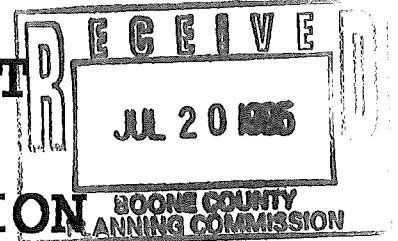


APPLICATION FORM  
**BOARD OF ADJUSTMENT  
 AND  
 ZONING APPEALS ACTION**



(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 Thomas W. Breidenstein  
 Phone Number 341-1881 Fax No. 341-1469  
 Applicant's Address 2701 Turkeyfoot Rd.  
Corvinton KY 41017  
 City State Zip
4. Description of Request: Appeal of Zoning Administrator's  
decision of 7-19-95 re: signs at 7960 U.S. 42, Florence  
(Kentucky Title Loans site)
5. Name of Development Kentucky Title Loans
6. Location of Development 7960 U.S. 42  
Florence KY 41042
7. Acreage Under Review 1.158
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property Richard A. Thomas  
 Phone Number of Owner 441-7492
10. Address of Property Owner 27 Madonna  
Cold Spring KY 41076  
 City State Zip
11. Proposed Use(s) on Site n/a
12. Total Square Footage of Existing and/or Proposed Buildings  
n/a
13. Current Zoning on Property C-3 / PD
14. Deed Book 305 Page No. 263 Group No.
15. Is the site subject to a zone change?     
 If yes, give date of approval Parkway Corridor Study
16. Have you submitted a Site Plan with this request?
17. Have you submitted a list of adjoining property owners with this request?
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.  
 Applicant's Signature: Thom W. Breide  
 Property Owner's Signature: (to follow under separate cover)

(over)

BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2

**SECTION B** (To be completed by the Boone County Planning  
Commission Staff)

1. Date Received July 20, 95 Fee Received 738.00 R# 1395
2. Is application complete?  Yes  No
3. Staff Reviewer WALL
4. Scheduled Board Action Date 8/1/95
5. Board Action:  
 **Approved**  
 **Approved with Conditions** (See #6)  
 **Denial** (See #7)
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Reasons for Denial; NO FINDING THAT ZONING  
ADMINISTRATORS DETERMINATIONS WERE IN ERROR.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005  
(606) 334-2196 Phone  
(606) 334-2264 Fax

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

DEVELOPMENT: KY Title Loans - Appeal  
APPLICANT: Thomas W. Breidenstein  
LOCATION: 7960 U.S. 42  
ZONE: Commercial Services/Planned Development (C-3/PD)  
DATE: August 9, 1995

## REQUEST

In accordance with Sections 201, 220, 230, 240, 245, 253 and 254 of the Boone County Zoning Regulations, an Appeal of the Zoning Administrator's interpretation of the zoning regulations has been filed before the Florence Board of Adjustment and Zoning Appeals. Specifically, Thomas W. Breidenstein (applicant) on behalf of Richard A. Thomas (property owner) and Kentucky Title Loans (tenant), has filed an Appeal of the Zoning Administrator's interpretation of Section 3413.A "Building Mounted Signs, All Commercial, Employment and Recreation Districts" (Article 34 "Signs") of the Boone County Zoning Regulations regarding the amount and location of building mounted signage that can be permitted on the site located at 7960 U.S. 42, Florence, Kentucky (Section 3413.A is attached). The Zoning Administrator determination in question is explained in the attached letter to Mr. Thomas Breidenstein dated 7/19/95. The site in question is within the Commercial Services/Planned Development (C-3/PD) zoning district and is within the Parkway Corridor Study Overlay District.

## DUTIES OF ZONING ADMINISTRATOR AND BOARD OF ADJUSTMENT AND ZONING APPEALS

Section 201 of the Boone County Zoning Regulations describes the authority of the Zoning Administrator. One of the roles of the Zoning Administrator is to determine the classification of any use of land, buildings or structures as a principally permitted, accessory, or conditional use in a specific zoning district, as well as determine the applicability and substance of development performance standards such as signage requirements, based on an interpretation of the stated and implied requirements of the zoning regulations. This includes the classification of new uses or uses not specifically identified in the regulations, and the interpretation of the regulations in instances where there is not a precise "fit" between the regulations and existing site conditions or development objectives. In addition, one of the Board's duties is to hear and decide Appeals where it is alleged there is an error in any order, requirements, decision, interpretation, grant or refusal made by the Zoning Administrator.

DESCRIPTION OF SITE

The site in question is located at 7960 U.S. 42, Florence, Kentucky, and is approximately 1.158 acres in area. The site contains a one story, former service station structure that has two service bays and that contains approximately 1,300 square feet; this structure has recently been converted to a loan office use. In addition, a large freestanding canopy is located between the building and U.S. 42. The site has two curbcuts onto U.S. 42 and has landscaped areas around the perimeter of the lot. The site has only one street frontage, that being U.S. 42.

PERTINENT HISTORY OF SITE AND REQUEST

On March 27, 1995, the sign contractor for Kentucky Title Loans submitted an application for a Sign Permit (see attached). This proposal included a 90 square foot building mounted sign on the front (south) facade of the building, a 26 square foot sign on each side facade (east and west), and a 24 square foot sign on two sides of the freestanding canopy (east and west sides), for a total of three signs on the building and two signs on the canopy. The application did not propose any freestanding signs. No action was taken on the Sign Permit application until a favorable determination was made that the proposed "auto title pawn/loan office" use was an acceptable use in the C-3/PD zone.

On June 21, 1995, the Zoning Administrator made a determination that the proposed "auto title pawn/loan office" use, as detailed by Mr. Breidenstein in the attached letter dated 6/15/95, constituted a "credit service" as characterized by the Zoning Regulations (i.e., a Principally Permitted Use in the C-3 zone - refer to attached letter dated 6/21/95). After this determination was rendered, Ed Coleman, Planner, began his review of the previously permitted Sign Permit application.

In late June or early July of 1995, Planner Coleman explained his interpretation of Section 3413.A of the Zoning Regulations, as it relates to the applicant's proposal, to the Zoning Administrator and asked if his interpretation was the same. After an evaluation of the text, the Zoning Administrator replied that he did in fact interpret Section 3413.A in the same manner as Planner Coleman (same interpretation explained later in the 7/19/95 letter to Mr. Breidenstein which permits a sign on the front facade of the building and a sign on the west facade of the building or signs on up to three sides of the canopy whose total does not exceed that permitted for the west facade of the building).

After several conversations between the applicant, the sign contractor acting on behalf of Kentucky Title Loans, and the Planning Commission's Staff regarding the interpretation and whether the applicant preferred a sign on the west side of the building or signs on the canopy, Planner Coleman issued a Sign Permit that permitted a 95 square foot sign on the front of the building and a 26 square foot sign on the west side of the building on July 10, 1995.

On July 17, 1995 Mr. Breidenstein asked for the interpretation of Section 3413.A in writing. The written interpretation (the same interpretation agreed upon by the Zoning Administrator and Planner Coleman noted above), was faxed to Mr. Breidenstein on July 19, 1995.

The Appeal now under consideration was filed on July 20, 1995.

#### ISSUE

The Zoning Administrator applied Section 3413.A of the Zoning Regulations to the subject site and determined that the following building mounted signs proposed in the applicant's Sign Permit application were permissible:

- A. A building mounted sign on the front facade of the structure (facing U.S. 42) that did not exceed 96 square feet (allowed 2 square feet of signage per 1 linear foot of the width of the street facing facade; 2 square feet X 48 linear feet of building width = 96 square feet). AND.
- B. A building mounted sign on the west facing facade (facing I-71/75) of the structure that did not exceed 27 square feet (allowed 1 square foot of signage per 1 linear foot of the width of the facade; 1 square foot X 27 linear feet of building width = 27 square feet). This sign is permissible because the Zoning Administrator considered it reasonable to construe this facade as having "highly visibility" from the street, particularly from the U.S. 42/Dream Street intersection area - no signage would be permitted on this facade at all if it were not considered to have "high visibility" from the street. OR
- C. Up to three canopy mounted signs that, when their respective areas are combined, do not exceed the square footage allowed for the west facing facade noted under paragraph "B" above (27 square feet based on the same ratio noted above - the Zoning Administrator's interpretation of this section allows a "trade off" between subsequent building mounted signs and canopy signs). The signage described under paragraph "A" above cannot be traded for canopy signage because the section in question does not allow all canopy signage combined to exceed a 1 foot to 1 foot sign area to wall width ratio.

