

REVIEW NO. \_\_\_\_\_

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION

(See Boone County Zoning Regulations).

SECTION A (To be completed by applicant)

- 1. (Check One) Boone  Florence  Walton  Union
- 2. (Check One)  Conditional Use Permit  Variance  Appeal  
Change in Non-Conforming Use
- 3. Applicant's Name A-Agri  
Phone Number 525-1580  
Applicant's Address 8383 U.S. 42  
Florence, Ky. 41042  
City State Zip
- 4. Description of Request: to obtain a conditional use permit to  
operate a used motor vehicle, used car sales lot at said  
address.
- 5. Name of Development A-Agri Auto Sales
- 6. Location of Development 8383 U.S. 42
- 7. Acreage Under Review 0.95 ACRES
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
- 9. Owner of Property Terry Dwelly  
Phone Number 525-1580
- 10. Address of Property Owner 10109 Russwill Lane  
Union, Ky. 41091  
City State Zip
- 11. Proposed Use(s) On Site to operate a motor vehicle used  
cars, boats and motorcycles sales lot.
- 12. Total Square Footage of Existing and/or Proposed Buildings  
8000 square feet
- 13. Current Zoning on Property G2
- 14. Deed Book 270 Page No. 46 Group No. 2048
- 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. Applicant's Signature: \_\_\_\_\_
- 19. Property Owner's Signature:

SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 2-21-90
2. Fee Received \$526.00 (1131) (4831)
3. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
4. Staff Reviewer GT
5. Scheduled Board Action Date 3-14-90
6. Board Action:  
\_\_\_\_\_  
 Approval  
 Approved With Conditions (See #7)  
 Disapproved (See #8)
7. Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Reasons For Disapproval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BCPC:7/11/88

Conditions:

1. That the rear one-half acre of the 0.953-acre tract not be included.
2. That only one vehicle be permitted to be displayed in the front of the building.
3. That vehicles be permitted to be displayed along the fence to the east provided a 20-foot access roadway is maintained between the building and the vehicles.
4. That vehicles only be placed on paved surfaces.
5. That maintenance of the automobiles for sale be limited to simple maintenance-- such as, washing, oil changes, changes of transmission oils and lubricants. There is no heavy mechanical work permitted on the property.
6. That the circulation lane be left open pending further consideration when the applicant presents his plan for a sign.
7. That the lighting be toward the lot or towards the front and not towards the residential area

STAFF REPORT

#2

DEVELOPMENT: A-Agri Auto Sales  
APPLICANT: A-Agri (Terry Dwelly owner)  
LOCATION: 8383 U.S. 42, Florence, Kentucky  
ZONING: Commercial Two (C-2)  
DATE: March 14, 1990

REMARKS:

The applicant is requesting a Conditional Use Permit to allow the operation of a used motor vehicle, used car sales lot at 8383 U.S. 42, Florence, Kentucky. The 0.95 acre site is zoned Commercial Two (C-2).

The applicant wants to operate a used motor vehicle lot consisting of cars, boats and motorcycles. The existing business on the site consists of lawn and garden supplies. There is an existing 102' X 40' building on the site as well as a large paved area.

A Site Plan has been submitted by the applicant, and is attached. It indicates the zoning and surrounding land uses as follows:

North: Public Facilities (PF), Boone County Board of Education  
South: Suburban Residential One (SR-1), Evergreen Subdivision  
East: Commercial Two (C-2), Florence Fitness Center  
West: Commercial Two (C-2), Boone Post #4 American Legion and Delightful Days Mobile Home Center

The following reviews the general criteria which the Board must use to judge each Conditional Use Permit:

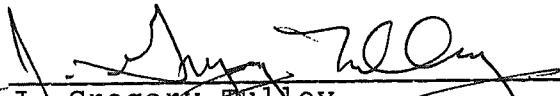
1. The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the site as Commercial. The Land Use Element does not make a specific reference to this area.
2. This type of use will be harmonious and appropriate in appearance with the existing character of the area, and general vicinity.
3. The use will not be hazardous to existing or future neighboring use, given that appropriate care is taken along the adjoining single family subdivision.

