

08-KBOA-0111A

RECEIVED
SEP 11 2008
BOONE COUNTY
PLANNING COMMISSION

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

RECEIVED
JUN - 5 2008
BOONE COUNTY
PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

(Check One)
1. Boone Florence Walton Union

(Check One)
2. Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use

3. Applicant's Name DETERS COMPANY DBA BLUE PANTRY
Phone Number 859-283-2770 Fax No. 859-525-4686
Applicant's Address 7230 TURFWAY RD
FLORENCE KY 41042
City State Zip

4. Description of Request: DIGITAL PRICE SIGN
(1) (2)

5. Name of Development BP GAS STATION BP GAS STATION

6. Location of Development 7230 TURFWAY RD 8432 US 42
FLORENCE KY 41042 FLORENCE KY 41042

7. Acreage Under Review 1.213 2 TRACTS .33 AC & .883 AC
8. Lot Number and Name of Subdivision (if part of a subdivision) N/A Deed 418

9. Owner of Property DETERS COMPANY Page 152

10. Address of Property Owner 7230 TURFWAY RD Phone No. 85 Group - 2040
FLORENCE KY 41042
City State Zip

11. Proposed Use(s) on Site NO CHANGE IN SITE USE OTHER
THAN REQUEST ON LINE 4

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

13. Current Zoning on Property C-2/PD

14. Deed Book 830 418 Page No. 201 152 Group No. [REDACTED]

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? _____

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]

Property Owner's Signature: [Signature]
Director of Operations

STAFF REPORT

APPLICANT: Deters Company (Blue Pantry)
LOCATION: 8432 U.S. 42, Florence, Kentucky
ZONING: Commercial Two/Planned Development (C-2/PD)
DATE: October 8, 2008

Proposal

The applicant has submitted a Conditional Use Permit to change the color of an electronically changeable fuel price panel on a free-standing sign from red to green. Although the Florence Board of Adjustment approved a Conditional Use Permit to allow the sign on July 9, 2008, there was a condition imposed which limited the electronic copy color to red.

Pertinent Site History

10/30/97 - The Boone County Planning Commission approves a Sign Permit allowing a 24.5 foot tall, 148 square foot pole sign to be constructed on the lot (see attachments).

07/09/08 - The Florence Board of Adjustment approved a Conditional Use Permit to allow the bottom 32 square feet the BP/Blue Pantry free-standing sign to be converted into a LED gas price display. The actual fuel display window was 12.35 square feet in area (2'-3 9/16" x 5'-4.5"). The following conditions were imposed on the approval:

1. Electronic messages must be displayed on the board for at least 5 seconds and the messages cannot, flash, scroll, or run. The gasoline fuel price shall only be changed once or twice a day.
2. The electronic copy can only advertise regular fuel prices.
3. The electronic copy color is limited to red.
4. The size of the sign shall be as presented.

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that one duty of the Board of Adjustment and Zoning Appeals is to review Conditional Use Permit applications as specified in the zoning regulations.

The Board needs to evaluate the applicant's request as it relates to the criteria necessary for granting or denying a Conditional Use Permit as stated in Section 262 of the Boone County Zoning Regulations. The criteria are listed below:

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 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 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 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.

Article 34, Section 3413 of the Boone County Zoning Regulations states that individual parcels of land in C-2 zoning districts shall be permitted a density of one (1) on-premises, architectural free-standing. In the City of Florence, the sign can be up to 20' tall and 150 square feet in area (dependent on road frontage).

Article 34, 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.

Relationship of the Request to the Comprehensive Plan

The 2005 Boone County Comprehensive Plan's "2030 Future Land Use Plan" designates the majority of the site for "Commercial" uses. This designation is defined as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The Future Land Use Development Guidelines (pages 140-142) 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).

Site Characteristics

The approximate 1.32 acre site is located on the northeast corner of the U.S. 42/Hopeful Church/Weaver Road intersection and contains a Blue Pantry convenience store with gasoline pumps and a gasoline canopy, a car wash, a Snappy Tomato Pizza restaurant, and a Mexican restaurant. The development has curb cuts on U.S. 42 and Hopeful Church Road and a 24.5' tall free-standing sign near the road intersection.