The Zoning Administrator's application of Section 3413.A of the Zoning Regulations does not permit the following signs that were proposed in the applicant's Sign Permit application.

- A. A sign on the east facade of the building (facing Burger King) because it does not directly face a street and the Zoning Administrator does not consider it to have "high visibility" from the street. In the opinion of the Zoning Administrator, the facade merely being visible at all from the street does not fulfill the "high visibility" requirement.

- B. Both a sign on the west facade of the building and canopy mounted signs. It is the Zoning Administrator's interpretation that Section 3414.A allows canopy mounted signs in some, but not all, circumstances. The section states that "signs attached to a freestanding canopy are considered building mounted signs and are considered in the total number of such signs permitted for a business establishment" (i.e., a total of two based on the explanation provided above regarding signage for the front and west sides of the building).

Thus, because canopy mounted signs are explicitly considered building mounted signs, the allowable square footage of such signs is based upon the requirements stated above (i.e., code allows a "trade off" of signs between the building and the canopy but does not allow additional canopy signs over and above the amount permitted for the building itself with the exception that the square footage may be divided among up to three canopy signs). If the code allowed the canopy signage over and beyond what is permitted on the building and the "trade off" is not inherent in this section, then there is no operational standard for determining the allowable area for canopy signage. This is contrary to the overall construction of both this section and Article 34 "Signs," as both imply that there is a finite permissible area for all permanent signs within commercial zones.

#### DECISION AND BASIS FOR DECISION

The decision in question, and the basis for the decision, are described in the previously mentioned letter dated 7/19/95 from Kevin Wall, Director of Zoning Services, to Thomas Breidenstein, Esq., and is also described above in the "Issue" section of this report.

#### CONCLUSION

As provided in Article 2 of the Boone County Zoning Regulations, an Appeal of the Zoning Administrator's decision may be granted by the Board of Adjustment and Zoning Appeals when it has been demonstrated that the decision is in error. Article 34 of the Boone County Zoning Regulations, and the Zoning Regulations as a whole, are written in an "inclusive" manner, meaning that a particular use, and the manner in which the use is proposed, must be stated in the Zoning Regulations in order for it to be permitted. As such, the applicant will need to demonstrate that Section 3413.A allows all of the intended signs in order for them to be permitted.

Respectfully submitted,



Kevin T. Wall, AICP CDT  
Director, Zoning Services

attachments:

- Section 3413.A "Building Mounted Signs, All Commercial, Employment and Recreation Districts" of the Zoning Regulations
- letter dated 7/19/95 from Kevin Wall to Thomas Breidenstein
- Sign Permit and permit application materials and correspondence
- letter dated 6/21/95 from Kevin Wall to Thomas Breidenstein
- letter dated 6/15/95 from Thomas Breidenstein to Kevin Wall
- Appeal application materials

One (1) entrance sign of up to fifty (50) square feet in area shall be permitted for each entrance into the development from an arterial or collector street. Information conveyed on such signs shall be limited to the name of the development and the name of the owner, builder, or developer of the project. Entrance signs shall conform to the general requirements listed in Section 3402 and 3404.

One (1) directional sign shall be permitted near each entrance of a commercially or office zoned property with a maximum sign area of six square feet. Advertising on such a sign shall include the words "enter" "exit" or arrows and the name of an office complex or subdivision or shopping center.

### **SECTION 3412**

#### **Signs Permitted in Any District Requiring a Permit**

1. One sign or bulletin board customarily incidental to places of worship, schools, civic associations, libraries, museums, social clubs, or societies, shall not exceed thirty-two (32) square feet in area and shall be located on the premises of such institution;
2. Any sign advertising a commercial enterprise, including real estate developers or sub-dividers, in a district zoned residential shall not exceed sixteen (16) square feet in area and shall advertise only the names of the owners, trade names, products sold and/or the business or activity conducted on the premises where such sign is located and shall not be illuminated.

### **SECTION 3413**

#### **Signs Permitted in Commercial, Employment, and Recreational Districts Requiring a Permit**

##### **A. Building Mounted Signs, All Commercial, Employment, and Recreation Districts**

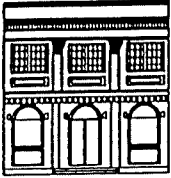
A business establishment may be permitted one (1) flat or wall on-premises sign for each frontage directly on, or with high visibility from, any arterial, collector, or marginal access street, including areas of major internal traffic circulation of a development planned in accordance within a Planned Development. One (1) building mounted sign shall be permitted two square feet of sign area per lineal foot of building width for the wall upon which it is mounted, or in multi-tenant buildings, the width of the portion of the building frontage occupied by an individual establishment. Any additional building mounted signs shall be permitted one (1) square foot of sign area per lineal foot of width for the wall on which it is mounted. Under no circumstances shall any establishment be allowed more than three (3) building mounted signs. For the purposes of this order, signs attached to a free-standing canopy are considered building mounted signs and are considered in the total number of such signs permitted for a business establishment. The square footage allowed for such canopy signs may not exceed one (1) square foot per lineal foot of the building width of the primary structure for the development. This square footage may be divided so that up to three (3) sides of the canopy have signage.

##### **B. Free-Standing Signs**

###### **1. Commercial Districts (C-1, C-2, C-3, C-4, EPD)**

- a. Individual business establishments not located within a shopping center, mixed-use commercial, or Planned Development shall be permitted a density of one (1) on-premises, free-standing sign. (see Article 2, Section 250 regarding Board of Adjustment and Zoning Appeals authority regarding density). There shall be only one (1) free-standing sign for each such individual business establishment, regardless of the number of business establishments conducted in the building and regardless of the number of road frontages.
- b. Shopping centers, mixed use commercial, and planned developments shall be permitted a density of one (1) on-premises free-standing for the purpose of identifying the name of the development, its

# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005  
606-334-2196 FAX 606-334-2264

July 19, 1995

Mr. Thomas Breidenstein, Esq.  
Deters, Benzinger & Lavelle, P.S.C.

FAX: 341-1469

RE: Kentucky Title Loans, U.S. 42, Florence, Kentucky  
Signage Proposal

Dear Mr. Breidenstein:

Relative to your faxed request dated 7/17/95, I am providing the following explanation of Section 3413.A "Building Mounted Signs, All Commercial, Employment and Recreation Districts."

First, this section allows one wall sign for each building frontage directly on, or with "high visibility from" essentially any street. This section allows such sign with a maximum area ratio of 2 square feet of signage per one linear foot of the wall width (the wall in which it is to be mounted) for the first building mounted sign, and allows subsequent signage with a maximum area ratio of one square foot of signage per linear foot of wall width (again, the wall in which it is to be mounted).

Second, the site in question has one building frontage on a street (i.e., U.S. 42 - allowed a sign that has a maximum area ratio of 2 square feet of signage per one foot of building width). Relative to the other facades, the east facade is hardly visible from U.S. 42 at all (i.e., requires "high visibility" from a street, and not just "mere" visibility), although I find it questionable as to whether or not the west facade has "high visibility" from U.S. 42 or not. Because I do find it questionable, I have decided to allow a sign for this facade (as a subsequent sign, it is permitted with a maximum area ratio of 1 square foot of signage per 1 linear foot of building width).

Third, Section 3414.A does allow canopy mounted signs in some circumstances. This section does say that "signs attached to a freestanding canopy are considered building mounted signs and are considered in the total number of such signs permitted for a business establishment." Thus, because canopy mounted signs are explicitly considered building mounted signs, the allowable square

Mr. Thomas Breidenstein, Esq.

July 19, 1995

Page 2

footage of such signs is based upon the requirements stated above (i.e., code allows a "trade off" of signs between the building and the canopy but does not allow additional canopy signs over and above the amount permitted for the building itself). However, this section does allow the square footage that has been "traded" from the building to the canopy to be divided so that up to three signs can be mounted on a canopy.

In short, based on Section 3414.A of the Zoning Regulations the facility in question is permitted the following:

- A. A building mounted sign on the facade directly facing U.S. 42 (south facing facade) in a ratio of 2 square feet of signage per 1 linear foot of the width of the facade; AND
- B. A building mounted sign on the west facing facade in a ratio of 1 square foot of signage per 1 linear foot of the width of the facade; OR
- C. Up to three canopy mounted signs that, when their respective areas are combined, do not exceed the square footage allowed for the west facing facade noted under paragraph "B" above. The signage described under paragraph "A" cannot be traded for canopy signage because the section in question does not allow all canopy signage combined to exceed a 1 foot to 1 foot sign area to wall width ratio.

