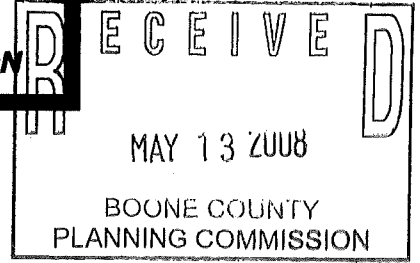


APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

- 1. (Check One) Boone _____ Florence _____ Walton _____ Union _____
- 2. (Check One) _____ Conditional Use Permit _____ Variance Appeal _____
_____ Change in Non-Conforming Use
- 3. Applicant's Name Richwood North, LLC
Phone Number 502-484-5802 Fax No. 502-484-0457
Applicant's Address 625 N. Madison / PO Box 157
Owenton KY 40359
City State Zip
- 4. Description of Request: Appeal interpretation of zoning in regards to letter from Mitch Light dated 5-8-2008. See Attached.
- 5. Name of Development Richwood North
- 6. Location of Development Dixie Hwy + Frank Duke Blvd
- 7. Acreage Under Review ~~5.29~~ 4.29
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
126, 128, 129
- 9. Owner of Property Richwood North, LLC
Address of Property Owner PO Box 157 Phone No. 502-484-5802
- 10. Owenton KY 40359
City State Zip
- 11. Proposed Use(s) on Site All non-stricken uses included in conditions letter dated 12-3-07. See attached.
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property C-3
- 14. Deed Book 925 Page No. 849 Group No. 4869 2058
- 15. Is the site subject to a zone change? No
If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? No
- 17. Have you submitted a list of adjoining property owners with this request? No
- 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: [Signature], Member
Property Owner's Signature: [Signature], Member

(over)

**BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2**

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 5/13/08 Fee Received \$1,082.00 R#56350
2. Is application complete? Yes No
3. Staff Reviewer [Signature]
4. Scheduled Board Action Date _____
5. Board Action:

Approved

Approved with Conditions (See #6)

Denial (See #7)
6. Conditions of Approval: _____

7. Reasons for Denial: Appeal Denied - Asst. ZA interpretation withheld.

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
www.boonecountyky.org - Web Page

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

STAFF REPORT

DEVELOPMENT: **Richwood North LLC - Appeal**

APPLICANT: John Ashcraft, Richwood North LLC

LOCATION: Lots 126, 128, and 129 of Richwood North Estates Subdivision,
Dixie Highway, Boone County, Kentucky

ZONE: Commercial Services (C-3)

DATE: June 11, 2008

REQUEST

In accordance with sections 201, 220, 230, 240, 245, 253, and 254 of the Boone County Zoning Regulations, an Appeal of the Zoning Administrator's interpretation of the Zoning Regulations has been filed before the Boone County Board of Adjustment and Zoning Appeals. Specifically, Mr. Ashcraft, on behalf of Richwood North LLC, has filed an Appeal of the Assistant Zoning Administrator's interpretation of the permitted uses established through the public hearing for approval of a Zoning Map Amendment and Concept Development Plan.

In the letters attached as Exhibit 2 (letter dated 5/1/2008) and Exhibit 3 (letter dated 5/8/2008), the Assistant Zoning Administrator determined that the Commercial Services (C-3) zone does not include the principally permitted Commercial Two (C-2) uses, nor were they requested as part of their application for Zoning Map Amendment from Commercial One (C-1) to Commercial Services (C-3). Therefore, the applicant's request for a "Pawn Shop" use was not permitted. The City of Florence only allows pawn shops in the Commercial Services (C-3) zone while Unincorporated Boone County only allows pawn shops in the Commercial Two (C-2) zone. This development is located in Unincorporated Boone County with a Florence mailing address.

DUTIES OF ZONING ADMINISTRATOR AND BOARD OF ADJUSTMENT AND ZONING APPEALS

Section 201 of the Boone County Zoning Regulations describes the authority of the Zoning Administrator. One of the roles of the Zoning Administrator is to determine the classification of any use of land, buildings or structures as a principally permitted, accessory, or conditional use in a specific zoning district, as well as determine whether uses are illegal or have pre-existing, nonconforming status, based on an interpretation of the stated and implied requirements of the zoning regulations.

In addition, one of the Board's duties is to hear and decide Appeals where it is alleged there is an error in any order, requirements, decision, interpretation, grant or refusal made by the Zoning Administrator.

HISTORY OF REQUEST/ISSUE

The Richwood North Subdivision had been zoned Suburban Residential Two (SR-2) since the Comprehensive Zoning Update in 1980. In 1996, the front portion of the property (approximately 12 acres) went through the Zoning Map Amendment process to change from Suburban Residential Two (SR-2) to Commercial One (C-1) to allow neighborhood retail and office uses.

In 2006 a request to change 6 acres from Commercial One (C-1) to Urban Residential One (UR-1) and modify the remaining Commercial One (C-1) property was approved with conditions.

In 2007 a request to change the four Commercial One (C-1) lots along Dixie Highway at Frank Duke Boulevard to Commercial Services (C-3) in order to allow more uses (Sale of Auto Parts) was approved with conditions (attached). Condition #7 states "The following are the Principally Permitted, Accessory and Conditional, Commercial One (C-1), Commercial Two (C-2), Commercial Services (C-3) and Office One (O-1) uses with the excluded uses stricken."

