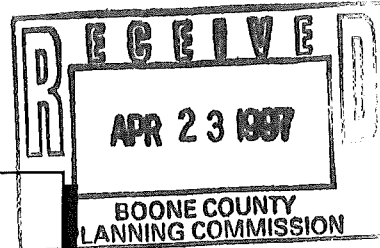


APPLICATION FORM



BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations SECTION A (To be completed by applicant)

- (Check One) 1. Boone [x] Florence [] Walton [] Union [] (Check One) 2. [x] Conditional Use Permit [] Variance [] Appeal [] Change in Non-Conforming Use 3. Applicant's Name Champlin/ Haupt Architects Phone Number (513) 241-4474 Fax No. (513) 241-0081 Applicant's Address 424 East Fourth Street Cincinnati, Ohio 45202 4. Description of Request: Permit location of power trading operation within existing facility on site. 5. Name of Development N/A 6. Location of Development 7200 Industrial Road Florence, KY 41042 7. Acreage Under Review 24.132 Acres 8. Lot Number and Name of Subdivision (if part of a subdivision) 57 and 60 9. Owner of Property The Union Light, Heat, and Power Company Phone Number of Owner (513) 287-2450 10. Address of Property Owner 107 Brent Spence, Covington, Kentucky 41011 City State Zip 11. Proposed Use(s) on Site Power Marketing and Trading Facility in Industrial One (I-1) Zone 12. Total Square Footage of Existing and/or Proposed Buildings 136,128 Sq. Ft. 13. Current Zoning on Property Industrial One (I-1) 14. Deed Book 460 Page No. 252 Group No. 15. Is the site subject to a zone change? No If yes, give date of approval 16. Have you submitted a Site Plan with this request? Yes 17. Have you submitted a list of adjoining property owners with this request? Yes 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature

Handwritten signature of Joan Tepe Wurtenberger

Joan Tepe Wurtenberger

Property Owner's Signature:

Handwritten signature of Timothy J. Ryan

4.23.97

(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 April 23, 1997 Fee Received 756.⁰⁰ R#13277
2. Is application complete? Yes No
3. Staff Reviewer [Signature]
4. Scheduled Board Action Date 5/14/97
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.

STAFF REPORT

APPLICANT: Champlin/Haupt Architects

LOCATION: 7200 Industrial Road, Florence, Kentucky

ZONING: Industrial One (I-1)

DATE: May 14, 1997

The applicant is requesting a Conditional Use Permit to allow a power trading facility in the existing CINergy building (formerly the ULH&P building), located at 7200 Industrial Road, Florence, Kentucky. The existing building is currently being used as a storage structure with business offices. The applicant wants to convert a portion of the storage area into the power trading facility which will consist of a trading area, common support area, and office support area. Power will be traded within the trading area by the CINergy Corporation. The proposed trading area is approximately 36,000 square feet. A copy of the building floor plan is enclosed with the proposed location of the trading floor area as well as the expansion of the outside parking area.

Included is a copy of the letter from Kevin Wall, Zoning Administrator, dated March 26, 1997, with his interpretation of the proposed use within an Industrial One (I-1) district. It was Kevin's opinion that the use is permitted in the zone as a Conditional Use.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit, stated in Section 262 and the following criteria from Section 1133 of the Boone County Zoning Regulations:

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided:

- a. the activity is provided primarily in support of and obtains its trade from the employees of the district; or
- b. the activity is of integral relation to the purpose of the district;
- c. the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district; and
- d. provided the arrangement of uses, buildings, or structures is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

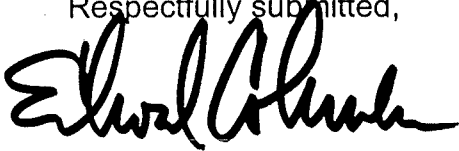
Staff Concerns/Comments

1. The applicant is required to participate in a Site Plan review for any additions to the building or to the site as proposed in the submitted Concept Development Plan.