4. This site is adequately served by Public Facilities and any services not provided by the county will be provided by the owners.
5. Additional excessive requirements at public cost for Public Facilities will not be created.
6. This development will not involve uses, activities, materials, equipment or conditions of operation that will 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 vehicular approach to the property will not create an interferences with traffic on surrounding public thoroughfares.

STAFF CONCERNS:

1. Staff feels as a condition of approval that the paved area in front of the development remain free of any vehicles or any other type of obstruction that may prohibit circulation on this site or the adjoining American Legion property.
2. Any parking or storage of vehicles east of the building must allow space for a 20' access drive as required by the 1986 Boone County Zoning Regulations.
3. Vehicles can be placed only on paved surfaces.
4. A 25 foot suitably planted buffer must be placed at the rear of the property adjoining the single family residences to the south.
5. The applicant has indicated lighting of the area. Staff feels that this lighting must be of downward illumination as to not illuminate the residences south of the development. Those lights indicated along the property line must be removed.

Respectfully submitted,

  
J. Gregory Tulley  
Plans Examiner / Planner I

JGT:kat

BOONE COUNTY BOARD OF EDUCATION

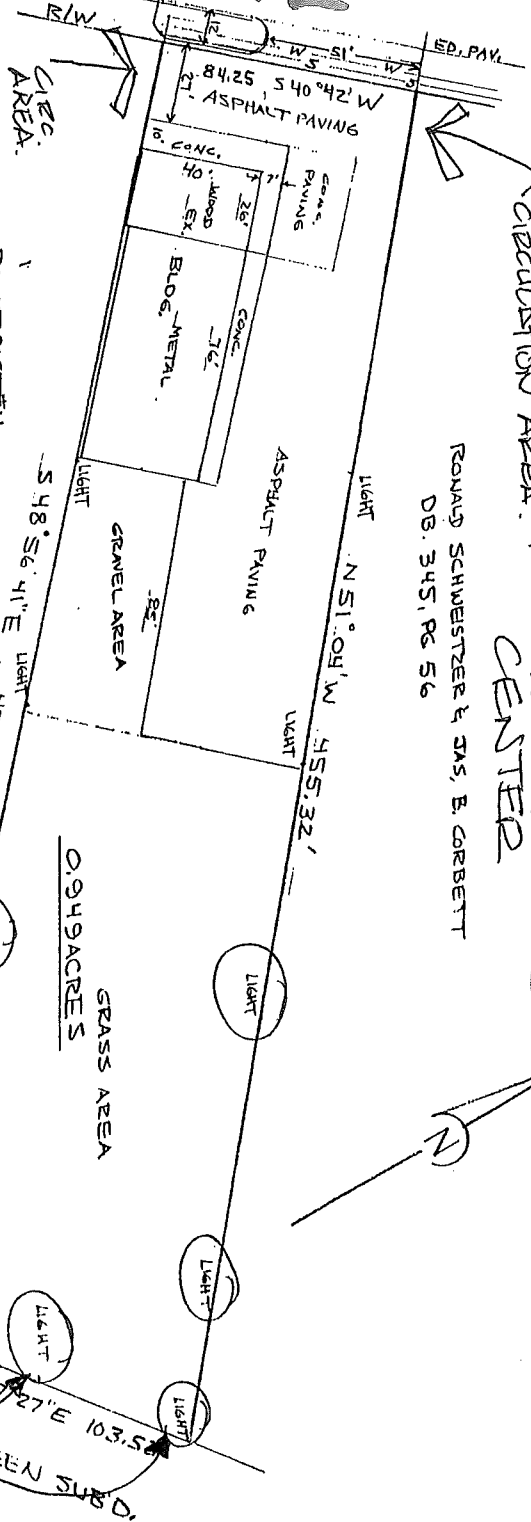
U.S. HWY. 42

DELIGHTFUL DAYS

FLORENCE FITNESS CENTER

RONALD SCHWESTER & SONS, B. CORBETT  
DB. 345, PG 56

BOONE POST #4  
AMERICAN LEGION  
DB. 259, PG. 152



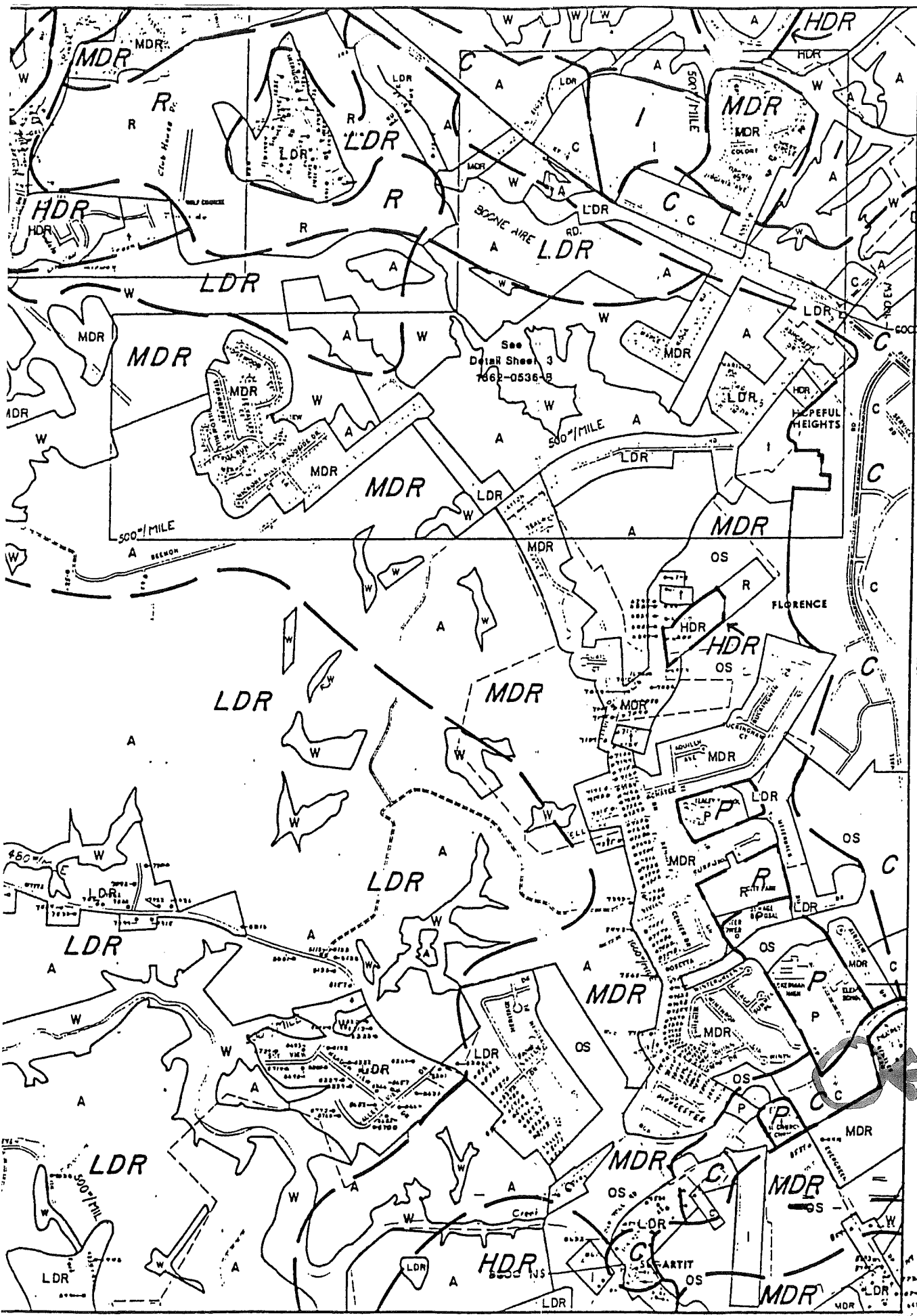
THESE LIGHTS WOULD NOT BE PERMITTED.

