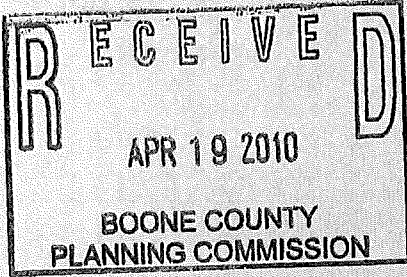


APPLICATION FORM



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 [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) [checked] Conditional Use Permit \_\_\_\_\_ Variance \_\_\_\_\_ Appeal \_\_\_\_\_
3. Applicant's Name C.A.R.S. - Complete Automotive Repair Specialist
Phone Number 859-743-0939 Fax No. 859-342-0300
Applicant's Address 4512 Dixie Hwy Erlanger Ky 41018
4. Description of Request: See Attachment

- 5. Name of Development Former Hilltop Taxi; To Be Known as C.A.R.S.
6. Location of Development 6602 Dixie Hwy
7. Acreage Under Review .77
8. Lot Number and Name of Subdivision (if part of a subdivision)

- X 9. Owner of Property CBT Real Estate Holdings, LLC - pending deed transfer from Master Commissioner
Address of Property Owner 300 West Vine St. Phone No. 859-253-6235
10. Lexington IL 40507
City State Zip

- 11. Proposed Use(s) on Site Automotive Repair Article 40 Section 4000, Except Body & Paint work
12. Total Square Footage of Existing and/or Proposed Buildings 7,000
13. Current Zoning on Property C-2
14. Deed Book 934 Page No. 133 Group No. 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? 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. CBT Real Estate Holdings, LLC

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

ORIGINAL Applicant's Signature: Michael Bruck, Member (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**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	4-19-10	Fee Received	\$1,082.00 - R60563
2.	Is application complete?	<u>Yes</u>	Yes	No
3.	Staff Reviewer	<u>Mike Morgan</u>		
4.	Scheduled Board Action Date	<u>0</u>		
5.	Board Action:			
	Approved	<u>5/12/10</u>	Approved with Conditions (See #6)	
	Denial (See #7)			
6.	Conditions of Approval:	<u>SEE 5/12/10 FROM MEETING MINUTES + C.L.U.R.</u>		
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 - 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: Complete Automotive Repair Specialist (C.A.R.S.)

LOCATION: 6602 Dixie Highway, Florence, Kentucky

ZONING: Commercial Two (C-2)

DATE: May 12, 2010

### PROPOSAL

The applicant has submitted a Conditional Use Permit application to allow the following:

1. Modify a condition from the February 14, 2007 Florence Board of Adjustment meeting. The condition prohibited an automotive repair facility to store vehicles in the parking lot overnight.
2. Construct four (4) additional parking stalls in the rear parking lot.

### SITE HISTORY

- 3/19/87 – The property owner applied for a Conditional Use Permit to allow the construction of an oil change and lube business with a car wash. The Florence Board of Adjustment approved the request with the following conditions:
1. The permit is for a lube and oil change facility only. The applicant could reapply after one year to include the car wash;
  2. The proposed curb cut onto Dixie Highway shall be eliminated;
  3. The applicant shall grant the adjoining property owner access as long as it is used residentially;
  4. The applicant agrees to develop shared access with the adjoining property owner should the property ever be developed commercially.
- 5/13/87 – The property owner applied for a Conditional Use Permit so the Board could reconsider the car wash and curb cut on Dixie Highway. The Florence Board of Adjustment approved the car wash with the following conditions:
1. Twenty (20) cars shall be allowed to stack in any operational day.
  2. Action on the curb cut is to be delayed until Site Plan Review.
- 2/14/07 – The property owner applied for a Conditional Use Permit so the building could be occupied by an automotive repair facility with wash services for vehicles. The Florence Board of Adjustment approved the request with the following conditions:
1. There is to be no body or paint work done on site.

2. The trash dumpster currently located in the Nicholas Street right-of-way is to be fully located on the property and brought into compliance with the enclosure requirements in Section 3151 of the *Boone County Zoning Regulations*.
3. There is to be no outside storage of vehicles or automotive accessories overnight.

### APPLICABLE REGULATIONS

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to grant conditional uses permits as specified by the zoning order.

Article 10, Section 1023 of the Boone County Zoning Regulations permits automotive repair facilities and wash services for vehicles as Conditional Uses within the Commercial Two (C-2) district.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit as stated in Sections 262 & 1023 of the Boone County Zoning Regulations.

Findings listed in Section 262 (Findings for all Conditional Uses):

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.

Article 10, Section 1023 of the Boone County Zoning Regulations allows an "automotive repair facility and wash services for vehicles" as Conditional Uses in the Commercial Two (C-2) district provided that:

- a. the activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or
- b. the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center; and
- c. the arrangement of uses, buildings or structures will be mutually compatible with the organization of permitted and accessory uses to be protected in the district.

Article 40, Section 4000 of the Boone County Zoning Regulations defines an automotive repair facility as a business establishment that repairs, rebuilds, reconditions, or services automobiles or automotive parts, including but not limited to any of the following activities: body and paint work; engine repair or rebuilding; installation, repair, or reconditioning of tires, brakes, transmissions, mufflers, automotive electrical or air conditioning systems, automotive upholstery, or automotive glass, all on an individual vehicle basis; changing of oil, other fluids, and filters; emissions testing and vehicle inspections.

Article 40, Section 4000 of the Boone County Zoning Regulations defines a junk yard as the storage, salvaging, and sale of secondhand materials or old dilapidated machinery. Materials include motor vehicles, mobile homes, trailers, machinery, appliances, furniture, rags, rubber, building materials, and scrap iron. The presence of two or more nonoperational motor vehicles on a lot for a time period exceeding thirty (30) days shall constitute evidence regarding the establishment of a junk yard. An automobile wrecking yard is considered as a junkyard.

