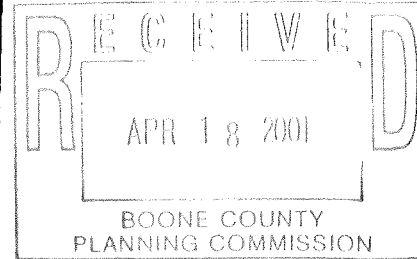


01-FBOA-004-A

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)

(Check One)

1. Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_

(Check One)

2. [checked] Conditional Use Permit \_\_\_\_\_ Variance \_\_\_\_\_ Appeal \_\_\_\_\_ Change in Non-Conforming Use \_\_\_\_\_

3. Applicant's Name ZANG GROUP LLC SKYLINE CHILI FLORENCE MALL RD. Phone Number 859 344 0900 Fax No. 859 344 0912 Applicant's Address 108 VERNON DR.

CRESTVIEW HILLS KY 41017 City State Zip

4. Description of Request: RESTAURANT WITH DRIVE THRU

5. Name of Development SKYLINE CHILI

6. Location of Development 7899 MALL RD, FLORENCE, BOONE COUNTY, KY WEST SIDE OF MALL RD, ACROSS FROM FLORENCE MALL

7. Acreage Under Review .66

8. Lot Number and Name of Subdivision (if part of a subdivision)

9. Owner of Property CAMPBELL PROPERTIES LIMITED PARTNERSHIP

10. Phone Number of Owner 763-544-9441 1415 N. LILAC DR. STE. 120 Address of Property Owner MINNEAPOLIS, MN 55422

11. Proposed Use(s) on Site RESTAURANT WITH DRIVE THRU

12. Total Square Footage of Existing and/or Proposed Buildings 1710 EXISTING

13. Current Zoning on Property C-2

14. Deed Book 350 Page No. 19 Group No. 2040A

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? YES

17. Have you submitted a list of adjoining property owners with this request? YES

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: J. E. Zang Jr. ZANG GROUP LLC

X Property Owner's Signature: Jody Anderson Corp Secretary for Campbell Mgmt Inc., 210 Gen. Plur.

(over)

CONDITION

1) SITE PLAN must be SUBMITTED And Approved by the BOONE Co. Planning Commission STAFF.

## STAFF REPORT

APPLICANT: Zang Group, LLC for Skyline Chili

LOCATION: 7899 Mall Road  
Florence, Kentucky

ZONING: Commercial Two (C-2)

DATE: May 9, 2001

### Proposal

The applicant is requesting a Conditional Use Permit in order to operate a Skyline Chili drive-thru restaurant on a .66 acre site located in an existing building at 7899 Mall Road. The building formerly housed Pearle Vision, and is approximately 1,710 square feet in size. The concept plan also depicts the removal of a detention basin located on the western portion of the property and installation of additional parking spaces to accommodate the proposed use. A total of twenty-six parking spaces (including 2 handicapped spaces) are shown on the concept plan. Exhibits A and B were submitted by the applicant as part of the application.

Exhibit A – List of adjacent owners

Exhibit B – Proposed Concept Plan

### Surrounding Land Uses and Zoning

The building where the applicant proposes to locate a Skyline Chili drive-thru restaurant is surrounded by various commercial uses zoned Commercial-Two (C-2). Hollywood Video Store is located to the north. Mall Road, Fifth/Third Bank, and the Olive Garden are located to the east. Chi-Chi's restaurant is located to the south. Caldwell Bank and Florence Plaza which houses the adjacent use of Toys-R-Us are located to the west.

### Applicable Regulations

Article 10, Section 1023 of the Boone County Zoning Regulations permits "*Franchise style fast food establishments and drive-thru eating and drinking establishments (CITY OF FLORENCE ONLY)*" as a conditional use.

Article 31, Section 3151 of the Boone County Zoning Regulations requires, "*All commercial, office, and employment uses that provide trash and/or garbage collections areas to be completely enclosed or otherwise screen or locate them in areas to minimize their visual impact from public streets, internal circulation areas, and adjoining properties*"

Article 33, Section 3325 of the Boone County Zoning Regulations requires 1.00 parking spaces per every 2 seats for eating and drinking establishments.