A-AGRE1  
CONDITIONAL USE  
#2



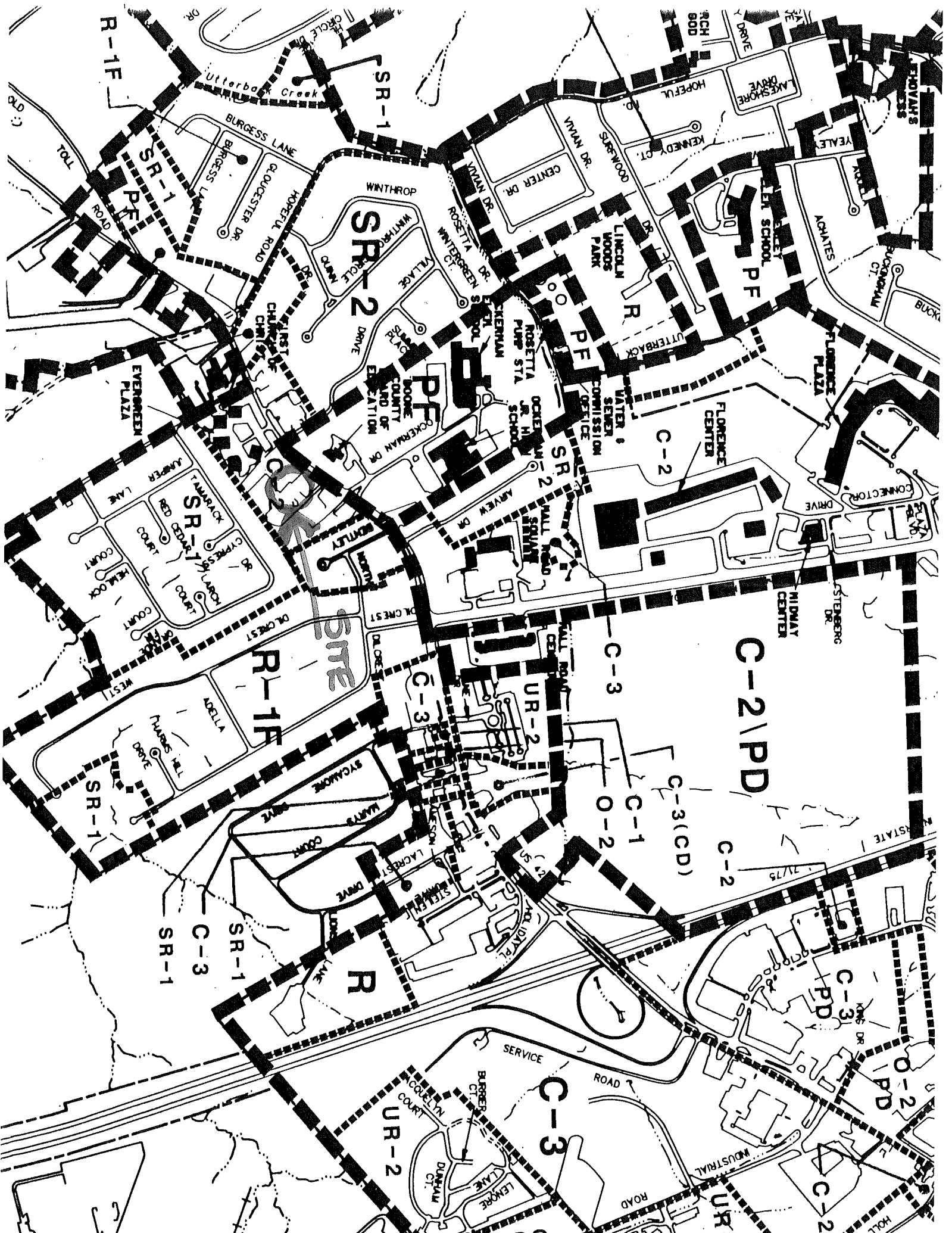
A-AGRI LAWN & GARDEN  
8383 U.S. HWY. 42  
FLORENCE - BOONE CO. - KY.  
TERP/DWELLY - OWNER  
DB. 270, PG. 46 GR. 928 & 2048

