

STAFF REPORT

#1

DEVELOPMENT: SuperAmerica gas station and convenience store  
APPLICANT: Ashland Petroleum Company  
LOCATION: 8240 U.S. 42, Florence  
ZONING: Commercial Two and Public Facilities (C-2 and PF)  
DATE: April 12, 1989

REMARKS:

The following request was the subject of a decision by the City of Florence Board of Zoning Adjustments and Appeals at their February 8, 1989 meeting. The application was for a Conditional Use Permit, Variances, and Site Plan Review to construct and operate a motor fuel sales and convenience-type food sales operation. The site is located on the northwest corner of the intersection of U.S. 42 and Airview Drive in Florence, Kentucky, and is zoned Commercial Two and Public Facilities (C-2 and PF). The property is owned by Robert Reeves.

The Board decided at the February meeting to grant the Conditional Use Permit, to grant one Variance for a curb cut on U.S. 42, to approve the Site Plan with the Condition that existing deficiencies be addressed and the Site Plan be approved by the Staff, and to deny one Variance for the curb cut nearest Airview Drive. At the March 8, 1989 meeting, the Board voted to reconsider this decision. The following Staff Report represents the review by the Staff of this application.

Surrounding Zoning and Land Uses

north: PF and SR-2; school property and single-family residences  
south: C-2; an undeveloped lot and a single-family residence  
east: C-2; single-family residences  
west: PF; Ockerman Elementary School

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

1. Although the 1986 Boone County Comprehensive Plan Future Land Use Map shows the future use of this property to be Medium Density Residential (3-8 dwelling units per acre), the subject property borders a thin strip of projected Commercial use along U.S. 42. The Land Use Element of the Plan makes the following statements about the general area:

"This section of the county will receive primarily residential development with commercial growth in the eastern portions... The Mall Road area will continue to grow as a regional shopping area and its spill over onto US 42, KY 18, and Houston Road will be evident, thus, needs to be substantially

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controlled... The existing residential areas on US 42 should remain protected from the development (pp. L-14, 15)."

The Business Activity Element states:

"Since the immediate Florence area figures so prominently in the county's commercial activity, this region has the momentum to continue dominating construction of commercial structures. Many problems with the location and arrangement of commercial enterprises have emerged, however, especially along KY 18 and Route 42... The land surrounding the US 42 area, south of Florence, will experience additional growth towards the City of Union. Any commercial developments in these areas should be limited in scale and clustered to serve growing residential neighborhoods. Ideally, these commercial clusters should not function as an extension of Florence and Mall Road, but as a distinct unit serving the Union area (p. B-14)."

Among the Goals and Objectives for the Business Activity Element are:

- "1. Commercial uses shall be developed at strategic locations relative to their trade areas with direct access and ample parking space.
2. Future commercial development shall be encouraged, whenever practical, to occur in the form of shopping centers or other compact aggregations having an integrated design.
3. The mixing of commercial and non-commercial uses shall occur only in planned developments and replanned older areas where consideration can be given to minimizing harmful environmental influences (p. G-3)."

Goals and Objectives for the Transportation Elements state:

"Goal:

To insure that adequate pedestrian and vehicle corridors are provided for all county residents.

Objectives:

3. Forms of access management shall be used to reduce vehicular traffic congestion wherever possible.
4. Provisions should be made for safe movement in the most expedient manner of people and goods from place to place in the county (p. G-5)."

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In the opinion of the Staff, the proposed use represents an expansion of and change in an existing Commercial use which currently infringes upon an area designated by the Comprehensive Plan to be maintained for Residential use. As such, care must be taken in assuring the impacts of the proposed commercial use are minimized to the greatest extent possible.

