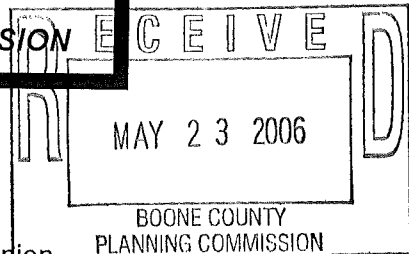


06-15BOA-006-A

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)

- 1. (Check One) Boone Florence Walton Union
2. (Check One) Conditional Use Permit Variance Appeal
3. Applicant's Name Triumph Signs + Consulting
4. Description of Request: Pylon Sign Face change, to LED Pricer Faces
5. Name of Development
6. Location of Development 8240 Hwy 42, Florence, Ky 41042
7. Acreage Under Review 0.76
9. Owner of Property Speedway LLC
10. Address of Property Owner PO Box 1510 Springfield OH 45501
11. Proposed Use(s) on Site
12. Total Square Footage of Existing and/or Proposed Buildings
13. Current Zoning on Property C-2
14. Deed Book 690 Page No. 200 Group No. 2040A
15. Is the site subject to a zone change? no
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

Applicant's Signature: Bonnie McCall / Triumph Signs + Consult.

Property Owner's Signature: J. S. S. (agent) see attached for original signature

(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 5-23-06 Fee Received \$921.60 RA 5026  
 2. Is application complete?                      Yes                      No  
 3. Staff Reviewer MP Bachman  
 4. Scheduled Board Action Date 6-14-06  
 5. Board Action:

- Approved
- Approved with Conditions** (See #6)
- Denial (See #7)

6. Conditions of Approval: the sign will be erected as shown in the elevations submitted with this application. The LED display will feature red numbers. 2. The sole purpose of the panels will be to advertise the price of products throughout the week. 3. The sign will not flash or scroll any messages. 4. No future user may convert the electronically changeable sign into one that flashes, scrolls, or displays multiple messages. 5. The total area of the price panels may not be combined into a single electronic sign panel of the same area.

**Boone County Planning Commission**  
 2995 Washington Street  
 Burlington, Kentucky 41005  
 (859) 334-2196 - Phone  
 (859) 334-2264 - Fax  
 plancom@boonecountky.org - E-mail  
 www.boonecountky.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

APPLICANT: Triumph Signs and Consulting

LOCATION: 8240 U.S. Highway 42, Florence, Kentucky

ZONING: Commercial Two (C-2)

DATE: June 14, 2006

### Proposal

The Applicant is requesting a Conditional Use Permit to install three electronic pricer panels on an existing free-standing sign. Each of the panels is approximately 3.7 square feet in area, for a combined area of 11.1 square feet. The electronic pricer panels would replace the existing hand-changeable pricer panels, which are each approximately 6.31 square feet in area, with a combined total area of 18.9 square feet. The overall area of the sign would remain the same, 133 square feet. The overall height would also remain at 30 feet.

### Site History

- |         |  |
|---------|--|
| 7/7/89  | The Boone County Planning Commission issued a Sign Permit for the above-mentioned sign.  |
| 6/5/00  | The Boone County Planning Commission issued a Sign Permit for a change of face for the panel on the above-mentioned sign.  |
| 5/23/00 | The applicants applied for a Sign Permit for to replace the existing hand-changeable pricer panels and were informed that a Conditional Use Permit was required for the proposed electronic pricer panels. |

### Applicable Regulations

Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to grant conditional use permits as specified in the zoning order.

Section 3430 of the Boone County Zoning Regulations permits electronically changeable message boards as a Conditional Use in the Commercial Two (C-2) zoning district provided that the following requirements are met:

- a. Such message boards will be considered a part of a permitted sign free-standing or building mounted; up to fifty percent (50)% of the permitted sign area can be used for an electronically changeable message board.
- b. All such message boards shall meet the minimum standards of the Kentucky Transportation Cabinet and any other controlling local, state, or federal agency.
- c. Electronically changeable message boards shall not be permitted at intervals of less than six-hundred sixty (660) feet, measured along the centerline of each interstate or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.

- d. Apparent motion of the visual message, caused by, but not limited to, the illusion of moving objects, moving patterns or boards of light, expanding contracting, or rotating shapes or other similar animation effects, shall be prohibited. Such restriction applies to "scrolling" or "running" messages.
- e. The message displayed on the board must be displayed for a minimum of five (5) second intervals. In no instance can a message, or part thereof, flash on the message board.