ADJACENT LAND USES AND ZONING

- North: Shehan property zoned Commercial One (C-1), and the Amsterdam Village Subdivision (under construction) zoned Suburban Residential Two (SR-2).
- South: Mosby's Point Mobile Home Park zoned Mobile Home Park (MHP).
- East: Across Dixie Highway, property owned by Cuzick and Pilyer zoned Industrial One (I-1), Baumgartner and Robinson (Gathering Place Church & Zion Christian Academy) zoned Industrial One (I-1) and Industrial Two (I-2).
- West: The 6 acre tract zoned Urban Residential One (UR-1) and the Richwood North Subdivision zoned Suburban Residential Two (SR-2).

DESCRIPTION OF SITE

The property is located on the west side of Dixie Highway at the intersection of Frank Duke Boulevard (Richwood North Subdivision). The property in question in the NW quadrant consists of Lot 128 (Family Dollar) and Lot 126 (undeveloped) and Lot 129 (undeveloped) in the SW quadrant each approximately one (1) acre. These acreages are based on the Kentucky Transportation Cabinet future Dixie Highway right-of-way plans.

DECISION AND BASIS FOR DECISION

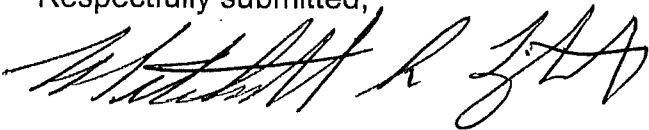
The decision in question, and the basis for the decision, are described in the previously mentioned letter dated May 8, 2008 from Mitchell A. Light to John E. Ashcraft (Exhibit 3).

CONCLUSION

As provided in Article 2 of the Boone County Zoning Regulations, an Appeal of the Zoning Administrator's decision may be granted by the Board of Adjustment and Zoning Appeals when it has been demonstrated that the decision is in error. Issues of particular relevance to this matter include:

1. Signed Condition Letter dated 12/3/2007 (Exhibit 1), prepared by Staff, which inadvertently included the C-2 uses.
2. Letter dated 5/1/2008 (Exhibit 2) from Mr. Ashcraft requesting an official interpretation for a potential "Pawn Shop" use for their development.
3. Official response dated 5/8/2008 (Exhibit 3) which includes the following, "Even though the condition letter states "The following are the Principally Permitted, Accessory and Conditional, Commercial One (C-1), Commercial Two (C-2), Commercial Services (C-3) and Office One (O-1) uses," the Boone County Planning Commission can not allow uses that are permitted only within the Commercial Two (C-2) because they have not been legislatively adopted for the C-3 zone, irrespective of any zone change conditions." The next paragraph goes on to state; "I have also reviewed your rezoning application, copy enclosed, and you did not request rezoning for C-2 uses. For that reason, the appropriateness of C-2 uses, including Pawn Shops, was not the subject of the required Public Hearing. Notices to the public did not include these C-2 uses either. Accordingly, the Boone County Planning Commission and Boone County Fiscal Court lacked the authority to recommend or approve the C-2 uses."
4. A request by the Applicant to change the zoning of the property from C-1 to C-3 for more uses (specifically Retail Sales of Auto Parts for O'Reilly) was recommended for approval with conditions to the BCFC. The Fiscal Court approved the request with the Conditions from the Planning Commission's recommendation

Respectfully submitted,



Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

MAL/pr

Attachments

- Vicinity Map
- Concept Development Plan
- Exhibit 1 Signed Condition Letter dated 12/3/2007
- Exhibit 2 letter from Mr. Ashcraft to Mitch Light requesting interpretation dated 5/1/2008
- Exhibit 3 official response from Mitch Light to Mr. Ashcraft dated 5/8/2008
- Exhibit 4 Appeal Application form
- Exhibit 5 copy of Boone County Fiscal Court Ordinance 08-02