2. The proposed use represents a change in the existing character of the general vicinity in that it will be a larger commercial operation than what currently exists, with a larger paved area and a larger building and an additional commercial activity in the form of a convenience store. The location of a convenience-type store would represent a change in the existing character of this portion of U.S. 42, which as yet is predominantly residential in nature.
3. The proposed use will be hazardous to existing or future neighboring uses if the design of the site does not ameliorate potential visual and traffic impacts.
4. The proposed use would be adequately served by essential public facilities.
5. The proposed use would not create excessive additional requirements at public cost for public facilities and services.
6. The proposed use, if properly designed, would not be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
7. The proposed vehicular approaches to the site would, in the estimation of the Staff Transportation Planner, create an interference with traffic on U.S. 42. The submitted Site Plan shows two access points onto U.S. 42, which are placed too closely to one another and would violate the Boone County Zoning Regulations regarding minimum distance between driveways. In response to this, the applicant is seeking a Variance in access management regulations for each of the proposed curb cuts on U.S. 42. A review of the requested Variances and Staff concerns over access to the site are addressed below.

Additionally, the Board must consider the specific criteria applicable to Conditional Uses in Commercial Two (C-2) districts:

1. The retail sale of motor fuels is an integral part of the retail sale of food in a convenience-type operation, which are principally permitted in Commercial Two districts.
2. The proposed arrangement of buildings and structures on the site would be mutually compatible with the organization of permitted and accessory uses to be protected in the district.

The applicant is also seeking Variances to allow the construction of two curb

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cuts for access on to U.S. 42. The Access Management Regulations list the spacing of driveways along this section of U.S. 42 to be a minimum of 230 feet. The regulations also call a driveway to be located at least 115 from a street corner. The two proposed curb cuts do not meet the intent or spacing requirements of the regulations. The following reviews the considerations the Board must make in determining the findings of fact necessary for granting Variances.

1. The requested Variances must arise from special circumstances which do not generally apply to land in the general vicinity, or in the same zone. The special circumstance of this site is that the site has insufficient frontage to allow a driveway access on to U.S. 42.
2. The strict application of the zoning regulations would not allow an access point on to U.S. 42. In the opinion of the Staff, not allowing an access on to U.S. 42 would be unreasonable; however, the Staff believes two access points on to U.S. 42 is unnecessary and creates a traffic hazard. Staff concerns over two curb cuts on U.S. 42 are discussed under Staff Concerns below.
3. The special circumstance of this request is not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

Granting a single Variance for the placement of one access curb cut on to U.S. 42 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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Granting both Variances, and thus allowing two curb cuts on U.S. 42, in the opinion of the Staff, will adversely affect the public safety and will cause a hazard to the public in the form of traffic interference.

In addition to the Conditional Use Permit and Variances, the applicant is seeking Site Plan Review. The Site Plan indicates the removal of an existing building currently used as a gas station, and the removal of an existing gas pump island and single-family residence. A 3,435 square foot building would be constructed for use as a convenience store and for storage. A gas pump island with a canopy and stations for 12 vehicles would also be constructed. New gas storage tanks would be placed underground, and a sign would be constructed at the corner of Airview and U.S. 42.

Staff's review of the Site Plan revealed 3 deficiencies: the height of proposed screening trees not indicated, the number of parking spaces is insufficient to meet the regulations (17 spaces required, only 16 shown), and the dimensions of two parallel parking spaces are incorrect to meet regulations. Additionally, the proposed curb cuts on U.S. 42 are in violation of the Access Management regulations. Staff Concerns over access management are addressed below. These items must be addressed to bring the Site Plan into conformance with Article 14,

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Site Plan Review, of the 1986 Boone County Zoning Regulations.

The Site Plan provides additional information about proposed landscaping, proposed signage, the required buffer yard adjacent to the residential district to the north, and details for outside lighting. Staff believes that these details of the Site Plan provide adequate protection, in terms of visual appearance, for the adjacent residential neighborhood.

Staff Concerns

1. SITE PLAN

The Site Plan provided by the applicant does not meet the minimum requirements of the Boone County Zoning Regulations. Staff cannot recommend approval of the Site Plan at this time; therefore, Staff recommends that if the Board should approve the Conditional Use Permit, that the applicant be required to submit the Site Plan for review and approval by the Staff.

2. TRAFFIC AND ACCESS CONCERNS

The Staff concern with traffic and access are due to the location and the proposed use of the site. Convenience stores are high traffic generators, and the site is located along an important stretch of U.S. 42.

