

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED MAY 20 2009 BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [checked] Florence [checked] Walton Union
2. (Check One) Conditional Use Permit [checked] Variance Appeal
3. Applicant's Name MIKE HARGIS / PAUL HENDRICK COMPANIES Culver
Phone Number 341-8200 X1806 Fax No.
Applicant's Address 250 GRANDVIEW DR. Ft. Mitchell Ky 41017
4. Description of Request: CONDITIONAL USE FOR ELECTRONIC SIGN
5. Name of Development VARIANCE TO PROVIDE GEO FT. SPRING RESIDENT
6. Location of Development CULVER'S REST. 4542 S. PRESENT VALLEY RD.
7. Acreage Under Review 1.562 A.
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT # 1
9. Owner of Property CP & TB LLC
Address of Property Owner 3419 LAKE DR 3419 Phone No. 262-349-8186
10. City HAZELAND, W. Va. State 26204 Zip
11. Proposed Use(s) on Site ELECTRONIC SIGN.
12. Total Square Footage of Existing and/or Proposed Buildings
13. Current Zoning on Property C2-PD
14. Deed Book 952 Page No. 189 Group No. 2039
15. Is the site subject to a zone change? NO - Concept Plan - 6/18/08
If yes, give date of approval 6/18/08
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.

ORIGINAL Property Owner's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

(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 5/20/09 Fee Received \$1,732.00 R# 58671 + 58672
2. Is application complete?  Yes  No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
6/10/09 **Approved**  
**Approved with Conditions** (See #6)  
**Denial** (See #7)
6. Conditions of Approval: SEE FBOA MEETING MINUTES  
AND C.L.U.R.
7. Reasons for Denial: \_\_\_\_\_

**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](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.

## STAFF REPORT

APPLICANT: Paul Hemmer Construction for Culver's

LOCATION: 8554 US 42, Florence, Kentucky

ZONING: Commercial Two/Planned Development (C-2/PD)

DATE: June 10, 2009

### Proposal

The applicant has submitted the following applications:

1. A Conditional Use Permit application to allow electronically changeable messages on Culver's 10' tall, 61.65 square foot monument sign. The submitted Site Plan shows that sign will be located in close proximity to US 42 and is approximately 96' feet from the southwest property corner. The sign drawing shows that the electronic message board is 14.67 square feet (24" x 88") in area and that it will be able to advertise two lines of 10 inch red text.
2. A Variance to allow the electronic sign within 660' of another electronic sign. The Boone County G.I.S. system shows that the Culver's sign is approximately 495' from Kentucky Farm Bureau's time and temperature sign.

### Pertinent Site History

- 6/08 - The Boone County Planning Commission approved a Concept Development Plan allowing a 5,000 square foot restaurant on a 1.06 acre tract (subject site) and a 16,104 square foot retail/restaurant building on a 2.45 acre lot. A condition of approval was imposed stating that the development was permitted an identification monument sign along US 42 and a smaller monument style identification sign (10' tall and 100 square feet) near the access point on Old Toll Road. The design and materials of both monument signs shall correlate to the buildings on site.
- 4/09 - The Boone County Planning Commission approved a Site Plan for a 3,654 square foot restaurant with 49 parking spaces.
- 5/09 - The City of Florence sent the applicant and Boone County Planning Commission an e-mail indicating that Culver's could place the smaller monument sign on their lot and that it could front on US 42. The e-mail also states that any proposal for electronically changeable copy would need to be approved by the Florence Board of Adjustment.

### Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that two duties of the Board of Adjustment and Zoning Appeals is to act on Conditional Use Permit and Variance applications.

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Board should evaluate the applicant's variance request in terms of the criteria listed in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the Zoning Regulations.
  - A. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  - B. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
  - C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the Zoning Regulation from which relief is sought.
2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the Zoning Regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

The Board needs to evaluate the Conditional Use Permit 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 commercial subdivisions 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). In addition, any parcel or outlot shall be permitted a density of one monument sign. The individual parcel or outlot sign shall not exceed 100 square feet in area and 10 feet in height.

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 1.569 acre site is located on the northeast corner of the US 42/Pleasant Valley Road/Gunpowder Road intersection. The site also has frontage along Old Toll Road. The site has been cleared and construction of the retaining wall and restaurant has begun on site.

Surrounding Land Uses and Zoning

- Northeast: Lot 2 of Pleasant Valley Commons (C-2/PD)
- Northwest: Old Toll Road and Florence United Methodist Church (UR-1/PD)
- Southeast: US 42, Undeveloped Commercial Property, Gunpowder Centre (C-2/PD)
- Southwest: Pleasant Valley Road, Bank of Kentucky, Office/Retail Building in Haines Subdivision (C-3)

Staff Comments

1. The Board should analyze the "Design, Signs, and Historic Preservation" section of the Future Land Use Development Guidelines before acting on the requests. 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.

Staff is concerned that approval of the requests will put three electronically changeable signs (Ace Hardware, Culver's, and Kentucky Farm Bureau) within approximately 1,500 feet of one another. The Board should analyze the spacing of electronic signs because there may come a point where they create safety concerns or have a negative visual impact on a corridor.