#### RELATIONSHIP TO THE COMPREHENSIVE PLAN

The 2005 Boone County Comprehensive Plan's "2025 Future Land Use Plan" designates the site in question for "Commercial" and "Suburban Residential" uses. These designations are defined as follows:

Commercial - "Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

Suburban Residential - "Single family housing of up to four units per acre. This classification does not preclude low density or estate residential developed as a formal subdivision."

The following Goals & Objectives from the 2005 Boone County Comprehensive Plan apply to the application:

- A. "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas" (Business Activity, Goal).

#### SURROUNDING LAND USES & ZONING

North: Vacant Lot (C-2 & SR-2)

South: Dixie Highway, Honda of Florence, Law Office, KY Rifle, and Vacant Building (C-2)

East: State Farm Insurance (C-2) and Single-Family Dwellings on Lexington Ave. (C-2 & SR-2)

West: Nicholas Street and Computer Mania (C-2)

SITE CHARACTERISTICS

The approximate 0.77 acre site is located on the northeast corner of Dixie Highway and Nicholas Street. The two-story building is approximately 7,000 square foot in area and contains four automotive repair bays and an upper story office area. Access to the parking lot is provided from two curb cuts which connect to Nicholas Street. The parking lot has several large potholes which are in need of repair.

STAFF COMMENTS

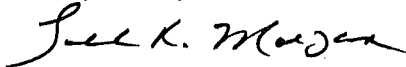
1. 3G Development bought the property in 2007 and converted it into a Taxi dispatch business. The property was recently foreclosed on. It should be noted that the conditions that were imposed by the Florence Board of Adjustment on February 14, 2007 could not be enforced on the Taxi dispatch business because it was not an automotive repair facility.
2. The applicant has provided a cover letter and an aerial map which outlines the request (see attachments). The proposal would allow vehicles awaiting repair or that have been repaired to be stored in the parking lot during business hours and overnight. Vehicles will not be kept in the parking lot more than fourteen (14) consecutive days. Outside vehicles will not be stored on blocks or be in disassembled conditions. The request will also allow four (4) additional parking spaces to be constructed in the rear yard.
3. Staff has the following questions for the applicant:
  - A. Do they have any current business locations?
  - B. What are the proposed hours of operation?
  - C. What kind of repairs are performed on site?
  - D. Are tow trucks kept on site?
  - E. Is vehicle impounding part of the business operation?
  - F. Are any vehicle accessories (tires, fluids, etc.) displayed outside during business hours?
  - G. Are any outside storage areas (tires, parts, etc.) being proposed?
  - H. Is any additional lighting proposed?
4. On November 6, 2007, the Boone County Planning Commission approved a Zoning Permit allowing a single-family residential dwelling to be constructed on the adjoining property to the north. The construction of the house cleared most of the trees on the lot and made the Taxi Dispatch business more visible from the back of Nicholas Street.
5. Boone County G.I.S. shows that the parking spaces located in the rear parking lot are located approximately 25' from the rear property line.
6. Staff has the following recommendations if the request is approved:

- A. No auto body or paint work shall be performed on site.
- B. No car repairs shall be made outside the building.
- C. Vehicle impounding shall be prohibited.
- D. Tow trucks shall be stored behind the building.
- E. No vehicles shall be stored in the parking lot for more than fourteen days.
- F. No vehicles shall be stored outside on blocks or in any disassembled state.
- G. Outside display or storage of car parts or accessories is prohibited.
- H. The following driveway/circulation improvements shall be made:
  - The driveway aisle located on the west side of the building shall be a minimum of 14' wide if the 2 parallel parking spaces are retained.
  - The curb cut located closest to Dixie Highway shall be a one-way in and the curb cut located furthest from Dixie Highway shall be a one-way out. Pavement marking and directional signs shall be required.
- I. An approximate twenty (20) foot wide landscaping buffer with Buffer Yard B Plantings (5 evergreen trees, 6 large/medium/or small trees, and 15 large shrubs per 100 linear feet) shall be required along the rear property line. Healthy vegetation that is retained in the Buffer can be credited toward the requirements.

### Conclusion

KRS 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,

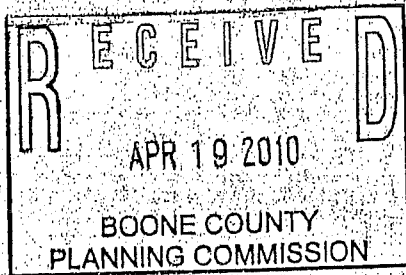


Todd K. Morgan, AICP  
Senior Planner, Zoning Services

TKM/pr

### Attachments

- \*Application
- \*Description of Request
- \*2007 Aerial Map with Proposed Improvements
- \*2009 Aerial Map
- \*Zoning Map
- \*Future Land Use Map
- \*3/19/87 Meeting Minutes
- \*5/13/87 Meeting Minutes
- \*2/14/07 Meeting Minutes



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 [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) [checked] Conditional Use Permit \_\_\_\_\_ Variance \_\_\_\_\_ Appeal \_\_\_\_\_
3. Applicant's Name C.A.R.S. - Complete Automotive Repair Specialist
Phone Number 859-743-0939 Fax No. 859-342-0300
Applicant's Address 4512 Dixie Hwy Erlanger Ky 41018

4. Description of Request: See Attachment

5. Name of Development Former Hilltop Taxi To Be Know as C.A.R.S.

6. Location of Development 6602 Dixie Hwy

7. Acreage Under Review .77

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

X 9. Owner of Property CBT Real Estate Holdings, LLC - pending deed transfer from Nasti Commercial
Address of Property Owner 300 West Vine St. Phone No. 859-253-6255

10. Loxington IL 40307
City State Zip

11. Proposed Use(s) on Site Automotive Repair Article 40
Section 4000, except Body & Paint work

12. Total Square Footage of Existing and/or Proposed Buildings 7,000

13. Current Zoning on Property C-2

14. Deed Book 934 Page No. 133 Group No. 2034B

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

18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations. CBT Real Estate Holdings, LLC

X ORIGINAL Property Owner's Signature [Signature]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted) J. M. M. 2010

ORIGINAL Applicant's Signature: Michael Bruck, Member
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**Attachment**  
**To**  
**Application Form**