Conclusion

K.R.S. 100.237 gives the Florence Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Conditional Use Permit to allow a power trading facility in the CINergy building at 7200 Industrial Road, Florence, Kentucky. It is Staff's opinion that the proposed Conditional Use 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. This opinion is based on the applicant's proposed use, the existing building, the surrounding land uses, typical uses in an industrial zone, and the Zoning Administrator's interpretation of the proposed use in the district.

Respectfully submitted,



Edward Coleman
Planner

EC\par

Attachments

- Location Map
- Concept Plan/Site Plan
- Aerial Photo
- Zoning Map
- Zoning Administrator letter dated March 26, 1997

CONDITIONAL USE PERMIT

The following reviews the seven criteria the Board must use to judge each Conditional Use request:

1. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County Comprehensive Plan, a specific corridor plan and/or the zoning order.
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area.
3. Will be hazardous to existing or future neighboring uses.
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
5. Will create excessive additional requirements at public cost for public facilities and services and will be detrimental to the economic welfare of the community.
6. Will involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

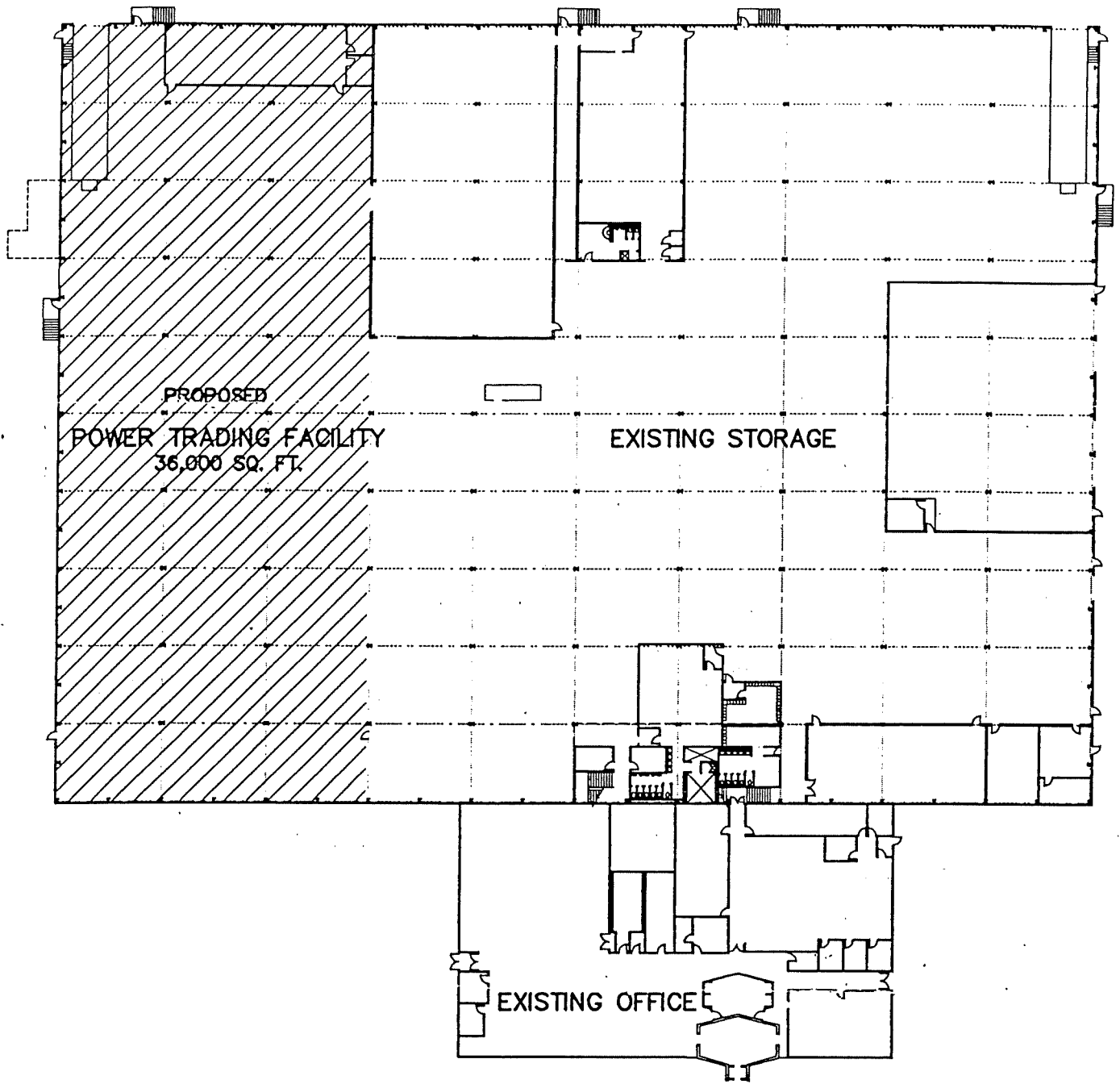


1800 0 1800 Feet

CINergy Building Location Map

1 inch equals 1800 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 12, 1997





GROUND LEVEL FLOOR PLAN

1" = 60' - 0"