Surrounding Land Uses and Zoning

North: Undeveloped Lot (C-2/PD)

South: U.S. 42, Burger King, and a strip center (C-2/PD)

East: AE Door (C-2/PD)

West: Hopeful Church Road and a strip center

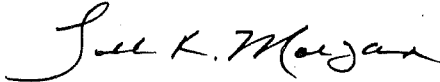
Staff Comments

1. Staff would like to point out that the existing sign is legally non-conforming because it is 24.5' feet tall. The zoning regulations permit a maximum sign height of 20' in the City of Florence.
2. Staff recommends that the Board should analyze the "Design, Signs, and Historic Preservation" section of the Future Land Use Development Guidelines before making a decision on the Conditional Use Permit. This section calls out that motorists should not be confused and/or distracted by excessive signs and that signs should not have a negative impact on the visual appearance of a corridor.
3. Section 3430 of the Boone County Zoning Regulations states that an electronic message board shall conform to the following criteria:
 - A. The electronic message board shall not be more than fifty percent (50)% of a permitted sign area. The message board comprises 8.3% (12.35/148) of the overall sign area.
 - B. Electronic messages must be displayed on the board for at least 5 seconds and that the messages cannot flash, scroll, or run. The gasoline fuel price should only be changed one or twice a day.
 - C. Electronic message boards must be at least 660 feet apart. The closest electronic sign is the Ace Hardware sign which is approximately 1,275 feet from the BP/Blue Pantry sign.
4. Since the July 9, 2008 Florence Board of Adjustment meeting, Staff learned that photocells could be provided in these type of signs. As a result, Staff has asked the applicant to check with his sign manufacturer to see if a photocell could be provided in the proposed sign.
5. If the application is approved, Staff recommends the following conditions:
 - A. Conditions 1, 2, and 4 from the 7/9/08 Florence Board of Adjustment approval.
 - B. The electronic copy color shall be limited to one color. The color shall be red or green.
 - C. A photocell shall be provided in the sign and the fuel price shall dim as the sky gets darker.

Conclusion

K.R.S. 100.237 and Section 220 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