Article 33, Section 3300 of the Boone County Zoning Regulations states that *“No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this order.”*

Article 36, Section 3645 of the Boone County Zoning Regulations requires a 10 foot buffer yard when a use is being developed in a C-2 district (and is adjoined by other uses in the C-2 district).

Article 36, Section 3605 of the Boone County Zoning Regulations, pertaining to landscape requirements for existing sites that are currently developed, states, *“Improvements to an existing site that include building additions, vehicular use area expansions or load/unloading area expansion shall be required to bring only the new improvements into compliance with this Article (Article 36)”*.

The Board should evaluate the applicant’s request as it relates to the criteria necessary for granting a Conditional Use Permit stated in Section 262 and Section 1023 of the Boone County Zoning Regulations:

Findings listed in Section 262:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County’s comprehensive plan, a specific corridor plan and/or the zoning order;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area;
3. Will not be hazardous to existing or future neighboring uses;
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately such services;
5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
6. Will not involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, dust, fumes, glare, or odors;
7. Will have vehicular approaches to property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 10, Section 1023 of the Boone County Zoning Regulations allows drive-thru eating and drinking establishments as a conditional use in the C-2 district if the proposed facility meets all of the following requirements:

1. The activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or
2. The activity will further add to, not detract from, the creation of a compact, multi-purpose, and pedestrian oriented commerce center; and

3. 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.

### Staff Concerns/Comments

1. The property for the proposed drive-thru restaurant is limited in size. The submitted concept plan depicts the removal of a detention basin in order to accommodate eight (8) additional parking spaces for a total of twenty-four (24) parking spaces and two (2) parking spaces for disabled persons. Because the applicant does not specify the number of seats for the proposed use, the maximum allowable number of seats is forty-eight (48) if the concept plan is approved by the Boone County Planning Commission as submitted.
2. As mentioned above, the applicant proposes to remove an existing detention basin in order to construct additional parking spaces. For this reason, it is important to note that the applicant must ensure that storm water drainage can be adequately managed in accordance with Article 31 of the BCZR and current Boone County Subdivision Regulations during site plan review.
3. The site currently contains a dumpster which is partially enclosed with a wooden fence and can be viewed from Connector Road, and Chi-Chi's. It is recommended that this trash collection area be brought into conformance with Article 31, Section 3151 of the BCZR in order to minimize its visual impact upon adjacent streets and adjoining properties.
4. The existing site only contains minimal landscaping (some grass and a few trees) along the perimeter of the site with no vegetation surrounding the building façade. Although the building is not being expanded, the Board should consider a condition of approval to include landscaping of the building façade and installation of landscaping material along the 10 foot wide buffer areas to the north, east, and west of the site as required by the BCZR.

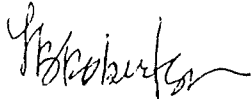
### Conclusion

KRS 100.237 and Sections 260 and 1023 of the Boone County Zoning Regulations give the Florence Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Conditional Use Permit to operate a franchise style drive-thru eating and drinking establishment. While it is the staff's opinion that the proposed use will not be incompatible with or detrimental to the existing character of the area, the existing building and parking area currently has a blighting influence on adjacent properties as it is not appropriately landscaped or buffered. Therefore, should the Florence Board of Adjustment decide to approve the conditional use request, it is recommended that approval be contingent upon the following:

1. Buffer Yard A is installed on the north, east, and west portions of the site in accordance with Article 36, Section 3645 of the Boone County Zoning Regulations.
2. The trash collection area is appropriately screened from the view of Connector Road and adjacent uses in accordance with Article 31, Section 3151 of the Boone County Zoning Regulations.

3. Storm water drainage facilities are provided in accordance with Article 31 of the Boone County Zoning Regulations and the Boone County Subdivision Regulations.
4. A site plan depicting appropriate buffer yards, landscaping, parking, signage, storm drainage facilities, etc, must be reviewed and approved by the staff of the Boone County Planning Commission in accordance with Article 30 of the Boone County Zoning Regulations.