Traffic Volume

Estimated traffic generated based on the ITE Trip Generation Manual for the proposed uses will be:

	GSF	24 hr ADT	AM Peak	PM
Convenience Market	3,435	3,047	232	245

Although it is assumed that little new traffic will be generated, the estimated volume entering and exiting is sufficient to make safe access to the site a concern. The proposed development of convenience store with gas sales will produce a large number of vehicles entering and leaving the site. The role of U.S. 42 at this point is to move traffic through the area, access to adjoining property being secondary. Located between Mall Road and Hopeful Road, this portion of U.S. 42 needs to meet tremendous demands.

The latest available traffic count for this portion of U.S. 42 is 17,200 vehicles per day, taken by the Kentucky Transportation Cabinet in 1985. Although the traffic on this roadway has not been recently measured, the volume has surely grown significantly over the past few years. In making improvements to U.S. 42, the Kentucky Transportation Cabinet estimated the traffic volume to be 18,750 vehicles per day by the year 2000. Great care should be taken to insure that the roadway capacity will continue to be sufficient for future demand.

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Access Management

The Comprehensive Plan and Access Management Regulations indicate the need to maintain traffic movement by limiting curb cuts on arterial or collector roadways. On this type of road, access to adjoining land is to be a secondary function, the movement of through traffic being the primary function. Where access is deemed appropriate, acceleration and deceleration lanes should be provided to insure the safety of autos entering and exiting the roadway. The narrowness of the site does not provide enough frontage for two driveways or acceleration/deceleration lanes to be provided.

U.S. 42 is classified by the Zoning Regulations as an Access Class I Arterial, subject to Access Management Regulations. The minimum distance that driveways are to be placed from a non-signalized intersection where no median is present is 230 feet. In addition, the spacing between driveways is to be 275 feet on arterial roads. The proposed development has indicated two access points onto U.S. 42; one approximately 50 feet from the corner of Airview Drive, and the second approximately 175 feet. The cut nearest Airview Drive is designed as a right-turn in only curb cut. The development as designed will not meet the requirements or intent of the Access Management Regulations. Waiver of these requirements can only be achieved by action of the Boone County Planning Commission or by the granting of Variances.

Conclusion

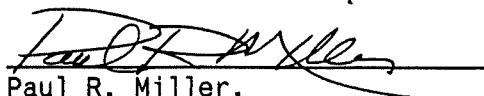
In conclusion, the Staff believes that the Variance requested for the curb cut nearest Airview Drive should not be granted. Further, the applicant has resisted all suggested compromises, such as designating the Variance in question "Temporary," contingent upon development of adjoining properties. As stated above, the Staff believes that one curb cut onto U.S. 42 is appropriate, and would allow the proposed development to occur on the site. However, granting both curb cuts will create a traffic hazard and compromise the public safety on this portion of U.S. 42.

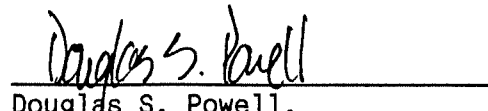
An unwillingness on the part of the applicant to remove the proposed access point on U.S. 42 closest to Airview Drive constitutes a major deficiency which seriously compromises the appropriateness of the proposed use at this site by creating a significant negative impact on traffic patterns on U.S. 42. If the applicant maintains that two curb cuts on U.S. 42 are essential to the proposed use, then Staff can only conclude that, given the negative impacts of such a design, the use is not appropriate for this site.

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Attached to this report is a copy of the submitted Site Plan.