I will note that these signs are exclusive of freestanding signs, and that a freestanding sign may be erected if the requirements of Article 34 are met. In addition, Mr. Scott Conover (the sign contractor) stated to me that he discussed the proposal with Jeff Hayes in our office and that Mr. Hayes said that the original proposal was "ok." I discussed this matter with Mr. Hayes and he stated that he did not discuss the proposal with Mr. Conover, nor has he discussed any signage proposal with him for over a year due to the fact that reviewing sign permit applications are no longer within the scope of his duties.

Please call me if you have any questions or need any clarifications.

Sincerely,



Kevin T. Wall, AICP CDT  
Director, Zoning Services

KTW/vlm

cc: Ed Coleman, Planner

BOONE COUNTY PLANNING COMMISSION  
SIGN PERMIT

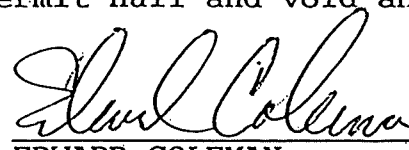
**\*\*NOTE: Prior to the placement of any approved sign, a building permit may be required from the Boone County Building Inspector - contact at 334-2218 for requirements.**

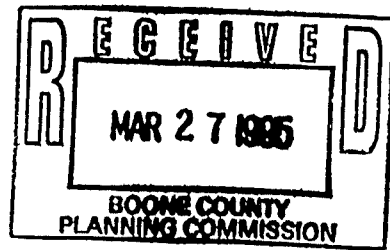
A Sign permit is hereby granted to Sign Graphics & Design for Kentucky Auto Title for property located at 7960 U.S. Hwy. 42 and zoned C-3/PD, for the purpose of two building mounted signs in accordance with Article 34, Section 3413 of the Boone County/Florence Zoning Order (Ordinance), subject to the following special conditions:

- 1) Front building mounted sign facing south (5'X19') 95 s.f.
- 2) Building mounted sign facing west (4'X6 1/2') 26 s.f.

Failure to comply with the above cited Zoning Regulations and special conditions, shall render this permit null and void and to no effect.

July 10, 1995  
DATE

  
EDWARD COLEMAN  
PLANNER



APPLICATION FORM  
**SIGN PERMIT**

BOONE COUNTY PLANNING COMMISSION  
(See Boone County Zoning Regulations)

**SECTION A** (To be completed by applicant)

1. Name of Business Kentucky Auto Title
2. Address of Business 7960 US Hwy. 42
3. Current Zoning of Property C3/PD
4. Applicant's Name Sign Graphics & Design, K. Scot Conover  
 Applicant's Phone No. 513-576-1639 Fax No. (513) 831-8134  
 Applicant's Address 420 Main Street  
Milford City OH State 45150 Zip
5. Property Owner's Name Larry White  
 Property Owner's Phone 581-3700 Fax \_\_\_\_\_  
 Property Owner's Address 7960 US Hwy. 42  
Florence City KY State \_\_\_\_\_ Zip
6. Type of Sign - Free Standing \_\_\_\_\_ Building Mounted  (4)  
 Monument \_\_\_\_\_  
 Entrance \_\_\_\_\_ Directional \_\_\_\_\_  
 Height of Sign Requested \_\_\_\_\_  
 Size (in square feet) of proposed sign 95, 24 & 26
7. Road Frontage in feet (for free-standing signs) \_\_\_\_\_
8. Building width in feet (for building mounted signs) Drawing Attached
9. Acreage of Site \_\_\_\_\_
10. If the proposed sign replacing an existing sign? no  
 If so, give height and square footage of existing sign \_\_\_\_\_
11. Indicate the number of existing freestanding signs 0  
 and number of existing building mounted signs 0
12. Is the site subject to a Special Sign District? \_\_\_\_\_  
 Is the site subject to the Houston-Donaldson Study? \_\_\_\_\_
13. Is the proposed sign subject to an approved Conditional use  
 Permit or Variance? no If yes, give date \_\_\_\_\_
14. Sign Jurisdiction/Location  
 \_\_\_\_\_ Unincorporated Boone County \_\_\_\_\_ Walton  
x Florence \_\_\_\_\_ Union

CASH LOANS  
ON CAR TITLES  
YOU KEEP CAR 283-5552

South Sign

Front Bldg sign for Clnn # 2 Florence  
5' x 19'

95 SQ FT

CASH LOANS  
ON ~~CAR~~ TITLES  
YOU KEEP CAR 283-5552

Two canopy signs for Clnn # 2 Florence  
3' x 8'

24 SQ FT

CASH LOANS  
ON CAR TITLES  
YOU KEEP CAR  
283-5552

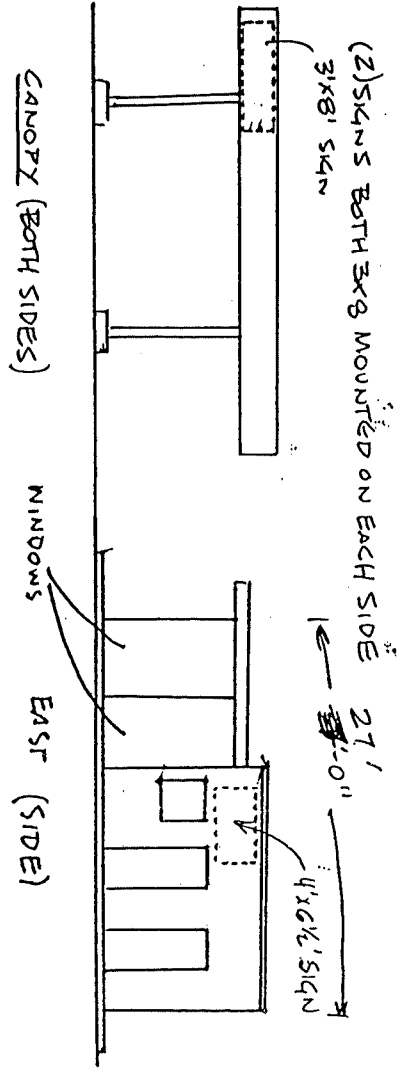
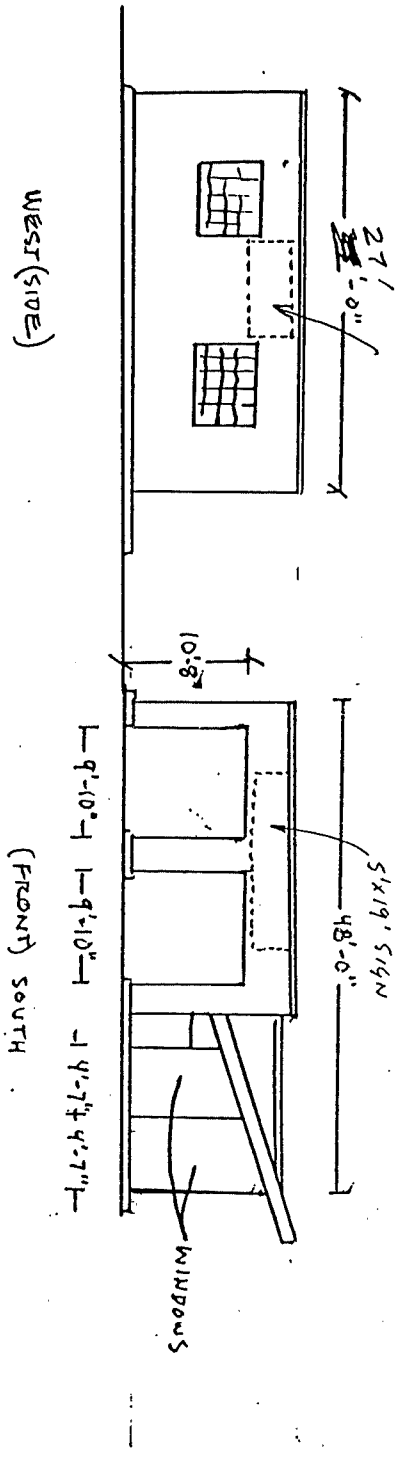
West Sign

4 x 6 1/2'