**Board of Adjustment and Zoning Appeals Action**  
**Boone County Planning Commission**

Question No. 4 – Description of Request:

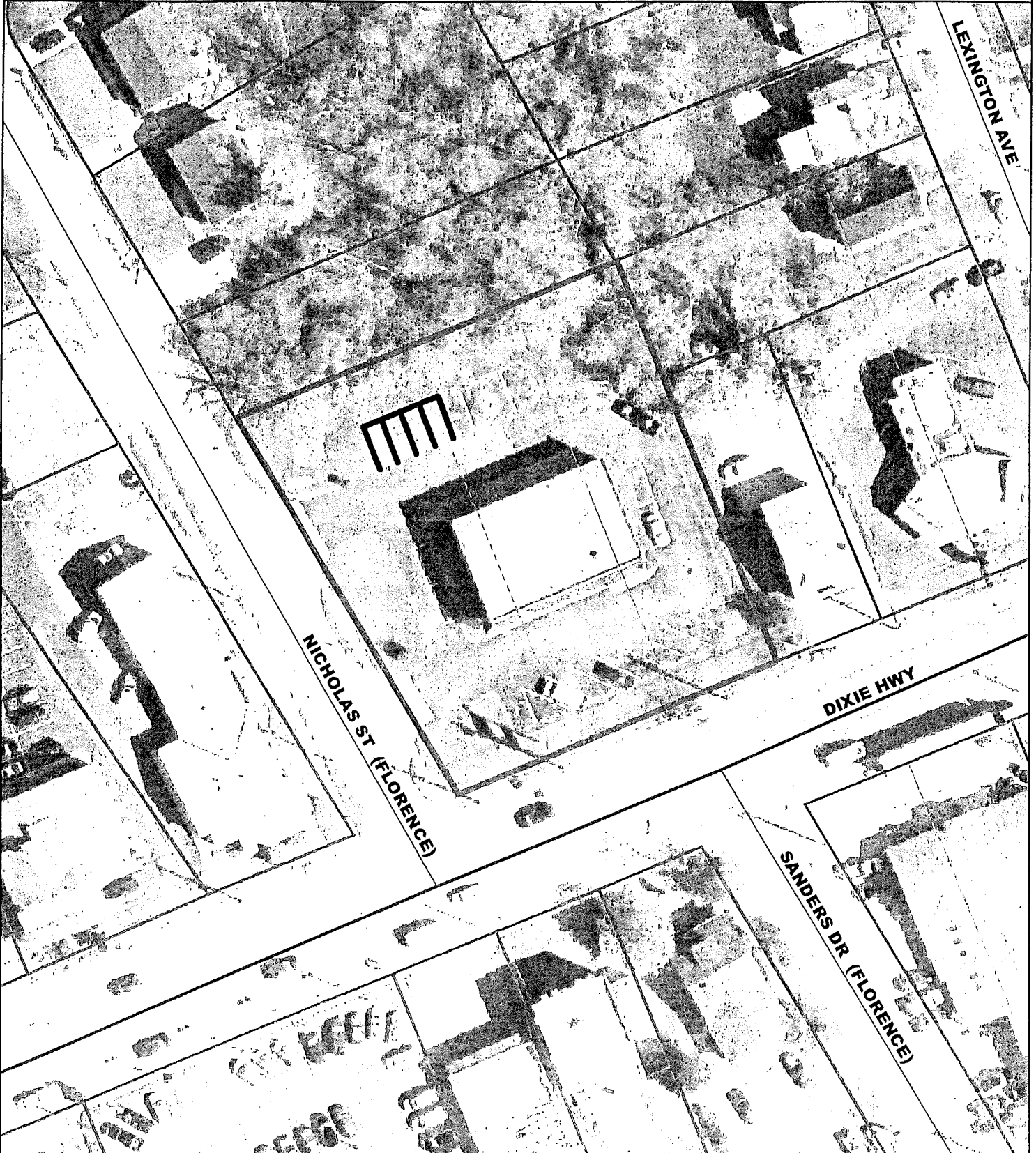
Request No. 1: To modify the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of February 14, 2007 Certificate of Land Use Restriction (#07-FBOA-001-A), for Harold & Judi Deatherage, Property Owners, and to substitute new language in place of the current language of Condition No. 3 with this new language to read as follows:

3. Vehicles/Automobiles that are awaiting service and repairs and vehicles/automobiles awaiting pickup following completion of service and repairs can be temporarily parked in the available designated parking spaces outside of the facility overnight; however, under no circumstances shall vehicles/automobiles be parked outside and overnight for more than fourteen (14) consecutive days and under no circumstances shall vehicles/automobiles be placed on blocks or parked outside in a disassembled condition so as to give the appearance of any long term storage or junkyard type storage.

Request No. 2: To obtain approval for adding four (4) additional parking spaces in the rear of the facility next to the existing four (4) rear parking spaces (the additional spaces would be located between the existing four (4) rear parking spaces and Nicholas Street with the new spaces to be directly adjacent to the existing parking spaces, please see attached aerial view with the proposed additional spaces noted thereon). This would increase the current parking from sixteen (16) to twenty (20) spaces of which five (5) or six (6) of those spaces would be used during normal business hours for employee parking.