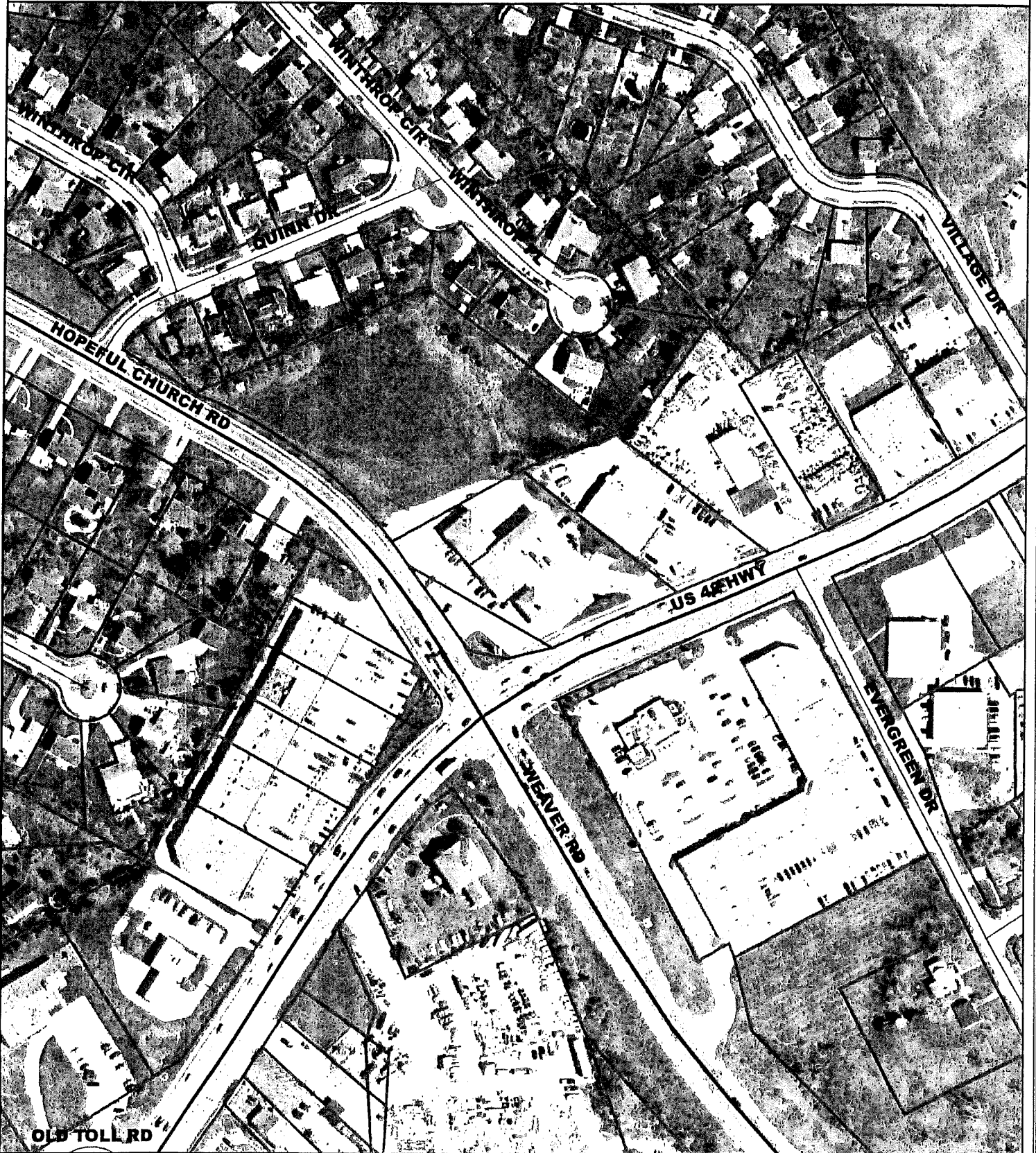
TKM/pr

Attachments

- *Aerial Map
- *Existing Sign & Proposal
- *Electronic Sign Specifications
- *Zoning Map
- *Future Land Use Map
- *10/30/97 Sign Permit
- *7/9/08 Conditions of Approval
- *Application