The Board should also evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit as stated in Section 262 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 the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

#### Relationship to the Comprehensive Plan

The 2005 Boone County Comprehensive Plan's "2030 Future Land Use Plan" designates the site in question for Commercial and Public/Institutional uses. The "Commercial" designation is defined as follows:

"Retail, corporate, and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc (p. 140)."

"Public/Institutional" is defined as follows:

"Government offices, schools, libraries, churches, cemeteries, fairgrounds, maintenance areas, etc (p. 140)."

The Land Use Element states that "the visual appearance of commercial areas in general...should be enhanced through the design of buildings, landscaping, signs, and arrangement of buildings. Attention to aesthetic impacts should be part of all phases of the review process ('Florence Commercial Area', p 144) ."

The Future Land Use Development Guidelines found in the Land Use Element state that "developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify a specific development but should not be used as a means to compete for motorist attention. The objective is to avoid the confusion and/or distraction of motorists and to avoid the potential negative impacts of signs on the visual appearance of a development or corridor, ('Design, Signs, and Historic Preservation,'p. 142)."

#### Surrounding Land Uses and Zoning

North:	Detached single-family residence, located at 24 Airview Drive, zoned Commercial Two (C-2) and Suburban Residential Two (SR-2)
Northeast:	Detached single-family residence, located at 2 Airview Drive, zoned Commercial Two (C-2)
Northwest and West:	Ockerman Elementary School, zoned Public Facilities
South:	Vacant property, lots 3, 4, and 5 of Dilcrest Manor Subdivision, 0.93 acres, zoned Suburban Residential One (SR-1)
East:	Detached single-family residence at 8232 U.S. Hwy 42, zoned Commercial Two (C-2)

#### Staff Comments

1. Section 3430 of the Boone County Zoning Regulations ("Electronically Changeable Message Boards") indicates that no electronically changeable sign should be located within a 600 foot radius of another such sign. Please refer to the attached map, which indicates that the two closest electronic signs to the proposed signs, at Freedom Field and at Wildwood Inn, are located 3,570 feet and 5, 930 feet respectively from the proposed sign.
2. Staff recommends that the Board analyze the "Design, Signs, and Historic Preservation" section of the Future Land Use Development Guidelines before making a decision. This section notes that motorists should not be confused and/or distracted motorists by excessive signs and that signs should not have a negative impact on the visual appearance of a development or corridor.
3. The electronically changeable pricer panels would be used to advertise the price of gasoline throughout the week. The sign would not flash or scroll any messages. If the Board grants approval of the request, Staff recommends a condition prohibiting any future user from converting the electronically changeable sign into one that flashes, scrolls, or displays multiple messages.

4. Ed Thompson of the Kentucky Transportation Cabinet has indicated that his agency has no comment with regard to the proposed sign.

Conclusion

K.R.S. 100.237 and Section 220 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Conditional Use Permit.