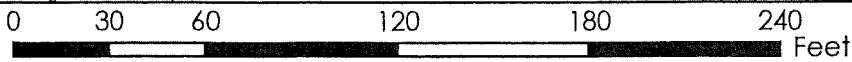
# 2007 AERIAL MAP WITH PROPOSED IMPROVEMENTS

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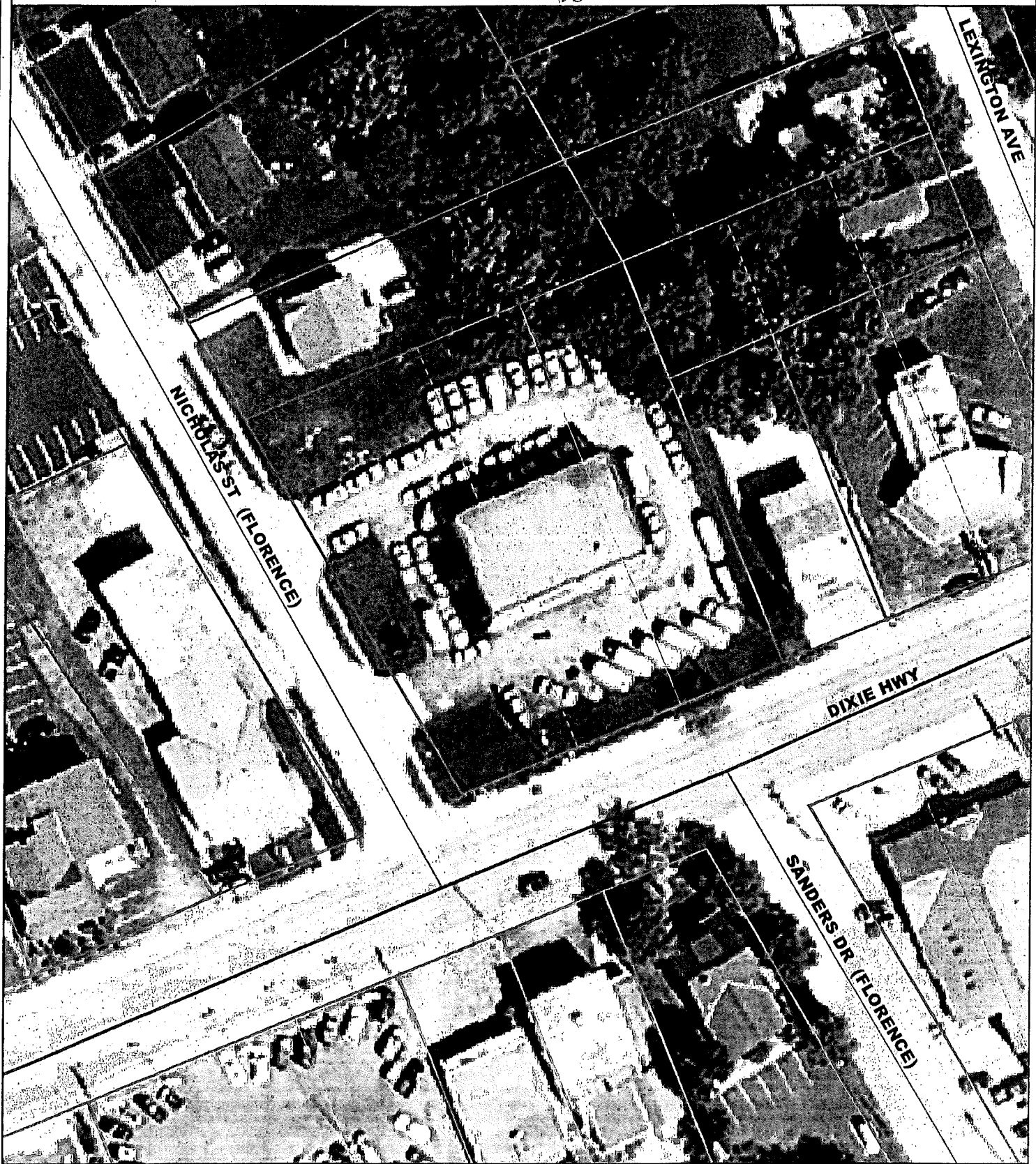
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**Boone County GIS - Putting Northern Kentucky on the Map**

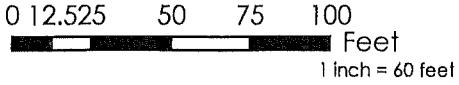
# 2009 AERIAL MAP

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

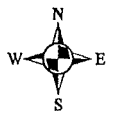
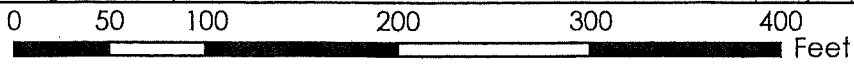
# ZONING MAP

[www.boonecountygis.com](http://www.boonecountygis.com)



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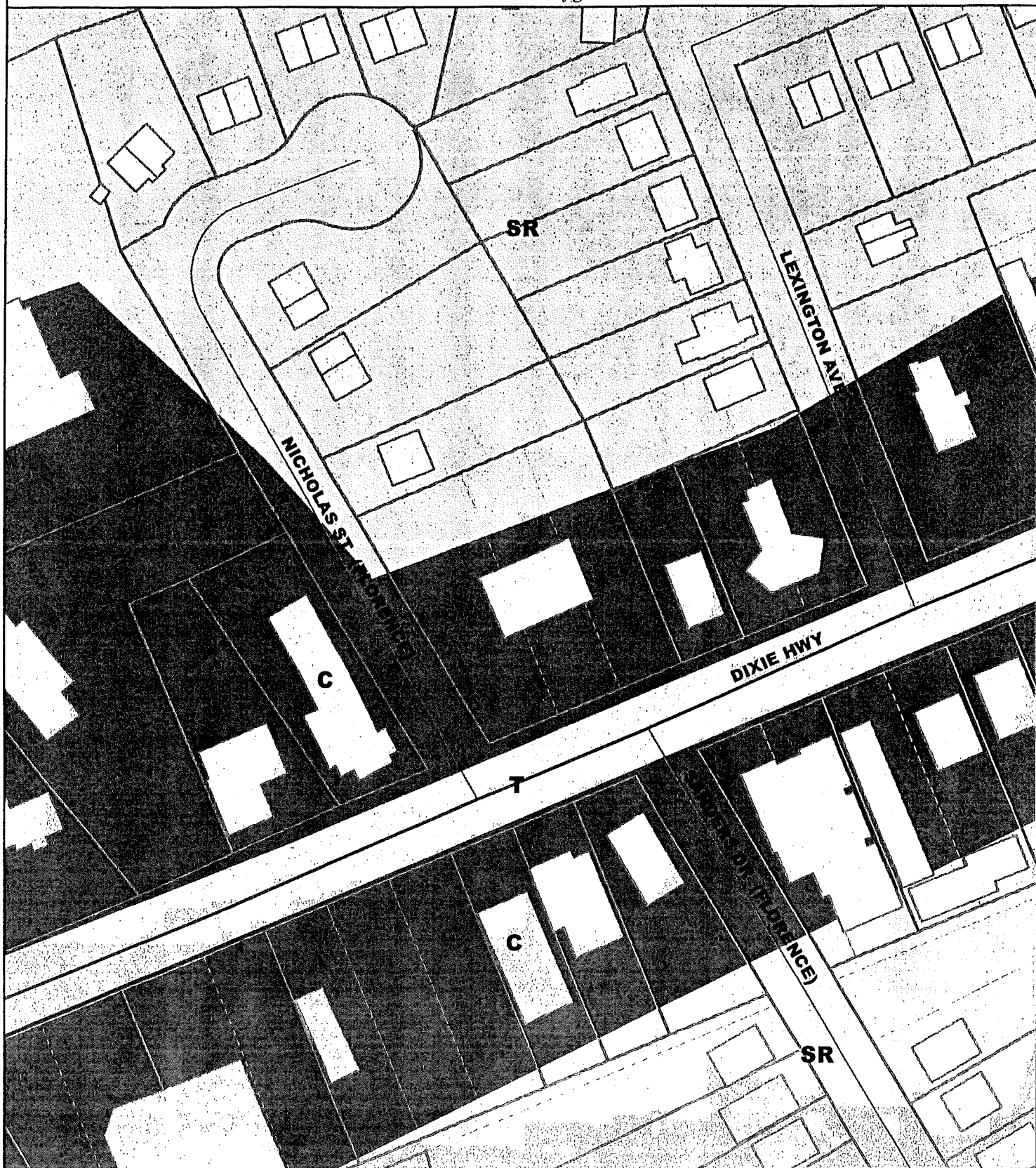
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**Boone County GIS - Putting Northern Kentucky on the Map**