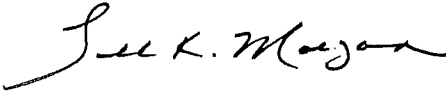
2. Section 3430 of the Boone County Zoning Regulations states that an electronic message board shall conform to the following criteria:
  - A. The electronic message board(s) shall not be more than fifty percent (50%) of a permitted sign area. The electronic message boards comprise 23.8% (14.67/61.65) of the overall sign area.
  - B. Electronic messages must be displayed on the board for at least 5 seconds and messages cannot flash, scroll, or run. The applicant provided an e-mail indicating that the message will change no more than once every fifteen seconds.
  - C. Electronic message boards must be at least 660 feet apart. A Variance request was submitted because Speedway's sign is located approximately 495' Kentucky Farm Bureau's time and temperature sign.
3. If the application is approved, Staff recommends the following conditions:
  - A. The electronic message board shall not be used to advertise off-premise businesses;
  - B. The electronic message board shall have a maximum of two lines of text;
  - C. All electronic messages shall be displayed in red;
  - D. All electronic messages shall be displayed for at least 15 seconds;
  - E. The sign shall be equipped with photocells and the electronic copy shall dim as the sky gets darker; and

- F. Culver's shall not be permitted to advertise on the subdivision identification monument sign.

Conclusion

K.R.S. 100.237 and 100.241 and Section 220 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to act on the requests.

Respectfully submitted,



Todd K. Morgan, AICP  
Senior Planner, Zoning Services

TKM/pr

Attachments

- \*Site Vicinity Map
- \*Site Plan with Sign Location
- \*Sign Drawing
- \*E-Mail From Applicant
- \*Aerial Map with 660' Radius
- \*Zoning Map
- \*Future Land Use Map
- \*Concept Development Plan Conditions
- \*E-Mail From Josh Wice
- \*Application

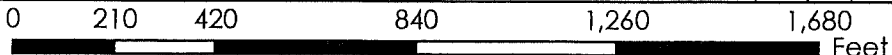
# SITE VICINITY MAP

www.boonecountygis.com

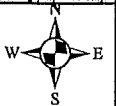


Copyright 2008 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



1 inch = 400 feet



**Boone County GIS - Putting Northern Kentucky on the Map**

FLORENCE UNITED METHODIST CHURCH

DB 467 PG 38

ZONE DR-LTPD/CD

OLD TOLL ROAD

PLEASANT VALLEY ROAD (KY 237)

KENTUCKY HIGHWAY DEPARTMENT HD20 PG294

U.S. HWY 42

MELLS LANE

GUNPOWDER-PROPERTIS, LLC

DB 877 PG 383

QUAST SU LO CAB 4, PLAT. ZONE: C

PREVIOUSLY APPROVED PROPOSED RESTAURANT ZONE O-2/7D 1.5M B.L.P.T.

PREVIOUSLY APPROVED PROPOSED RESTAURANT ZONE O-2/7D 1.5M B.L.P.T.

DOWNSPOUT LEADER

*Proposed Culvert Replacement Sign!*

PROP. SANITARY SEWER EASEMENT

PROP. SANITARY SEWER EASEMENT

PROP. 2" DOMESTIC WATER SERVICE

PROP. 8" D.O.T. DISTURBANCE LIMITS

PROP. 2" DOMESTIC WATER SERVICE

PROP. 8" water main

PROP. 2" water (force)

PROP. 2" water (force)

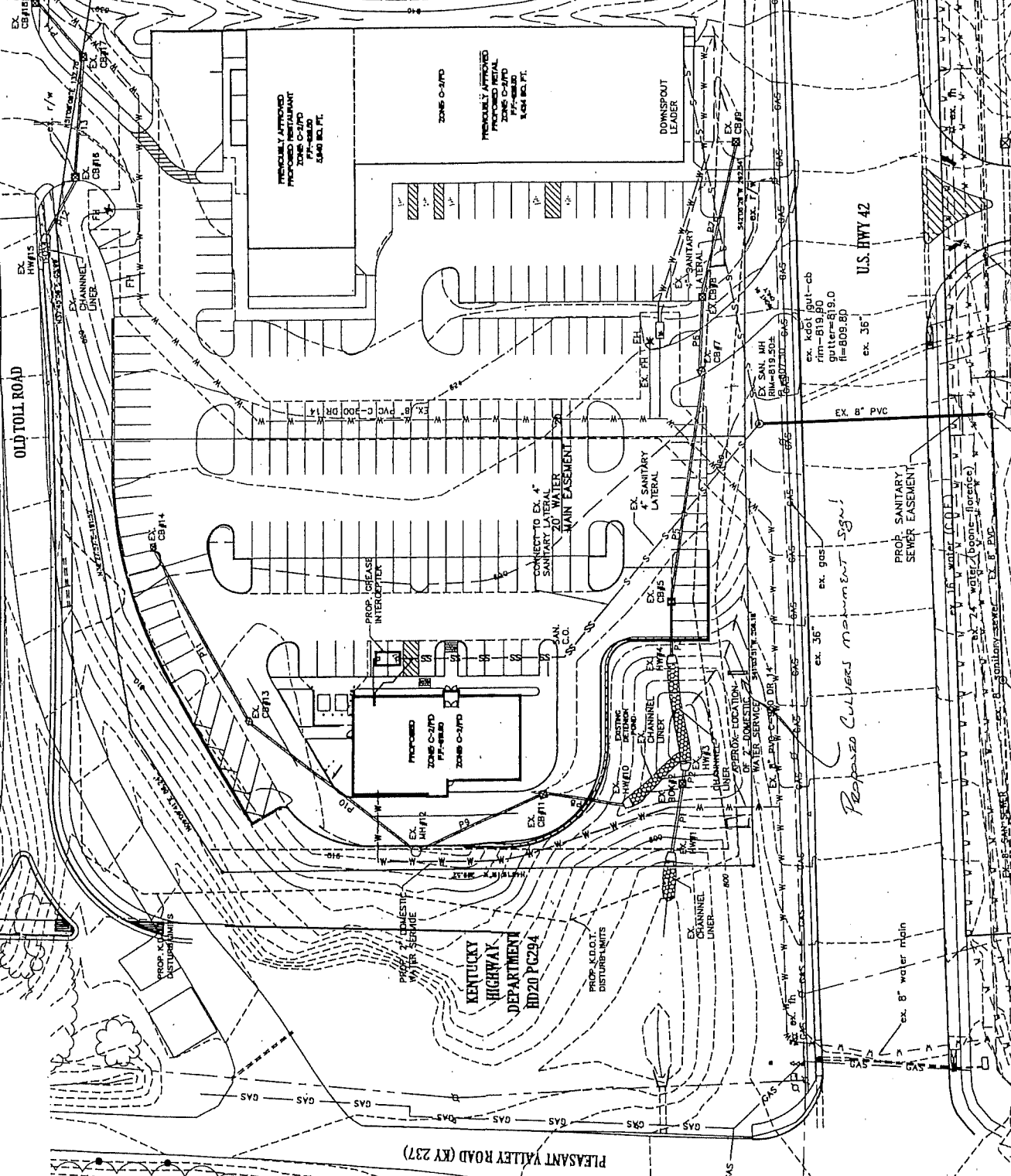
PROP. 2" water (force)