Respectfully submitted,

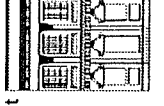
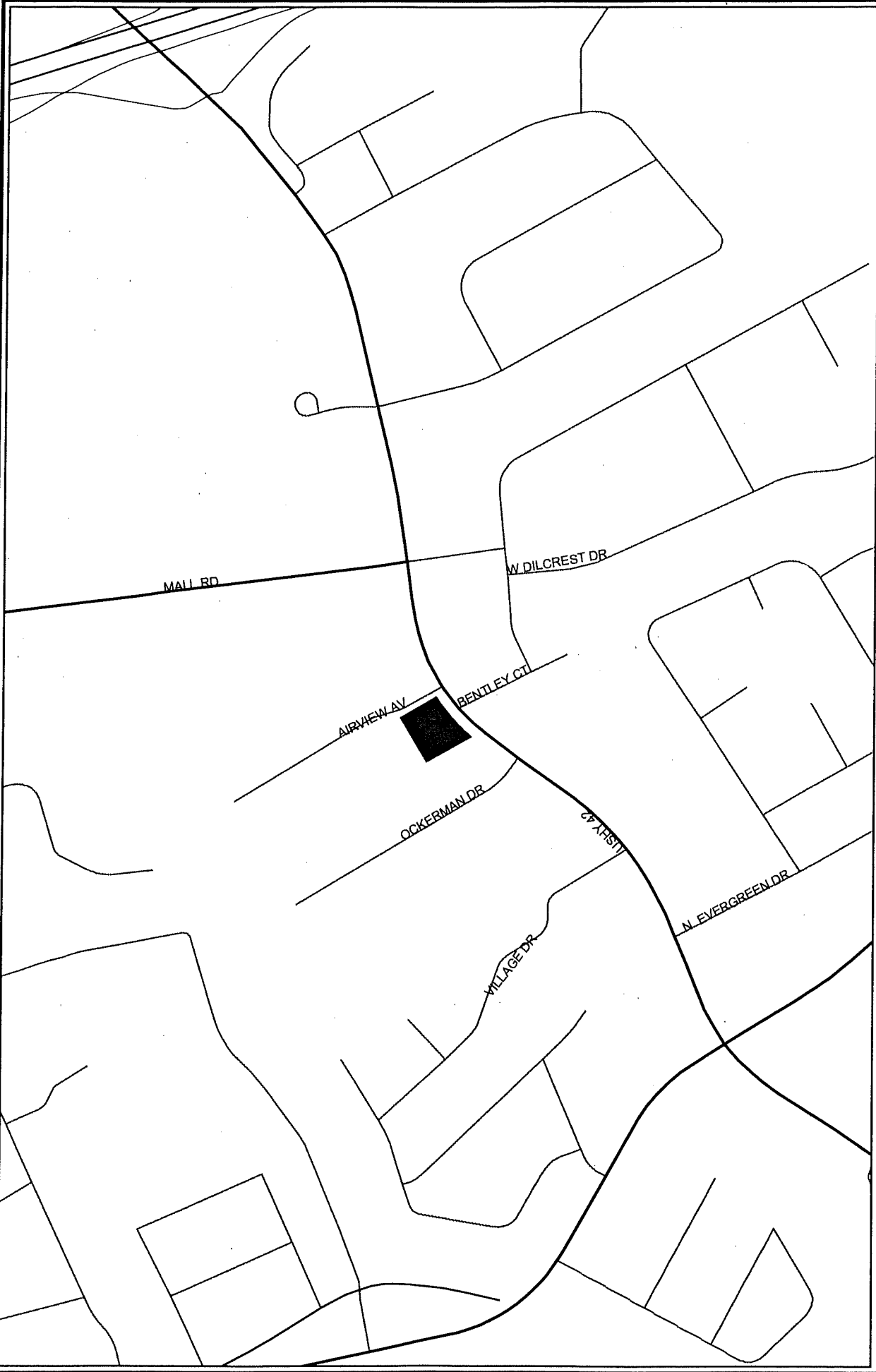


Patty Bachman  
Planner, Zoning Services

MPB/pr

Attachments


- Exhibit A – Site Vicinity Map
- Exhibit B – Simulation of Proposed Sign with Photograph of Existing Sign
- Exhibit C – Elevation of Sign Approved through 7/7/89 Sign Permit
- Exhibit D – Dimensions of Proposed Sign Cabinet
- Exhibit E – Zoning Map and Aerial Photography
- Exhibit F – Future Land Use Map
- Exhibit G – Map of Electronic Signs in Vicinity
- Exhibit H – Section 3460 of the Boone County Zoning Regulations
- Exhibit I – Application



1 inch equals 600 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
June 8, 2006

# Vicinity

# LED SIGN CABINET RETROFIT SURVEY FORM

CUSTOMER NAME:  SPEEDWAY

ADDRESS: 8240 HWY 42 CITY: Florence STATE: KY ZIP CODE: 41042

FACILITY NUMBER: #9692 TELEPHONE NUMBER: ( ) FAX NUMBER: ( )