TIMOTHY R. MCNEELY  
Registered Land Surveyor  
6256 Main Street  
Burlington, KY 41005 P.H. 586-6487



See  
Detail Sheet 3  
7662-0536-B

SITE



R-1F

SR-1

SR-1

SR-2

PF

PF

PF

SR-2

C-2

SR-1

SITE

R-1F

C-3

UR-2

C-3

C-2/PD

C-3(CD)

C-2

SR-1

SR-1

R

C-3

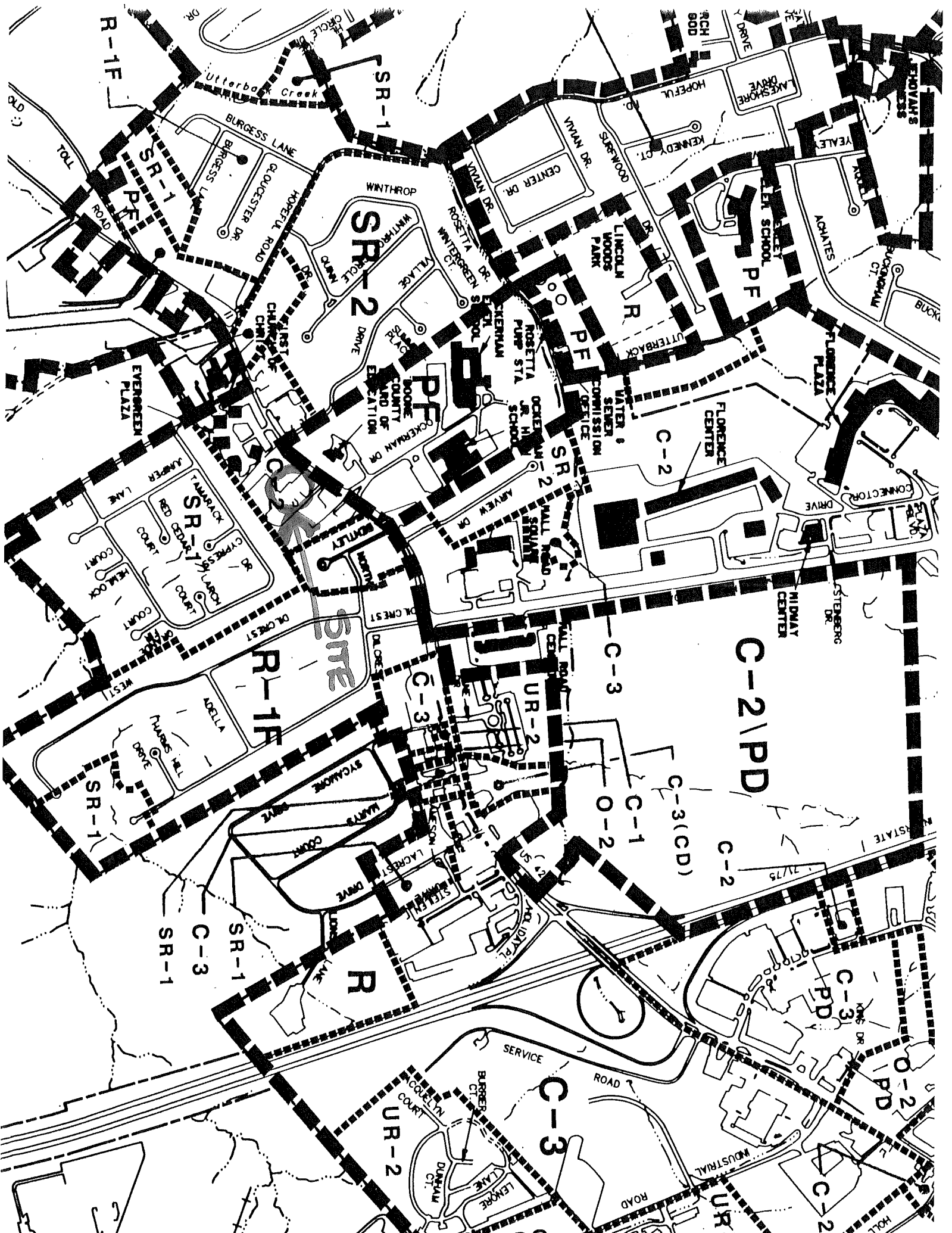
UR-2

C-3

O-2

C-2

UR-2



R-1F

SR-1

SR-1

SR-2

PF

PF

PF

SR-2

C-2

SR-1

SITE

R-1F

C-3

UR-2

C-3

C-2/PD

C-3(CD)

C-2

SR-1

SR-1

R

C-3

UR-2

C-3

O-2

C-2

UR-2

FLORENCE BOARD OF ADJUSTMENT  
BUSINESS MEETING

March 14, 1990 - 7:30 P.M.

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Mr. Charles Holland, Chairman, called the meeting to order at 7:35 P.M..

BOARD MEMBERS PRESENT:

Mr. Ashcraft  
Mr. Ewing  
Chairman Holland  
Mrs. Ward

BOARD MEMBERS NOT PRESENT:

Mr. White

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Approval of the Minutes:

Chairman Holland stated that each Board member had received a copy of the Minutes of the Board of Adjustment Meeting of February 14, 1990 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Ewing moved that they be approved as mailed. Mrs. Ward seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Williamsburg Properties for a Variance to construct a 150 sq. ft. sign for Saddlebrook Farms. The 119.51-acre site is located east of the U.S. 25/U.S. 42 Connector Road and west of I-75. The site is zoned Suburban Residential Two/Planned Development (SR-2/PD) and is owned by Saddlebrook Partners.

Staff Member, Greg Tulley, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Holland asked if there was anyone present in regard to this request. There was no response.

Chairman Holland stated that he had questions in regard to this request and would defer this item until later in the meeting and possibly a representative for the applicant may arrive.

