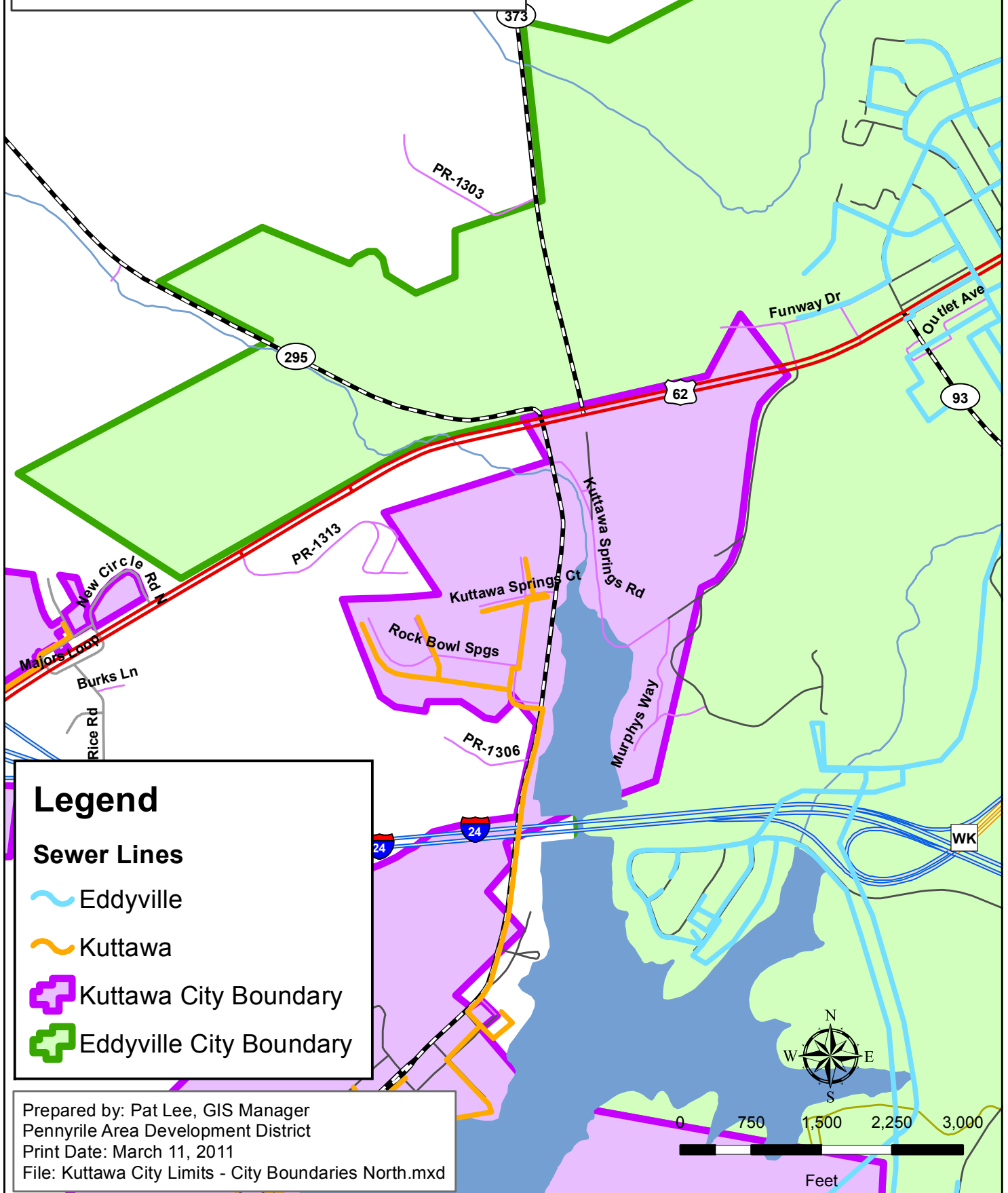


0 200 400 600 800

Feet

EXHIBIT I

Kuttawa and Eddyville City Boundaries North of US 62



Mineral Mound Property Annexation of March 24, 1960.

The City of Kuttawa annexed a large area of land on March 24, 1960. This 1960 annexation included the property formerly owned by the R.S. Mason Estate, which was then commonly referred to as the Mineral Mound property. The area involved in this 1960 annexation is shown on *Exhibit J, Mineral Mound Annexation March 24, 1960*. The parcel of land that involved the R.S. Mason Estate is the southwest portion of what is now commonly referred to as the Mineral Mound State Park property. In March of 1960, the Army Corp of Engineers was in the process of acquiring land for the future Lake Barkley project. The Barkley Dam was not completed and the properties that were acquired to become Lake Barkley were still not flooded by the future lake.

In 1981, the City of Kuttawa filed under its KRS 81.045 filing its city boundary map. However, the city boundary for the area involving the former R.S. Mason Estate property commonly referred to as the Mineral Mound property was incorrectly shown on the Kuttawa 1981, KRS 81.045 filing map that was submitted to the State and the city boundary line was in the wrong location relative to the March 24, 1960 Annexation Ordinance. The cities of Kuttawa and Eddyville both filed their 1981, KRS 81.045 boundary filings, which included portions of what is currently Mineral Mound State Park as shown on *Exhibit L, Mineral Mound 1981 KRS 81.045 Filings*. Exhibit L also shows the location of the March 24, 1960 Annexation boundary its location relative to the two (2) cities' 1981 filing in and around the Mineral Mound property.