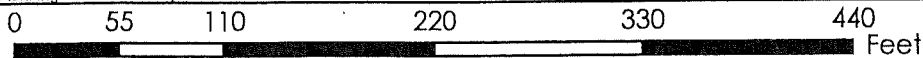
# FUTURE LAND USE MAP

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



CITY OF FLORENCE  
BOARD OF ADJUSTMENT  
MARCH 19, 1987  
7:30 P.M.

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Chairman Holland called the meeting to order at 8:05 p.m.

BOARD MEMBERS PRESENT:

Mr. Ashcraft  
Chairman Holland  
Mr. White

BOARD MEMBERS NOT PRESENT:

Ms. Lanigan

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

AGENDA ITEMS

1. The request of Mary Jo Menning for side yard variance to allow the expansion of an existing day care facility. The 0.46 acre site, located at 8230 and 8228 U.S. 42, Florence, is currently owned by Dorothy Patten and is zoned Commercial Two (C-2).

Thomas Breidenstein presented the Staff Report and a slide presentation. Mr. Breidenstein explained that the variances were needed since there are two (2) properties involved.

Chairman Holland asked if there was anyone who wishes to speak in regard to the application. Ms. Menning briefly described her plans for the property. In response to a question from the Board, Staff Member Tom Breidenstein stated that the property owner, Ms. Dorothy Patten, was aware of the request, since she had signed the application.

After further discussion, Mr. White moved to approve the requested variances to allow the expansion of the day care center. The motion was seconded by Mr. Holland.

Chairman Holland asked for a roll call vote on the motion which found all Board members in favor. The motion passed unanimously.

2. The request of Harold and Judi Deatherage for a Conditional Use Permit to allow the construction of a lube and oil change facility with a car wash. The 0.92 acre site, located at the northwest corner of Nicholas Street and Dixie Highway, is owned by Harold and Judi Deatherage and is zoned Commercial Two (C-2).

Staff member Tom Breidenstein presented the Staff Report and a slide presentation. Mr. Breidenstein stressed the concerns staff had about the site plan, including shared access, the curb cut onto Dixie Highway, the construction of a sidewalk and signage. The Chairman asked if there was anyone present to speak on behalf of the request.

Mr. Harold Deatherage described his intentions for the property. He explained the need for the curb cut onto Dixie Highway and questioned the shared access to the adjoining property. He had no problem with the addition of a sidewalk. Mr. Deatherage further explained that the primary use of his property would be the oil changes. He anticipated giving away a free car wash for each oil change and charging money for a car wash without an oil change. Therefore, the car wash would be an accessory to the oil change. He did not anticipate a large volume of traffic.

The Chairman asked if there was anyone opposed to the request.

Mr. Steve O'Brien, a resident of Nicholas Street, Florence, presented a petition signed by ten residences of Nicholas who were opposed to the request. He described the neighborhood as being a cul-de-sac; therefore, there is not much traffic. There is a problem, however, whenever the business college lets out. He explained that he was concerned with additional traffic generated by the car wash coming down Nicholas and creating a potential hazard to the large number of children who play on the street. He was concerned, too, that cars lining up to go through the car wash would block off Nicholas.

Mr. Deatherage explained that since the car wash was an accessory, he did not anticipate any traffic backups. If there were a number of cars, he believed there was adequate space on the lot to stack the cars in line.

Mr. O'Brien continued to express his concerns. He asked if there would be a fence along the rear property line and whether or not the car wash machinery was going to be stationary or if cars would move through the building on a conveyor.

Mr. Deatherage answered that he was agreeable to erecting a fence. He also stated that the car wash would be safe.

Further discussion followed concerning the traffic volume that would be generated. Mr. Deatherage stated that his facility would generate much fewer traffic than would a convenience store, which is a principally permitted use. Staff member Tom Breidenstein concurred with this statement.

Mr. Spillman, owner of Colony Car Wash, addressed the Board on the issue of traffic volume to the car wash. He stated that each car wash in Florence usually has a long line of cars waiting to be washed on the weekends. This situation would definitely create a problem at the Deatherage property.

