APPLICATION FOR ZONING ACTION

TO:

- [ ] Boone County Planning Commission
- [x] City of Florence Board of Adjustment
- [ ] Boone County Board of Adjustment
- [ ] City of Union Board of Adjustment
- [ ] City of Walton Board of Adjustment
- [ ] Zoning Enforcement Officer

FOR:

- [ ] Zoning Text Amendment
- [ ] Comprehensive Plan Change
- [ ] Preliminary Plat Review
- [x] Conditional Use Permit (Modification)
- [ ] Concept Development Plan Change
- [ ] Preliminary Development Plan
- [ ] Change of Non-Conforming Use
- [ ] Design Review Board and Certificate of Appropriateness
- [ ] Zoning Map Amendment
- [ ] Planned Development Overlay Change
- [ ] Improvement Plat Review
- [ ] Final or Deed Plat Review
- [ ] Site Plan Review
- [ ] Historic District Overlay
- [ ] Appeal or Variance
- [ ] Sign or Zoning Permit

Applicant: Harold and Judi Deatherage [x] Owner [ ] Agent

Address: 744 Meadowview Drive, Villa Hills, KY 41017

Telephone: 331-2554

Location: 6602 Dixie Highway (Nicolas Street & Dixie Highway), Florence

Name of Property Owner: Harold and Judi Deatherage

Address of Property Owner: 744 Meadowview Drive, Villa Hills, KY

Zoning District: Area in Acres: .92

Deed Book: 336 Page Number: 220 Group Number: 803

Description of Request: 1) Request further consideration for approval of curb cut and car wash for facility previously approved. Additional facts and research show traffic problems can be alleviated.

2) Request waiver of fees to reappear before board.

Applicant's Signature: H B Deatherage Judi Deatherage

Property Owner's Signature: H B Deatherage Judi Deatherage

FOR PLANNING COMMISSION USE ONLY

Application Fee: $243.00 Date Received: 4/23/87 By: K. Costello

Referred To: T. Breidenstein Meeting Date: 5/13/87

Action Taken: Date of Action:

(see file for information)

STAFF REPORT

APPLICANT: Harold and Judi Deatherage

DEVELOPMENT: Car Wash

LOCATION: Northwest corner of Dixie Highway and Nicholas Street

ZONE: Commercial Two (C-2)

DATE: May 13, 1987

REMARKS:

The applicant is asking that the Board modify a previously approved Conditional Use Permit to allow a car wash in connection with an oil change facility. The 0.92 acre site, located at the northwest corner of Dixie Highway and Nicholas Street, is zoned Commercial Two.

It is the contention of the applicant that the construction of their facility will not be economically feasible without the car wash. The applicant has indicated to staff that information pertaining to the amount of traffic to be generated by the car wash is now available. This information apparently points to the need for the additional curb cut onto Dixie Highway.

On March 10, 1987, the Florence City Council approved Article 17A (Access Management) as an amendment to the Boone County Zoning Regulations. This article classifies all of U.S. 25 as an "Access Class I" roadway. As such, Dixie Highway is capable of providing medium to high speeds and traffic volumes over medium to long distances. The text also states that direct access to abutting land is subordinate to providing service to through traffic. Further, the text states:

> "Private direct access to a Class I roadway shall be permitted only when the property in question has no other reasonable access to the public roadway network." (p. 17A-1)

Since the previously approved site plan was submitted before the effective date of the Access Management article, curb cut could have been allowed. However, under the provision of Article 17A, this cut would not be permitted since the site has reasonable access to Nicholas Street. For this reason, staff would recommend that the Board not modify the condition that there be only one curb cut.

The applicant has also requested a waiver of fees.

(The temporary clerk at the March 19, 1987, meeting has been ill and has not had the opportunity to prepare the minutes for that meeting. Staff will make every effort to provide the Board with some record of this meeting before May 13. A copy of the previous staff report is attached.)

Respectfully submitted,

Thomas W. Breidenstein

Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Attachment

STAFF REPORT

APPLICANT: Harold & Judi Deatherage

DEVELOPMENT: Lube and oil change facility and car wash.

LOCATION: Northwest corner of Nicholas Street and Dixie Highway, Florence.

ZONING: Commercial Two (C-2)

DATE: March 11, 1987

REMARKS:

The applicant is requesting 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 in Florence, is currently owned by Harold and Judi Deatherage and is zoned Commercial Two (C-2).