**Champlin/Haupt Inc.
Architects**
424 East Fourth Street
Cincinnati, Ohio 45202
(513) 241-4474
FAX (513) 241-0081

CINERGY CORPORATION POWER TRADING FACILITY

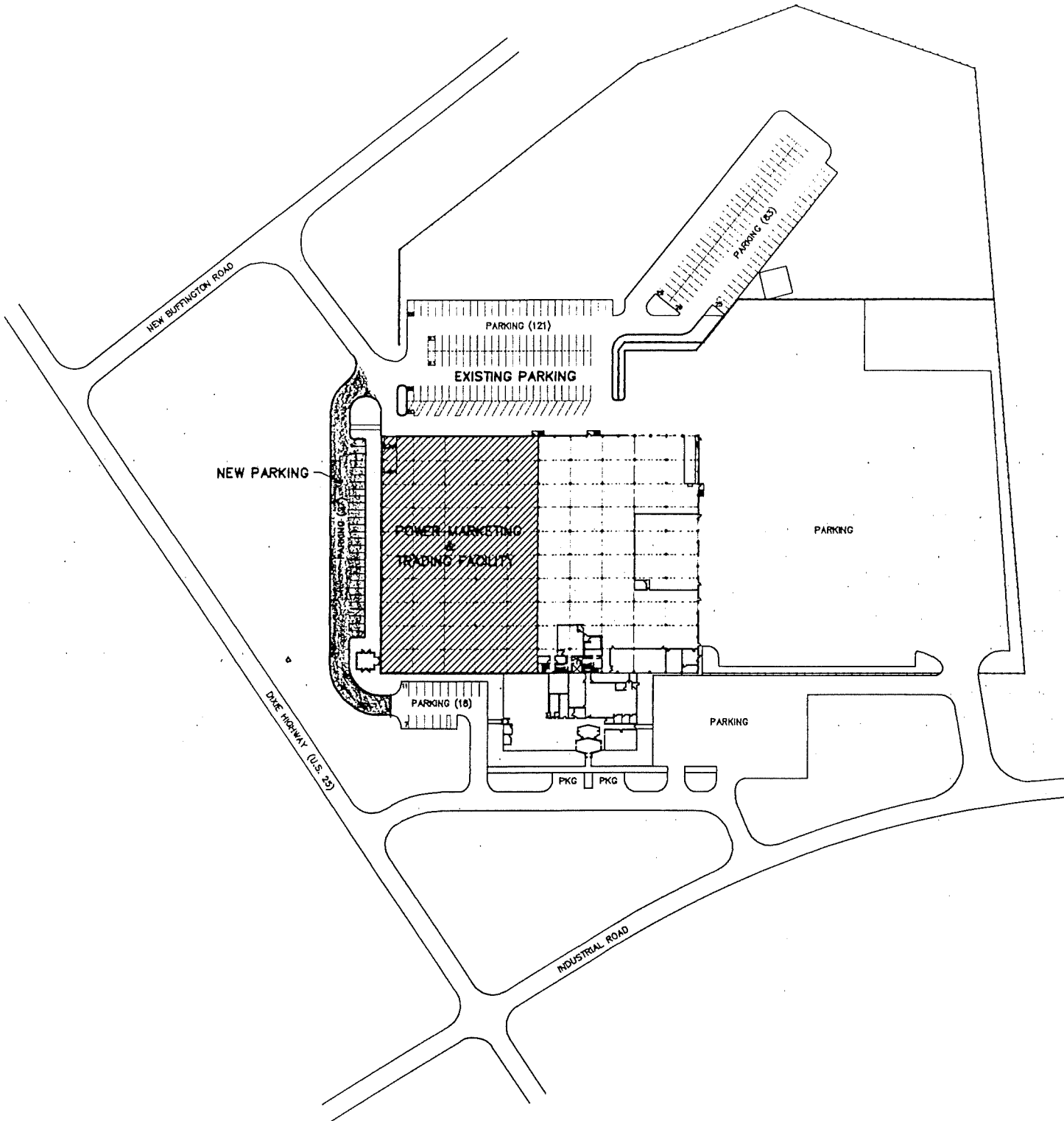
FLOOR PLAN
ZONING STUDY

Date 03-18-1997

Job no. 247/178300

Sheet no.