Mr. Spillman advised the Board that he was speaking as an owner of a car wash, and not as a competitor for business purposes. He further explained that, for example, after a snowfall and salt had been used on the roads, weather conditions favorable for washing cars, etc., the traffic flow increased tremendously during these times, and he was of the opinion that Mr. Deatherage was not aware, nor could be anticipate, the traffic flow that would result.

Discussion of the curb cut onto Dixie Highway followed. Mr. Breidenstein explained that a site plan for a laundromat was approved on this site in August, 1985. A 15 foot wide access onto the highway was approved at that time. The Planning Commission approved the access because it was in connection with a principally permitted use. The Board, however, when considering applications for Conditional Use Permits, must evaluate the safety of traffic approaches to the site. Staff feels that the site is adequately served by the two proposed access points onto Nicholas and that the third cut onto Dixie Highway would be dangerous.

Discussion followed on the curb cut, shared access, the volume of traffic, and signage.

Mr. White moved that the Board grant the Conditional Use Permit subject to the following conditions: 1) that the permit be for the lube and oil change facility only. The applicant could re-apply after one year to include the car wash; 2) that the curb cut onto Dixie Highway be eliminated; 3) that the applicant grant the adjoining property owner access as long as the property is used residentially; and 4) that the applicant agree to develop shared access with the adjoining property owner should that property ever be developed commercially. Mr. Ashcraft seconded the motion.

Attorney, Dale Wilson, advised that the other course the Deatherages could pursue at this point would be to re-apply. No decision was made as to the fee for the re-application.

Chairman Holland called for a roll call vote. Ashcraft and White voted in favor of the request; Chairman Holland voted against the request. The request passed.

There being no further business to come before the Board, Chairman Holland moved, seconded by Mr. White, that the meeting be adjourned. The motion carried unanimously and the meeting was adjourned.

AGENDA ITEMS:

1. A re-application by Harold and Judi Deatherage for a Conditional Use Permit to allow a car wash in connection with the previously approved oil change facility. The request is also for the Board to reconsider the elimination of a curb cut onto Dixie Highway. The 0.92-acre site, located at Nicholas Street and Dixie Highway, is zoned Commercial Two (C-2).

The Board referred to the Minutes of the March 19, 1987 Meeting at which a previous application by Harold and Judi Deatherage for a Conditional Use Permit was heard. At that meeting, the Deatherage's request was approved subject to conditions. One of the conditions was that the applicant could re-apply after one year to include the car wash (see Minutes of the Meeting, March 19, 1987).

Counselor Wilson stated that the Deatherage's have the right to reapply at this time because, (a) they have new evidence, and (b) they are not operating under the permit issued by the Board.

Staff Member, Tom Breidenstein, presented the Staff Report. Copies of the Staff Report prepared for the March 19, 1987 Meeting and the Site Plan were included as attachments to the Staff Report.

Karen Tapp, an attorney representing the applicants, stated that Mr. Les Hand and Mr. Jack Hoskins were present in behalf of the application. Mr. Hand is a contractor who helped prepare the traffic flow analysis of the property. Mr. Hoskins has made an offer to purchase the property next to the subject property.

Mr. Deatherage described the three types of car washes, including (1) full-service, (2) in-bay rollover, and (3) self-service. He noted examples of each in the area. He presented a flow chart indicating how traffic could be stacked on his property to avoid creating congestion on the roadway. He stated that the car wash will be accessory to his business. There will be no advertising of the car wash, it will be low-volume, and an attendant will always be on duty when it is operating. He is requesting the car wash to give his business a competitive edge over the competition. Mr. Deatherage stated that a "Quik Lube" will be opening one-half mile from his location. Mr. Deather stated that his building had been redesigned since the last meeting and the car wash is now on the right side. He added that should there ever be an excessive number of cars on his property for the car wash, he would shut it down as it would interfere with his main business. He indicated that the daily traffic count of Dixie Highway is approximately 26,400 cars. He said that cars "just going down the road" do not go into roll-over car washes, which is the type of car wash he is proposing.

Mr. Ashcraft stated that if the car wash is used as an incentive in connection with the services provided, then he does not see a problem with stacking. However, he stated that he is concerned that the car wash may draw customers who just want a car wash. He asked the applicant if he would be willing to restrict the use of the car wash to those people who get the other services.

Chairman Holland suggested that the number of cars allowed to be stacked be limited.

Mr. Deatherage stated that people who have gotten his services may periodically come back to get a car wash. He stated that the car wash would be free with his oil and lube services, but there would be a charge for a car wash only.

Karen Tapp, attorney, noted that if a customer were to come in for a car wash and be refused, then Mr. Deatherage would be losing a potential customer for his oil and lube business.

Mr. Ashcraft noted that if the oil and lube business was not successful, then the business could become a car wash. He stated that a car wash was not a desirable use for this site.

Mr. White noted that many of the neighbors were present at the last meeting and asked if they were notified of this meeting.

Ms. Tapp stated that the neighbors were notified. Counselor Wilson noted that notice was not legally required, and asked who notified the neighbors. Ms. Tapp stated that the notice procedure was followed. She added that she did not believe the neighbors were served notice of the last meeting and that notice is not required.

Staff Member, Tom Breidenstein, advised that the neighbors may have seen the notice in The Boone County Recorder. He added that a petition was received at the last meeting, with Mr. O'Brien indicated as the representative. Counselor Wilson stated that the neighbors may have assumed the matter was settled and that no further action would take place.

Mr. White commented that the concerns raised at the last meeting have not changed and that the neighbors should be notified to see if they are still in opposition to the request. He noted that at the last meeting the neighbors had indicated concerns for the safety of the children and the traffic. Mr. White stated that part of his reasoning for requiring that the Deatherage's wait a year before making re-application for the car wash, was to allow residents in the area time to get used to the Deatherage's business.

In response to questions from Mrs. Ward, the applicant stated that they would be open for business six days per week and would be closed on Sunday.

Mr. Hand commented that the site is zoned for business and he knows of no other business that would generate less traffic volume than a lube/oil business.