"Gasoline service stations," which are defined to include "greasing and lubrication" and "washing and polishing," are included inthe list of conditionally permitted uses in the C-2 zoning district.

Surrounding land uses and zoning are: (with the assumption Dixie Highway is situated north/south)

North: C-2; used as single family residence (next to which is Gold Star Chili and Lexington Avenue)
East: C-2; across Dixie Highway is Dixie News, Northern Kentucky Auto Parts, Honda and Sazuki of Florence, law offices, and Marshall Dodge
South: C-2; Yes TV Rental
West: SR-2; Nicholas Street developed as a series of duplex dwelling units

The following reviews the general standards applicable to all Conditional Uses in Boone County:

1. The 1986 Boone County Comprehensive Plan makes several references to this area:

   "Commercial development in this section will remain near the arterial roads or close to the interstate. This consumer service and traffic oriented developments must be contained to specific areas adjacent to the arterials and interstate. The coordination of curb cuts and parking lot tie-ins in the already developed areas must occur in order to maintain a reasonable ease of travel along these roads. Undeveloped tracts of commercial land need to tie in and coordinate with adjoining commercial development if it exists." (p. L-19) The

text also mentions that higher density residential uses should be utilized as a buffer between commercial and low density residential uses.

2. With certain modifications to the site plan, the design and construction of the use can be harmonious and appropriate in appearance with the existing or intended character of the area. These changes are discussed below.

3. The use as a lube and oil change facility with a car wash will not be hazardous to existing or future uses.

4. The site is adequately served by public facilities and services.

5. Additional public facilities and services at public cost will not be required.

6. Staff does not feel that the proposed use will be detrimental to any persons, property or the general welfare.

7. The proposed vehicular approaches to the property may create an interference with traffic along Dixie Highway. However, staff contends that two access points onto Nicholas Street should adequately serve the site and would recommend that the 15 foot access onto Dixie Highway be eliminated.

The Board must also consider more specific criteria applicable to conditional uses in the C-2 zoning district:

1. The use will not detract from the creation of a multi-purpose convenience center.

2. With certain modifications mentioned below, the arrangement of buildings and other site features will be mutually compatible with the organization of permitted uses to be protected in the district.

The applicant has submitted a formal site plan for the consideration of the Board. However, staff has not had the opportunity to review the plan fully. There are certain revisions to the plan that staff would suggest at this time, including:

1. The total elimination of the 15 foot curb cut onto Dixie Highway.

2. The addition of a sidewalk along both Dixie Highway and Nicholas Street. This walk may be constructed within the right-of-ways.

3. The applicant should agree to provide access to the adjoining property to the north.

4. Free standing signage should be limited to one sign with 75 square feet and 15 feet high. Ten feet of clearance from bottom of sign to grade should be maintained.

As mentioned, staff has not reviewed this site plan completely. A second report will be prepared to explain the Site Plan Review process and to possibly suggest additional conditions.