Existing



Proposed



#9692 Florence, KY

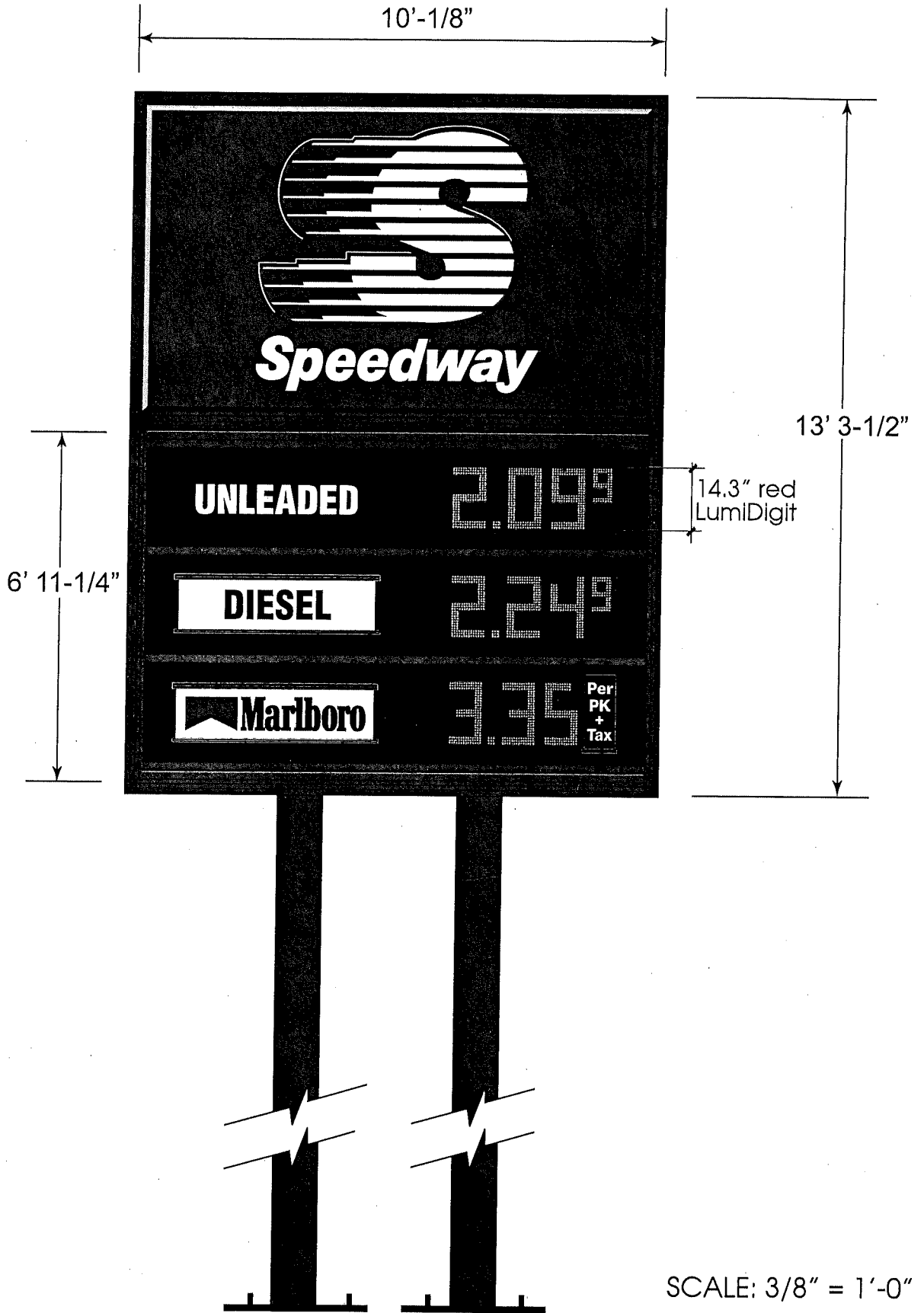


EXISTING 130 SQ. FT. MASTER PRICE CABINET ASSY.