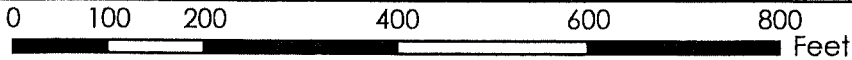
AERIAL MAP

www.boonecountygis.com



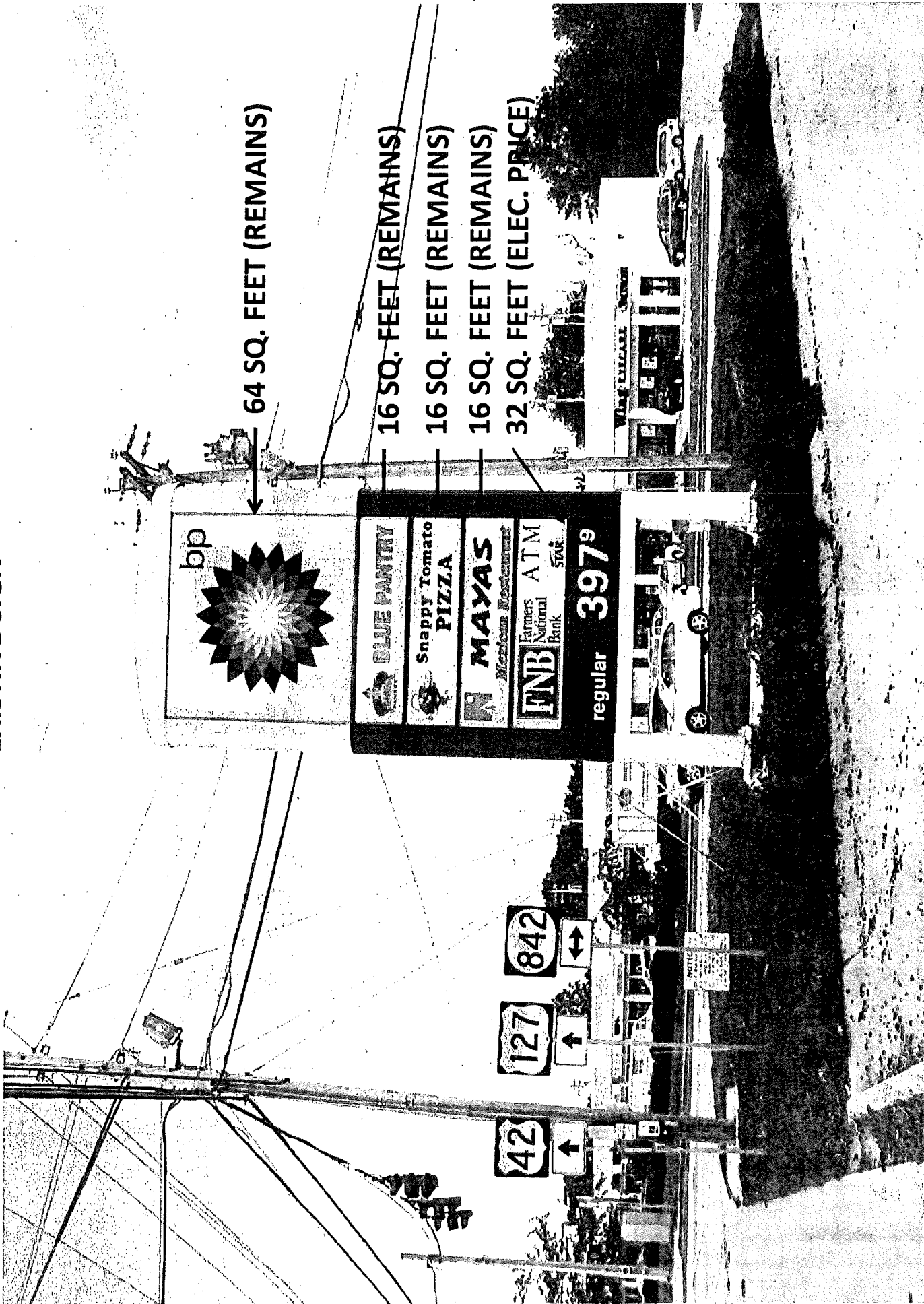
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Boone County GIS - Putting Northern Kentucky on the Map