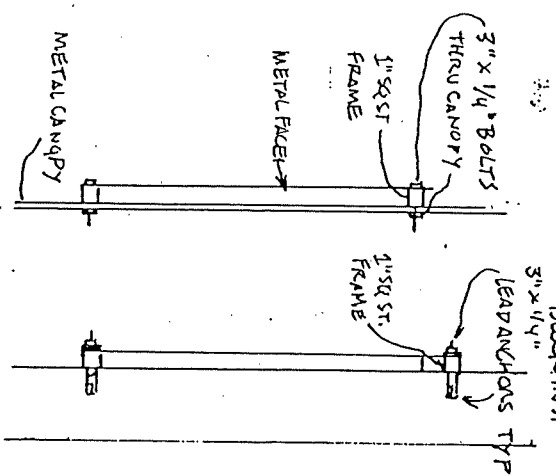
26 SQ FT

PROPOSED SIGNS @ 7060 US HWY 42

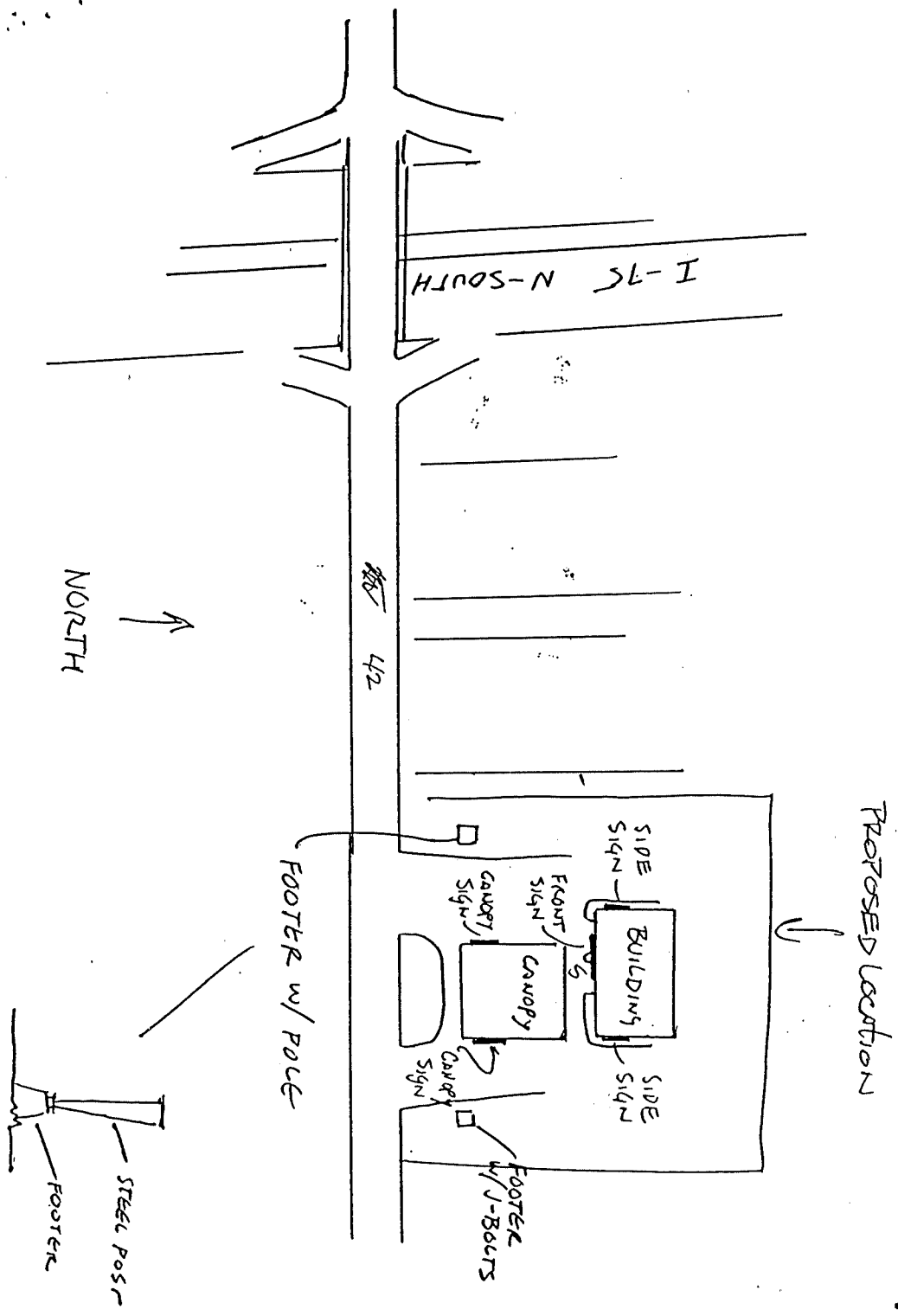
SIGN CREATIONS & DESIGN  
 420 MAIN ST.  
 MILFORD, OHIO 45150



TYPICAL SIGN MOUNTING SECTIONS



SIGN GRAPHICS & DESIGN  
420 MAIN ST.  
MILFORD, OHIO 45150



# DETERS, BENZINGER & LAVELLE, P.S.C.

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 SEAN P. CALLAN\*

\* Also admitted to practice in Ohio  
 + Also admitted to practice in Florida  
 ++ Also admitted to practice in Texas  
 \*\* Admitted in Ohio

## FAX TRANSMITTAL SHEET

TO: Ed Coleman
SUBJECT: Kentucky Title Loans
FROM: Tom Breidenstein, Monday, July 10, 1995 11:11am
<p>REMARKS: This fax will confirm our earlier telephone conversations.</p> <p>Recall, my client is entitled to a 95 square foot sign to be installed on the front of the building. Also, my client has chosen to install the 26 square foot sign on the west elevation. You indicated that you will issue permits for these signs today. Finally, I asked for written confirmation of your decisions regarding signs for the east elevation and for the canopy should my client choose to pursue permits for these.</p> <p>Thank you for your assistance, cooperation, and prompt attention to this matter.</p>

**CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGE**

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JAMES A. DRESSMAN III  
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ROBERT M. HOFFER  
JOSEPH A. CLEVES, JR.\*  
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THOMAS W. BREIDENSTEIN\*  
SEAN P. CALLAN\*

\* Also admitted to practice in Ohio  
+ Also admitted to practice in Florida  
++ Also admitted to practice in Texas  
\*\* Admitted in Ohio

## FAX TRANSMITTAL SHEET

TO: Ed Coleman

SUBJECT: Kentucky Title Loans signs

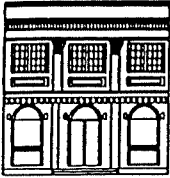
FROM: Tom Breidenstein, Saturday, July 8, 1995 11:32am

REMARKS: Thank you for your fax of Friday afternoon.  
  
My client informs me that you will allow a total of only 27 square feet for all building mounted signs. What specific section of Article 34 contains this authority? I will call you Monday to discuss.

### CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGE

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# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005  
606-334-2196 FAX 606-334-2264

June 21, 1995

Mr. Thomas Breidenstein, Esq.  
Deters, Benzinger & Lavelle, P.S.C.  
Thomas More Park  
2701 Turkeyfoot Road  
Covington, KY 41017

RE: Reconsideration of Proposed "Auto Title Pawn Office" based upon additional information - 7960 U.S. 42, Florence, Kentucky,; Commercial Services/Planned Development (C-3/PD) Zoning District

Dear Mr. Breidenstein:

Pursuant to our telephone conversation today, I have concluded that the proposed "auto title pawn office" is appropriately classified as a "credit service" as is listed as a Principally Permitted Use in the Commercial Services (C-3) zone. This determination is based upon the extensive information provided in your fifteen page letter dated June 15, 1995 that illustrates that the nature and operation of the proposed use more closely coincides with that of a "credit service" or a loan office than that of a standard office use and/or a pawn operation. Because this determination is predicated upon the information provided in your letter dated 6/15/95, the day to day operations of the business will need to reflect your description or else zoning approval will be withdrawn (i.e., the information provided as the basis for the prior two determinations relative to this use were slightly different, and substantially more ambiguous, than the information provided in your letter dated 6/15/95).

In addition, as stated in my last written determination regarding this proposal (letter dated 5/18/95 to James Amato), there is a concern that the facility should have the physical appearance of bank, loan office, etc. (rather than an abandoned gas station), although this concern is not the substance of this determination or the prior determinations (i.e., the phrase used several times relative to this proposal has been "if it looks like a duck it must be a duck"). In response to this concern, you stated that it was your understanding that the client would paint the building a more

Mr. Thomas Breidenstein, Esq.  
June 21, 1995  
Page 2

neutral color and that you would ask them to consider other minor modifications. As such, I am requesting that the building be painted a color or colors that is/are earth tone in nature (tan, gray, etc.), and that you ask your client to remove the gas pump canopy. In addition, I request that any freestanding sign be monument style (or at least smaller in scale and size) and that the installation of landscaping (trees and shrubs) in the grassed area along U.S. 42 be considered.

A copy of this letter will be forwarded to the appropriate occupational licensing parties. Please call me if you have any questions or need any clarifications.