Respectfully submitted,

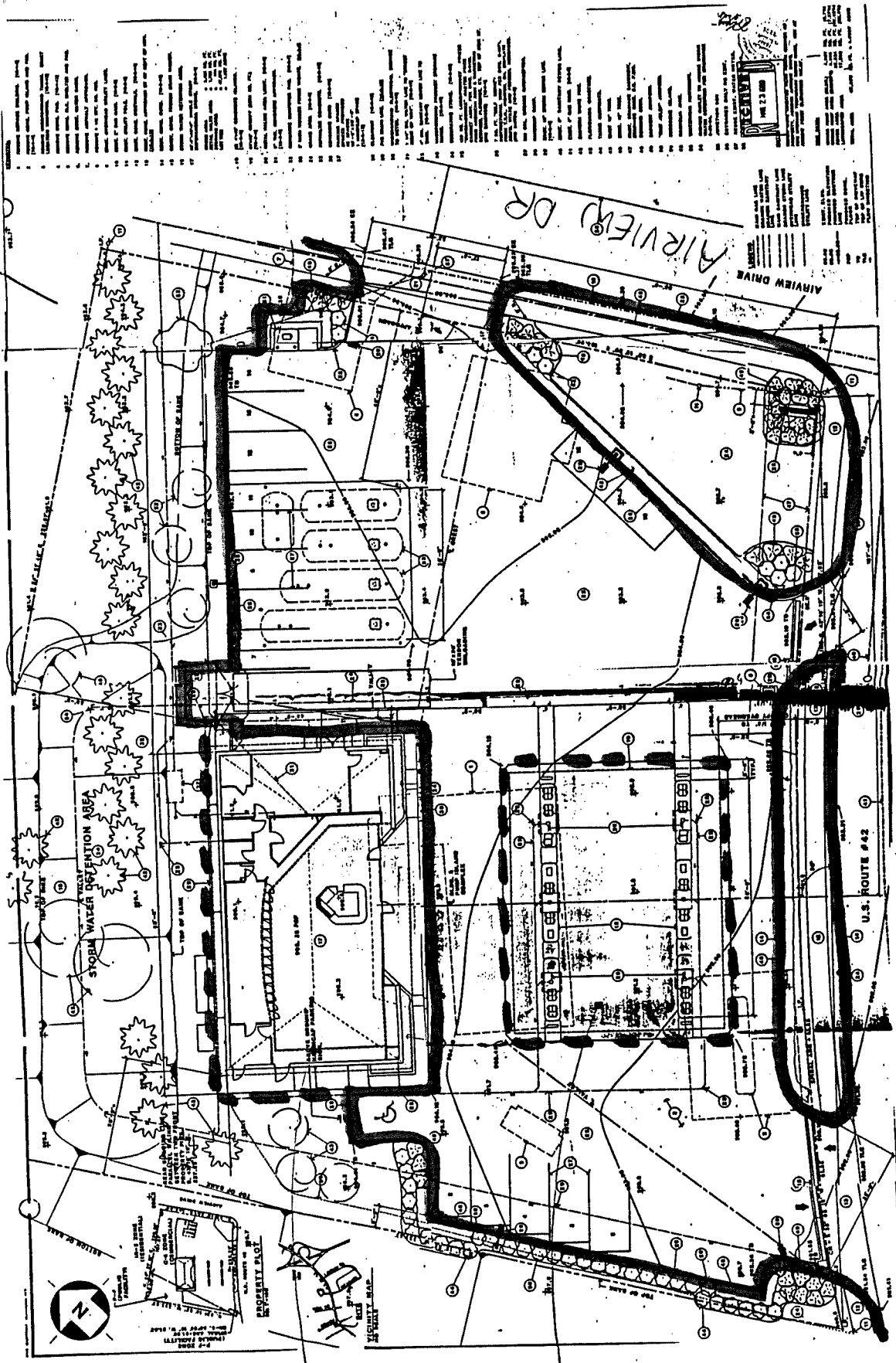
  
\_\_\_\_\_  
Paul R. Miller,  
Plans Examiner/Planner

  
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Douglas S. Powell,  
Transportation Planner

PRM/DSP/:kat

ASHLAND OIL CO.  
C.U.P., VARS. AND SITE PLAN REVIEW

4-12-89



PROPOSED  
BUILDING

GAS  
CANOPY

← TO HOPEFUL RD.

U.S. 42

TO MALL RD. →



CITY OF FLORENCE  
BOARD OF ADJUSTMENT

April 12, 1989 - 8:30 P.M.

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BOARD MEMBERS PRESENT:

Mr. Ashcraft  
Chairman Holland  
Mrs. Meihaus  
Mrs. Ward  
Mr. White

BOARD MEMBERS NOT PRESENT:

None

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Holland called the meeting to order at 8:45 P.M..