PROP. 2" water (force)

PROP. 2" water (force)

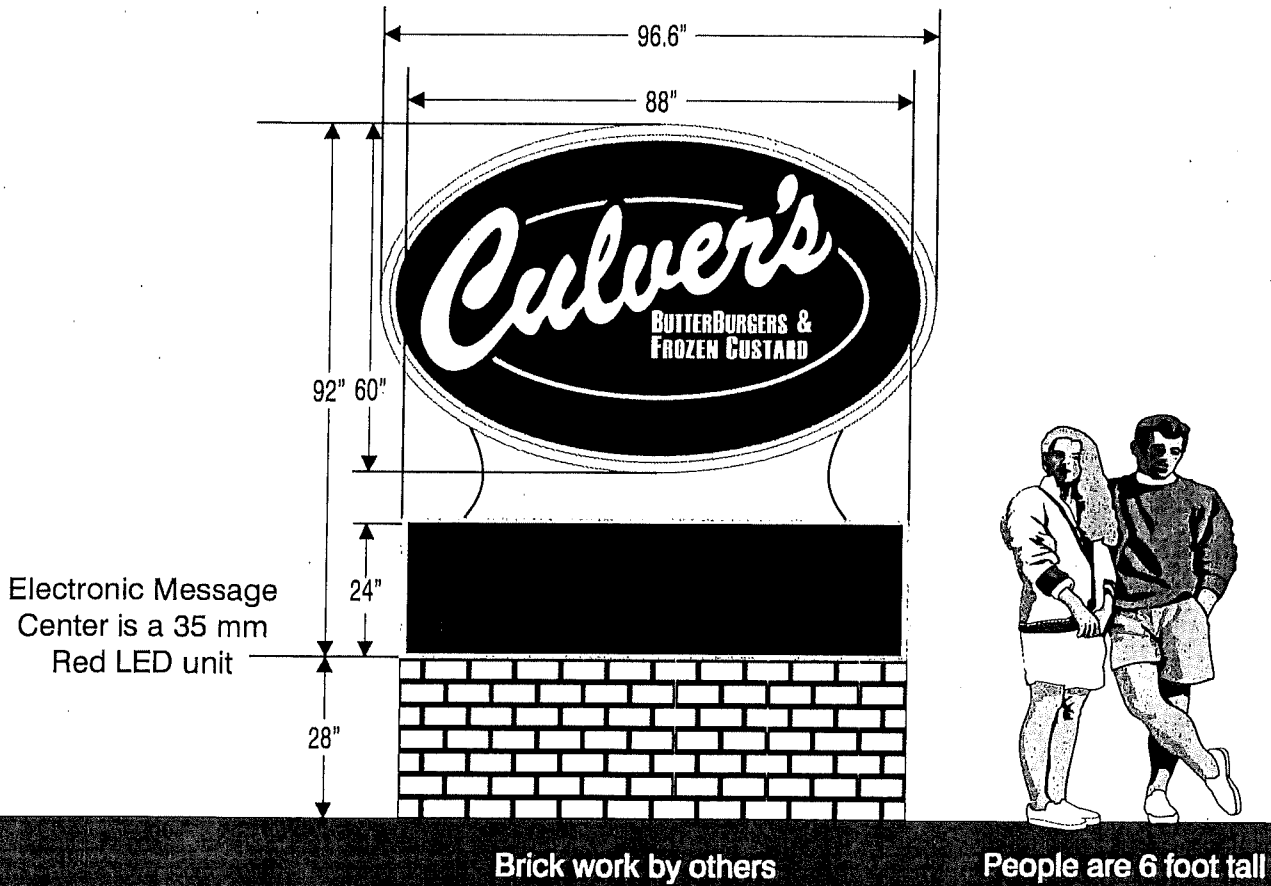
PROP. 2" water (force)