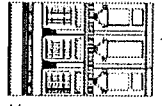
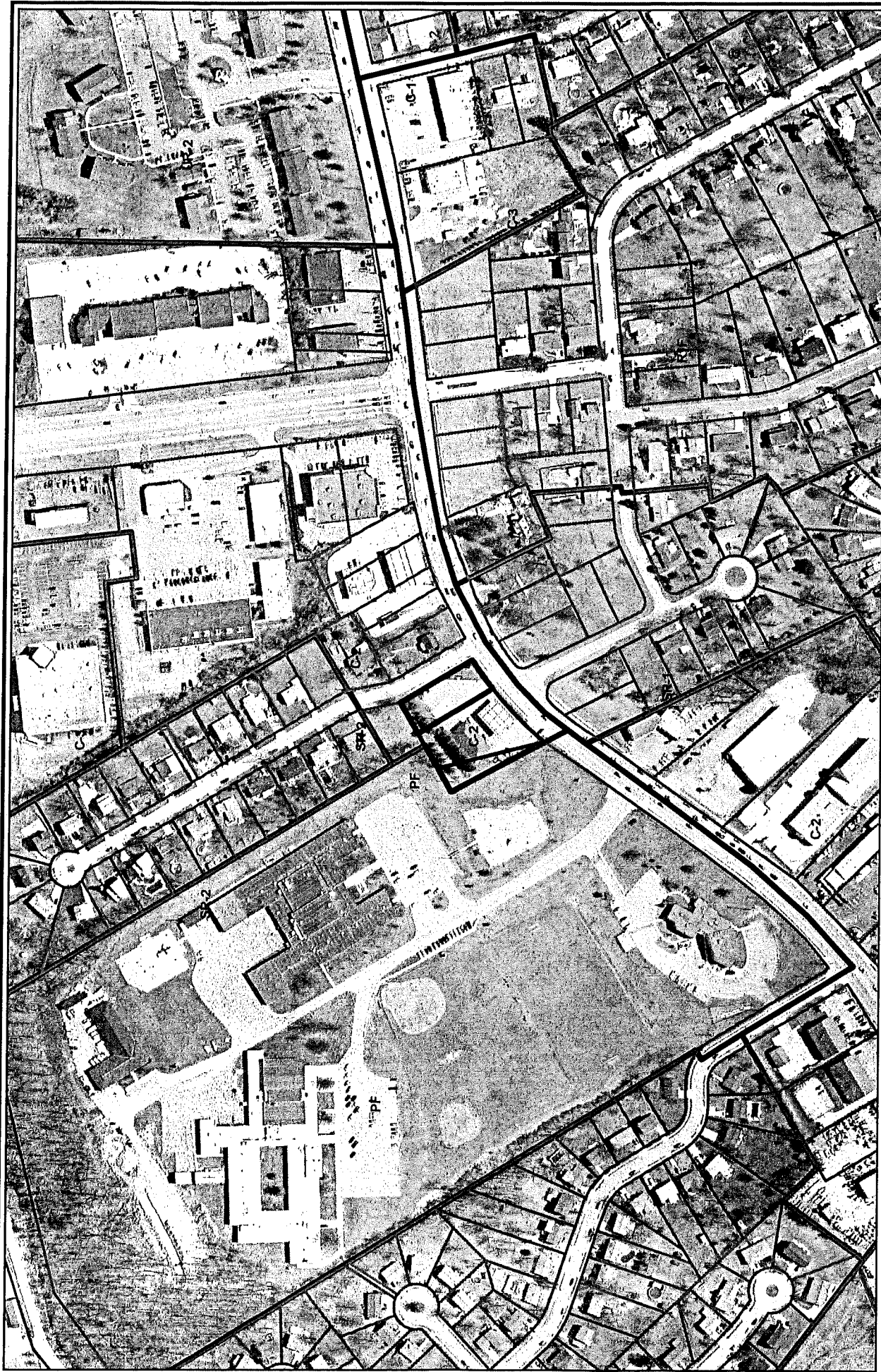
Existing Pricer Panels  
are 6.31 square feet  
in area.

4'x10' D/F CHANGEABLE COPY SIGN PER DWG. B-6788,  
FROM RIGG'S SIGNS, HUNTINGTON, WV.

EXISTING POLE TO BE SHORTENED AS REQ'D. TO KEEP  
TOTAL HEIGHT OF MASTER SIGN AS EXISTING.