Approval of the Minutes:

The Chairman stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of March 8, 1989 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. White moved that they be approved as mailed. Chairman Holland seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Ashland Petroleum Company: This request was the subject of a decision by the City of Florence Board of Zoning Adjustments and Appeals at their February 8, 1989 meeting. The application was for a Conditional Use Permit, Variances, and Site Plan Review to construct and operate a motor fuel sales and convenience-type food sales operation. The site is located on the northwest corner of the intersection of U.S. #2 and Airview Drive in Florence, Kentucky, and is zoned Commercial Two and Public Facilities (C-2 and PF). The property is owned by Robert Reeves. The Board is reconsidering their February decision.

Staff Member, Paul Miller, presented the Staff Report which included a slide presentation and the use of large drawings.

Mr. Doug Powell, Transportation Planner, reviewed the Staff's concerns in regard to traffic and access using the large drawings. He also reviewed the OKI Access Management booklet which had been distributed to the Board members. Mr. Miller completed the Staff Report (see Staff Report).

Chairman Holland asked if there was a representative of Ashland Petroleum Company present.

Mr. Andre Busald, attorney, stated that there was not much reason to readdress the Conditional Use Permit change as he believed that everyone had been in favor. In regard to the Site Plan deficiencies regarding parking, the new plans show 18 parking spots and they have corrected the height of the foliage in the rear. He stated that he believes the issue is the number of curb cuts. He stated that there are two curb cuts there now and they have been there a long time. The state improved the road and put in two curb cuts. The two curb cuts are pre-existing. He stated that he is not sure that they legally need a Variance. Their studies show that 75% of their traffic will be coming from Florence to Union, which would be a right-hand turn. When they leave, they will exit to the right. He stated that if there is one curb cut, all traffic going from the site to the City of Florence will have to exit the western curb cut, as will the traffic going towards Union. Cars will be stacked to get out. Cars will have to stop on the road to let cars exit the site in front of them. People will stop to allow people to exit before they go in. If the curb cuts are allowed as proposed, people will enter the east entrance and exit on the west side. He indicated what the flow of traffic would be within the site using the large drawing. He stated that the design indicated by the Staff is not safer than the proposed design. He questioned how calling the right turn only road cut "temporary" as opposed to permanent, made it safer. He stated that Mr. DeSelms was present for Ashland Oil Company to answer any questions.

Chairman Holland stated that he agrees with Mr. Busald that their proposed design is safer.

Mr. Ashcraft questioned if the proposed cut cuts were in the same locations as the existing curb cuts. Mr. Busald stated that he did not believe so.

Mr. Powell indicated on the large drawing the additional piece of property that Ashland is acquiring, which currently contains a house. He stated that the access point is currently 100 feet from Airview Drive, but the proposed curb cut is 55 feet from Airview Drive.

Mr. DeSelms stated that their original proposal was to use the existing driveways as they are, but in trying to work with the Staff, they proposed a right-turn only. He added that the existing width of the driveway is 47 feet and it would be cut down to 35 feet.

Mr. White stated that he checked literally every business in the city, both high and low volume, and there are curb cuts 20 feet from the corner. He noted that the homes in this area have been rezoned for business. He stated that this will be a five-lane road and the plans looked at at the last meeting only showed four lanes. He stated that there could be a turning lane in the fifth lane for both this use and Waco. He noted that Turfway works well this way. He stated that the one driveway could be more of a problem than two driveways.

Mr. Ashcraft stated that Turfway Road is not U.S. 42. He added that every curb cut causes traffic to slow and the purpose of U.S. 42 is to move traffic through the area. There will be two places to slow down within 55 feet. He stated that he would prefer to use the existing driveway that is further away from Airview Drive than the proposed driveway. He stated that the best idea is the Staff's optimum design and that he would propose one curb cut, 40 feet wide, on the west side of the property.

Mr. Miller quoted from the regulations and stated that the applicant is required to obtain the Variances and the Board is empowered to take action on the Variances.

Mr. Busald stated that the common sense approach to traffic movement on U.S. 42 is right turn in on the east side and full access on the west side.

In response to a question from Mrs. Meihaus, Mr. Miller stated that the applicant was unable to use the existing curb cuts due to the design of the site.

Following review of the plans, Mr. Miller stated that the site may be too limited to permit this use. Mr. Powell stated that the applicant wants to build on this site because there will be a lot of traffic. The staff is concerned with the access and the amount of traffic generated.

Mr. Ashcraft stated that the curb cuts improve the access to the property, but not the traffic flow along U.S. 42.