EXISTING SIGN



64 SQ. FEET (REMAINS)

16 SQ. FEET (REMAINS)

16 SQ. FEET (REMAINS)

16 SQ. FEET (REMAINS)

32 SQ. FEET (ELEC. PRICE)

bp

BLUE PANTRY

Snappy Tomato **PIZZA**

MAYAS
Mexican Restaurant

FNB Farmers National Bank
ATM 564

regular **397.9**

42 ↑

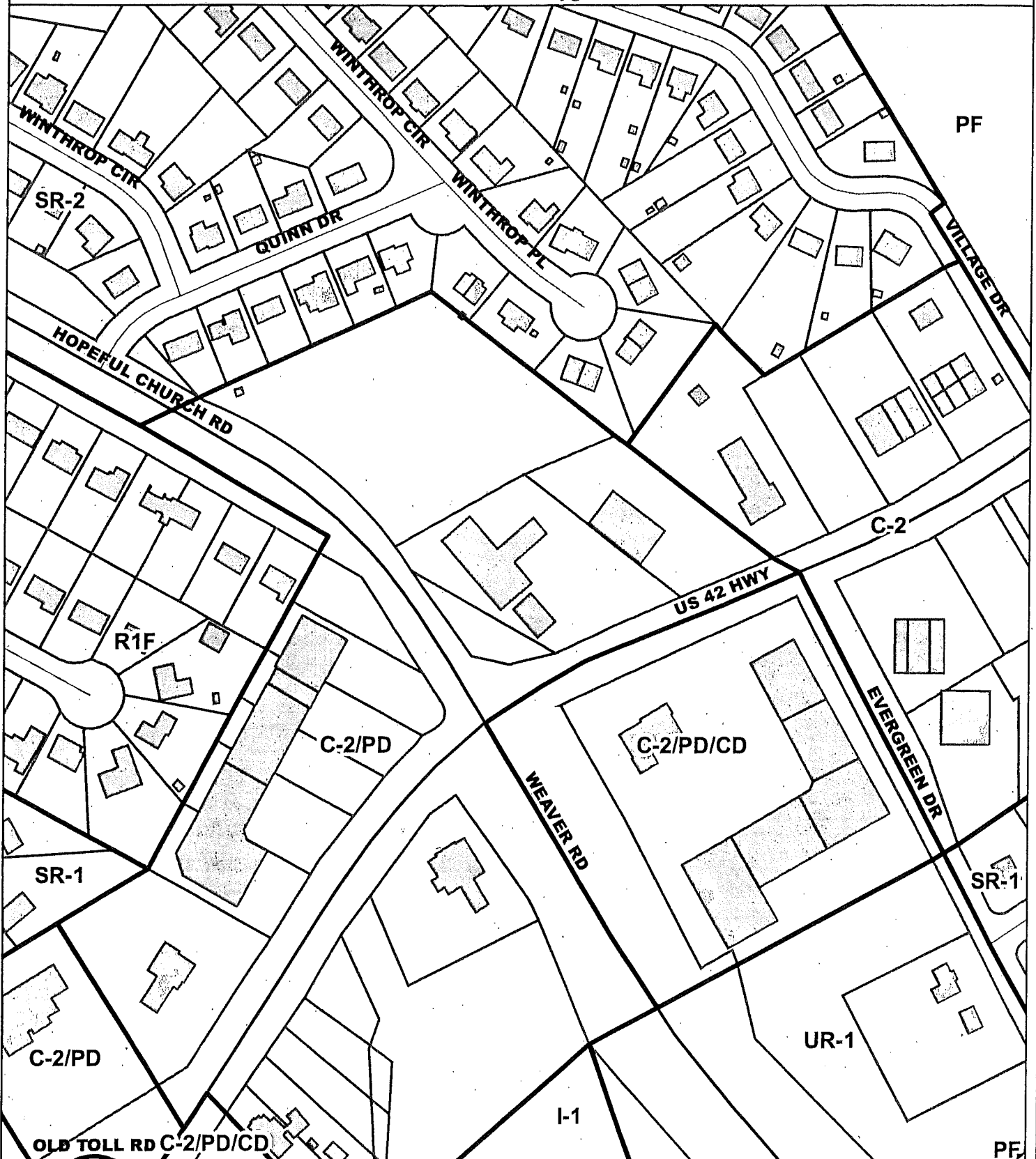
127 ↑

842 ↔

VETERICARE

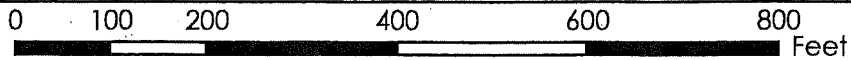
ZONING MAP

www.boonecountygis.com



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Boone County GIS - Putting Northern Kentucky on the Map

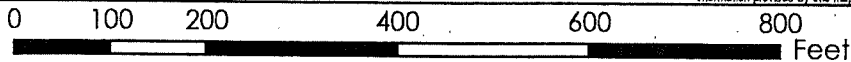
FUTURE LAND USE

www.boonecountygis.com



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1 inch equals 200 feet



Boone County GIS - Putting Northern Kentucky on the Map



**BOONE COUNTY PLANNING COMMISSION
SIGN PERMIT**

****NOTE:** *Prior to the placement of any approved sign, a building permit may be required from the Boone County Building Inspector - contact at 334-2218 for requirements.*