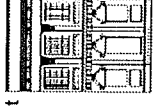
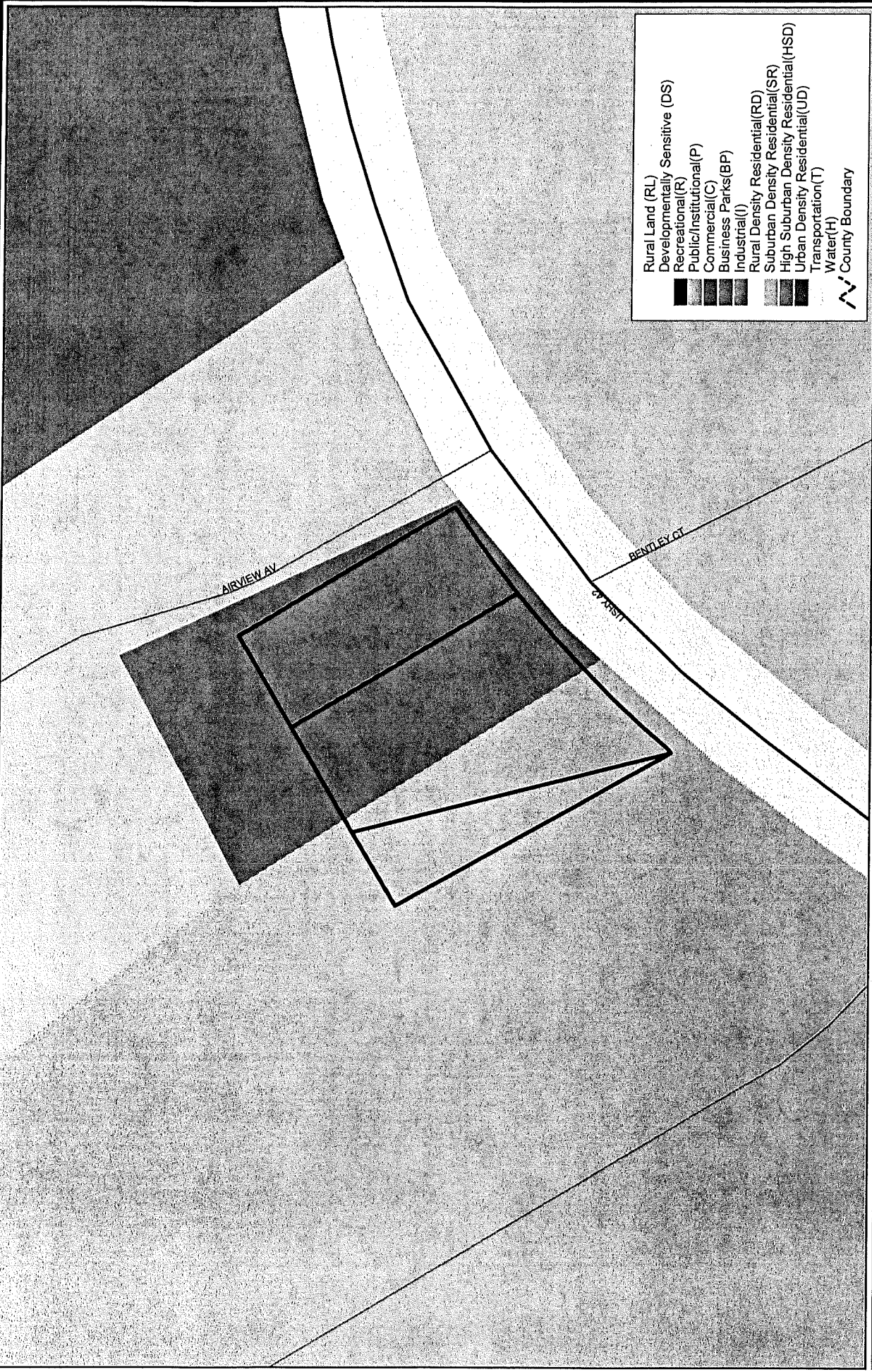
SCALE: 3/8" = 1'-0"



300 Feet

1 inch equals 300 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
June 8, 2006

# Aerial Photography and Zoning Map



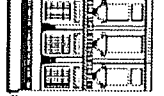
100 Feet  
100 0

1 inch equals 100 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
June 8, 2006

# Future Land Use



- Wildwood Inn
- Florence Freedom Field
- Speedway



1300 Feet

1 inch equals 1300 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 June 9, 2006

# Electronic Signs

- f. A photograph not less than eight (8) inches by ten (10) inches in size, taken of the proposed location of the sign from each thoroughfare from which the sign will be visible. The proposed location of the sign shall be clearly marked on each photograph.
2. An off-premises sign, as a conditional use, shall conform, at minimum, to the following requirements:
    - a. No sign shall be larger than eight hundred (800) square feet and no linear dimension shall exceed fifty (50) feet;
    - b. The maximum height of any sign shall not exceed thirty (30) feet;
    - c. All signs shall be located at least six hundred and sixty (660) feet from the right-of-way lines of any interstate highways and at least one hundred (100) feet from the right-of-way lines of any other thoroughfares;
    - d. Off-premises signs shall not be permitted at intervals of less than two thousand six hundred and forty (2,640) feet, measured along the centerline of each interstate highway or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.