**Lot 128
Family
Dollar**

**Lot 126
Vacant**

**Lot 129
Vacant**

DIXIE HWY

FRANK DUKE BLVD

MEMORY LN

DEER HAVEN CT

REMY LN

MAISIE LN

LAKEVIEW DR

VICINITY MAP

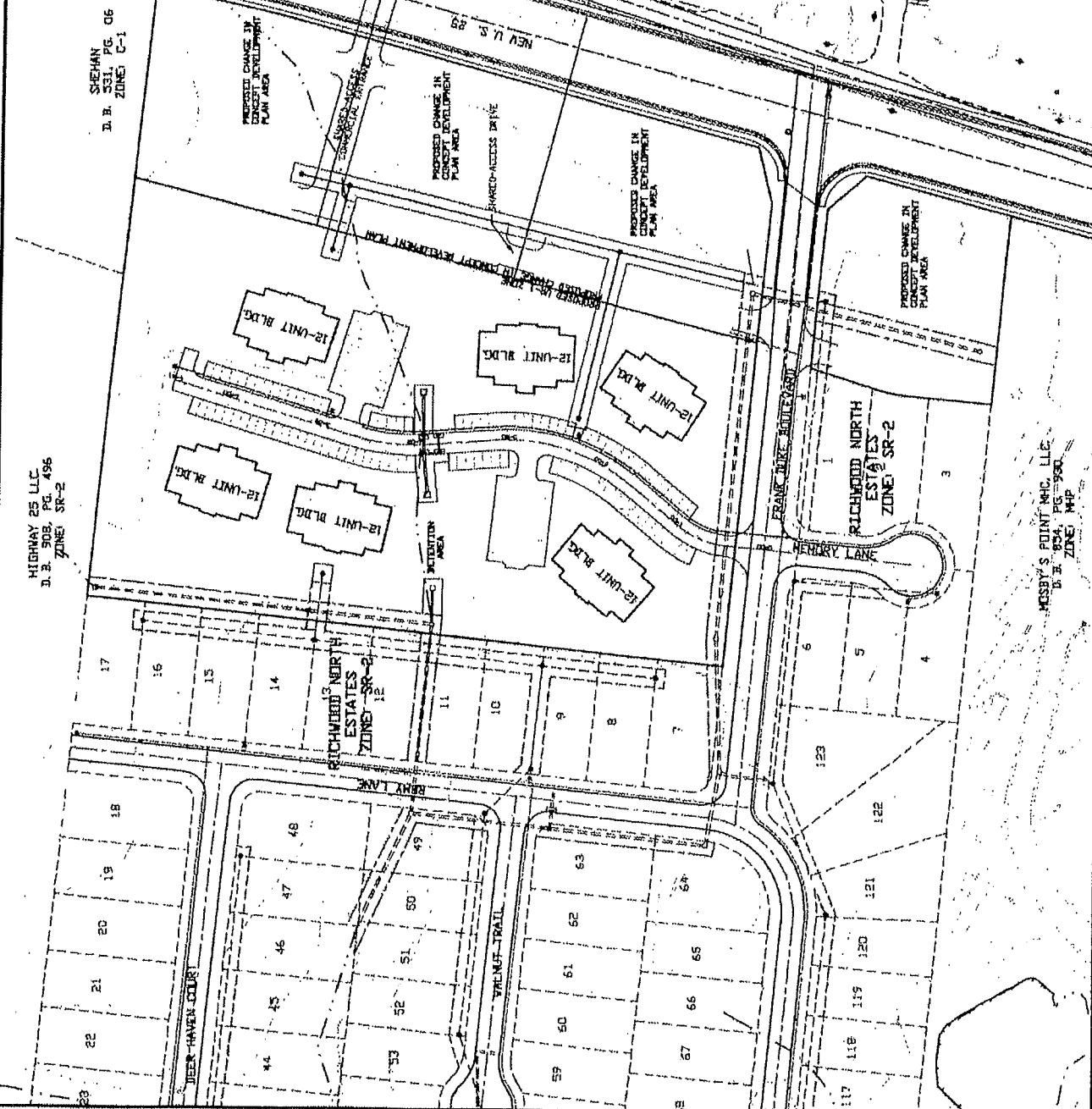
CONCEPT DEVELOPMENT PLAN
 US 25 & FRANK DUKE BLVD.
 RICHWOOD NORTH ZONE CHANGE
 BOONE COUNTY, KENTUCKY

ECE ENGINEERS
 4205 Dixie Hwy - Campbell, KY 40113
 Phone: 502-233-1111
 Fax: 502-233-1112
 E-mail: info@eceky.com
 www.eceky.com

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- ZONING MAP AMENDMENT NOTES:
- AREA & ACRES
 - EXISTING ZONE C-1/CD
 - PROPOSED MULTI-FAMILY DEVELOPMENT (72 UNITS)
 - PROPOSED DENSITY 12 SR-2
 - PROPOSED STREETS SHALL BE PUBLIC WITH RIGHT-OF-WAY EXTENDING 6' BEYOND BACK OF CURB
 - UTILITY AND SANITARY SEWERS SHALL COMPLY WITH ALL CITY AND COUNTY REGULATIONS AND INCLUDE 20' EASEMENTS TO BE DEDICATED TO BOONE COUNTY PUBLIC WORKS
 - ROAD FUTURE LAND USE DESIGNATION: URBAN DENSITY RESIDENTIAL CLUB, OVER 8 UNITS PER ACRE
 - DEVELOPMENT WILL ABIDE BY BOONE COUNTY SUBDIVISION REGULATIONS AND BOONE COUNTY ZONING ORDINANCE
 - CHANGE IN CONCEPT DEVELOPMENT PLAN DUE TO:
 - AREA & ACRES
 - PROPOSAL VALUED BY CONDITIONS OF MARCH 6, 1996 COMMITTEE REPORT
 - DEVELOPMENT WILL ABIDE BY BOONE COUNTY ZONING ORDINANCE
 - NORTH-SOUTH CORNER
 - SHARED ACCESS SHALL BE PROVIDED AMONG 8 COMMERCIAL LOTS NORTH OF FRANK DUKE BLVD.



CONCEPT DEVELOPMENT PLAN

SHEET 1 OF 1

MESBY'S POINT INC. LLC
 D.B. 854, PG. 990
 ZONE MAP

SHEHAN
 D.B. 531, PG. 06
 ZONE C-1

HIGHWAY 25 LLC
 D.B. 502, PG. 496
 ZONE SR-2

RICHWOOD NORTH
 ESTATES
 ZONE SR-2

RICHWOOD NORTH
 ESTATES
 ZONE SR-2



BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

December 3, 2007

Mr. John Ashcraft
P.O. Box 157
Owenton, KY 40359

RE: Conditions of Approval for the request of **Richwood North, LLC (owner)** for a Zoning Map Amendment from Commercial One (C-1) to Commercial Services (C-3) for a 5.72 acre site located along the west side of Dixie Highway and on both sides of the intersection with Frank Duke Boulevard, and described as lots 126, 127, 128, and 129 of Richwood North Estates Subdivision, Boone County, Kentucky. The request is for a zone change to allow specified uses permitted in the C-3 zone.