Ms. Tapp stated that the neighbors do not want any development of the subject site. She stated that the lot is currently vacant and provides a place for the children to play. She stated that traffic generated by the business will stay away from the residential area.

Mr. White noted that the problem is not the lube and oil business, but the car wash. He indicated concerns regarding the traffic when the college gets out.

Mr. Ashcraft stated that the subject site is close to the Colony Car Wash and the people will be attracted to the Deatherage's car wash to save money. He asked Counselor Wilson if a proper condition of the variance would be that only the lube and oil customers be served by the car wash.

Counselor Wilson advised that reasonable conditions may be attached to a Conditional Use. He would view such a condition as reasonable.

Mr. Deatherage stated that he could live with the condition that the car wash be for his customers only, but did not indicate that the lube and oil services and the car wash would occur during the same visit.

Mr. Les Hand stated that by not advertising the car wash, Mr. Deatherage is limiting its use to the people who come in for lube and oil services.

Chairman Holland moved that a Conditional Use Permit be issued, with a car wash. He added that a maximum of twenty (20) cars be allowed to be stacked on the lot in any operational day. Ms. Lanigan seconded the motion.

Chairman Holland asked for a roll call vote on the motion which found Ms. Lanigan, Mrs. Ward and Chairman Holland in favor. Mr. Ashcraft and Mr. White were opposed. The motion carried by a vote of 3 to 2.

Mr. Hand stated that he, Mr. Hoskins, and Mr. Deatherage had met and reached a tentative agreement regarding water runoff. He stated that Mr. Hoskins is willing to forego his curb cut and put in a common curb cut, half on his property and half on Mr. Deatherage's property. They would have one common entrance on Dixie Highway. He stated that the Highway Department had indicated that they had no objection to the proposed curb cut. Mr. Hoskins will be coming before the Board in the future with a design indicating a common curb cut for the two properties.

Mrs. Deatherage stated that the motion at the last meeting indicated that a shared access could be developed.

Counselor Wilson indicated that discussion of a common access is premature at this time and should be reviewed when presented to this Board or the Planning Commission.

Chairman Holland moved that action regarding the curb cut be delayed until Site Plan Review. Mr. Ashcraft seconded the motion.

Ms. Tapp stated that the Zoning Regulations request that common accesses be used. She added that a delay of this decision could represent additional costs to the applicant in having the construction crew return at the time the joint access is provided. She requested that the curb cut be considered at this time.

Mr. Ashcraft noted that the joint access might be an incentive to Mr. Hoskins to purchase the adjoining parcel.

Chairman Holland noted that a motion had been made and asked for a roll call vote. A roll call vote found Mr. Ashcraft, Chairman Holland, Ms. Lanigan, Mrs. Ward and Mr. White in favor. The motion carried unanimously.

Chairman Holland noted that the applicant had requested a waiver of the application fee.

Staff Member, Tom Breidenstein, stated that the application fee for a Conditional Use Permit in the C-2 Zone is \$150.

Ms. Tapp stated that the applicants had been before the Board two months ago and had paid the application fee and notice costs. She stated that since the application is essentially the same, only one application fee should be charged.

Chairman Holland disagreed with her comments and moved that the Board not allow the waiver of the fee. Mr. Ashcraft seconded the motion.

Chairman Holland asked for a roll call vote on the motion which found Mr. Ashcraft, Mr. White and Chairman Holland in favor. Ms. Lanigan and Mrs. Ward were opposed. The motion carried by a vote of 3 to 2. The applicant will be charged the application fee.

\* \* \* \*

Mr. White advised the Chairman that the parking lot of the Kentaboo Baptist Church has still not been paved.

Chairman Holland requested that Mr. Breidenstein investigate the matter.

\* \* \* \*

Chairman Holland suggested that officers be elected at the June meeting.

**FLORENCE BOARD OF ADJUSTMENT  
FLORENCE CITY BUILDING  
BUSINESS MEETING  
February 14, 2007  
7:00 P.M.**

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Mr. Pieper, Chairman, called the meeting to order at 7:04 PM.

**BOARD MEMBERS PRESENT:**

Mr. Pieper – Chairman  
Ms. Evans – Vice Chair  
Mr. Schneider  
Mr. Sparks - Secretary/Treasurer

**BOARD MEMBER NOT PRESENT:**

Mrs. Schaffer

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

Mr. Pieper stated that the Board members received copies of the Minutes of the Florence Board of Adjustment Meeting of October 11, 2006. He asked if there were any comments or corrections. There being no changes to the minutes, Mr. Sparks moved that they be approved as mailed. Ms. Evans seconded the motion and it carried unanimously.

**Agenda Item:**

1. **The request of H. B. Deatherage for a Conditional Use Permit to allow an automotive repair facility with wash service for vehicles. The property is located at 6602 Dixie Highway, Florence, Kentucky and is currently zoned Commercial Two (C-2).**

Staff Member Todd Morgan, AICP, presented the Staff Report which included a Power Point presentation (see Staff Report).

In response to a question from Mr. Sparks, Mr. Deatherage stated that the rack of plastic liners on the back corner of the site will be removed.

The Chairman asked for the applicant's presentation.

Mr. Deatherage stated that the dumpster was placed in its current location so that the trash truck would not tear up the blacktop when it comes to empty the container. He stated that the dumpster will be a smaller size and asked if it could be moved onto the concrete area near where it is now. He stated that if the dumpster is in the rear, the garbage truck will tear up the blacktop and block the traffic flow. He does not plan to do bodywork or painting on the site, but wants flexibility in regard to the uses in case he decides to sell the building. He stated that the Conditional Use Permit will make the building more viable to people who want to lease or rent it. He stated that the building was not designed for major engine overhauling. He stated that the oil change business cannot make it today. He stated that fluid changes and wiper blades are part of the oil change business. He does not plan to have a business on the site that would have vehicles parked on the lot overnight. There will be no heavy duty engine overhauling or wreckers. It will be light work and tire changing. He stated that it is a three-story building with a three-quarter basement for storage and offices upstairs. In back of the building is a 50-foot lot which acts as a buffer between the site and the houses. There is a hill there that goes down into a gully. He does not anticipate any problems with noise or odors. This completed the applicant's presentation.