Z-1



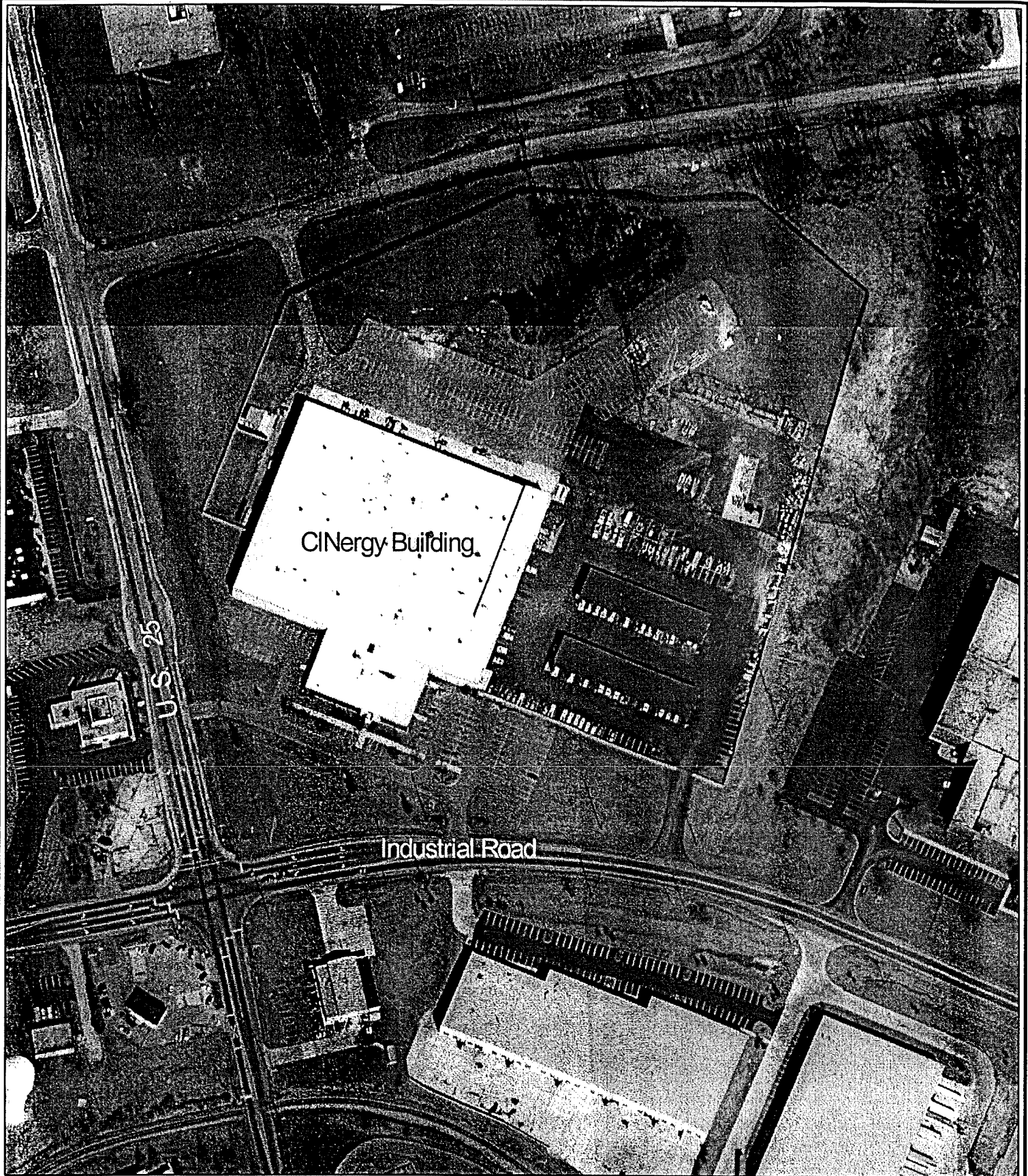
SITE PLAN

1" = 120' - 0"