Dear Mr. Ashcraft:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their November 28, 2007 meeting. If you, as the applicant, agree with these conditions, please indicate by providing the signature of the property owner in the space provided at the end of this letter, and return the original letter to the Planning Commission's office by Friday, November 30, 2007.

CONDITIONS

1. The architectural design of the structures shall be subject to design review by the Planning Commission's staff through the Site Plan Review procedure to assure compatibility, continuity within the subject areas, and appropriateness with the adjoining areas. The commercial buildings shall use a minimum of 50% masonry or similar architectural quality materials on all elevations, provide similar architectural elements, and screen any roof mounted equipment.
2. There shall be no outside storage permitted except for the accessory storage of rental trucks (i.e. U-Haul type) and they are only permitted in the rear of the property.
3. The commercial outlots shall be limited to one (1) principal structure per lot. Only one (1) of the four (4) outlots may be developed for a multi-tenant building. The overall number of outlots may be reduced provided that only one (1) principal structure is still limited on each outlot.
4. No lot shall have direct vehicular access from Dixie Highway (US 25).
5. The proposed driveway connecting the four (4) frontage outlots will act as a "connector road" providing a potential future connection to the Sheehan property to the North and Mosby's Point to the South and will be shown on each major site plan and constructed as part of each site plan. The developer agrees to work in good faith with said adjacent property owners to provide the requisite access/right-of-use easement across the connector road to permit the intended use of the property.

6. A photometric plan is required to be submitted as part of each Major Site Plan review application in order to show that the lighting fixtures will be shielded and cast downward so as to prevent light pollution and light spilling onto the neighboring properties and measurable light shall be less than 1 foot candle at all property lines.
7. The following are the Principally Permitted, Accessory and Conditional, Commercial One (C-1), Commercial Two (C-2), Commercial Services (C-3) and Office One (O-1) uses with the excluded uses stricken:

COMMERCIAL ONE (C-1)

SECTION 1011

Principally Permitted Uses

The following uses are permitted:

1. Hardware stores;
2. Eating and drinking establishments including alcoholic beverages;
3. Grocery stores and supermarkets;
4. Stores with retail sales of meat, fish, seafood, dairy and poultry products;
5. Fruit and vegetable stores; bakeries, candy, nut and confectionery stores;
6. Convenience stores;
7. ~~Liquor (Freestanding)~~, beverage, drug and proprietary stores;
8. Banking services, savings and loan associations, credit unions and other credit services;
9. Insurance carriers and agents;
10. Real estate operators, agents, lessors and real estate sub-dividing and developing services, operative builders and related services;
11. Accounting, auditing and bookkeeping services;
12. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
13. Physician, dental, optical goods and services;
14. Veterinary services and pet grooming services but not including the boarding of animals;
15. Beauty and barber services and tanning salons;
16. Nursery and day care centers;
17. Laundering, dry cleaning and dyeing services including self-service;
18. Alteration and garment repair and custom tailoring;
19. Shoe repair, shoe shining and hat cleaning services;
20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
21. Jewelry stores;
22. Radio, t.v., music supplies, cameras, photographic supplies and specialty household appliances;
23. Art, craft and hobby supplies and products, gifts and novelties;
24. Antiques and used merchandise;
25. Books, stationery, newspapers and magazines;
26. Florists excluding greenhouses;
27. Sporting goods including bicycles;

28. Draperies, curtains, upholstery and floor coverings;
29. Paint, glass and wallpaper stores;
30. Photo finishing services;
- ~~31. Recreation centers, gymnasiums, clubs and similar athletic uses;~~
32. Video stores;
- ~~33. Funeral homes and crematoriums excluding cemeteries or mausoleums.~~

SECTION 1012

Accessory Uses

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses defined to be:

- ~~1. Recreation uses or spaces of integral relation to the developed portions of the district including:
 - ~~a. Temporary exhibit spaces;~~
 - ~~b. Aquariums, botanical gardens and other natural exhibitions;~~
 - ~~c. Stages and similar assembly areas;~~
 - ~~d. Indoor target ranges and similar athletic uses;~~~~
- ~~2. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
 - ~~a. Private garage and parking;~~
 - ~~b. Structures such as fences and walls;~~
 - ~~c. Buildings such as storage sheds;~~
 - ~~d. The keeping and use of appropriate household pets;~~~~
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Temporary buildings incidental to construction;
- ~~6. Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use and do not create outside spaces which will tend to enlarge or overpower the activities of permitted uses, and which are conducted in accordance with Section 3154;~~
7. Retail sale of motor fuels;
8. Drive-up photo finishing services and automatic teller services;
9. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);
10. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155.