Sincerely,



Kevin T. Wall, AICP CDT  
Director, Zoning Services

KTW\par

cc: Roger Rolfes, City Coordinator, City of Florence  
Dale Wilson, Planning Commission Legal Counsel  
Kevin Costello, AICP, Executive Director  
Don Martin, Zoning Enforcement Officer

# MEMORANDUM

**To:** Kevin T. Wall, AICP, CDT  
Director, Zoning Services, Boone County Planning Commission

**From:** Thomas W. Breidenstein

**Subject:** approval for Kentucky Title Loans

**Date:** June 15, 1995

As you requested, this memorandum provides a side-by-side comparison between the operations of my client, Kentucky Title Loans and the typical operations of other similar "credit services." As you will see, the business operations are nearly identical. Thus, Kentucky Title Loans should be classified as a Principally Permitted Use in the Commercial Services (C-3) zoning district.

The courtesy of your response is requested before June 18, 1995. As you know, this date is the application deadline for an Appeal to the City of Florence Board of Adjustment. Obviously, my client is interested in avoiding such a costly appeal (costly not only in terms of application fees and attorney fees, but also in terms of lost business opportunity, lost employment opportunity for workers who have already been hired, and lost tax benefits to the City of Florence).

Thank you for your time and attention to this matter. I look forward to hearing from you before June 18.

## Physical Set-up

### Kentucky Title Loans

1. Waiting area inside front door.
2. Counter area used to collect payments and to answer questions; separates waiting area from loan processors' area.
3. Various desks for loan processors to meet with clients; located behind counter area.
4. Computer area used to enter new loans, print loan contracts, issue receipts on payments, and keep track of loan balances and maturity dates.

### Credit Services

1. Waiting area inside front door.
2. Counter area used to collect payments and to answer questions; separates waiting area from loan processors' area.
3. Various desks for loan processors to meet with clients; typically located behind counter area.
4. Computers used to process loans and payments, and to keep track of loan balances and maturity dates.

- |  |  |
|--|--|
| 5. Various files for active and completed loans.   | 5. Various files for active and completed loans.   |
| 6. Separate office of operations manager.  | 6. Separate office of operations manager.  |
| 7. Minimal area devoted to storage of forms, office supplies, etc.; no storage for collateral or repossessed security provided.        | 7. Minimal area devoted to storage of forms, office supplies, etc.; no storage for collateral or repossessed security provided.        |
| 8. Building mounted and/or free-standing sign(s) used to identify availability of loan service.  | 8. Building mounted and/or free-standing sign(s) used to identify availability of loan service.  |
| 9. On-site parking adequate to handle employees, loan applicants, customers making payments, and potential customers making inquiries. | 9. On-site parking adequate to handle employees, loan applicants, customers making payments, and potential customers making inquiries. |
| 10. Not designed with drive-up window for payment of loan installments.  | 10. Typically not designed with drive-up window for payment of loan installments.  |

**Standard Industrial Classification**

Kentucky Title Loans

1. S.I.C. Industry Group #6141 – Nondepository Credit Institutions / Personal Credit Institutions – “Establishments primarily engaged in providing loans to individuals. Also included in this industry are establishments primarily engaged in financing retail sales made on the installment plan and financing automobile loans for individuals.” (see attached)

S.I.C. Industry Group #5932 – Used Merchandise Stores (which includes pawnshops) – attached for reference to

Credit Services

1. S.I.C. Industry Group #6141 – Nondepository Credit Institutions / Personal Credit Institutions – “Establishments primarily engaged in providing loans to individuals. Also included in this industry are establishments primarily engaged in financing retail sales made on the installment plan and financing automobile loans for individuals.” (see attached)

demonstrate Kentucky Title Loans does not conduct pawn operations as defined.

Traffic Generation

Kentucky Title Loans

1. Total estimated daily weekday visitors – 117 to 142 (based on survey of visitors to Lexington facility; Kentucky Title Loans in Florence is expected to perform at a similar level because of its location, demographics, high traffic accessibility, and visibility); Florence site has 1,250 square feet.
2. Since Kentucky Title Loans provides loan services only, and does not provide depository services such as a savings and loan, it would be expected to generate less traffic than a similarly sized savings and loan. However, these figures from the Lexington branch of Kentucky Title Loans reflect a higher trip generation rate than a similarly sized savings and loan. Thus, the proposed use more fully complies with the purpose of the C-3 zoning district than does a savings and loan.

Credit Services

1. Total estimated daily visitors – specific traffic data for **Nondepository Credit Institutions / Personal Credit Institutions** were unavailable from the Institute of Traffic Engineers (ITE), or any other objective source; thus, ITE Land Use 913 (Walk-In Savings and Loan) was chosen for comparison.

ITE provides a Trip Generation Rate of 61.00 trips per 1,000 square feet of gross floor area per weekday. Thus, a 1,250 square foot Walk-In Savings and Loan would be expected, based on this model, to generate approximately 76 trips per weekday ( $1,250 \div 1,000 \times 61.00 = 76.25$ ). Of course, a significant number of these trips are expected from customers making deposits or withdrawing money. Some trips are expected to be associated with customers visiting the savings and loan for loan and credit services. Because it is limited to loan and credit services, a Nondepository Credit Institution / Personal Credit Institution would thus be expected to generate less traffic than a similarly sized savings and loan.

### Choice of Site

#### Kentucky Title Loans

1. Location at 7960 U.S. 42, Florence, chosen for its high visibility and vehicular accessibility.
2. Employees, visitors, etc. of the Northern Kentucky Industrial Park are expected to be clients.
3. Many more clients are expected from the metropolitan area once the Florence location is operational; ads will be placed on major radio and local television stations and in local print media.
4. The Newport location draws its clientele from 16 counties in Kentucky and Ohio. Because this is a unique financial service, it is expected that the Florence location will draw from a larger area, including Indiana. Ease of accessibility is key to clients who reside outside of Florence.

#### Credit Services

1. These businesses typically locate in high traffic, high visibility and/or high visibility areas such as: 8414 U.S. 42 (*Avco Financial Services*); 7118 Turfway Rd. (*Commercial Credit*); 7640 Mall Rd. (*Household Finance*); and; 7557 Mall Rd. (*Norwest Finance*).

### Description of Business

#### Kentucky Title Loans

1. Hours of operation: Monday – Friday, 10:00 a.m. to 6:00 p.m.; Saturday, 9:00 a.m. to 2:00 p.m.; closed Sunday (45 total hours per week).
2. Kentucky Title Loans will only issue loans on automobiles and trucks.

#### Credit Services

1. Typical hours of operation: Monday – Wednesday & Friday, 8:30 a.m. to 5:00 p.m.; Thursday, 8:30 a.m. to 7:00 p.m.; closed Saturday & Sunday (Commercial Credit, 7118 Turfway Rd., Florence) (44.5 total hours per week).
2. These credit companies will typically issue loans on not only automobiles and trucks, but also on other personal property (e.g.

3. Potential borrower completes loan application form with assistance of loan processor.
  4. Borrower completes Power of Attorney form.
  5. Borrower must present a "clean" title, i.e. free and clear of any encumbrances or liens.
  6. Borrower must present a picture identification, typically a driver's license.
  7. Borrower must give proof of an income source; the source must be verifiable; the income must support the loan payments.
  8. Borrower must give 3 references.
  9. Borrower must give proof of residence, typically a copy of a phone or utility bill.
  10. Loan processor determines value of vehicle by consulting with black book of wholesale values.
  11. Loan processor determines condition of vehicle by visually inspecting it.
  12. Value of loan determined as a business decision by loan processor based on wholesale value and condition of vehicle and the ability of the borrower to repay loan.
- stereos, T.V.'s, coin collections, appliances, and furniture), on real property and even on signature only.
3. The procedure used by these credit companies is nearly identical. The process of repossession of personal property which is not as moveable as a vehicle is different, but the principle is identical. To collect on debts secured by real property, the foreclosure process is used. Finally, to collect on signature loans, a collection lawsuit is required.

13. Proper forms to record lien on vehicle title are completed and sent with title to appropriate county clerk.
14. Lien statement is returned to Kentucky Title Loans and kept on site as evidence of security for loan. The actual title is returned to the borrower (under Kentucky law).
15. Seventeen dollar (\$17.00) fee paid to the county for each lien recorded. (Kentucky)
16. Lender calls borrower a week prior to due date of payment as a reminder.
17. Borrower returns to office through the life of the loan to make payment of interest and/or principal.
18. Once loan is paid off, lien is released and "clean" title is thus restored.
19. If borrower is delinquent, various notices are sent and phone calls are made.
20. If delinquency notices and calls are ignored, "repo man" notified to repossess vehicle and impound it off-site.
21. Repossessed vehicle sold to satisfy delinquent loan and costs of repossession.