In 2002, the City of Eddyville adopted Ordinance 05-06-02A, which was intended to consolidate into one legal description, the city boundary created by 26 previous Eddyville annexation ordinances. This ordinance was intended to clarify the boundary of these previous 26 ordinances but not annex any new properties into the city. However, this 2002 Eddyville Ordinance (Ord. 05-06-02A) included a legal description that stated the Eddyville boundary line ran to, and was congruous with, the same City of Kuttawa boundary line on the property that is now commonly referred to as the Mineral Mound Park property. This 2002 City of Eddyville boundary line is shown on *Exhibit L, City of Eddyville 2002 Consolidated Boundary Line (Ord. 05-06-02A)*. In the Mineral Mound Park area, the Eddyville 2002 consolidation boundary ordinance is still the accepted and recognized boundary of the Kentucky Secretary of State's Office.

After researching the annexation ordinances of Eddyville that were part of the 2002 consolidated city boundary ordinance, PADD staff was unable to find the July 1, 1974 Mineral Mound Ordinance that was adopted by the City of Eddyville. PADD staff found reference to this 1974 annexation ordinance in Eddyville's City Council Minutes Book in the July 1974 minutes. This stated the Council adopted an annexation ordinance for property "adjacent" to the Mineral Mound property and noted that the ordinance was attached to the council minutes.

EXHIBIT J
Kuttawa Mineral Mound Annexation
March 24, 1960



Legend

— MARCH 24-1960 Annexation

Prepared by: Pat Lee, GIS Manager
Pennyrile Area Development District
Print Date: March 15, 2011
File: Kuttawa City Limits - Mineral Mound 03-24-60.mxd