SECTION 1013

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or b) the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center; and, c) the arrangement of uses, buildings or structures will be compatible with the organization of permitted and accessory uses to be protected in the district:

1. Gasoline filling stations ~~and automotive repair facilities;~~
2. Churches, synagogues, temples and other places of religious assembly for worship;

COMMERCIAL TWO (C-2)

SECTION 1021

Principally Permitted Uses

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;
2. All the principally permitted uses in an Office One (O-1) district;
3. Eating and drinking establishments including alcoholic beverages;
4. Department stores, mail order houses, direct retail selling organizations of general merchandise;
5. Furniture, home furnishings including specialty and floor coverings;
6. Specialized upholstery and furniture repair or refinishing services;
7. Apparel stores;
8. Household appliances, china, glassware and metal ware;
9. Radio, t.v., watch, clock, and jewelry repair;
10. Photographic, stenographic and other duplicating and mailing services;
11. Legal services, engineering and architectural services;
12. Security brokers, dealers and flotation services;
13. Title abstracting services; holding and investment services;
14. Advertising services including direct mail;
15. Business and management consulting services;
16. Employment services;
17. Consumer and mercantile credit reporting, adjustment and collection services;
18. Travel arranging, transportation ticket and public event or promotional booking agencies;
19. Radio and television broadcasting studios excluding transmitting stations and towers;
20. Art, music and dancing schools, libraries and museums;
21. Medical and dental laboratory services;
22. Medical clinics - out - patient services;
23. Welfare and charitable services;
24. Business associations and professional membership organizations including civic, social and fraternal organizations;
25. Art and craft galleries and similar exhibit space;
- ~~26. Aquariums, botanical gardens and other natural exhibitions;~~
- ~~27. Arcades and other amusement centers;~~
28. Motion picture theaters (indoor);
29. Bowling alley, skating rinks, roller skating rinks, miniature golf courses golf driving ranges, and skateboard facilities;
30. Recreation centers, gymnasiums, clubs and similar athletic uses;
31. Motorcycles sales or bike shops excluding outside storage;
32. Churches, synagogues, temples and other places or religious assembly for worship;
- ~~33. Hotels and motels including convention facilities;~~
34. Pawn shops (**Not Applicable within the City of Florence**);
35. Auto parts and accessories stores;
36. Gasoline filling station;

SECTION 1022

Accessory Uses

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses including:

1. ~~Recreation uses or spaces of integral relation to the developed portions of the district defined to be:~~
 - a. ~~Stages and similar assembly areas;~~
 - b. ~~Auditoriums, exhibition halls and other public assembly spaces;~~
 - c. ~~Billiards;~~
 - d. ~~Play lots and tot lots;~~
 - e. ~~General, leisure, ornamental and other parks, spaces, trails bikeway systems, malls and urban pedestrian networks;~~
2. ~~A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:~~
 - a. ~~Private garage and parking;~~
 - b. ~~Structures such as fences and walls;~~
 - c. ~~Buildings such as storage sheds;~~
 - d. ~~The keeping and use of appropriate household pets;~~
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Temporary buildings incidental to construction ;
6. ~~Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use and do not create outside spaces which will tend to enlarge or overpower the activities of permitted uses, and which are conducted in accordance with Section 3154;~~
7. Drive-up photo finishing services and automatic teller services;
8. Indoor target ranges and similar athletic uses;
9. ~~Recycling collection points (See Article 31);~~
10. Garment and Furniture centers (See Article 31);
11. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);
12. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155.

SECTION 1023

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or b) the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center; and c) the arrangement of uses, buildings or structures will be mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. Garden and landscape sales including ~~florist greenhouses~~, lawn furniture and the like;
2. ~~Automotive repair facility and wash services for vehicles;~~
3. Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises (only permitted to be displayed in the ~~side or rear~~ of the property);

4. Sale of satellite dishes;
5. ~~Small scale sales or leasing of new and used recreational vehicles requiring the storage of no more than fifty (50) vehicles on the premises (Does not apply in the City of Florence);~~
6. ~~Mini-warehouses or storage facilities (Does not apply in the City of Florence);~~

COMMERCIAL SERVICES (C-3)

SECTION 1031

Principally Permitted Uses

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;
2. All the principally permitted uses in an Office One (O-1) district;
3. ~~Commercial parking facilities and commercial recreational vehicle parking facilities;~~
4. Sales of lumber, building materials, heating and plumbing equipment, electrical supplies, hardware and farm equipment;
5. ~~Sales, automotive repair, or lease of new and used motor vehicles including tires, batteries and accessories;~~
6. Major furniture, floor coverings, household appliances and home furnishing outlets;
7. Eating and drinking establishments including alcoholic beverages;
8. Sporting goods and accessories including the sales and service of new and used marine craft, recreational vehicles, camping trailers, bicycles, and motorcycles and other sporting equipment and sales;
9. ~~Sale of mobile homes, sheds, car ports and other pre-fabricated buildings;~~
10. Garden and landscape sales, lawn furniture and the like, farm and garden supply outlets including equipment and vehicles;
11. Food lockers including preparation facilities and individualized household goods storage lockers (mini warehouses);
12. ~~Equipment (light), automobile, truck rental and leasing services;~~
13. Gasoline filling stations, ~~automobile repair facilities,~~ car and truck washes, but excluding junk yards, wrecking or other storage;
14. Sale of satellite dishes;
15. Florists including greenhouses;
16. General dry goods and merchandise stores;
17. Department stores, mail order houses, direct retail selling organizations of general merchandise;
18. Household appliances, china, glassware and metal ware;
19. Medical and dental laboratory services;
20. Travel arranging, transportation ticket and public event or promotional booking agencies;
21. ~~Hotels and motels including convention facilities;~~
22. Auto parts and accessories stores **(Reasonable repairs only i.e. batteries and wipers);**
23. ~~Flea markets;~~
24. Churches, synagogues, temples and other places or religious assembly for worship;
25. The business of cashing checks or accepting deferred deposit transactions as regulated by KRS 368.010 to 368.120. **(APPLIES TO THE CITY OF FLORENCE CITY LIMITS ONLY)**
26. Pawn shops. **(APPLIES TO THE CITY OF FLORENCE CITY LIMITS ONLY)**