Champlin/Haupt Inc. Architects

CINERGY
POWER TRADING FACILITY



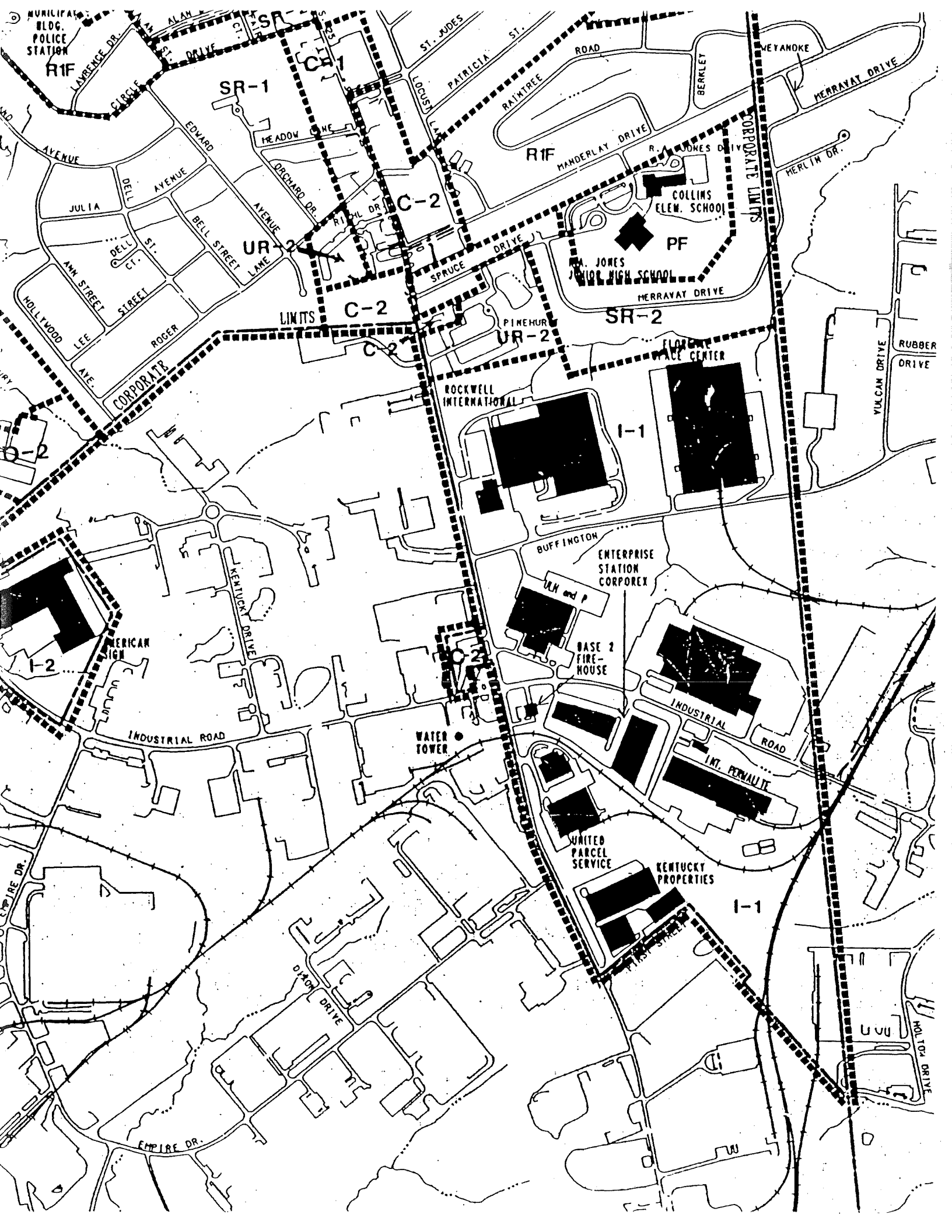
CINergy Corporation

200 0 200 Feet

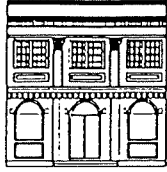


1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 12, 1997





BOONE COUNTY PLANNING COMMISSION



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

March 26, 1997

Mr. Hyontae Kang
Champlin/Haupt
424 East Fourth Street
Cincinnati, OH 45202

RE: Proposed Trading Facility - Cinergy Building, 7200 Industrial Road, Florence, Kentucky; Industrial One (I-1) Zone

Dear Mr. Kang:

In response to your request (letter dated 3/18/97, received by this office on 3/24/97), and pursuant to our previous conversation, I am providing the following determination.

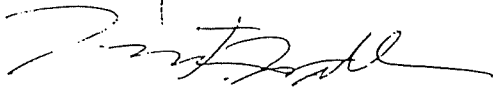
First, "trading facilities" in the sense of a trading floor that is used in trading commodities or that similar to a stock exchange is not a use that is identified by the Boone County Zoning Regulations. However, "security brokers, investment services and finance companies" are allowed as a Principally Permitted Use in the I-1 zone (incorporated by reference to the O-2 zone, which also references the Principally Permitted Uses in the O-1 zone where this category is listed). Thus, the sale/trade of securities and commodities is permitted in the zone in some sense (i.e., in an office environment). The only assembly use permitted in the I-1 zone (you mentioned that the predominate part of the use is an open floor with electronic screens, etc., mounted on the walls - this open space would accommodate approximately 200 people) are "churches, synagogues, temples and other places of religious assembly for worship" as a Conditional Use.

Based upon these facts (use not identified by the regulations, security brokers and the like which operate in an office environment are Principally Permitted Uses in the I-1 zone, and the only type of assembly use [assembly of people versus the putting together of manufactured goods] permitted in the zone is a Conditional Use), it is my interpretation of the Boone County Zoning Regulations that the proposed trading facility is permitted in the I-1 zone as a Conditional Use. This means that a Conditional Use Permit (CUP) for the proposal must be approved by the Board of Adjustment through a public hearing process before it can be permitted. A Site Plan Application must be submitted and approved after the CUP approval for any additional parking or site improvements made on the site to accommodate the trading facility use.