Mr. Costello, Assistant Director, stated that U.S. 42 is a five-lane road with a high-capacity built into the design. There has been a pattern of working with each individual applicant in regard to access. The main issue is capacity and keeping the traffic moving.

Counselor Wilson commented that strict application of the Access Management Regulations would not allow any access to this property.

Mr. White moved that the Conditional Use Permit and Variances the applicant is seeking in the Site Plan Review be granted, and that the Board also grant full access for the 40-foot wide westerly driveway. Also, that a 16-foot right-turn only driveway be allowed 55 feet from the corner. The parking spaces and shrubbery will be part of Site Plan Review at a later date, as will the signs. Chairman Holland seconded the motion.

The Chairman asked for a roll call vote on the motion which found Mr. White, Mrs. Ward, Mrs. Meihaus, and Chairman Holland in favor. Mr. Ashcraft was opposed. The motion carried.

2. The request of Don Conrad/Waco Oil Company for a Conditional Use Permit for motor fuel sales and automobile wash service operation to be developed on a site along with a proposed convenience store. Two Variances are also being requested for the placement of two curb cuts on U.S. 42. The 1.2-acre site is located on the north side of U.S. 42 between Mall Road and Airview Drive, Florence, Kentucky. The property is zoned Commercial Two (C-2) and is owned by Don Conrad (owner by option).

Staff Member, Paul Miller, presented the Staff Report which included a slide presentation.

Mr. Doug Powell, Transportation Planner, presented the Staff's concerns in regard to traffic and access. Mr. Miller completed the Staff Report noting that Staff's position is that this use is too intensive for this site (see Staff Report).

Mr. Tom Nienaber, present in behalf of Mr. Conrad, stated that Mr. Conrad and the Project Engineer, Mr. Jim Berling, were also present. He stated that this site is similar to the SuperAmerica site. Using the Site Plan, he discussed the history of the site noting the proposed access on the east side. Staff had indicated that there was a concern about coordinating access to adjoining properties, and they had their engineer redesign the site. They contacted the bank in regard to shared access with them so that they will not require a curb cut. He stated that the Staff Report in regard to the Conditional Use Permit and Variances is accurate. He reviewed the dimensions of the site and stated that it was previously owned by Boron Oil and they put restrictive covenants in the deed which prohibit the sale of motor fuel on the bank site. Anything they do in regard to the shared access would be contingent upon approval so that the access sharing will not

be considered as the sale of motor fuel. There currently are four curb cuts, not including a potential fifth curb cut for the bank. This use will take away all of the curb cuts and use only two. The operation will serve local trade and not generate traffic off the expressway. It is a typical convenience store, similar in design to the store on Turfway. It will be about 3,000 sq. ft.. There will be six gas pumps and one auto-diesel fuel pump. There will be no trucks, no servicing, and no towing. It will probably be open 18 hours a day, seven days a week, and have five employees. There will be full-time maintenance and clean-up. There will be no video games or loitering. The car wash is free for a fill-up of gas and not used otherwise. Additional traffic generated is minimal. The percent of sales would be 50/50 for food, and in other locations the percent of traffic generated by the car wash is 2%. There will be 700 to 900 cars per day traffic count on the site. The curb cuts will be reduced to two with access to adjoining parcels. He indicated the traffic circulation pattern within the site on a drawing. The Variance would not adversely affect the public health or welfare. He stated that Staff had indicated that if the curb cuts are appropriate, then the Conditional Use is appropriate. The project will serve people in the area and does not change the character of the area.

Chairman Holland stated that he could see problems in making a left turn out of the site at the eastern access due to Mall Road. One access point would eliminate that problem.

Mr. Nienaber stated that the issue is to provide access to adjoining properties. The property is too shallow to do anything with a single entrance. Having a single access point would eliminate their ability to develop the property.

Mr. Powell commented that the site would be able to be developed, but possibly not with all of the uses, i.e., the car wash.

Mr. Conrad noted Chairman Holland's comments and stated that it would be an excellent idea to move the one driveway to the east, provided they can have the other driveway. Mr. Nienaber stated that that was their initial proposal, which they changed after meeting with the Staff. He questioned the traffic circulation of the site with the access to adjoining properties and the one entrance point as recommended by the Staff. He stated that the property is not large enough for the access point as indicated by the Staff, considering the setback requirements.