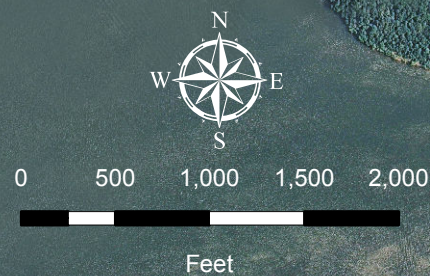


EXHIBIT K
Mineral Mound 1981 KRS 81.045 Filings
Kuttawa & Eddyville

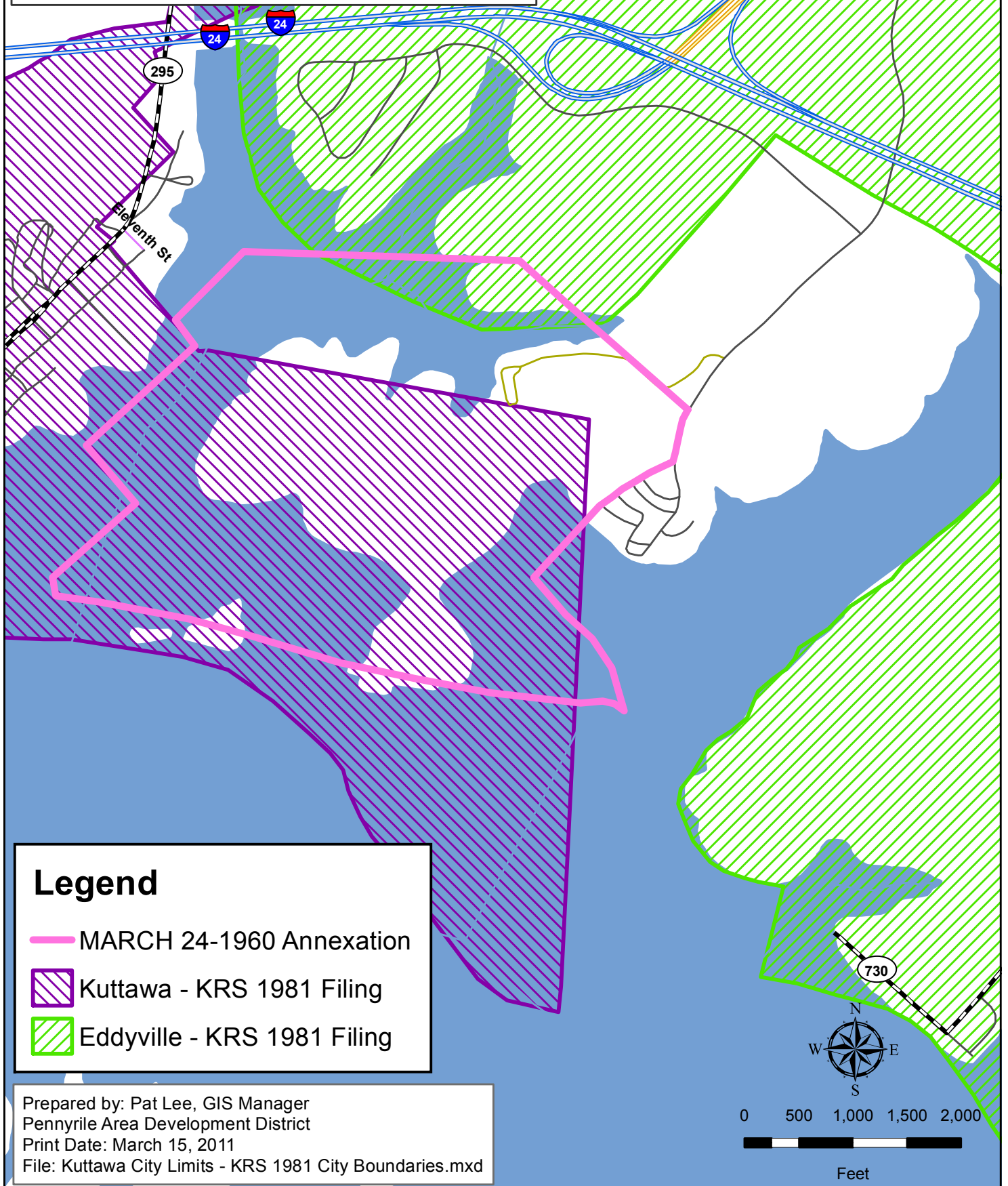
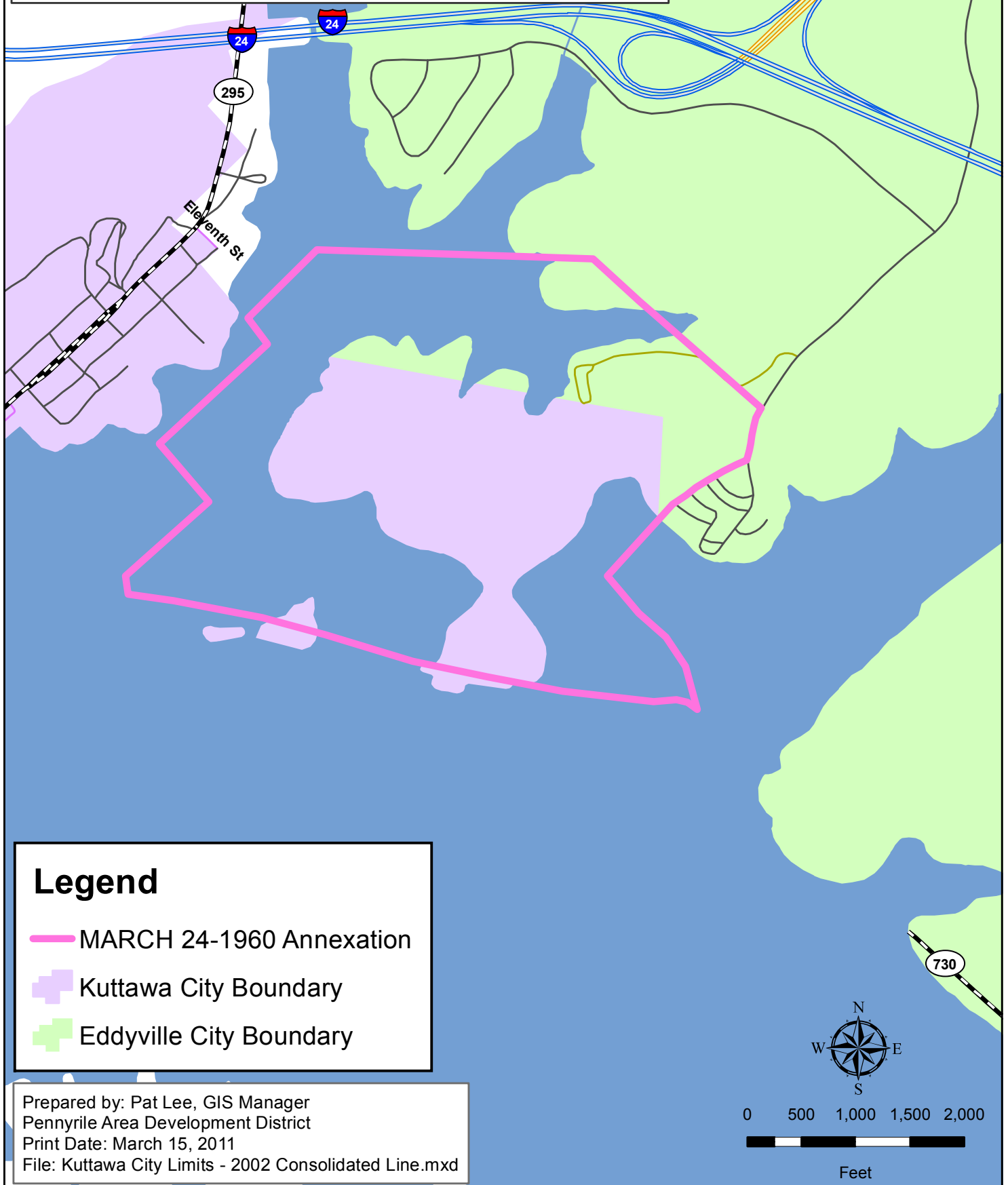


EXHIBIT L

City of Eddyville 2002 Consolidated Boundary Line ORD. 05-06-02A



Prepared by: Pat Lee, GIS Manager
Pennyrite Area Development District
Print Date: March 15, 2011
File: Kuttawa City Limits - 2002 Consolidated Line.mxd

However, the Eddyville July 1974 Ordinance with the legal description was missing from the Council Minutes Book. Also, staff was unable to find a copy of this ordinance in the Lyon County Recorder's Office. Without a copy of the July 1, 1974 Ordinance, it is impossible to recreate the original location of the Eddyville city boundary line in the Mineral Mound Park area using the original annexation ordinances that comprised the 2002 consolidation boundary ordinance.

The Eddyville 2002 consolidation boundary ordinance makes it difficult to correct the Kuttawa boundary in the Mineral Mound Park area. Since the 2002 consolidation ordinance stated it shared a boundary line with Kuttawa in this area, adjusting the location of this shared boundary would require the consent of both cities. Therefore, The City of Kuttawa has three (3) basic options concerning adjusting the city boundary line on the Mineral Mound State Park property. One option is to leave the boundary line where it is currently located on the Park property. The other two (2) options are discussed below.