2. The request of A-Agri for a Conditional Use Permit to allow a motor vehicle, used cars, boats, and motorcycles sales lot. The 0.953-acre site is located across from the Boone County Board of Education at 8383 U.S. 42. The site is zoned Commercial Two (C-2) and is owned by Terry Dwelly.

Staff Member, Greg Tulley, presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Dwelly stated that they plan to go about 100 feet of additional blacktop, but will not include the back end of the property if they do nothing additional. They can accommodate a 50-car area if they clean out. He stated that the lighting is focused toward the front of the establishment and the lights are focused down. They have no plans to use the back one-half acre at this time.

Chairman Holland questioned the number of vehicles that can be parked on the site and Mr. Tulley advised that the limit is 50 vehicles for a Conditional Use in the C-2 Zone. Mr. Ashcraft noted that the number of vehicle is not a matter of the size of the site.

In response to questions from Chairman Holland, Mr. Dwelly stated that they will start with five vehicles and go to ten. They will have a separate area for the office and will set three or four vehicles out front in a designated area. Gary, the sales manager, stated that they would peak at 25 cars and they would be along the fence.

Mr. Tulley stated that the access drive must be maintained.

Mr. Dwelly stated that they have a 100-foot frontage and the state said they could park three to five cars. In response to questions from Mr. Ashcraft, Mr. Dwelly added that the lawn mower business is gone after July 4. They are trying to get out of the farm equipment business and get into premium used cars between \$2,000 and \$8,000.