PROP. 2" water (force)



Oval is 60" tall by 96.6" wide  
divided by 144 will give you  
40.25 square feet

EMC is 24" high by 88" wide  
divided by 144 will give you  
14.67 square feet



TITLE		Oval Monument with 2 Line EMC		THIS DRAWING IS THE PROPERTY OF:	
PROJECT		FONT FILE	P:\0 CULVER'S\ Culver's Stores\ Florence, Ky\	<b>Jim Greeley Signs &amp; Awnings, Inc.</b>	
DATE	05-26-2009	SCALE	3/8" = 1'	BY	GRD
				100 W. ROBB RD. N. INDUSTRIAL PARK RICHLAND CENTER, WI. 53581 608/647-2628 Fax 608/647-2020 1-800-WI-SIGNS	
IT IS UN-LAWFUL TO USE THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF JIM GREELEY SIGNS AND AWNINGS, INC.					

## Todd Morgan

---

**From:** John Curtin [JCurtin@Paulhemmer.com]  
**Sent:** Tuesday, May 26, 2009 4:02 PM  
**To:** Todd Morgan  
**Cc:** uspscraig@hotmail.com; Steve Helmes  
**Subject:** [BULK] Culvers Monument Sign information

**Importance:** Low

Todd, one change to the message below. Craig the owner of the Culvers Restaurant **decided to go with red letters on the electronic message board!** Thanks.

---

---

Todd, thanks again for your help! The few final issues are resolved and I wanted to give you the information. The message board change would be every 15 seconds. The color of the message board letters is amber. The location of the monument sign on the sight will be identified on a site plan that I will drop at your office today. I believe this covers all of the questions that you and Kevin had for us when we last met. Thanks again.



**John Curtin**

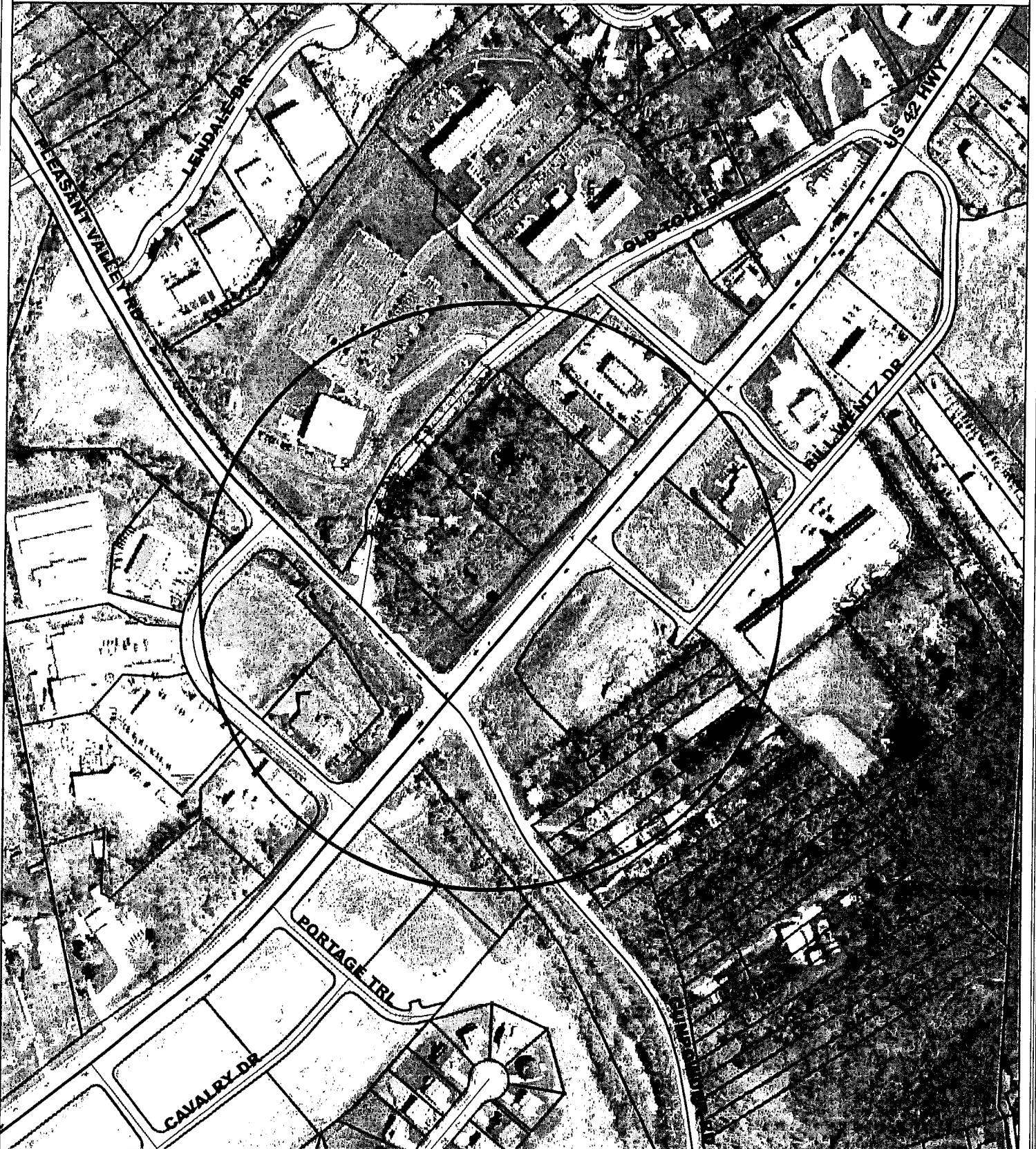
Senior Vice President  
Tel 859-578-1802  
Fax 859-341-6817  
[jcurtin@paulhemmer.com](mailto:jcurtin@paulhemmer.com)