Respectfully submitted,



Lara B. Robertson, AICP

Attachments

Exhibit A – List of adjacent owners

Exhibit B – Proposed Concept Plan

Exhibit C – Site Vicinity and Zoning Map

Re: 7897 Mall Rd., Florence, KY

Adjoining Properties

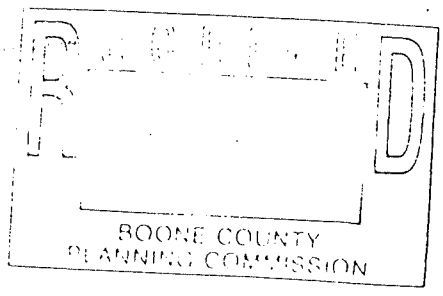
C C Restaurants  
c/o Chi-Chi's Restaurants  
2701 Alton Ave.  
Irvine, CA 92606

Karl J. Frey  
709 North Bend Rd.  
Finneytown, OH 45224

Nisbert Property Holdings Ltd  
8040 Hosbrook Rd.  
Ste. 400  
Cincinnati, OH 45236

Toys R Us Inc.  
Haffert & Associates  
1115 Fairway Gardens NE  
Atlanta, GA 30319-5326

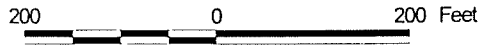
Western Southern Life Ins. Co.  
c/o Real Estate Dept.  
400 Broadway  
Cincinnati, OH 45202







**Skyline Chili**  
**Site Vicinity & Zoning Map**



1 inch equals 200 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 April 27, 2001



COPY

CLUR #01-FBOA-004-A

CERTIFICATE OF LAND USE RESTRICTION

- 1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Campbell Properties Limited Partnership  
1415 N. Lilac Drive, Suite 120  
Minneapolis, MN 55422
  
- 2. ADDRESS OF PROPERTY  
7899 Mall Road  
Florence, KY 41042
- 3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Skyline Chili
  
- 4. DEED BOOK 350                      PAGE NO. 19                      GROUP NO. 2040A
  
- 5. TYPE OF RESTRICTION(S) (Check all that apply)  
 Zoning Map Amendment:                       Conditional Use Permit  
From      To       
 Development Plan                                       Conditional Zoning  
 Subdivision Plat     Other:  
(Not Recorded)  
 Variance
  
- 6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION  
2995 WASHINGTON STREET  
BURLINGTON, KENTUCKY 41005

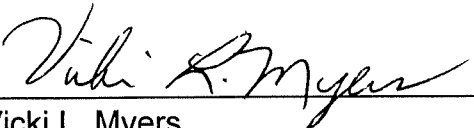
  
SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Planner, Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

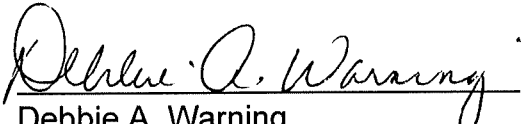
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 22 day of May, 2001.

  
Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2003

This instrument was prepared for recording purposes only by:

  
Debbie A. Warning  
Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of May 9, 2001 Certificate of Land Use Restriction (#01-FBOA-004-A), for Campbell Properties Limited Partnership, Property Owner(s).

The following conditions will apply:

- 1) Buffer Yard A is to be installed on the north, east, and west portions of the site in accordance with Article 36, Section 3645 of the *Boone County Zoning Regulations*.
- 2) The trash collection area is to be appropriately screened from the view of Connector Road and adjacent uses in accordance with Article 31, Section 3151 of the *Boone County Zoning Regulations*.
- 3) Storm water drainage facilities are to be provided in accordance with Article 31 of the *Boone County Zoning Regulations* and the *Boone County Subdivision Regulations*.
- 4) A Site Plan is required depicting appropriate buffer yards, landscaping, parking, signage, storm drainage facilities, etc. and must be reviewed and approved by Staff in accordance with Article 30 of the *Boone County Subdivision Regulations*.

The approved Conditional Use Permit as well as the preceding conditions apply to the property described in:

DEED BOOK 350

PAGE NO. 19

GROUP NO. 2040A