\*\* NOTE: The City of Florence, Ordinance 0-29-80, allows off-premises signs in the I-1 zone only. Unincorporated Boone County, Ordinance 920.179, allows off-premises signs in the I-1 zone only.

The Board of Adjustment shall convey a copy of all off-premises sign conditional use applications and permits to the Zoning Administrator.

### SECTION 3430

#### Electronically Changeable Message Boards

The Board of Adjustment and Zoning Appeals may permit an electronically changeable message board as a Conditional Use in C-2 and C-3, zoning districts. Such message signs must conform to Article 2, Sections 260-267, inclusive, of this order, and further shall be subject to the following minimum standards and requirements:

1. The application for conditional use permit shall be accompanied by the following information:
  - All of the information required in Section 3405 of this Article;
  - IF Nearest*  Identification of all interstate highways or other thoroughfares from which the sign will be visible;
  - Number of nearest milepost on interstate highway from which the sign will be visible or distance and direction from the nearest intersection on another thoroughfare;
  - The location of the proposed sign on a U.S. Geological Survey, 1:24,000 scale, topographic map and the location of all existing electronically changeable message boards within one-half mile of the proposed location;
  - A profile of the line through the center of the proposed sign at an angle of 0 to 75 degrees to the centerline of each thoroughfare from which the sign will be visible; and

- f. A photograph not less than eight (8) inches by ten (10) inches in size, taken of the proposed location of the sign from each thoroughfare from which the sign will be visible. The proposed location of the sign shall be clearly marked on each photograph.
  - g. A permit, or other documentation, to the effect that the proposed message board is permitted by the Kentucky Transportation Cabinet.
2. An electronically changeable message board, as a conditional use, shall conform, at minimum to the following requirements:
- a. Such message boards will be considered a part of a permitted sign free-standing or building mounted; up to fifty percent (50)% of the permitted sign area can be used for an electronically changeable message board.
  - b. All such message boards shall meet the minimum standards of the Kentucky Transportation Cabinet and any other controlling local, state, or federal agency.
  - c. Electronically changeable message boards shall not be permitted at intervals of less than six-hundred sixty (660) feet, measured along the centerline of each interstate or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.
  - d. Apparent motion of the visual message, caused by, but not limited to, the illusion of moving objects, moving patterns or boards of light, expanding contracting, or rotating shapes or other similar animation effects, shall be prohibited. Such restriction applies to "scrolling" or "running" messages.
  - e. The message displayed on the board must be displayed for a minimum of five (5) second intervals. In no instance can a message, or part thereof, flash on the message board.

## **SECTION 3440**

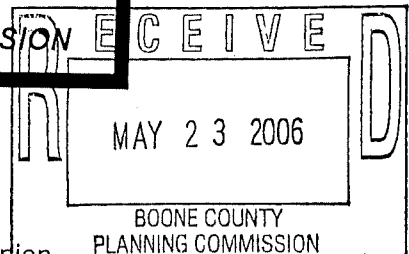
### **Special Sign Districts**

The legislative bodies, upon recommendation of the Planning Commission, may establish special sign districts to insure proper development of special areas of the County. Also, the majority of sign users within a district may petition the Planning Commission to establish standards and procedures for signs within their district for recommendations to the appropriate legislative unit. The creation of a special sign district shall be in conformance with Article 3 of this order. Applications for such Special Sign Districts shall include, at a minimum, the following criteria: objectives of the District; boundaries, sign types (height, materials, total sign area); sign locations; administration of District; illustrations and elevations; and, relationship to Comprehensive Plan. A map of all special sign districts shall be maintained in the Planning Commission offices.

The effect of a special sign district shall be to modify according to standards established by the Commission the requirements, regulations, and the procedures for signs in the area included as part of the district. The purpose of the district shall be to respond to the special circumstances of development, renewal, redevelopment, or rehabilitation of areas of the County and to better achieve county-wide policies for growth and development. The special sign district regulations may provide for the creation of a sign review board to review and approve proposals for the construction or erection of signs in the district. Except where certain duties are assigned to a sign review board, the Zoning Administrator shall be responsible for enforcing the regulations and requirements established in the special sign district.