Paul Hemmer Companies  
250 Grandview Drive  
Ft. Mitchell, KY 41017

*A company of premier, integrated and successful businesses  
specializing in real estate, construction, and building care services.*  
[www.paulhemmer.com](http://www.paulhemmer.com)

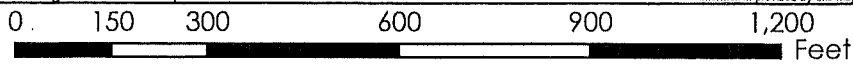
# AERIAL MAP WITH 660 FOOT RADIUS

www.boonecountygis.com



Copyright 2009 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

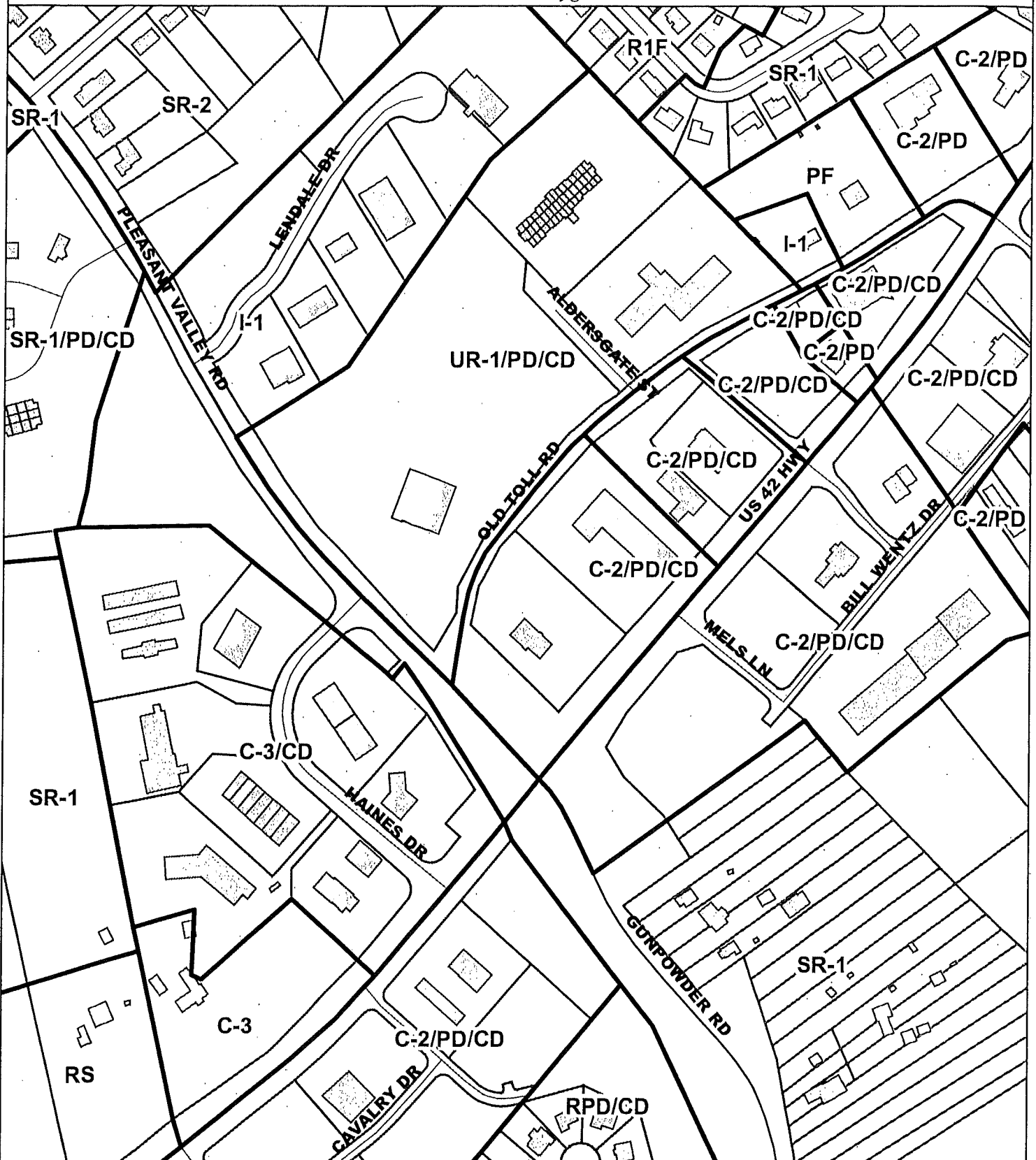
Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



**Boone County GIS - Putting Northern Kentucky on the Map**

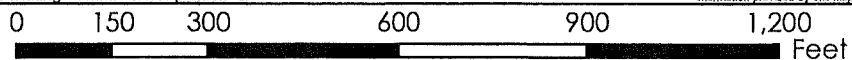
# ZONING MAP

www.boonecountygis.com



Copyright 2009 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

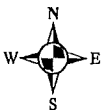
Date used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by the map. This map should be used for general planning purposes only.