### **Typical Customer Breakdown**

#### **Kentucky Title Loans**

1. There is no "typical" borrower from Kentucky Title Loans. However, the observation has been that many borrowers

#### **Credit Services**

1. Information on a typical borrower for a Nondepository Credit Institution / Personal Credit Institution is not available for this

Kevin T. Wall  
June 15, 1995  
Page 7

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earn middle to low incomes and are employed at blue collar jobs. A high percentage of borrowers are home owners. Of course, all are owners of vehicles which have value as security for loans.

review. However, it is expected that there is no typical borrower, except that each share the common trait of needing credit services.

cc: Mr. Dale T. Wilson, Esq.  
Mr. Roger Rolfes, Florence City Coordinator  
Mr. Kevin Costello, AICP, Executive Director  
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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

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# STANDARD INDUSTRIAL CLASSIFICATION MANUAL

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## Major Group 61.—NONDEPOSITORY CREDIT INSTITUTIONS

### *The Major Group as a Whole*

This major group includes establishments engaged in extending credit in the form of loans, but not engaged in deposit banking.

Industry Group No.	Industry No.
--------------------	--------------

### 611 FEDERAL AND FEDERALLY-SPONSORED CREDIT AGENCIES

#### 6111 Federal and Federally-Sponsored Credit Agencies

Establishments of the Federal Government and federally-sponsored credit agencies primarily engaged in guaranteeing, insuring, or making loans. Federally-sponsored credit agencies are established under authority of Federal legislation, but are not regarded as part of the Government. They are often owned by their members or borrowers.

Banks for cooperatives  
Commodity Credit Corporation  
Export-Import Bank  
Farmers Home Administration  
Federal Home Loan Mortgage Corporation  
Federal Intermediate Credit Bank  
Federal Land Banks

Federal National Mortgage Association  
Government National Mortgage Association  
National Consumer Cooperative Bank  
Rural Electrification Administration  
Student Loan Marketing Association  
Synthetic Fuels Corporation

614

### PERSONAL CREDIT INSTITUTIONS

#### 6141 Personal Credit Institutions

Establishments primarily engaged in providing loans to individuals. Also included in this industry are establishments primarily engaged in financing retail sales made on the installment plan and financing automobile loans for individuals.

Automobile loans (may include automobile insurance)  
Consumer finance companies  
Financing of automobiles, furniture, appliances, personal airplanes, etc.: not engaged in deposit banking  
Industrial loan "banks", not engaged in deposit banking  
Industrial loan companies, not engaged in deposit banking

Installment sales finance, other than banks  
Loan companies, small licensed  
Loan societies, remedial  
Mortgage plans not engaged in deposit banking  
Mutual benefit associations  
Personal finance companies, small loan licensed

615

### BUSINESS CREDIT INSTITUTIONS

Establishments primarily engaged in making loans to agricultural and other business enterprises, excluding those engaged principally in home or personal financing. Private establishments primarily engaged in extending agricultural credit are classified in Industry 6159.

#### 6153 Short-Term Business Credit Institutions, Except Agricultural

Establishments primarily engaged in extending credit to business enterprises for relatively short periods. Private establishments primarily engaged in extending agricultural credit are classified in Industry 6159.

Business credit institutions, short term  
Credit card services, collection by central agency

Direct working capital financing  
Factors of commercial paper  
Financing of dealers by motor vehicle

Industry  
Group  
No.  
615

Industry  
No.

**BUSINESS CREDIT INSTITUTIONS—Con.**

**6153 Short-Term Business Credit Institutions, Except Agricultural—Con.**

Manufacturers' organizations  
Installment notes, buying of  
Installment paper dealer  
Mercantile financing

Purchasers of accounts receivable and  
commercial paper  
Trust deeds, purchase and sale of  
Working capital financing

**6159 Miscellaneous Business Credit Institutions**

Establishments primarily engaged in furnishing intermediate or long-term general and industrial credit, including the finance leasing of automobiles, trucks, and machinery and equipment. Included in this industry are private establishments primarily engaged in extending agricultural credit. Federal and federally-sponsored credit agencies primarily engaged in extending agricultural credit are classified in Industry 6111. Establishments primarily engaged in other types of leasing of passenger cars and trucks are classified in Industry Group 751.

Agricultural loan companies  
Automobile finance leasing  
Credit institutions, agricultural  
Farm mortgage companies  
Finance leasing of equipment and vehicles  
General and industrial loan institutions  
Intermediate investment "banks"  
Investment companies, small business  
Livestock loan companies

Loan institutions, general and industrial  
Machinery and equipment finance leasing  
Pari-mutuel totalizer equipment finance leasing and maintenance  
Production credit association, agricultural  
Truck finance leasing

616

**MORTGAGE BANKERS AND BROKERS**

**6162 Mortgage Bankers and Loan Correspondents**

Establishments primarily engaged in originating mortgage loans, selling mortgage loans to permanent investors, and servicing these loans. They may also provide real estate construction loans.

Bond and mortgage companies  
Loan correspondents  
Mortgage bankers

Mortgage brokers, using own money  
Mortgage companies, urban

**6163 Loan Brokers**

Establishments primarily engaged in arranging loans for others. These establishments operate mostly on a commission or fee basis and do not ordinarily have any continuing relationship with either borrower or lender.

Agents, farm or business loan  
Brokers, farm or business loan  
Loan agents

Loan brokers  
Mortgage brokers arranging for loans but using money of others

Maj

This  
or broker  
count of  
exchange

Industry  
Group  
No.

621

622

623

## Major Group 59.—MISCELLANEOUS RETAIL

### *The Major Group as a Whole*

This major group includes retail establishments, not elsewhere classified. These establishments fall into the following categories: drug stores, liquor stores, used merchandise stores, miscellaneous shopping goods stores, nonstore retailers, fuel dealers, and miscellaneous retail stores, not elsewhere classified.

Industry Group No.	Industry No.
--------------------	--------------

### 591 DRUG STORES AND PROPRIETARY STORES

#### 5912 Drug Stores and Proprietary Stores

Establishments engaged in the retail sale of prescription drugs, proprietary drugs, and nonprescription medicines, and which may also carry a number of related lines, such as cosmetics, toiletries, tobacco, and novelty merchandise. These stores are included on the basis of their usual trade designation rather than on the stricter interpretation of commodities handled. This industry includes drug stores which also operate a soda fountain or lunch counter.

Apothecaries—retail  
Drug stores—retail  
Pharmacies—retail

Proprietary (nonprescription medicines) stores—retail

592

### LIQUOR STORES

#### 5921 Liquor Stores

Establishments primarily engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine, and liquor, for consumption off the premises. Stores selling prepared drinks for consumption on the premises are classified in Industry 5813.

Beer, packaged—retail  
Liquor, packaged—retail

Wine, packaged—retail

593

### USED MERCHANDISE STORES

#### 5932 Used Merchandise Stores

This industry includes stores primarily engaged in the retail sale of used merchandise, antiques, and secondhand goods, such as clothing and shoes; furniture; books and rare manuscripts; musical instruments; office furniture; phonographs and phonograph records; and store fixtures and equipment. This industry also includes pawnshops. Dealers primarily engaged in selling used motor vehicles, trailers, and boats are classified in Major Group 55, and those selling used mobile homes are classified in Industry 5271. Establishments primarily selling used automobile parts and accessories are classified in Wholesale Trade, Industry 5015, and scrap and waste dealers are classified in Industry 5093. Establishments primarily engaged in automotive repair are classified in Services, Industry Group 753.