Mr. Ashcraft questioned the maintenance of the cars.

Mr. Dwelly stated that the state required insurance and that this is covered in a letter from the state. Gary, the sales manager, stated that maintenance will be minimal and basically clean up. Mr. Dwelly stated that they will sub out the maintenance and will try to buy a warranty policy with each vehicle. He stated that they might wax or buff a car.

Mrs. Ward questioned if the business would be primarily cars and not boats or motorcycles.

Mr. Dwelly agreed that it would be primarily cars and possibly a small camper. He stated that they will buy three or four pick-up trucks and move into the car idea. He stated that last summer he had nine old junkers and was parking and storing them. He got a tax bill and had to go to Frankfurt. The state man said that he would like a car dealer here so that he could go from one door to the next and inspect as there was already a motorcycle place and a vehicle place. He stated that this gave him the idea.

Chairman Holland advised that a letter had been received from 32 employees of Ackerman School in opposition to the request of a used car lot on this site. The letter did not give a reason for the opposition. The Chairman added that there is also a letter from the Commonwealth of Kentucky Motor Vehicle Commission saying that Mr. Dwelly must show proof of insurance, pay a fee, etc..

Mr. Ashcraft asked if they would put up an additional sign and Mr. Dwelly said that they would and that he has five professional drawings. He showed the pictures to the Board. Mr. Ashcraft asked if he was talking about replacing his sign, and Mr. Dwelly said yes, but that it would look different. They are trying to give a new image and upgrade.

Mr. Tulley clarified that they originally had a sign, but the state moved it when U.S. 42 was widened. They can replace the sign, but it must be the same square footage as the pre-existing sign.

Mr. Ashcraft asked if Mr. Tulley knew why the cafeteria workers at Ackerman School were opposed and Mr. Tulley stated that he did not. Counselor Wilson advised that the Board cannot rely on the letter if denying the request as the letter states no reason and there is no one here to provide the facts.

In response to a question from the Chairman, Mr. Tulley advised that one of the recommended conditions of approval in the Staff Report is that the paved area in the front of the site be left open. Parking of vehicles in the front could cause circulation problems.

Mr. Dwelly stated that they have problems with the American Legion Post parking on their lot. The manager says this property is his after 5 P.M.. When the sign goes up, they will have to stop using his side entrance. Mr. Tulley advised that the sign issue in terms of placement is a separate matter.

Mr. Tulley stated that there must a 20-foot wide access space for two-way traffic and the drawing shows 27 feet. He stated that there would not be enough room for a parallel parked car.

Mr. Dwelly stated that he has never seen a car lot that did not have cars in the front and if the Board wants them all in the rear it will kill the idea. He stated that the Highway Department took the 12 feet in the front that he needs.

The sales manager stated that they want four cars across the one side from the edge of the fence. Mr. Dwelly stated that they can go 15 to 20 cars deep at an angle and have a 20-foot wide driveway.

Mr. Dwelly and the sales manager reviewed the drawings with the Board in regard to the parking of the vehicles.

Mr. Ashcraft questioned where the customers would park and the sales manager stated that there is plenty of room for them to park in front of the cars.

Mr. Ashcraft stated that the application was for the back portion of the lot, but the applicant is now saying that they are not going to use it much and will display cars towards the front. He stated that the Board wants quick access from U.S. 42 and free access between properties where possible. He noted that the sign may interfere with this. He added that if the cars are in front, this cuts off the free access.

Mr. Dwelly stated that there was an access road and everyone put up poles and anchors and curbs so that the access was not there. He added that there is not enough room for a secondary road.

Chairman Holland noted that there was no one else present in the audience.

Mr. Dwelly stated that they want a car in front of the store instead of the tractor that is currently there.

Mr. Ashcraft asked if they would have a problem in angling the lights downward and Mr. Dwelly stated that they would not have a problem. He stated that they are angled toward the back of the store. He has been keeping two or three lights on due to a theft last winter.