1 inch = 300 feet

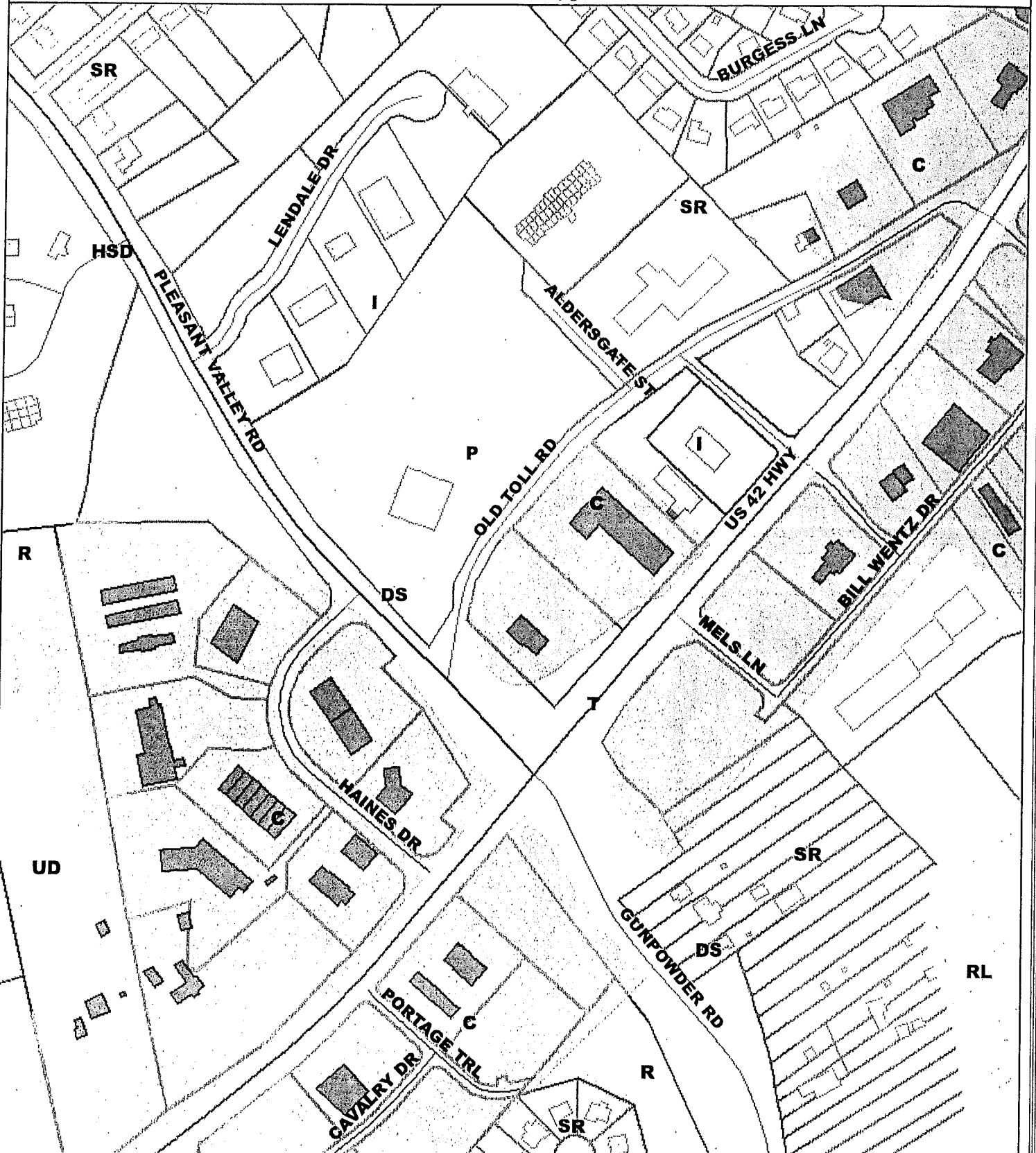


**Boone County GIS - Putting Northern Kentucky on the Map**



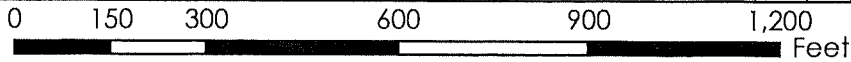
# FUTURE LAND USE MAP

www.boonecountygis.com



Copyright 2009 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



**Boone County GIS - Putting Northern Kentucky on the Map**

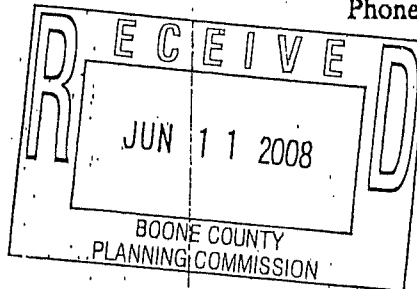


# BOONE COUNTY PLANNING COMMISSION

[www.boonecountyky.org/pc](http://www.boonecountyky.org/pc)  
[www.boonecountygis.com](http://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](mailto:plancom@boonecountyky.org)



June 5, 2008

Mr. Mike Hargis  
 Paul Hemmer Dev. III  
 250 Grandview Drive  
 Ft. Mitchell, KY 41011

FAX: 341-6817

RE: Recommended Conditions of Approval for Paul Hemmer Companies Concept Development Plan Application, 8572 Old Toll Road, Boone County (Annexation into City of Florence Pending), Kentucky

Dear Mr. Hargis:

The following represents the conditions of approval for the above referenced application as discussed by the Planning Commission's Zone Change Committee at their 6/4/08 meeting. If you, as the property owner's authorized representative, agree to these conditions, please so indicate by signing in the space provided at the end of this letter and return the original letter to the Planning Commission's office by Friday, June 13, 2008.