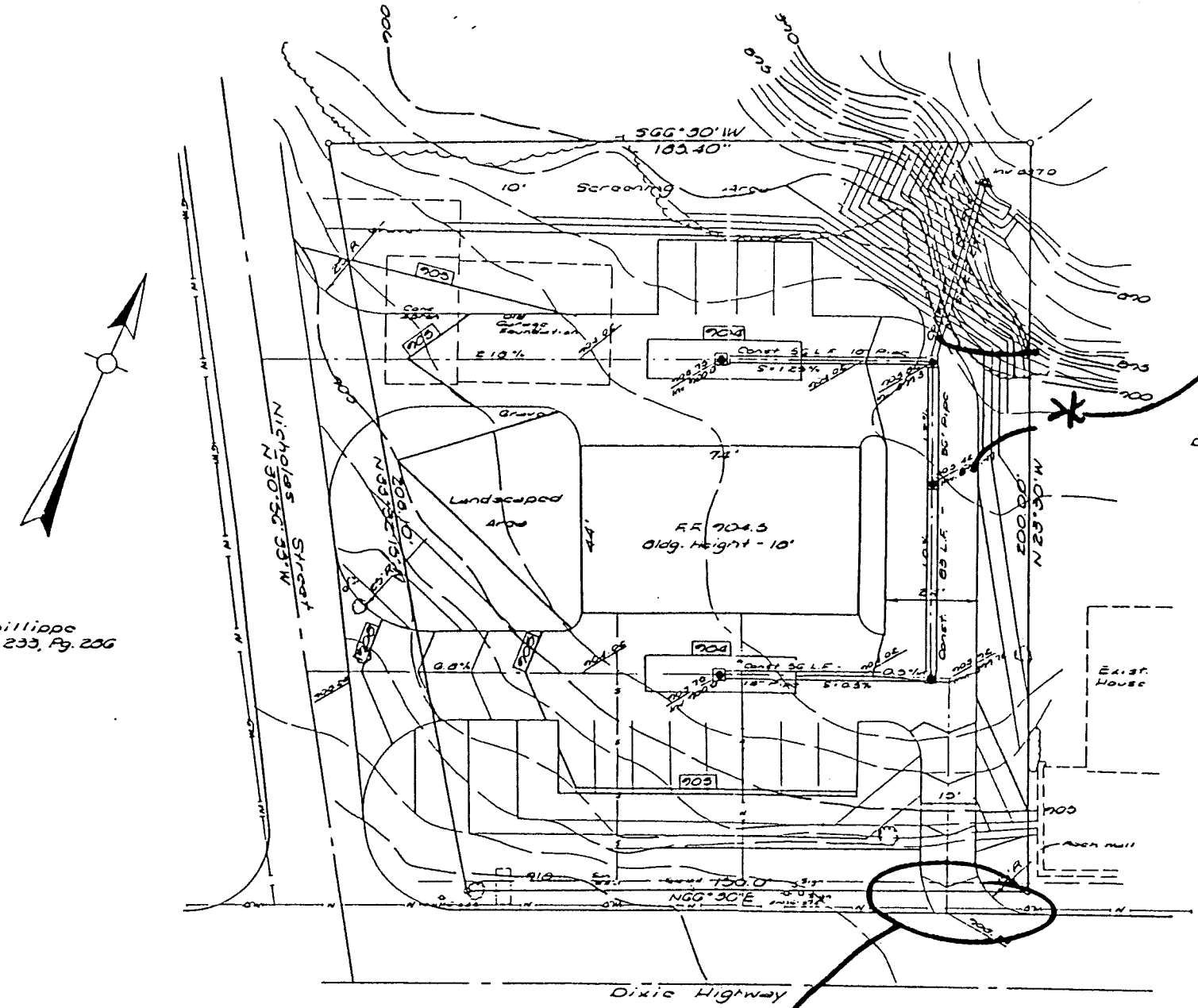
Respectfully submitted,

Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Deatherage

March 11, 1987



Area: 0.77 Acres
Zone: C-2
Parking: 2 per bay
8 required
12 provided

All disturbed areas are to be seeded and mulched as soon as possible

Landscaped area to be planted with trees and shrubs

All abutting zones: C-2

SITE PLAN

USA OIL CENTER

Scale: 1" = 20'
Date: Feb. '87
Drawn by:
Revised:

Harold & Judi Deatherage
744 Meadowview Drive

STATE OF KENTUCKY
RAYMOND H. ERPENBECK
5746
REGISTERED PROFESSIONAL ENGINEER

CITY OF FLORENCE
BOARD OF ADJUSTMENT

May 13, 1987 - 7:30 P.M.

Chairman Holland called the meeting to order at 7:40 P.M..

BOARD MEMBERS PRESENT:

Mr. Ashcraft
Chairman Holland
Ms. Lanigan
Mrs. Ward
Mr. White

BOARD MEMBERS NOT PRESENT:

None

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Holland stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of April 8, 1987. There being no comments or corrections; Mr. White moved, seconded by Mr. Ashcraft, that the Minutes be approved. The motion carried unanimously.

Staff Member, Tom Briedenstein, distributed copies of the Minutes of the Board of Adjustment Meeting of March 19, 1987. Due to the illness of the Recording Secretary, these Minutes had just been received. Following discussion, Mr. Ashcraft moved, seconded by Mr. White, that the Minutes be approved. The motion carried unanimously.

New Board Member/Election of Officer

Counselor Wilson advised that Mrs. Audrey Ward had been sworn in as a member of the Board of Adjustment.

At the close of the meeting, Mr. Ashcraft made a motion that Mr. White be elected Vice Chairman of the Board of Adjustment. Ms. Lanigan seconded the motion and it carried unanimously.

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.

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 at 9:20 P.M..

Charles Holland

Charles Holland, Chairman

Attest:

Jan Hancock

Jan Hancock, Recording Secretary