A Sign permit is hereby granted to Quality Signs for B.P./Snappy Pizza for property located at 8432 U.S. 42 and zoned C-2/PD, for the purpose of erecting signage in accordance with Article 34, Section 3413 of the Boone County Zoning Order (Ordinance), subject to the following special conditions/descriptions:

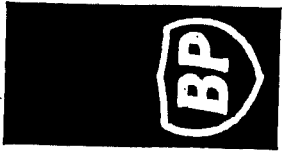
Freestanding Pole Sign - 148 square feet/24.5 feet high - replaces existing sign

Failure to comply with the above cited Zoning Regulations and special conditions, shall render this permit null and void and to no effect.

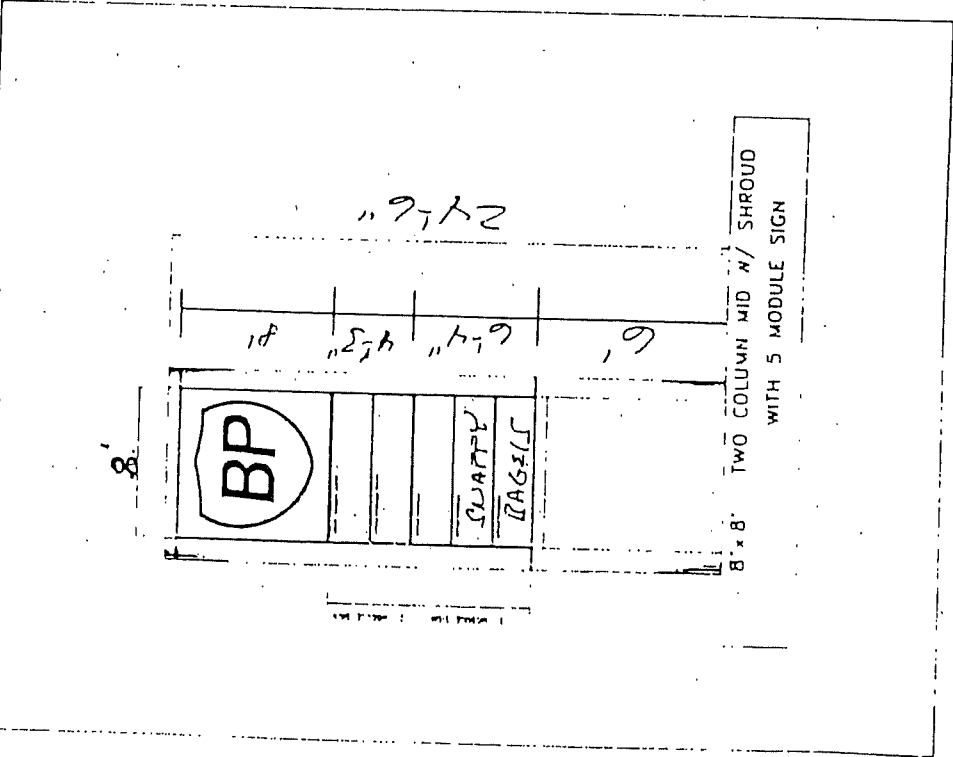
10-30-97



JOHN HUTH
PLANNER



Sign Size: 8' X 8'
 Modules: 5 Module
 Mount: Dual Column
 Sign Type: Shrouded
 Delivery Lead Time: Six to Eight Weeks



Plasti-Line
 Vendor Number: 044990

CEM	PURCHASE ORDER DESCRIPTION	PRICE
41	LOGO CABINET, 8'MID, SH	[REDACTED]
766	MODULE, 8'MID, SH, 2 P/M	[REDACTED]
767	MODULE, 8'MID, SH, 3 P/M	[REDACTED]
	<i>To order faces, changer arm, fonts & product panels, please see section entitled "8X8 Accessories."</i>	