Antique stores—retail  
Book stores, secondhand—retail  
Building materials, used—retail  
Clothing stores, secondhand—retail  
Furniture stores, secondhand—retail  
Furniture, antique—retail

Glassware, antique—retail  
Homefurnishing stores, secondhand—retail  
Homefurnishings, antique—retail  
Manuscripts, rare—retail  
Musical instrument stores, secondhand—retail

Industry Group No.	Industry No.		Industry Group No.	Industry No.
593		<b>USED MERCHANDISE STORES—Con.</b>	594	
	5932	<b>Used Merchandise Stores—Con.</b>		594
		hand—retail Objects of art, antique—retail Pawnshops		
				Phonograph and phonograph record stores, secondhand—retail Shoe stores, secondhand—retail
594		<b>MISCELLANEOUS SHOPPING GOODS STORES</b>		
	5941	<b>Sporting Goods Stores and Bicycle Shops</b>		
		Establishments primarily engaged in the retail sale of sporting goods, sporting equipment, and bicycles, bicycle parts, and accessories. Retail establishments primarily engaged in selling motorized bicycles are classified in Industry 5571, and those engaged in the retail sale of athletic footwear are classified in Industry 5661. Establishments primarily engaged in repairing bicycles are classified in Services, Industry 7699, and those renting bicycles are classified in Industry 7999.		594
		Ammunition—retail Backpacking, hiking, and mountaineering equipment—retail Bait and tackle shops—retail Bicycle and bicycle parts dealers, except motorized—retail Bowling equipment and supplies—retail Camping equipment—retail Exercise apparatus—retail Firearms—retail Fishing equipment—retail Golf goods and equipment—retail		
				Golf professionals operating retail stores Gymnasium equipment—retail Hunters' equipment—retail Playground equipment—retail Pool and billiards table stores—retail Hiding goods and equipment—retail Saddlery stores—retail Skiing equipment—retail Skin diving and scuba equipment—retail Sporting goods stores—retail Tennis goods and equipment—retail
	5942	<b>Book Stores</b>		594
		Establishments primarily engaged in the retail sale of new books and magazines. Establishments primarily engaged in the retail sale of used books are classified in Industry 5932.		
		Book stores selling new books and magazines—retail		
				Religious book stores—retail
	5943	<b>Stationery Stores</b>		594
		Establishments primarily engaged in the retail sale of stationery, such as paper and paper products (including printing and engraving), postcards, and paper novelties. These establishments may also sell additional lines of office type supplies, such as accounting and legal forms, blankbooks and forms, and office forms and supplies. Establishments primarily engaged in selling office forms and supplies are classified in Wholesale Trade, Industry 5112. Establishments primarily engaged in the retail sale of greeting cards are classified in Industry 5947.		
		Pen and pencil shops—retail School supplies—retail		
				Stationery stores—retail Writing supplies—retail
	5944	<b>Jewelry Stores</b>		594
		Establishments primarily engaged in the retail sale of any combination of the lines of jewelry, such as diamonds and other precious stones mounted in precious metals as rings, bracelets, and broaches; sterling and plated silverware; and watches and clocks. Stores primarily engaged in watch and jewelry		

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# TRIP GENERATION

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An Informational Report

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5th Edition  
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## **Land Use: 913**

### **Walk-In Savings and Loan**

#### **Description**

Walk-in savings and loans are generally free-standing buildings with their own parking lots. These facilities do not have drive-in windows.

#### **Additional Data**

Information on transit trip ends is not available.

Information on person trip ends is not available.

Information on truck trips is not available.

Vehicle occupancy (based on a limited sample):  
2.41 persons per automobile.

Peak hours of the generator:

Weekdays and Saturdays 11:00 A.M. to 2:00 P.M.

This study was conducted in 1975, in the San Francisco Bay Area. This site has 6 employees, 2,600 square feet gross floor area, 0.72 acres, and 31 parking spaces.

#### **Source Numbers**

89

## Land Use: 913

### Walk-In Savings and Loan

*Independent Variables With One Observation*

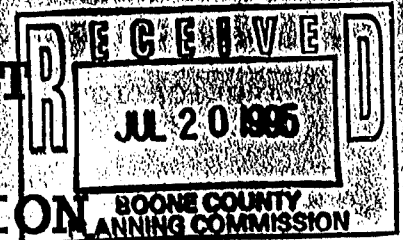
The following trip generation data are for independent variables with only one observation. This information is shown in this table only; there are no related plots for these data.

Users are cautioned to use these data with care due to the small sample size.

<u>Independent Variable</u>	<u>Trip Generation Rate</u>	<u>Size of Independent Variable</u>	<u>Number of Studies</u>	<u>Directional Distribution</u>
<b>Employees.</b>				
Weekday	30.50	6	1	50% entering, 50% exiting
A.M. Peak Hour of Adjacent Street Traffic	0.67	6	1	Not Available
P.M. Peak Hour of Adjacent Street Traffic	2.67	6	1	Not Available
A.M. Peak Hour of Generator	4.67	6	1	Not Available
P.M. Peak Hour of Generator	4.83	6	1	Not Available
Saturday	54.17	6	1	50% entering, 50% exiting
Saturday Peak Hour of Generator	9.83	6	1	Not Available
Sunday	3.17	6	1	50% entering, 50% exiting
Sunday Peak Hour of Generator	0.67	6	1	Not Available

<b>1,000 Square Feet Gross Floor Area</b>				
Weekday	61.00	3	1	50% entering, 50% exiting
A.M. Peak Hour of Adjacent Street Traffic	1.33	3	1	Not Available
P.M. Peak Hour of Adjacent Street Traffic	5.33	3	1	Not Available
A.M. Peak Hour of Generator	9.33	3	1	Not Available
P.M. Peak Hour of Generator	9.67	3	1	Not Available
Saturday	108.33	3	1	50% entering, 50% exiting
Saturday Peak Hour of Generator	19.67	3	1	Not Available
Sunday	6.33	6	1	50% entering, 50% exiting
Sunday Peak Hour of Generator	1.33	6	1	Not Available

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  
(Check One)
2.  Conditional Use Permit  Variance  Appeal  
 Change in Non-Conforming Use
3. Applicant's Name Thomas W. Breidenstein  
Phone Number 341-1881 Fax No. 341-1469  
Applicant's Address 2701 Turkeyfoot Rd.  
Covington KY 41017  
City State Zip
4. Description of Request: Appeal of Zoning Administrator's  
decision of 7-19-95 re: signs at 7960 U.S. 42, Florence  
(Kentucky Title Loans site)
5. Name of Development Kentucky Title Loans
6. Location of Development 7960 U.S. 42  
Florence KY 41042
7. Acreage Under Review 1.158
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property Richard A. Thomas  
Phone Number of Owner 441-7492
10. Address of Property Owner 27 Madonna  
Cold Spring KY 41076  
City State Zip
11. Proposed Use(s) on Site n/a
12. Total Square Footage of Existing and/or Proposed Buildings  
n/a
13. Current Zoning on Property C-3 / PD
14. Deed Book 305 Page No. 263 Group No.
15. Is the site subject to a zone change?  
If yes, give date of approval Parkway Corridor Study
16. Have you submitted a Site Plan with this request?
17. Have you submitted a list of adjoining property owners with this request?
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.  
Applicant's Signature: Thos W. Breidenstein  
Property Owner's Signature: (to follow under separate cover)

(over)

**BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION APPLICATION**

**SECTION B** (To be completed by the Boone County Planning Commission Staff)

- 1. Date Received July 20, 95 Fee Received 738.00 R#1395
- 2. Is application complete?  Yes  No
- 3. Staff Reviewer \_\_\_\_\_
- 4. Scheduled Board Action Date \_\_\_\_\_
- 5. Board Action: \_\_\_\_\_

Approved  
 Approved with Conditions (See #6)  
 Denial (See #7)

6. Conditions of Approval: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. Reasons for Denial: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Boone County Planning Commission  
 2995 Washington Street  
 Burlington, Kentucky 41005  
 (606) 334-2196 Phone  
 (606) 334-2264 Fax

**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.

BCPC: 2/93

This instrument prepared by:

W. G. Muller  
W. G. Muller, Attorney  
Exxon Company, U.S.A.  
(A division of Exxon Corporation)  
P.O. Box 1288  
Baltimore, Maryland

Property Transfer Tax Paid \$ 111.00  
Jerry W. Reese, Clerk BC D.C.

State of Kentucky  
County of Boone  
City of Florence

Special Warranty Deed

This Special Warranty Deed made this 23<sup>rd</sup> day of FEBRUARY, 1983, by EXXON CORPORATION, a corporation created and existing under and by virtue of the laws of the State of New Jersey, duly authorized to transact business in the State of Kentucky, with an office and place of business at 11350 McCormick Road, Executive Plaza II, Hunt Valley, Maryland 21031, hereinafter referred to as "Grantor", and RICHARD A. THOMAS, of 27 Madonna, Cold Spring, Kentucky 41076, hereinafter referred to as "Grantee."