Chairman Holland stated that cars would not be permitted to be parked in front of the access road and it may be difficult for Mr. Dwelly to sell cars on the site. He stated that it may be difficult to show off the cars.

Mr. Dwelly stated that they can face the cars outward by removing the fence. They can pull the fence away for 50 feet and angle the cars.

Mr. Ashcraft stated that the back one-half acre should be excluded from the Conditional Use and Mr. Dwelly can display the cars along the fence provided he maintains the 20-foot driveway. He stated that he would be agreeable to one car space in the front as it is being used for a tractor now. He stated that he believes two cars may interfere with the access. Mr. Ashcraft noted that there was once a temporary road here and questioned if it had to be maintained.

Mr. Tulley advised that he did not know the specifics in this case, but anyone cutting off an access road without approval can be cited. He added that Staff's concern is that access be open between the two uses.

Mr. Ewing asked if the applicant would be agreeable to one parking space in front.

Mr. Dwelly stated that they could compromise at two spaces.

Mr. Ashcraft asked how long the lights have been up and if there have been any complaints.

Mr. Dwelly advised that they have been up eight years or longer. Mr. Tulley advised that there have not been any complaints. He added that Staff's point of view is that the two lights at the far rear of the lot be removed.

Mr. Dwelly stated that they will designate a light pole out front later that would focus back toward the front of the store. There may be a light from the curb to show a car. He added that he can now cut off the lights independently. He added that the lights at the rear are directed toward the back of the store. They have been on a dimmer system for years and he can use individual lights depending on which button he pushes. He added that none of the residents have complained about the lighting.

There being no further discussion, Mr. Ashcraft moved that the Conditional Use Permit be granted subject to the following conditions:

1. That the rear one-half acre of the 0.953-acre tract not be included.
2. That only one vehicle be permitted to be displayed in the front of the building.
3. That vehicles be permitted to be displayed along the fence to the east provided a 20-foot access roadway is maintained between the building and the vehicles.
4. That vehicles only be placed on paved surfaces.
5. That maintenance of the automobiles for sale be limited to simple maintenance -- such as, washing, oil changes, changes of transmission oils and lubricants. There is no heavy mechanical work permitted on the property.
6. That the circulation lane be left open pending further consideration when the applicant presents his plan for a sign.
7. That the lighting be toward the lot or towards the front and not towards the residential area.

Chairman Holland seconded the motion and it carried unanimously.

Election of Officers:

Mr. Ashcraft nominated Mr. Holland to continue as Chairman and Mr. White to continue as Vice Chairman. Mr. Ewing seconded the nominations.

There being no further nominations, the nominations were closed. A vote on the nomination by Mr. Ashcraft found all in favor and Mr. Holland was reelected Chairman and Mr. White was reelected Vice Chairman.

Agenda Item #1

The Chairman noted that there was still no one present in regard to this request.

Counselor Wilson advised that the Board could defer this item until the next meeting. Mr. Tulley stated that the application was submitted on February 27, 1990.

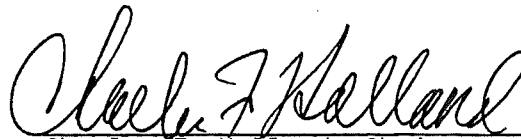
Chairman Holland moved that the request be denied. Mr. Ashcraft seconded the motion.

Counselor Wilson stated that there is a time limit of sixty days for the Board to act. He asked that the record indicate that without there being a representative present to answer questions the Board has, the Board feels the action to take is to deny the request, with them having the option to reapply.

Chairman Holland asked for a vote on his motion and it carried unanimously.

There being no further business to come before the Board, Mr. Ewing moved that the meeting be adjourned. Mrs. Ward seconded the motion. The meeting was adjourned by unanimous consent at 8:45 P.M..

APPROVED:

  
\_\_\_\_\_  
Charles F. Holland, Chairman

Attest:

  
\_\_\_\_\_  
Jan Hancock, Recording Secretary