Mr. White questioned why they have to rearrange their property to suit property now zoned residential and in consideration of something that might not happen.

Chairman Holland stated that they are putting too many uses on the site.

Mr. Jim Berling, engineer, stated that the bank property comes out into storage lanes on both roads and needs secondary access. He suggested moving the eastern access over and making a commitment to integrate the parking lots. He stated that Mr. Conrad will eliminate the car wash area and allow for free movement on the paved surfaces.

Mr. Powell stated that he believes moving the eastern curb cut further to the west would be a good idea and that the western curb cut be eliminated.

Mr. Berling commented that these would be the only two curb cuts to access all the activities.

Mr. White stated that it is unfair to ask the applicant to do away with the car wash to satisfy someone who may buy the corner lot, even if the applicant is willing. He is giving up a part of his business for something that could be years down the road.

Following discussion of potential accesses for the site and adjoining properties, Mr. Ashcraft questioned if there was a way to provide a deceleration lane.

Counselor Wilson stated that there is not a way at this time, but it can be planned for that to occur by moving the easternmost access westerly and allowing joint access with the bank through the access point.

Mr. Ashcraft stated that there are too many uses on the site.

Mr. Costello stated that he believed the deceleration lane could be a condition of approval. It would be in the public right-of-way and most of it would be in front of the proposed facility if the curb cut is moved 45 feet.

Mr. Berling stated that they would like to leave the exact distance open. He stated that he did not want a condition they could not perform and the Highway Department will not allow them to do anything in front of their neighbor's property without consent.

Mr. Conrad stated that he is involved with Huntington Bank and that the Board can be assured that they will put in a deceleration lane.

Chairman Holland moved that a Variance be granted for the eastern driveway, starting 230 feet from Mall Road, and for a second westernmost curb cut of 40 feet. In regard to the Conditional Use Permit, that the self-serving bay car washes be eliminated. Also, move the access road to the rear subject to Site Plan Review approval for every access from one area to another.

Following comments, Chairman Holland clarified the motion that a Variance be granted on the east side of 230 feet for the first curb cut from Mall Road and that it be 40-feet wide. Also, another Variance be granted for the west side curb cut to be 40 feet wide; and that there be joint access to both the eastern and western adjoining properties; and that a deceleration lane be provided subject to state specifications. Mr. White seconded the motion.

The Chairman asked for a roll call vote on the motion and it carried unanimously.

Mr. White moved that the Conditional Use Permit be granted. Mrs. Ward seconded the motion.

Mr. Ashcraft commented that the manual car wash should be eliminated. Mr. White emphasized that his motion allows the car wash.

Chairman Holland asked for a roll call vote on the motion which found Mrs. Ward and Mr. White in favor. Mr. Ashcraft, Mrs. Meihaus, and Chairman Holland were opposed. The motion did not carry.

Mr. Ashcraft moved that the Conditional Use Permit be granted as requested by the applicant, subject to the manual car wash being eliminated. Chairman Holland seconded the motion.

The Chairman asked for a roll call vote on the motion made by Mr. Ashcraft which found Mr. Ashcraft, Mrs. Meihaus, and Chairman Holland in favor. Mr. White and Mrs. Ward were opposed. The motion carried.

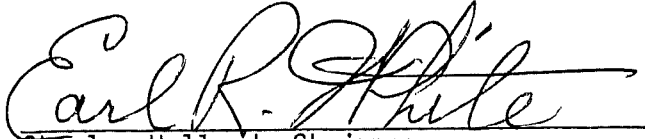
BOARD ITEMS:

Chairman Holland stated that he is concerned by the starting times of the meetings and possibly consideration should be given to meeting on a different night than the Boone County Board of Adjustments.

Mr. Costello stated that he would discuss this item with Mr. Gerald Newton, Director.

There being no further business to come before the Board, Chairman Holland moved that the meeting be adjourned. Mr. White seconded the motion. The meeting was adjourned by unanimous consent at 11:30 P.M..

APPROVED:

  
Charles Holland, Chairman

Attest:

  
Jan Hancock, Recording Secretary