Vacuform
 Vendor Number: 146853

CEM	PURCHASE ORDER DESCRIPTION	PRICE
5878	POLE, 8'MID, SH, 30 PSF, DUAL COLUMN	[REDACTED]
5876	SHROUDS ONLY, 8' MID, TWO POLE MOUNT, 5 P/M	[REDACTED]
	OR	
5845	SHROUD KIT, 8'MID, TWO POLE MOUNT, 5 P/M	[REDACTED]
	Shroud Kit includes Shrouds and Poles	

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 July 9, 2008 Certificate of Land Use Restriction (#08-FBOA-006-A), for Deters Company, Property Owner(s).

The following conditions will apply:

- 1) Electronic messages must be displayed on the board for at least 5 seconds and the messages cannot flash, scroll, or run. The gasoline fuel price should only be changed once or twice a day.
- 2) The electronic copy can only advertise regular fuel prices.
- 3) The electronic copy color is limited to red.
- 4) The size of the sign shall be as presented.

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

DEED BOOK 418

PAGE NO. 152

GROUP NO. 2040

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 BOONE COUNTY
 PLANNING COMMISSION

APPLICATION FORM

**BOARD OF ADJUSTMENT
 AND
 ZONING APPEALS ACTION
 BOONE COUNTY PLANNING COMMISSION**

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 JUN - 5 2008
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See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

(Check One)
 1. Boone Florence Walton Union

(Check One)
 2. Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use

3. Applicant's Name DETERS COMPANY DBA BLUE PANTRY
 Phone Number 859-283-2770 Fax No. 859-525-4686
 Applicant's Address 7230 TURFWAY RD
FLORENCE KY 41042
 City State Zip

4. Description of Request: DIGITAL PRICE SIGN
(1) (2)

5. Name of Development BP GAS STATION BP GAS STATION

6. Location of Development 7230 TURFWAY RD 8432 US 42
FLORENCE KY 41042 FLORENCE KY 41042

7. Acreage Under Review 1.213 2 TRACTS .33 AC ±
 8. Lot Number and Name of Subdivision (if part of a subdivision) N/A BP GAS TURFWAY RD

9. Owner of Property DETERS COMPANY Deed 418
 Address of Property Owner 7230 TURFWAY RD Page 152

10. FLORENCE KY Phone No. 85 Group - 2040
 City State Zip 41042

11. Proposed Use(s) on Site NO CHANGE IN SITE USE OTHER
THAN REQUEST ON LINE 4

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

13. Current Zoning on Property C-2

14. Deed Book 830 Page No. 201 Group No. 804, 765 + 2034B

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? _____

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]

Property Owner's Signature: [Signature]

Director of Operations

COPY

CLUR #08-FBOA-011-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Deters Company
7230 Turfway Road
Florence, KY 41042
2. ADDRESS OF PROPERTY
8432 U.S. 42
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
BP Gas Station
4. DEED BOOK 418 PAGE NO. 152 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
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005

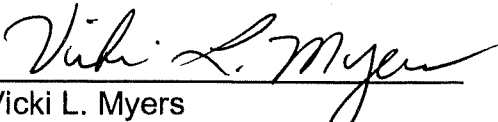
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

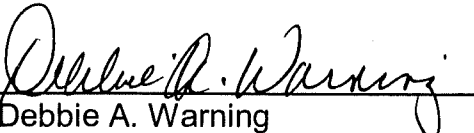
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 14 day of October, 2008.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2011

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005

NO TITLE EXAMINATION

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

CONDITIONS OF APPROVAL

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- 2) The electronic copy can only advertise regular fuel prices.
- 3) The size of the sign shall be as presented.
- 4) The electronic copy color shall be limited to one color – either red or green.
- 5) A photocell shall be provided in the sign and the fuel price shall dim as the sky gets darker.
- 6) The applicant is to work with Staff to ensure that the sign is not abnormally bright.

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

DEED BOOK 418

PAGE NO. 152

GROUP NO. 2040A