SECTION 1032

Accessory Uses

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses including:

- ~~1. Recreation uses, buildings and structures customarily incidental and subordinate to any of the permitted uses and defined to be:
 - ~~a. Stages and similar assembly areas;~~
 - ~~b. Auditoriums, exhibition halls and other public assembly spaces;~~
 - ~~c. Amusement centers;~~
 - ~~d. Tennis courts and billiards;~~
 - ~~e. Play lots, tot lots, recreation centers and similar athletic uses;~~
 - ~~f. Swimming beaches and swimming pools;~~
 - ~~g. General, leisure, ornamental and other park spaces;~~~~
- ~~2. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
 - ~~a. Private garage and parking;~~
 - ~~b. Structures such as fences and walls;~~
 - ~~c. Buildings such as storage sheds;~~
 - ~~d. Appropriate storage of a recreation vehicle or unit;~~
 - ~~e. The keeping and use of appropriate household pets;~~~~
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Temporary buildings incidental to construction;
6. ~~Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use, and which are conducted in accordance with Section 3154;~~
7. The rental of trucks and trailers (only permitted to be displayed in the side or rear of the property);
8. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155.

SECTION 1033

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use or service; or b) the arrangement of use, building or structure will be compatible with the organization of permitted and accessory uses to be protected in the district;

- ~~1. Welding or limited fabrication of metal products provided the use is of office or service contract and not storage or manufacturing which is more appropriate to an industrial district;~~
- ~~2. Truck stops.~~

OFFICE ONE (O-1)

SECTION 1111

Principally Permitted Uses

The following uses are permitted:

1. Bank related services or credit unions;
2. Business and personal credit services and title services;
3. Security brokers, investment services and finance companies;
4. Insurance agents, brokers and services;
5. Real estate agents, brokers and management services;
6. Real estate management services and builders offices excluding any outside storage equipment and the like;
7. Photographic services;
8. Eating and drinking establishments including alcoholic beverages;
9. Direct mail and advertising services;
10. Stenographic services and other duplicating and mailing services;
11. News syndicate services and employment services;
12. Research, development and testing services of an office nature;
13. Business and management consulting services and associations;
14. Motion picture, audio-visual and similar media production and distribution services;
15. Physician and dental services including medical, dental laboratories and clinics;
16. Legal, engineering, architectural, education and scientific research services;
17. Accounting, auditing and bookkeeping services;
18. Charitable and social services administration offices;
19. Professional membership organizations and labor organizations and civic associations;
20. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
21. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;
22. Veterinary services not including the boarding of animals;
23. Business colleges or schools;
24. Recreation centers, gymnasiums and other related recreational facilities;
25. The retail sale of office supplies and equipment;
- ~~26. Funeral homes and crematoriums excluding cemeteries or mausoleums.~~

SECTION 1112

Accessory Uses

Accessory uses, buildings, and structures customarily incidental and subordinate to the purposes of the district including:

- ~~1. Recreation uses or spaces of integral relation to the developed portions of the district including:
 - ~~a. Temporary exhibit spaces;~~~~

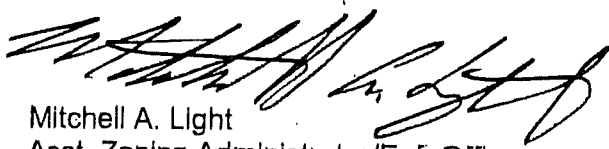
- ~~b. Aquariums, botanical gardens and other natural exhibitions;~~
- ~~c. Stages and similar assembly areas;~~
2. Accessory uses for an office facility:
 - a. Garages and parking;
 - b. Structures such as fences and walls;
 - c. Buildings such as storage sheds;
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Automatic teller machines;
- ~~6. Single-family dwelling unit;~~
7. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155.

SECTION 1113
Conditional Uses

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided; a) the activity is an integral and subordinate function of a permitted office use; or b) the arrangement of uses, buildings, or structures will be compatible with the organization of permitted and accessory uses to be protected in the district:

1. Child and adult care centers;
2. Convenient stores;
3. Beauty and barber services and tanning salons;
4. Laundering, dry cleaning and dyeing services, including self-service;
5. Shoe repair, shoe shining and hat cleaning services;
6. Florists, excluding greenhouses.

Sincerely,

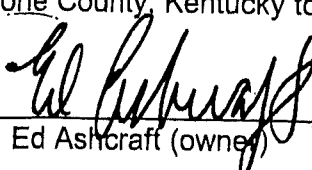


Mitchell A. Light
Asst. Zoning Administrator/Enf. Officer

MAL/pr

Agreement

I, Ed Ashcraft, do hereby agree to the conditions of approval stated above for the Zoning Map Amendment from Commercial One (C-1) to Commercial Services (C-3) for a 5.72 acre site located along the west side of Dixie Highway and on both sides of the intersection with Frank Duke Boulevard, and described as lots 126, 127, 128, and 129 of Richwood North Estates Subdivision, Boone County, Kentucky to allow specified uses permitted in the C-3 zone.