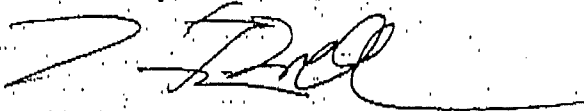
## CONDITIONS

1. A centerline strip which is at, or approximates, a 90 degree angle with Old Toll Road shall be painted in the Old Toll Road access point. A directional or regulatory type sign which states "no truck left turn" shall be installed at this access point.
2. In lieu of a landscape buffer yard along the common property line between the two proposed lots, a greater amount of landscaping shall be provided along the site's U.S. 42 frontage in accordance with the Zoning Administrator's requirements.
3. A sidewalk link/cut-through shall be provided across the site from the Old Toll Road access point, across the front of the multi-tenant building, and to the U.S. 42 access point. Marked crosswalks will be provided where this walk crosses vehicular areas.
4. The design of the multi-tenant building shall follow the submitted architectural concept (attached). EIFS may be used for sign band and parapet areas (portions of the building that are higher than the storefront units), and architectural grade masonry shall be used otherwise. The outlot restaurant shall follow the same basic design concept and material requirements. Roof mounted equipment on both buildings shall be completely screened.

Mr. Mike Hargis  
June 5, 2008  
Page 2

- 5. A development identification monument style freestanding sign shall be permitted along the U.S. 42 frontage. A smaller monument style ID sign shall be permitted along the Old Toll Road frontage near the site's access point; this sign shall be limited to 10 feet in height and 100 square feet in size. The design and materials of both monument signs shall correlate to the buildings on the site. Building mounted signage shall follow a consistent design scheme which relates to the building design.

Sincerely,



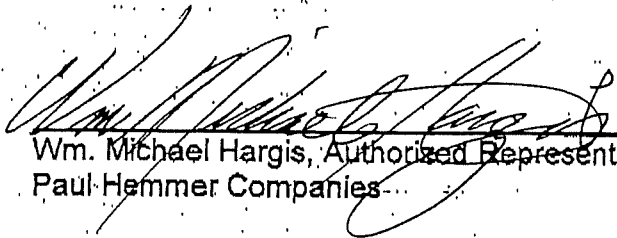
Kevin T. Wall, AICP  
Director, Zoning Services

KTW/vlm

Enclosure

AGREEMENT

I, the property owner's authorized representative for the 3.501 acre tract at 8572 Old Toll Road, Boone County (Annexation into City of Florence Pending), Kentucky, agree to the conditions listed herein for the above referenced Concept Development Plan application.



Wm. Michael Hargis, Authorized Representative  
Paul Hemmer Companies

6/9/08  
Date

## Kevin Wall

---

**From:** Josh Wice [Josh.Wice@florenc-ky.gov]  
**Sent:** Friday, May 08, 2009 8:20 AM  
**To:** Kevin Wall; Todd Morgan  
**Subject:** FW: more pics

PER JOSH WICE - 5/7/09,  
RELOCATING MONUMENT SIGN FROM  
OLD TOLL FRONTAGE TO CULVER'S LOT  
OK W/ FLORENCE P&Z COMMITTEE.

---

**From:** Josh Wice  
**Sent:** Wednesday, May 06, 2009 8:47 PM  
**To:** jcurtin@paulhemmer.com  
**Subject:** RE: more pics

NO ADDITIONAL SIGNS, JUST RELOCATION  
AS PERMITTED BY CODE.

We are okay with putting a Culver's ground mounted sign on the Culver's parcel on US 42 and not at the back of the property on Old Toll Road and then placing simple directional sign(s) on the Old Toll Road side.

However, the issue of the electronically changeable sign (as shown in the photo) would require a Conditional Use Permit, which would need to be approved by the Board of Adjustments.

I am out of the office tomorrow (Thursday), so if you have any questions please feel free to give Pat.Wingo a call.

Thanks.

---

**From:** John Curtin [mailto:jcurtin@paulhemmer.com]  
**Sent:** Wed 5/6/2009 4:17 PM  
**To:** Josh Wice  
**Subject:** Re: more pics

Hi Josh, any news!

Sent from my Verizon Wireless BlackBerry

---

**From:** "Josh Wice"  
**Date:** Wed, 6 May 2009 11:27:52 -0400  
**To:** John Curtin <JCurtin@Paulhemmer.com>  
**Subject:** RE: more pics  
Thanks for sending the photo.

I hope to have some guidance for you today, one way or the other.

**Josh Wice**  
Business & Community Development Director  
City of Florence  
8100 Ewing Boulevard  
Florence, Kentucky 41042-7588  
(859) 647-8177 office  
(859) 647-5411 fax  
[Josh.Wice@florenc-ky.gov](mailto:Josh.Wice@florenc-ky.gov)

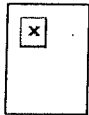
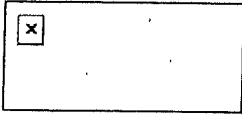
---

**From:** John Curtin [mailto:JCurtin@Paulhemmer.com]  
**Sent:** Wednesday, May 06, 2009 11:00 AM

**To:** Josh Wice  
**Subject:** Fw: more pics

Hi Josh, attached below is a photo of the type of sign that Culvers wants to use for the project. I look forward to hearing back from you later today. I appreciate your help! Thanks again.