Mr. Hyontae Kang
March 26, 1997
Page 2

Please call me if you have any questions regarding this determination. Please call Ed Coleman, a Planner in our office, if you have any questions regarding the CUP process as Ed handles all Board of Adjustment requests.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin T. Wall". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kevin T. Wall, AICP CDT
Director, Zoning Services

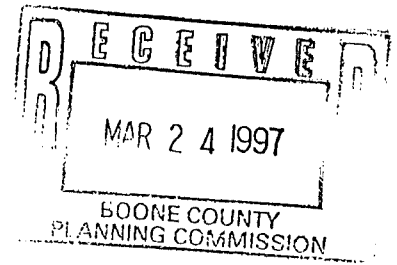
KTW/vlm

cc: Ed Coleman, Planner

Champlin
/Haupt

March 18, 1997

Mr. Kevin T. Wall
Director, Zoning Services
Boon County Planning Commission
2995 Washington Street
Burlington, KY 41005



424 E. Fourth Street
Cincinnati, Ohio 45202
(513) 241-4474
(513) 241-0081 Fax

Re: CINergy Corporation
Power Trading Facility, Florence, KY

Dear Mr. Wall,

Russell L. Champlin, Jr., A.I.A.
Robert K. Haupt, A.I.A.
John L. Wyler, A.I.A.
Michael J. Battoclette, A.I.A.
Robert A. Schilling, Jr., A.I.A.
Joan Tepe Wurtenberger, A.I.A.

As we spoke in your office this morning, our client, CINergy Corporation, is proposing a project in Florence, Kentucky. The project is a power trading facility in an existing building (The Union Light, Heat and Power Company). The building and its property is currently owned by the CINergy Corporation.

The existing building is located at 7200 Industrial Road (corner of Industrial Road and Dixie Hwy.) in Florence, Kentucky 41042. It currently is a storage (warehouse) structure with business offices to the southern end of the building. A portion of this existing storage is to be converted into a power trading facility (see enclosed plan). This power trading facility will consist of trading area, common support area, and office support area. In the trading area, CINergy Corporation and its visitors will trade power (energy). The initial project is to be approximately 40,000 square foot with option to grow in the future.

Zoning classification for this project is believed to be Industrial One (I-1) per August 21, 1996 Boone County zoning regulations. Although this zoning regulations clearly permit various wholesale trading uses for this classification, it is not clear regarding a power trading facility. Therefore, I am inquiring your interpretation of the regulations; Are power trading facility use groups allowed in this zoning classification?

I appreciate your assistance with this project. If you need additional information, please call me at (513) 241-4474.

Thank-you,

Champlin/Haupt Architects

A handwritten signature in black ink, appearing to read "Hyontae Kang".

Hyontae Kang

Architecture
Planning
Interior Design
Structural Engineering

F:\JOBS\260\174500\CRSPND\kw0318.WPD

COPY

CLUR # 97-FBOA-005-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)
The Union Light, Heat and Power Company
107 Brent Spence
Covington, Kentucky 41011
2. ADDRESS OF PROPERTY
7200 Industrial Road
Florence, Kentucky
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Union Light Heat and Power Company

DEED BOOK: 460 PAGE NO.: 252 GROUP NO.: 2049A

4. TYPE OF RESTRICTION (S) (Check all that apply)

Zoning Map Amendment: Conditional Use Permit
From to

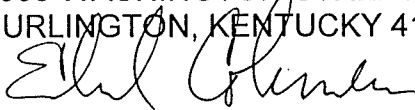
Development Plan Conditional Zoning

Subdivision Plat Other: Site Plan
(Unrecorded)

Variance

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005



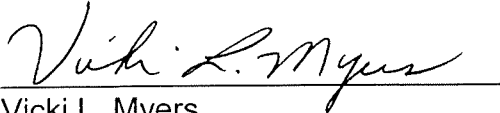
SIGNATURE OF COMPLETING OFFICIAL

Edward Coleman, Planner
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Edward Coleman, on behalf of
the Boone County Planning Commission this 22st day of May 1997.

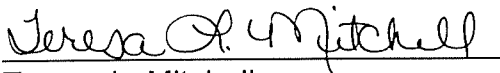


Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of May 14, 1997 Certificate of Land Use Restriction (# 97-FBOA-005), for The Union Light, Heat and Power Company, Property Owners

The following conditions will apply:

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

described in: DEED BOOK 460

PAGE NO. 252

Group No. 2049 A