Mr. Ed Ashcraft (owner)

12-5-07
Date

Richwood North, LLC

125 North Madison Street
PO Box 157
Owenton, KY 40359
502-484-5802 phone
502-484-0457 fax

May 1, 2008

Mitch Light
Boone County Planning Commission
2950 Washington Street, Room 317
PO Box 958
Burlington, KY 41005

Mr. Light,

I am writing in regards to our telephone conversation and shared emails of yesterday. To recap, I requested a clarification regarding Pawn Shops on our remaining lots in the Richwood North Development on Dixie Highway at Frank Duke Blvd. The zoning is worded quite strangely and a potential client was requested a clarification. According to you, pawn shops are not allowed on our property. I wish to dispute this claim and seek to clarify the point so that we do not have to go through this again.

According to our agreement with the commission in a letter dated December 3, 2007, all of the uses of C-1, C-2 and C-3 were to be permitted with the exception of those stricken in that letter. That was condition #7 on page 2 of the letter. You will then notice that pawn shops were not stricken from the acceptable uses. According to our agreement, if it is not stricken from that list, then it is allowed.

During our last phone conversation, you stated that since those conditions were not mentioned within the ordinance that was published, C-3 zoning would be all that is permitted. Since pawn shops are not included in C-3 zoning outside of the City of Florence, then they would logically be disallowed from this site. Which side of the fence is the commission going to come down on, however, when we seek site approval for an automobile repair facility with outside storage? It would be my assumption that the commission would then wish to adhere strictly to those conditions and reject such an establishment. The commission would rightfully expect us to live up to our end of the agreement and we expect the commission to do likewise.

Also, I do not have copies of Exhibits "A" & "B" that are denoted in the ordinance so I do not know what they contain. Could it be possible that these exhibits contain our agreement letter which would make that letter part of the ordinance? That would solve our problem if that is the case. You will have to advise me to that situation.

If our agreement to the conditions of zoning is null and void, that is perfectly acceptable with us as long as we have all of the stricken uses of C-3 as options for development and none of the other conditions apply either. I don't think that is what the commission wants and I am positive that it is not what we want. All we are asking is that the conditions of our agreement be in full force and effect to the mutual benefit of Boone County and our company.

Sincerely,



John E. Ashcraft
Richwood North, LLC



BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

May 8, 2008

Mr. John E. Ashcraft
Richwood North, LLC
125 North Madison Street
P.O. Box 157
Owenton, KY 40359

RE: Clarification of the Approved Uses (Specifically "Pawn Shops") Within the Approved C-3/CD Zoning District at Richwood North, Frank Duke Boulevard & Dixie Highway, Unincorporated Boone County, Kentucky.

Dear Mr. Ashcraft:

In response to your letter dated May 1, 2008, I have reviewed the information and provide the following response.

Section 1031 of the Boone County Zoning Regulations (Principally Permitted Uses within the C-3 zone) states "#1. All principally permitted uses of a Commercial One (C-1) district;" and "#2. All the principally permitted uses in an Office One (O-1) district with the exception of principally permitted use #27 in Section 1111." Therefore, the Commercial Two (C-2) uses are not permitted as part of a Commercial Services (C-3) zoning designation. Certain uses are permitted in both the C-2 and C-3 districts (i.e. "Eating and drinking establishments including alcoholic beverages"). Pawn shops are only permitted in the Commercial Two (C-2) zoning district in Unincorporated Boone County and the Commercial Services (C-3) zoning district in the City of Florence. Your development is located in Unincorporated Boone County with a Florence mailing address.

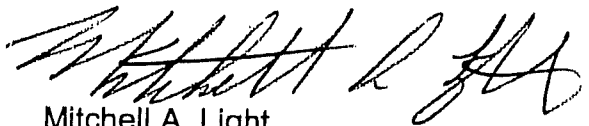
Even though the condition letter states "The following are the Principally Permitted, Accessory and Conditional, Commercial One (C-1), Commercial Two (C-2), Commercial Services (C-3) and Office One (O-1) uses," the Boone County Planning Commission can not allow uses that are permitted only within the Commercial Two (C-2) because they have not been legislatively adopted for the C-3 zone, irrespective of any zone change conditions.

Mr. John E. Ashcraft
Richwood North, LLC
May 8, 2008
Page 2

I have also reviewed your rezoning application, copy enclosed, and you did not request rezoning for C-2 uses. For that reason, the appropriateness of C-2 uses, including Pawn Shops, was not the subject of the required Public Hearing. Notices to the public did not include these C-2 uses either. Accordingly, the Boone County Planning Commission and Boone County Fiscal Court lacked the authority to recommend or approve the C-2 uses. As an option, you may want to apply for C-2 rezoning to determine if C-2 uses would be approved.

You or any aggrieved party have 30 days from receipt of this letter to appeal this interpretation to the Boone County Board of Adjustment and Zoning Appeals. A separate application and fee are required to be submitted. In order for an appeal to be granted, the applicant must demonstrate that the interpretation is in error.