John.



**John Curtin**  
Senior Vice President  
Tel 859-578-1802  
Fax 859-341-6817  
[jcurtin@paulhemmer.com](mailto:jcurtin@paulhemmer.com)

Paul Hemmer Companies  
250 Grandview Drive  
Ft. Mitchell, KY 41017

*A company of premier, integrated and successful businesses  
specializing in real estate, construction, and building care services.*  
[www.paulhemmer.com](http://www.paulhemmer.com)

--- Forwarded by John Curtin/PHCC on 05/06/2009 10:56 AM ---

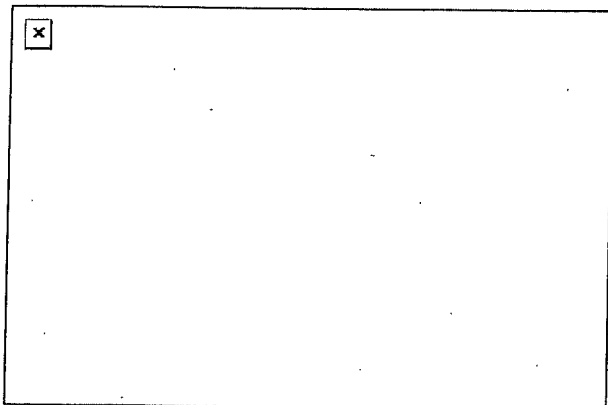
craig przanowski <[uspscraig@hotmail.com](mailto:uspscraig@hotmail.com)>

05/05/2009 11:48 AM

To John Curtin <[jcurtin@paulhemmer.com](mailto:jcurtin@paulhemmer.com)>  
cc

Subject: more pics

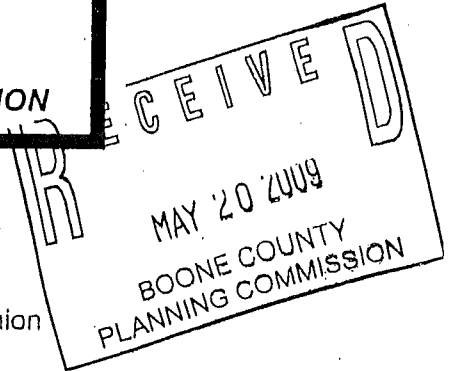
John



Sincerely,

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 MINE HARGIS / PAUL HENDERSON COMPANIES  
Phone Number 341-8300 Fax No. \_\_\_\_\_  
Applicant's Address 250 CRAWFORD DR.  
FT. MITCHELL KY 41017  
City State Zip
- 4. Description of Request: CONDITIONAL USE FOR ELECTRONIC SIGN  
VARIANCE TO PROVIDE 60 FT. SETBACK REQUIREMENT
- 5. Name of Development CUMBER 5 EAST
- 6. Location of Development 4542 S. PRESENT VALLEY RD.
- 7. Acreage Under Review 1.562 A.
- 8. Lot Number and Name of Subdivision (if part of a subdivision)  
LOT # 1
- 9. Owner of Property CP & TB LLC  
Address of Property Owner 3413 LAKE DR Phone No. 202-369-8786  
HARTLAND, W.V. 53024  
City State Zip
- 10. Proposed Use(s) on Site ELECTRONIC SIGN
- 11. Total Square Footage of Existing and/or Proposed Buildings \_\_\_\_\_
- 12. Current Zoning on Property C2-RD
- 13. Deed Book 952 Page No. 189 Group No. 2039
- 14. Is the site subject to a zone change? NO - CONCEPT PLAN - 6/18/08  
If yes, give date of approval \_\_\_\_\_
- 15. Have you submitted a Site Plan with this request? YES
- 16. Have you submitted a list of adjoining property owners with this request? YES
- 17. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: [Signature]  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature]  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

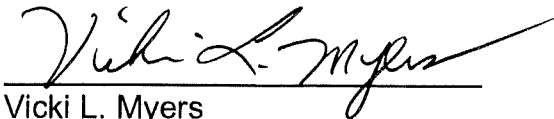
(over) [Signature]



COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

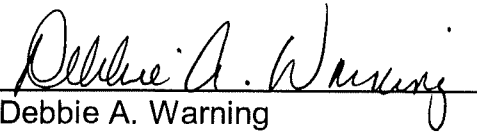
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 17 day of June, 2009.



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

The following Conditions of Approval apply to the Conditional Use Permit and Variance approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of June 10, 2009 Certificate of Land Use Restriction (#09-FBOA-005-A), for CP & TS, LLC Property Owner(s).

The following conditions will apply:

- 1) The electronic message board shall not be used to advertise off-premise businesses.
- 2) The electronic message board shall have a maximum of two lines of text.
- 3) All electronic messages shall be displayed in red.
- 4) All electronic messages shall be displayed for at least 15 seconds.
- 5) The sign shall be equipped with photocells and the electronic copy shall dim as the sky gets darker.
- 6) Culver's shall not be permitted to advertise on the subdivision identification monument sign.

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

DEED BOOK 952 PAGE NO. 189 GROUP NO. 2039