The Chairman noted that there was no one else present in the audience. He asked if there were any questions of the applicant.

Ms. Evans asked if there is anyone interested in the site at this time. Mr. Deatherage responded that he currently has two contracts and those uses could move in, but he wants to get the Conditional Use Permit to be exactly right with what he is doing. The Conditional Use Permit he got twenty years ago does not say what it should say for today's uses.

In response to a question from Chairman Pieper, Mr. Morgan reviewed the GIS map and stated that a portion of the dumpster is currently in the right-of-way. He stated that as long as the dumpster is moved completely onto the property and enclosed, he is not opposed to it being on that end of the site.

Mr. Morgan stated that he should have included a condition in the Staff Report that there is to be no outside storage. He noted that if a use had tires, they could be stored outside unless the condition is imposed.

Ms. Evans stated that she is concerned about overnight storage of vehicles since it is not unusual for an auto repair facility to have vehicles parked on the site overnight. Mr. Deatherage responded that there have been car lots and leasing companies that want to buy the property and they know they cannot park cars in the front. A development company was interested but he told them that no cars can be parked overnight on the lot and they would have to sign a letter and send it

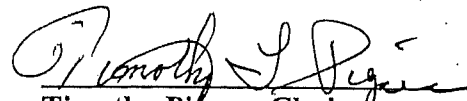
to Dale in Code Enforcement saying that if a vehicle is left overnight, it would have to be parked in the back. He stated that there is a code in Florence that they have to park on the side of the building, but he told them that the parking has to be in the back. Mr. Morgan stated that the Planning Commission Staff would also review the letter.

Chairman Pieper questioned lighting on the site. Mr. Morgan stated that he has not viewed the site at night. Mr. Deatherage stated that there is a security light on the telephone pole in the front, there is a freestanding sign with a security light that shines toward the building, lights on the back of the building for security, and a light by the front door that shines on the sidewalk. There are no parking lot lights. He does not propose additional lighting. Mr. Morgan stated that if additional lighting was proposed in the future, it would have to be submitted to Staff for review and compliance with the foot-candle requirements.

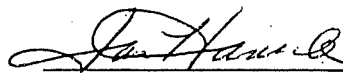
There being no further discussion, **Chairman Pieper moved to grant the Conditional Use Permit with the following conditions: 1) There is to be no body or paint work done on the site; 2) the trash dumpster currently located in the Nicholas Street right-of-way is to be fully located on the property and brought into compliance with the enclosure requirements in Section 3151 of the Zoning Regulations, and 3) there is to be no outside storage of vehicles or automotive accessories overnight. Ms. Evans seconded the motion and it carried unanimously.**

There being no further business to come before the Board, Ms. Evans moved to adjourn. Mr. Sparks seconded the motion. The meeting was adjourned by unanimous consent at 7:35 PM.

**APPROVED:**

  
Timothy Pieper, Chairman

Attest:

  
Jan Hancock, Recording Secretary

COPY

CLUR #10-FBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
CBT Real Estate Holdings, LLC  
300 West Vine Street  
Lexington, KY 40507
  
2. ADDRESS OF PROPERTY  
6602 Dixie Highway  
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Complete Automotive Repair Specialist
  
4. DEED BOOK 934                      PAGE NO. 133                      GROUP NO. 2034B
  
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

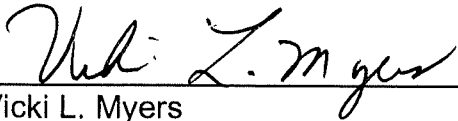
*Todd K. Morgan*  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

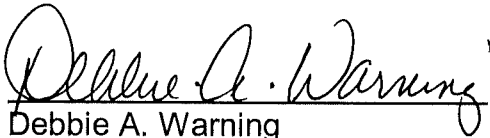
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 28 day of May, 2010.

  
\_\_\_\_\_  
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 approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of May 12, 2010 Certificate of Land Use Restriction (#10-FBOA-001-A), for CBT Real Estate Holdings, LLC, Property Owner(s).

The following conditions will apply:

- 1) No auto body or paint work shall be performed on site.
- 2) No car repairs shall be made outside the building.
- 3) Vehicle impounding shall be prohibited.
- 4) Tow trucks shall not be parked or stored on site.
- 5) No vehicles shall be stored in the parking lot for more than fourteen days.
- 6) No vehicles shall be stored outside on blocks or in any disassembled state.
- 7) Outside display and vending is prohibited.
- 8) The following driveway/circulation improvements shall be made:
  - The driveway aisle located on the west side of the building shall be a minimum of 14' wide if the 2 parallel parking spaces are retained.
  - The curb cut located closest to Dixie Highway shall be a one-way in and the curb cut located furthest from Dixie Highway shall be a one-way out. Pavement marking and directional signs shall be required.
- 9) An approximate twenty (20) foot wide landscaping buffer with Buffer Yard B Plantings (5 evergreen trees, 6 large/medium/or small trees, and 15 large shrubs per 100 linear feet) shall be required along the rear property line. Healthy vegetation that is retained in the Buffer can be credited toward the requirements.
- 10) Parking of vehicles shall occur in designated parking spaces only.

- 11) Used tires shall be stored outside in the existing solid dumpster enclosure until such time they are properly disposed of. The tires shall be covered and completely hidden from view in the enclosure. No other outside storage of auto parts or accessories is permitted.
- 12) A semi-circular privacy fence shall be required between the easternmost parking stall in the rear parking lot and Mr. Lee's rear property line based on Staff's discretion of the written record. The privacy fence shall be installed on a high spot on the subject property and shall not encroach into the rear buffer yard.
- 13) The following lighting conditions apply:
  - A photometric plan shall be required before any replacement lighting is installed on the southern and eastern facades. The photometric plan shall show that there is no footcandle spillover onto adjoining residential properties.
  - Any additional lighting shall be in compliance with the zoning regulations.

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

DEED BOOK 934

PAGE NO. 133

GROUP NO. 2034B