A second option could be to adopt a resolution to correct the Kuttawa, KRS 81.045 filing map that was submitted to the State in 1981. A resolution would also need to be adopted by the City of Eddyville adjusting the boundary to their 2002 consolidated boundary. This 1960 boundary is the old property lines of the northern portion of the R.S. Mason Estate and the southern boundary of the W.T. Gregory property.

Four Rivers Engineering & Surveying from Eddyville, Kentucky already has a boundary map with the March 24, 1960 annexation area located on it. In order to use this boundary map as an attachment to an S.O.S resolution, PADD staff recommends the following changes and additions:

- There must be calls with feet and bearings on all boundary lines on the boundary map.
- The calls of the boundary of the annexed area must close.
- There must be a *Point of Beginning* (POB) on the boundary. PADD staff recommends changing the POB to the southerly corner of the former Gregory property (DB W, Pg 554) being State Plane Coordinates KY South Zone NAD83 Northing: 1914340.5 Easting: 959417.6
- The existing city limits in 1960 should be shown on the boundary map from the northwest corner of Corps of Engineer Tract 1111 to the old (1960) intersection of Knob Creek the old US 62 ROW, which is currently under water. This old city limit boundary is shown on pre-1960 topographic maps.
- The current Four River Engineering boundary map has the wrong ordinance date listed for the Mineral Mound annexation. Their Feb 8, 1960 date listed in the notes on the map should be changed to March 24, 1960.
- A written legal description must be developed from the calls on the revised boundary map that can be cut and pasted into a resolution.

The third option would involve a city boundary swap between the cities of Kuttawa and Eddyville involving the northern portion of the Mineral Mound Park property and the portions of four (4) parcels in and around the old Go-Cart property on the north side of US 62. The City of Eddyville could de-annex their portion of the northern Mineral Mound Park property. The City of Kuttawa could sever (de-annex) their portion of the four (4) parcels in and around the old Go-Cart property. This would involve Eddyville severing all of the Mineral Mound Park property and not just to Kuttawa's March 24, 1960 annexation boundary.

The advantages to this third option are listed as follows:

- City boundaries should follow property lines and all parcels should be completely in a city boundary or completely out of it.
- There is already a good legal description for the entire Mineral Mound Park property on file at the Lyon County Recorder's Office which would reduce the time and expense to develop the legal description for the de-annexation & annexation ordinances for the Mineral Mound Park property. This existing legal description for the entire Park property meets the S.O.S. requirements.
- As shown in Exhibit I, the Eddyville sewer line is already within 400 feet from all four (4) parcels that are in, and around, the old Go-Cart property and is located in the Funway Drive right-of-way. The nearest Kuttawa sewer line is over 3,000 feet from the site and would also have to incur the cost to bore under US 62.
- Only the old G-Cart property is currently incurring city property taxes by Kuttawa for one-half the property.
- The State Park property is tax exempt and neither city has any property tax base to gain or lose by annexing or de-annexing a portion of the Park property.

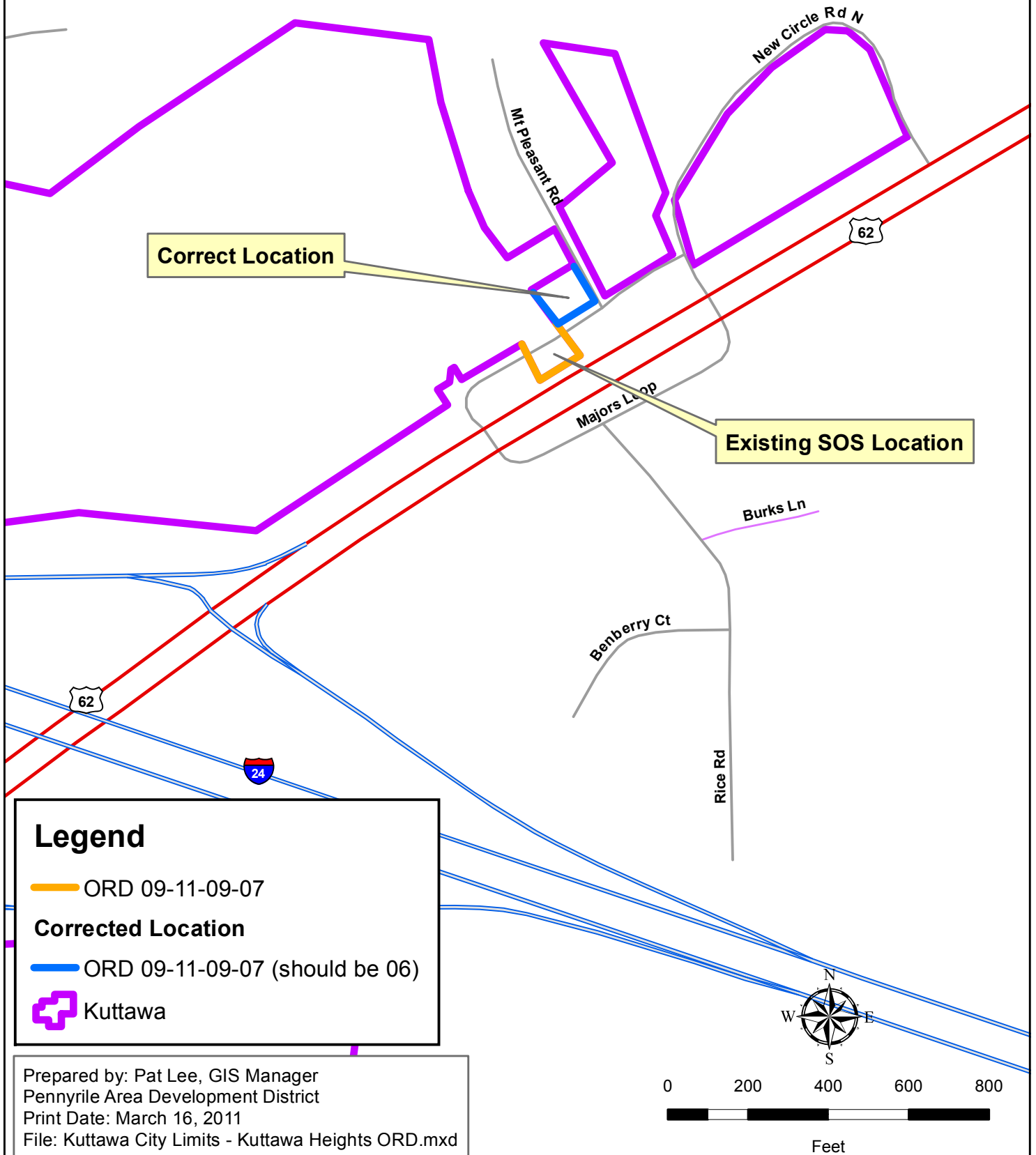
The process to affect the transfer of incorporated areas between two cities is described in KRS 81.500. This involves the adoption of identical ordinances that state the specified areas can be better served by the adjoining city. There are no residents that reside in any of the target areas identified in these two (2) incorporated areas. Relative to the KRS 81.500 Statute, these two (2) incorporated areas are uninhabited. In ***Appendix D, Transfer of Incorporated Areas Between Cities***, KRS 81.500 establishes the requirement for transferring adjoining incorporated areas of two (2) cities.