WITNESSETH

That Grantor, in consideration of ONE HUNDRED TEN THOUSAND SEVEN HUNDRED SEVENTY DOLLARS (\$110,770.00), to it paid, the receipt of which is hereby acknowledged, does grant, bargain, sell and convey to Grantee, and his heirs and assigns, all that real property situated in the City of Florence, County of Boone, State of Kentucky, and described as follows:

A tract or parcel of land located on the northwest side of U.S. Highway #42, as relocated and being more particularly described as follows:

Beginning at the intersection of the North line of the original George Lucas 12.25 acre tract with the West line (75 feet from centerline) of U.S. Highway #42 as relocated:

thence along said NW R/O/W line of U.S. Highway #42, S 33° 35' W 125.45 feet to a point;

thence continuing along said R/O/W line along a curve to the left 124.55 feet to a point, chord of said curve bearing S 30° 23' W 124.48 feet to a point, said curve having a radius of 1,116.7 feet;

thence run N 56° 25' W 200 feet to a point;

thence run N 33° 13' E 260.23 feet to a point on the North line of said George Lucas tract;

thence along said North line S 53° 19' 30" E 195 feet to the point of beginning.

Being part of the premises conveyed to Humble Oil & Refining Company by deed from JOSEPH J. LUCAS, unmarried, dated July 2, 1965 and recorded in the Office of the County Clerk of Boone County, Kentucky, in Deed Book 167, pages 504-505.

Being also the remainder parcel after the conveyance of a portion of said tract to W.K.R.D., INC. by deed recorded May 26, 1969 in the office of County Clerk of Boone County, Kentucky, in Deed Book 187, page 196.

TO HAVE AND TO HOLD the above described property, together with the tenements, hereditaments, and appurtenances thereunto belonging unto Grantor, his heirs and assigns forever.

And Grantor hereby covenants with Grantee, his heirs and assign, that Grantor is lawfully seized in fee simple of the above described premises; that it has a good right to convey; and that Grantor will forever warrant and defend all of the property so granted to Grantee, his heirs and assigns, against every person lawfully claiming the same or any part thereof by, through, or under Grantor, but not otherwise.

Grantor covenants that Humble Oil & Refining Company has heretofore been merged into and with Exxon Corporation.

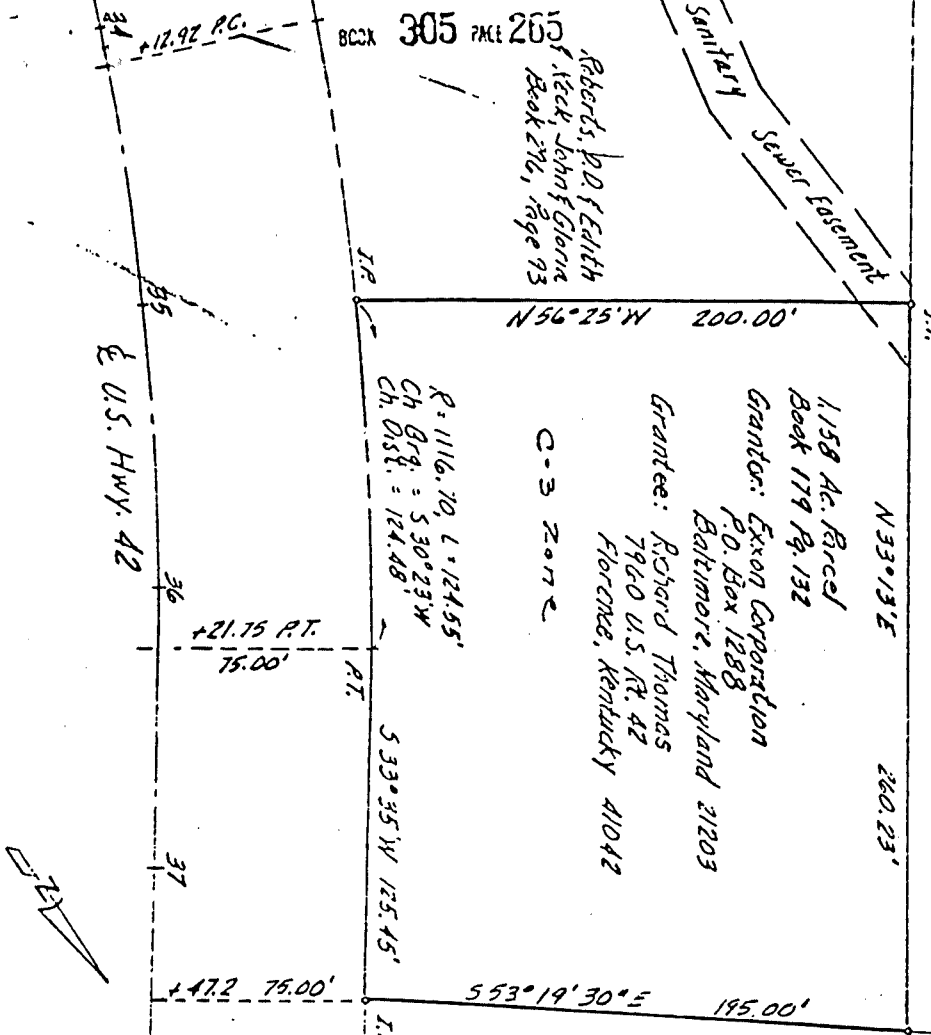
This Deed is made by Grantor and accepted by Grantee subject to all valid and existing encumbrances, conditions, covenants, restrictions, reservations, exceptions, rights-of-way and easements of record (and those that would be obvious by inspection); all laws, regulations and restrictions, including building and zoning ordinances, of municipal or other governmental authorities applicable to and enforceable against the above described premises; and real property taxes and assessments not yet due and payable.

Grantee affirms by acceptance of this Deed that he has inspected the premises and the improvements and has full knowledge of the condition, repair and location of same.

The 1983 ad valorem taxes assessed against the said property are to be prorated between Grantor and Grantee as of February 23, 1983.

Possession of said property was given February 23, 1983.

This Deed is executed and delivered by Grantor to Grantee pursuant to a Purchase Agreement accepted by Grantor on December 16, 1982, and the covenants, warranties, and agreements of Grantor and Grantee contained therein shall survive the execution and delivery of this deed.



I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY SHOWN HEREON AND SET THE MONUMENTS AS SHOWN ACCURACLY 1 TO 5000 PARTIAL CONTROL FROM DEEPS

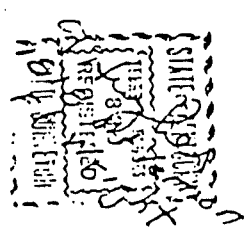
*Frank W. Hughes*

I certify that I have examined the records of the Boone County Court Clerk and find that this is the second conveyance made under present ownership. I further certify that this plat is in compliance with applicable zoning regulations.

*Frank W. Hughes*

Approved for the recording of the transfer of property only by the Boone County Planning Commission this 15 day of June, 1983.

*W. C. Williams*  
VICE CHAIRMAN



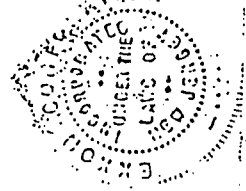
Prepared by T. Hughes Drawn by M. Overstreet  
1" = 50' May 31, 1983

IN WITNESS WHEREOF, Grantor has caused these premises to be subscribed by its Vice-President, W. E. Gattis, and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, R. F. Holmes, on May 12th, 1983, all as authorized by resolution of the Exxon Corporation Board of Directors dated March 31, 1976.

EXXON CORPORATION

By W. E. Gattis As To  
W. E. GATTIS, Vice-President  
LEGAL FORM

By R. F. Holmes R. F. Holmes  
K. F. HOLMES, Asst. Secretary



State of Maryland :  
: To Wit  
Baltimore County :

I hereby certify that on this 13th day of May, 1983, before the subscriber ARTHUR N. COLES personally appeared W. E. Gattis who acknowledged himself to be a Vice President of Exxon Corporation, a New Jersey corporation, and on behalf of the said corporation did acknowledge the foregoing instrument to be the act and deed of Exxon Corporation

Witness my hand and seal this 13th day of May, 1983

Arthur N. Coles  
Notary Public

My commission expires July 1, 1986.



STATE OF KENTUCKY, )  
: SCT.  
COUNTY OF BOONE, )

I, JERRY W. ROUSE, CLERK OF THE COUNTY COURT IN AND FOR THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WAS, ON THE 7 DAY OF July, 1983, AT 3:18 P. M. LODGED IN MY OFFICE FOR RECORD, WHEREUPON THE SAME, THE FOREGOING, AND THIS CERTIFICATE HAVE BEEN DULY RECORDED IN MY OFFICE.

19 83 GIVEN UNDER MY HAND, THIS THE 7 DAY OF July

JERRY W. ROUSE, CLERK  
BY Jerry W. Rouse, D.C.