Sincerely,



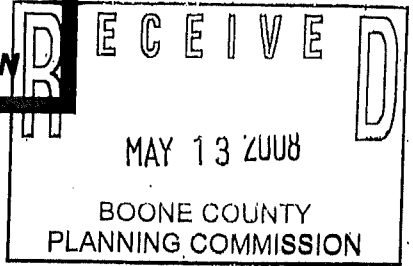
Mitchell A. Light
Asst. Zoning Administrator/Enf. Officer

MAL/pr

enclosure

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

- 1. (Check One) Boone _____ Florence _____ Walton _____ Union _____
- 2. (Check One) _____ Conditional Use Permit _____ Variance Appeal _____
Change in Non-Conforming Use
- 3. Applicant's Name Richwood North, LLC
Phone Number 502-484-5802 Fax No. 502-484-0457
Applicant's Address 125 N. Madison / PO Box 157
Owenton KY 40359
City State Zip
- 4. Description of Request: Appeal interpretation of zoning in regards to letter from Mitch Light dated 5-8-2008. See Attached.
- 5. Name of Development Richwood North
- 6. Location of Development Dixie Hwy + Frank Duke Blvd
- 7. Acreage Under Review ~~5.29~~ 4.29
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
126, 128, 129
- 9. Owner of Property Richwood North, LLC
Address of Property Owner PO Box 157 Phone No. 502-484-5802
- 10. Owenton KY 40359
City State Zip
- 11. Proposed Use(s) on Site All non-stricken uses included in conditions letter dated 12-3-07. See attached.
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property C-3
- 14. Deed Book 925 Page No. 849 Group No. 4869
- 15. Is the site subject to a zone change? No
If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? No
- 17. Have you submitted a list of adjoining property owners with this request? No
- 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: [Signature], Member
Property Owner's Signature: [Signature], Member

(over)

Rec'd 3-24-08

Ordinance 08-02

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT APPROVING, WITH CONDITIONS, FOR A REQUEST OF RICHWOOD NORTH, LLC (OWNER) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM COMMERCIAL ONE (C-1) TO COMMERCIAL SERVICES (C-3) FOR A 5.729 ACRE SITE GENERALLY LOCATED ALONG THE WEST SIDE OF DIXIE HIGHWAY AND ON BOTH SIDES OF THE INTERSECTION WITH FRANK DUKE BOULEVARD, AND DESCRIBED AS LOTS 126, 127, 128 and 129 OF RICHWOOD NORTH ESTATES SUBDIVISION, BOONE COUNTY, KENTUCKY.

WHEREAS, the Boone County Planning Commission received a request for a Zoning Map Amendment to the Boone County Zoning Map and such Zoning Map Amendment being a zone change from Commercial One (C-1) to Commercial Services (C-3) for a 5.72 acre site generally located along the west side of Dixie Highway and on both sides of the intersection with Frank Duke Boulevard, and described as lots 126, 127, 128 and 129 of Richwood North Estates Subdivision, Boone County, Kentucky, which is more particularly described below; and,

WHEREAS, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval, with conditions, for the Zoning Map Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOONE COUNTY FISCAL COURT AS FOLLOWS:

SECTION I

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and is hereby recommended for approval, with conditions, this Zoning Map Amendment being a zone change from Commercial One (C-1) to Commercial Services (C-3) for a 5.72 acre site generally located along the west side of Dixie Highway and on both sides of the intersection with Frank Duke Boulevard, and described as lots 126, 127, 128 and 129 of Richwood North Estates Subdivision, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in a Commercial One (C-1) zone is more particularly described in DEED BOOK 925, PAGE NO. 849 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

SECTION II

That as a basis for the recommendation of approval for a Zoning Map Amendment request are the findings of fact and conditions of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Resolution and marked as "Exhibit A."

The Committee recommended approval for this request based on the findings of fact and conditions as set forth in the Committee Report and the Boone County Planning Commission Business Meeting minutes and marked as "Exhibit B."

SECTION III

That this Ordinance shall take effect and be in full force when passed, published and recorded according to law.

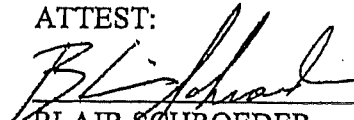
Introduced and given First Reading on the 27th day of November, 2007.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the 18th day of December, 2007, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.




GARY W. MOORE
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:

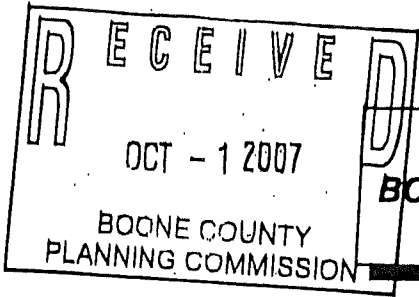


BLAIR SCHROEDER
FISCAL COURT CLERK



ROBERT NEACE
COUNTY ATTORNEY

2-21-08
DATE PUBLISHED



APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Name of Project: Richwood North Subdivision - Commercial Lots
2. Location of Project: Frank Duke Blvd - Dixie Hwy., Florence, KY
3. Total Acreage of Site: 5.72
4. Current Zoning of Site: C-1/CD
5. Proposed Zoning (Classification being requested): C-3/CD
6. Proposed Uses (please specify each use): See attachment.
7. Names of Applicant(s): Richwood North, LLC
8. Address of Applicant(s): PO Box 157, Owenston, KY 40359
9. Name of Property Owner(s): Richwood North, LLC
10. Address of Property Owner(s): PO Box 157, Owenston, KY 40359
11. Proposed Building Intensities (please specify): See attachment.
12. Are there any existing buildings on the site? No
13. Deed Book: 925 Page No.: 849 Group No.: 4869
14. Are you also applying for: No Conditional Use Permit, No Dimensional Variance
15. Have you submitted a Concept Development Plan? Yes
16. Have you had a pre-application meeting with BCPC Staff? Yes
17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- Boone County Water District
Florence Public Services Dept.
Duke Energy
Sanitation District #1
Cincinnati Bell
Owen Electric Cooperative, Inc.
Boone County Public Works Department
Kentucky Transportation Cabinet
Cincinnati/N. KY International Airport (KY Airport Zoning Commission for height restrictions near the airport)