Lot #20 of the Kuttawa Heights Subdivision Annexation (Ord. 09-11-09-07)

The current location shown by the S.O.S Office for the annexation of lot 20 in the Kuttawa Heights Subdivision is incorrectly located in the New Circle Road and US 62 right-of-ways. The S.O.S. office's existing location for lot 20 and the correct location are shown on *Exhibit M, Lot #20 of the Kuttawa Heights Subdivision Annexation (Ord. 09-11-09-07)*. PADD staff believes this is a mapping error with the S.O.S. Office and is working on getting lot 20 shown in the correct location. This can hopefully be handled without involving a resolution between the staff of PADD and the S.O.S. Office.

EXHIBIT M

Lot #20 of the Kuttawa Heights Subdivision Annexation (ORD. 09-11-09-07)



Appendix A
Memorandum of Agreement (MOA)

MEMORANDUM OF AGREEMENT

Between

The City of Kuttawa, KY, and the Pennyriple Area Development District

A. PURPOSE

The City of Kuttawa, Kentucky (City) and the Pennyriple Area Development District (PADD) hereby agree to work cooperatively within the framework of this Memorandum of Agreement (MOA) to research and make recommendations to the City Council on any and all issues as they relate to past annexations and the City boundary of Kuttawa. The underlying premise of this Agreement is for PADD to provide professional services to assist the City in obtaining an accurate city limits boundary that is documented correctly and accepted by Kentucky's Secretary of State Office (S.O.S.).

B. SCOPE OF WORK

The following is an overview of the Scope of Work concerning this Agreement:

1. PADD will research all past city annexations going back to 1981 by obtaining copies of city, county and SOS records, as well as researching two (2) annexations prior to 1981 that involved portions of the Mineral Mound property and the eastern portion of Old Kuttawa.
2. PADD will research the City of Eddyville's annexations as it pertains to its joint boundary with Mineral Mounds with the intentions of making recommendations on correcting errors that may have been incurred as a result of incorrect maps or legal descriptions forwarded to the SOS in this area.
3. PADD will plot all past annexations stated in items 1 and 2 above on 11" X 17" maps using PADD's GIS systems to overlay the legal descriptions of these annexations on aerial photos with parcel and road right-of-way lines as part of these base maps. PADD will analyze these legal descriptions for incorrect or missing "calls" and make recommendations based on what PADD Staff believe was the intended areas to be annexed.
4. If there are discrepancies identified by PADD or the SOS office on past annexations (i.e., bad or missing calls), PADD will develop revised maps that indicates where the City and PADD staff believes the areas were intended to be annexed. The City will be able to provide these revised maps to a Land Surveyor to assist them in the development of new legal descriptions and survey maps that will need to be a part of any revised City resolutions or ordinances to correct the boundary lines.
5. This MOA does not include the cost of professional land surveyors to develop new legal descriptions as required to revise or correct past annexations. This will be contracted separately by the city and is not a part of PADD's fee for services in this MOA.
6. After researching past annexations, PADD's main focus will be on making recommendations to solve city boundary line issues to the Mayor and City Council, as well as coordinate efforts to correct boundary issues with the Land Surveyor and staff of the SOS office.

C. TERMS

The City agrees to pay a *not-to-exceed fee* of **Five Thousand Dollars (\$5,000.00)** to PADD for the professional services provided herein. PADD staff will bill staff time and expenses to this project and the final fee will be based on these billable hours and expenses. However, under no circumstances will PADD's fees exceed \$5,000.00. It is anticipated that this project will take four (4) to six (6) months to complete from the time PADD obtains an official notice to proceed. The completion time will be heavily dependant on the turn-around time to obtain revised legal descriptions from Land Surveyors and review times of the SOS staff. All parties to this Agreement can terminate it with a 30 day notice to the other party.

IN WITNESS WHEREOF, the parties to this MOA have reviewed the above MOA and have agreed to the terms and conditions herein:

APPROVED BY:

By: Lee McCollum
Title: Mayor of Kuttawa

DATE: _____

By: Chris Sutton
Title: Executive Director, PADD

DATE: _____

ATTEST:

By: Steve Long
Title: City Clerk of Kuttawa

DATE: _____

Appendix B
Kentucky Secretary of State Annexation Guidelines

KRS 81A.470: Final Check Before Filing

- ☐ The type of annexation is stated in the ordinance: (1) consensual or (2) finalization of an intent ordinance that has followed statutory requirements.
- ☐ All signatures & dates in the ordinance are affixed.
- ☐ The city clerk's certification is attached to the ordinance.
- ☐ The surveyor's description & map (plat) are included.
- ☐ The plat includes annotated lines and/or a line table. Survey calls in the description match the survey calls on the plat—call for call. *(An identified "point-of-beginning" is requested. All survey calls & text on the plat must be eye-readable.)*
- ☐ The survey calls on the plat form a closed geometric figure.
- ☐ "Parcel A" or "Tract 1" in the ordinance is identified as "Parcel A" or "Tract 1" on the plat. Any exclusions are described in the ordinance and depicted on the plat.
- ☐ The point(s) at which the annexation joins the existing city boundaries are identified on the plat. *(A Vicinity Map assists in placement of the annexed parcel. Although not required by statute, surveyors may provide GIS coordinates.)*
- ☐ The surveyor's statement of resources used to describe & depict the tract is included.
- ☐ The surveyor's certification is complete: surveyor's seal, signature & date of signature.
- ☐ Packets are prepared for filing with the county clerk, Secretary of State, & Department for Local Government.

ADDRESS LIST FOR CITY FILINGS

- The County Clerk of the county or counties in which the city is located.
 - *The County Clerk must also receive a list of the names & addresses of property owners & registered voters who reside in the annexed area pursuant to KRS 81A.470 & KRS 81A.475.*
- Office of the Kentucky Secretary of State
Land Office Division
Room T40, Capitol Annex
702 Capital Avenue
Frankfort, KY 40601
- Department for Local Government
1024 Capital Center Drive
Suite 340
Frankfort, KY 40601

RESOLUTIONS ENHANCING ORIGINAL ANNEXATION ORDINANCES

- Many cities are adopting resolutions that allow the original annexation description and plat to be enhanced to meet today's KRS 81A.470 filing requirements. These resolutions do not replace the original annexation ordinance nor do they relieve the city of the obligation to file a certified copy of the original annexation ordinance. (The resolution is a secondary filing; the annexation ordinance is the primary filing.)

If the city determines a resolution is in order, filing submissions should include:

1. Certified copy of original annexation ordinance copied in its entirety, including the original description and plat

Attached to:

1. Certified resolution citing the annexation ordinance being enhanced and date of passage and the new description & plat both of which have been prepared by a professional land surveyor.

➤ *The tract referenced in the resolution will be matched against the tract referenced in the resolution to determine acreage and location similarities. Cities do not annex by resolutions. KRS 81A is still in effect.*

SURVEYOR'S DESCRIPTION

Throughout the boundary changing process, city ordinances must accurately describe the tract or tracts being annexed, deannexed or transferred.

The Surveyor's Description includes bearings & distances or sufficient curve data to describe each line and cites the references that were used to describe the annexed tract or tracts.

Key Point: References pointing to deed books or plats on file do not replace Surveyor's Descriptions.

Being a 7.954 acre tract located on the southerly side of Christian Church Road near the city of Brandenburg, Meade County, Kentucky and being Lot 4 Country Woods Estates (Michael Rigot Sr. DB 498 PG 561) and Lot 5 Country Woods Estates (Michael Rigot Sr. Unrecorded Contract for Deed) and more particularly described as follows:

BEGINNING at a set 5/8" rebar in the existing city limit line and in the line of BBurg LLC (DB 514 PG 534), said rebar having a KY State Plane Coordinates (NAD83) (south zone) of N:2,242,074.4392, E:1,524,376.0681) and a latitude of 37 deg. 59 min. 06.3278 sec. and a longitude of 86 deg. 09 min. 09.3804 sec.; THENCE with said city limit line and crossing Lot 4, Country Woods Estate (PC 5 SLD 27) (M. Rigot Sr. DB 498 PG 561) N 15 deg. 10 min. 55 sec. W., 2.36' to a point in Lot 3 (R. Risen Jr. DB 457 PG 288); THENCE leaving said city limit line with Lot 3, N 26 deg. 35 min. 22 sec. E., passing a found 5/8" rebar on the southerly right-of-way of Christian Church Road, a total distance of 843.98' to a point in the centerline of said Christian Church Road; THENCE with the centerline of said Christian Church Road the following chordal courses: S 63 deg. 33 min. 03 sec. E., 83.15'; THENCE S 63 deg. 19 min. 56 sec. E., 90.46'; THENCE S 61 deg. 41 min. 14 sec. E., 26.78'; THENCE S 59 deg. 32 min. 32 sec. E., 92.68'; THENCE S 56 deg. 56 min. 44 sec. E., 96.35'; THENCE S 54 deg. 27 min. 59 sec. E., 9.07' to a point; THENCE leaving said centerline of Christian Church Road S 23 deg. 36 min. 24 sec. W., 22.67' to a found 5/8" rebar with cap stamped LS 2373 on said southerly right-of-way of Christian Church Road corner to Lot 6 (C. Eubank, DB 514 PG 666); THENCE with Lot 6, S 23 deg. 36 min. 24 sec. W., 778.48' to a found 5/8" rebar with cap stamped LS 2373 in the line of said BBurg LLC; THENCE with BBurg, LLC N 66 deg. 52 min. 03 sec. W., 438.45' to the POINT OF BEGINNING and CONTAINING 7.954 Acres (more or less) according to a physical survey by Timothy W. Smith, PLS #2373 during January, 2007, per Job No. 06-142.

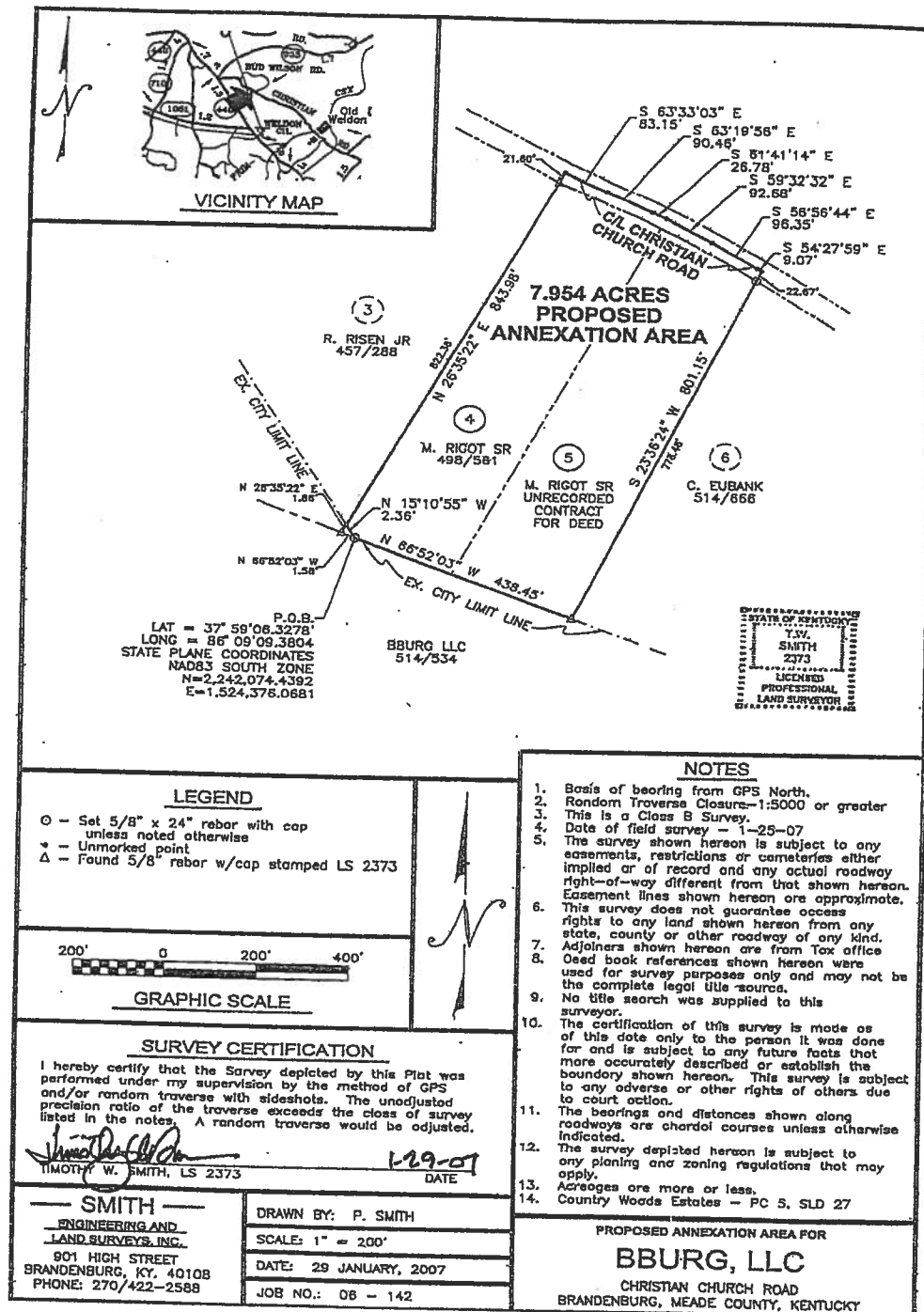
Unless stated otherwise, any monument referred to herein as a 5/8" rebar is a set 5/8" diameter steel concrete reinforcing rod, twenty-four inches (24") in length, with a yellow plastic cap stamped T.W. Smith, LS 2373. The basis of bearings stated herein are based from GPS North.

SURVEYOR'S PLAT

The plat depicting the annexation, deannexation, or transfer must include:

- Annotated lines and/or a line table.
- Surveyor's statement of resources used to depict the boundary change.
- Surveyor's certification: stamp, signature, and date.
- References to existing city limits.
- The tract or tracts must close.

Text & annotated lines should be eye-readable. Multiple parcels should be identified and matched to parcel identifications in the ordinance. A point-of-beginning is also requested. Although not required by statute, GIS coordinates assist in the placement of the boundary change.



KRS 81A.470 *(Created 1980, effective July 15, 1980, amended 1984, 1992, 1998, 2004, & 2007)*

- (1) If the limits of a city are enlarged or reduced, the city shall, within sixty (60) days of the enlargement or reduction, cause an **accurate map & description** of the annexed, transferred, or severed area, together with a copy of the ordinance duly **certified**, to be recorded in the office of the **county clerk** of the county or counties in which the city is located, in the office of the **Secretary of State**, and in the **Department for Local Government**. **The map & description shall be prepared by a professional land surveyor.** The documents shall depict the parcel annexed, transferred, or severed as a **closed geometric figure** on a plat **annotated** with bearings & distances or sufficient curve data to describe each line. The professional land surveyor shall clearly state on the documents the location of the **existing municipal boundary**, any physical feature with which the proposed municipal boundary coincides, & a **statement** of the recorded deeds, plats, right-of-way plans, or other resources used to develop the documents depicting the municipal boundary.
- (2) No city which has annexed unincorporated or accepted transfer of incorporated territory may levy any tax upon the residents or property within the annexed or transferred area until the city has complied with the provisions of subsection (1) of this section, and of KRS 81A.475.

CITY CLERK'S CERTIFICATION *(Sample)*

I certify I am the duly qualified City Clerk of the City of _____, Kentucky, and the foregoing _____ pages of Ordinance No. _____ is a true, correct and complete copy duly adopted by the City Commission at a duly convened meeting held on _____, all as appears in the official records of said City.

WITNESS, my hand (and Seal or the Seal of said City), this _____ day of _____, 201__.

Key Point: *The city clerk's attestation of signatures affixed is not the equivalent of the clerk's certification of the ordinance.*

Appendix C
Reduction of Territory KRS 81A.440

Reduction of Territory

1. Second Through Sixth Class Cities

KRS 81A.440 establishes the requirements for the reduction of boundaries that are applicable to second through sixth class cities.

a. If the city desires to strike territory that is inhabited, the legislative body of the city must enact an ordinance proposing the reduction. The ordinance must accurately define the boundaries of the area to be stricken and must provide that the question of reduction must be submitted to the registered voters in the area to be stricken. The election must be held at the next regular election if the ordinance is filed with the county clerk not later than the second Tuesday in August preceding the regular election. If a majority of those voting on the question favor the reduction, then the city must, within ten (10) days of the certification of election, enact an ordinance declaring the area to be stricken from the city as of the effective date of the ordinance. If the voters reject the reduction, the issue may not be raised for five (5) years from the date of the rejection. When a city strikes territory from its boundaries, it must make the same type of filings with the county clerk of the county, the Secretary of State, and the Department for Local Government that are required in the case of annexation.

b. If the city desires to strike territory that is uninhabited, the city must enact an ordinance stating the intention of the city to strike the uninhabited area from the city. The ordinance must define the boundary of the uninhabited territory and declare the city's intention to strike the territory from the city limits. Once the ordinance stating the intention to strike uninhabited territory has been enacted, the city clerk must send a copy of the ordinance to the county judge/executive of the county by certified mail, return receipt requested. The legislative body of the county may enact an ordinance within thirty (30) days of the receipt of the city's "intent to strike" ordinance objecting to the striking of the territory from the city's boundaries. If the county enacts an ordinance objecting, the county must send a copy of the ordinance to the city's mayor by certified mail, return receipt requested. The county ordinance prevents the city from striking the territory. If the county does not enact an ordinance objecting to the city's striking of uninhabited territory within thirty (30) days, it shall constitute acceptance of the city's decision to strike the territory and the city may proceed to enact a second ordinance striking the territory. Upon the enactment of the city's second ordinance, the territory shall cease to be a part of the city. In addition, the city must make the same type of filings with the Secretary of State, the Department for Local Government, and the county clerk that are required in the case of annexation.

Appendix D
Transfer of Incorporated Areas Between Cities, KRS 81.500

Transfer of Incorporated Areas Between Cities, KRS 81.500

81.500 Transfer of incorporated areas between cities of the second through sixth classes.

- (1) When two (2) cities of the second through the sixth class have a common boundary and it is determined that a specified area within one (1) city can be better served by the adjoining city, the specified incorporated area may be transferred to the adjoining city upon enactment of identical ordinances by each city legislative body and the submission of a petition in support of the transfer signed by voters in the area to be transferred.
- (2) The ordinances declaring the transfer of property between two (2) cities shall include, but not be limited to, the following:
 - (a) A definition of the area to be transferred;
 - (b) A statement of the financial considerations between the two (2) cities regarding the area and the terms of any financial agreements;
 - (c) The resolution of any taxes or revenues from the area; and
 - (d) A statement of the land use or zoning regulations which would be applicable to the area being transferred if planning and zoning is in effect pursuant to KRS Chapter 100 in either city.
- (3) Prior to the effective date of the transfer of the property, a petition in support of the transfer, containing a number of signatures of residents in the area to be transferred which is not less than fifty-one percent (51%) of the number of registered voters in the area to be transferred, shall be submitted to the county clerk of the county from which the property is being transferred. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition. No petition shall be required to be submitted when the property proposed for transfer contains no residents and the property owners consent in writing to the transfer.
- (4) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.
- (5) The authority for the transfer of incorporated property between cities shall be exclusive of the provisions of KRS 81A.440.
- (6) In addition to other public notice requirements, cities involved in the transfer of incorporated areas between cities shall comply with the provisions of KRS 81A.470 and 81A.475.
- (7) The incorporated area being transferred shall assume the local option status of the city to which it is being transferred.

Effective: February 28, 1992

History: Created 1992 Ky. Acts ch. 17, sec. 1, effective February 28, 1992.