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)
- Boone  Florence  Walton  Union
  - (Check One)  
 Conditional Use Permit  Variance  Appeal  
 Change in Non-Conforming Use
  - Applicant's Name Triumph Signs + Consulting  
Phone Number 513-576-8090 Fax No. 513-576-8095  
Applicant's Address 480 Milford Parkway  
Milford OH 45150  
City State Zip
  - Description of Request: Pylon Sign Face change, to LED Pricer Faces
  - Name of Development \_\_\_\_\_
  - Location of Development 8240 Hwy 42, Florence, Ky 41042
  - Acreage Under Review 0.76
  - Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_
  - Owner of Property Speedway LLC.  
Phone Number of Owner 317-872-3146 x 2009
  - Address of Property Owner PO Box 1510 Springfield OH 45501 Headquarters office  
City State Zip
  - Proposed Use(s) on Site \_\_\_\_\_
  - Total Square Footage of Existing and/or Proposed Buildings \_\_\_\_\_
  - Current Zoning on Property C-2
  - Deed Book 690 Page No. 200 Group No. 2640A
  - Is the site subject to a zone change? no  
If yes, give date of approval \_\_\_\_\_
  - Have you submitted a Site Plan with this request? yes
  - Have you submitted a list of adjoining property owners with this request? yes
  - 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: Bonnie McCall / Triumph Signs + Consult.

Property Owner's Signature: JM Smarand (agent) see attached for original signature

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 5-23-04 Fee Received \$ 921.00 RA 5026
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005  
(859) 334-2196 - Phone  
(859) 334-2264 - Fax  
plancom@boonecountyky.org - E-mail  
[www.boonecountyky.org](http://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.

COPY

CLUR #06-FBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

- 1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Speedway, LLC  
P.O. Box 1510  
Springfield, OH 45501
  
- 2. ADDRESS OF PROPERTY  
8240 U.S. 42  
Florence, KY 41042
- 3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Speedway
  
- 4. DEED BOOK 690                      PAGE NO. 200                      GROUP NO. 2040A
  
- 5. TYPE OF RESTRICTION(S) (Check all that apply)  
 Zoning Map Amendment:  
From  To  Conditional Use Permit  
 Development Plan                       Conditional Zoning  
 Subdivision Plat  
(Not Recorded)                       Other:  
 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

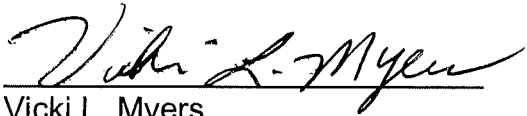
*Patty Bachman*  
SIGNATURE OF COMPLETING OFFICIAL

Patty Bachman, Planner, Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

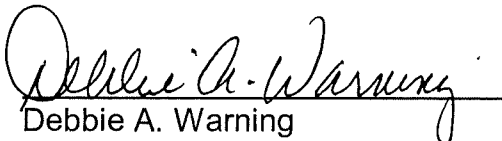
Subscribed, sworn to, and acknowledged before me by Patty Bachman on behalf of the  
Boone County Planning Commission this 27<sup>th</sup> day of June, 2006.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2007

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 Boone County Board of Adjustments and in accordance with the current zoning in effect as of June 14, 2006 Certificate of Land Use Restriction (#06-BCBOA-006-A), for Speedway, LLC, Property Owner(s).

The following conditions will apply:

- 1) The color of the lights will be red as shown.
- 2) The size is to be as indicated in the Staff Report and on the exhibit.
- 3) The sole purpose of the three panels is pricing of gas only.
- 4) The panels cannot be added together or used for any other purpose.
- 5) Any future user is prohibited from converting the electronically changeable sign into one that flashes, scrolls or displays multiple messages.

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

DEED BOOK 690

PAGE NO. 200

GROUP NO. 2040A

TRANSACTION REPORT						
Transaction completed						
NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
897	JUL. 6 15:24	FLOR PUBLIC SVCS	0° 00' 55"	003	OK	N ECM

CLJR #06-FBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

- NAME AND ADDRESS OF PROPERTY OWNER(S)  
Speedway, LLC  
P.O. Box 1510  
Springfield, OH 45501
- ADDRESS OF PROPERTY  
8240 U.S. 42  
Florence, KY 41042
- NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Speedway
- DEED BOOK 690                      PAGE NO. 200                      GROUP NO. 2040A
- TYPE OF RESTRICTION(S) (Check all that apply)  
 Zoning Map Amendment: From \_\_\_\_\_ To \_\_\_\_\_  
 Conditional Use Permit  
 Development Plan                       Conditional Zoning  
 Subdivision Plat (Not Recorded)                       Other:  
 Variance
- NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION