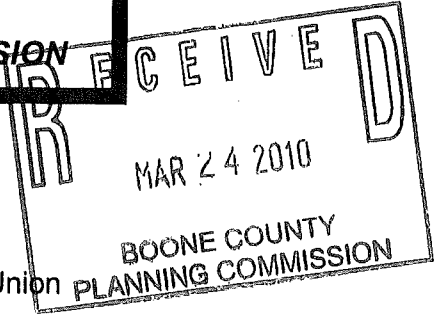


APPLICATION FORM

\$782.00

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone Florence Walton X Union
2. (Check One) Conditional Use Permit X Variance Appeal
3. Applicant's Name Florence Christian Church - Julie Linville
4. Description of Request: Occupy space on Church and Child Care until Property is vacated/developed
5. Name of Development Harmony Place Christian Church
6. Location of Development 9779 Old Union Rd.
7. Acreage Under Review Approx 27.7
8. Lot Number and Name of Subdivision
9. Owner of Property TIMBERLAKE FAMILY LTD PARTNERSHIP SOLE OWNER AFFINITY OF UNION LLC
10. Address of Property Owner 495 ERLANGER ROAD SUITE 202 Phone No. 859 727 4717
11. Proposed Use(s) on Site Church & Men's Fcrl Child Care
12. Total Square Footage of Existing and/or Proposed Buildings 8,000 +/- Sq. Ft.
13. Current Zoning on Property RSE LUD
14. Deed Book 950, 950 Page No. 213, 217 Group No. 2047
15. Is the site subject to a zone change? NO
16. Have you submitted a Site Plan with this request? Yes
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.

ORIGINAL Property Owner's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**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 3/24/10 Fee Received \$ 4782<sup>00</sup> R # 60380
2. Is application complete?  Yes  No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
 Approved  
 4/19/10 Approved with Conditions (See #6)  
 Denial (See #7)
6. Conditions of Approval: SEE 4/19/10 UBOA meeting  
MINUTES + C.L.U.R.
7. Reasons for Denial: \_\_\_\_\_

**Boone County Planning Commission  
Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, Kentucky 41005  
(859) 334-2196 - Phone  
(859) 334-2264 - Fax  
plancom@boonecountyky.org - E-mail  
[www.boonecountyky.org](http://www.boonecountyky.org) - Web Page**

**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: Florence Christian Church

LOCATION: 9779 Old Union Road, Union, Kentucky

ZONING: Rural Suburban Estates/Union Town Overlay (RSE/UTO)

DATE: April 19, 2010

### Proposal

The applicant is requesting a modification to a Conditional Use Permit that was approved by the Union Board of Adjustment on May 22, 2007. The request would allow the church and Monday to Friday daycare to continue to operate on the property until such time that the building and parking lot are demolished.

### Site History

12/17/03 – The Boone County Planning Commission approves a 772-unit residential development (Harmony Subdivision) under the Union Town Plan's short review process. The overall development is located on approximately 140 acres of land. The church and day care site (former Kospers House) is located in area which is planned for apartment buildings (see attachments).

01/24/06 – The Union Board of Adjustment approves a Conditional Use Permit and a Variance. The Conditional Use Permit application allows an existing single-family residence to be converted into a church (80 people at Sunday Worship), a Monday to Friday day care (up to 20 children), and 25 parking stalls to be constructed on the property. The Variance reduces the 500-foot road frontage requirement to allow two curb cuts on Old Union Road.

The following conditions were imposed on the approval:

- (1) The Conditional Use Permit is effective until September 30, 2007;
- (2) The day care can be operated Monday through Friday from 9:00 AM to 4:00 PM; and
- (3) There are to be no activities on the site after 9:30 PM.

04/03/06 – The Boone County Planning Commission approves a Major Site Plan allowing the driveway to be expanded to 20 feet in width and 25 parking spaces to be constructed.

05/22/07 – The Union Board of Adjustment approves a Conditional Use Permit request to allow the following: (1) Extend the time limit that the church and day care can operate on the property from September 2007 to December 2008; (2) Increase the number of children that the Monday to Friday day care can care for at any given time from 20 to 49; and (3) Extend the hours of operation of the Monday to Friday day care from 9:00 AM through 4:00 PM to 6:30 AM through 6:00 PM. No conditions were imposed on the approval.

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to grant conditional use permits as specified in the zoning order, with such additional safeguards as will uphold the intent of the order.

The Board should evaluate the applicant's Conditional Use Permit request as it relates to the criteria necessary for granting a Conditional Use Permit as stated in Sections 262 and 913 of the Boone County Zoning Regulations.

Findings listed in Section 262 (Findings for all Conditional Uses):

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's 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 not 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 such services;
5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
6. Will not 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, dust, fumes, glare, or odors;
7. Will have vehicular approaches to the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 9, Section 913 of the Boone County Zoning Regulations allows churches as a conditional use in the RSE district if the proposed facility the following requirements:

- a. the activity is an integral and subordinate function of a permitted agricultural, recreational, or residential use; or
- b. the activity will not contradict the semi-suburban, open space character of the district;
- c. require or contribute to infrastructure need above that common of the district's permitted uses;
- d. is of direct relation to and in support of the purpose of the district; and
- e. the arrangement of uses, buildings, or structures will be compatible with the organization of permitted and accessory uses to be protected in the district.

Article 40, Section 4000 of the Boone County Zoning Regulations defines a church as a facility used primarily for religious worship services of an assembly nature that may secondarily provide social or community services such as counseling, child care, senior services, and educational programs. For the purposes of this order, synagogues, temples, and other places of religious assembly for worship, regardless of the terminology used by a specific faith or denomination, are considered churches pursuant to this definition. A facility which is generally used for purposes other than religious worship services may be classified as a church if religious services are conducted within it in a frequency and/or intensity greater than other, non-religious assemblies that are permitted in the same district as accessory uses.

#### Relationship to the Comprehensive Plan

The 2000 Boone County Comprehensive Plan's "2030 Future Land Use Plan" designates the site for "Rural Lands", "Rural Density Residential", and "High Suburban Density Residential" uses. These designations are described as follows:

Rural Lands (RL) – "Wooded, agricultural, recreational, or low density residential uses of up to one dwelling unit per two acres for the 25-year land use plan. Residential construction in Rural Lands does not occur in a formal subdivision."

Rural Density Residential (RD) – "Low density residential uses of up to one dwelling unit per acre."

High Suburban Density Residential (HSD) – "single-family and/or attached housing of up to 8 dwelling units per acre. This classification is typified by townhouse, condominium, and zero-lot line development, and also pertains to existing mobile home parks."

The Land Use Element (Union Area, pg. 146) states that this section of Boone County contains the City of Union and a substantial portion of Hathaway Road and U.S. 42. In general, this section should experience considerable residential growth due to Union's current residential nature, growth associated with the City of Florence, and improvements to U.S. 42. For these reasons, the 2000 Union Town Plan was prepared by the Boone County Planning Commission, City of Union, and Boone County Fiscal Court. The plan's recommendations are shown in the 2030 Future Land Use Map and also affect the Boone County Zoning Regulations.

#### Relationship to the Union Town Plan

The text of the Union Town Plan ("Relationship to the Boone County Comprehensive Plan," pg. 2) states that it was "drafted to help further define the Comprehensive Plan for this important Study Area. It does not replace the Comprehensive Plan, but is designed to be a furtherance of the Comprehensive Plan's recommendations."

The 2000 Union Town Plan is "based on the establishment of a formal Town Center, and contains incentives to developers and property owners to develop in a well designed manner that creates a distinct character for Union, and combats certain characteristic features of suburban sprawl (pg. 4)."

The 2000 Union Town Land Use Plan Map (see attachments) designates the site for two different land uses. Approximately half of the site (Old Union Road side) is designated for single-family detached uses at a density of 1 dwelling unit per acre and the other half of the site (U.S. 42 side) is designated for town homes at a density of 6 dwelling units per acre.

Surrounding Land Uses and Zoning

North: Union Emergency Services and Undeveloped Property Owned by Florence Christian Church (RSE/UTO)

South: Undeveloped Property (UTC)

East U.S. 42 & Harmony Subdivision (RSE/UTO)

West: Old Union Road & Westbrook Estates Subdivision (A-2/UTO)

Site Characteristics

The approximate 27.7 acre site is comprised of two lots of record. The first lot is an approximate 6.286 acre flag lot which contains an approximate 8,000 square foot church and daycare with 25 parking spaces (former Kospers house). The flag lot panhandle is not being utilized for access. The second lot is approximately 21.47 acres in area and contains a barn. The lot has an approximate 1,400 foot blacktop driveway which runs between the church and Old Union Road. The topography of the lots range from 890' above sea level near U.S. 42 to 820' above sea level at the Old Union Road right-of-way. The church and day care are currently using a septic system.

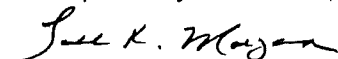
Staff Comments

1. On July 25, 2008, the Boone County Planning Commission approved a Major Site Plan application allowing Florence Christian Church to construct a permanent facility at the corner of US 42 and Sweet Harmony Lane. To date, this facility has not been constructed. The applicant made Staff aware that the church was not constructed due to the state of the economy and housing market.
2. Staff would like the applicant to explain if they have any plans of constructing the permanent facility anytime in the near future.
3. Staff recommends the following conditions if the request is approved:
  - A. The Monday to Friday daycare can care for up to 49 children at any given time.
  - B. The Monday to Friday day care can operate from 6:30 AM through 6:00 PM.
  - C. There shall be no church activities on the site after 9:30 PM.

Conclusion

KRS 100.237 and Sections 220 of the Boone County Zoning Regulations gives the Union Board of Adjustment and Zoning Appeals the authority to grant the Applicant's request.

Respectfully submitted,



Todd K. Morgan, AICP  
Senior Planner, Zoning Services

TKM/pr

Attachments

- \*Site Vicinity Map
- \*2007 Aerial Map
- \*Zoning Map
- \*Future Land Use Map
- \*2000 Union Town Plan Map
- \*Harmony Subdivision (12/17/03-Preliminary Plan)
- \*04/03/06 Site Plan
- \*05/22/07 UBOA Meeting Minutes
- \*Application

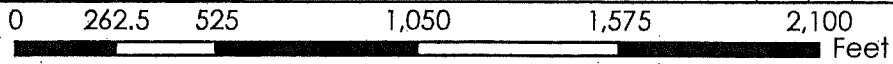
# SITE VICINITY MAP

www.boonecountygis.com



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**Boone County GIS - Putting Northern Kentucky on the Map**



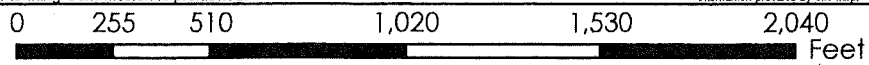
# 2007 AERIAL MAP

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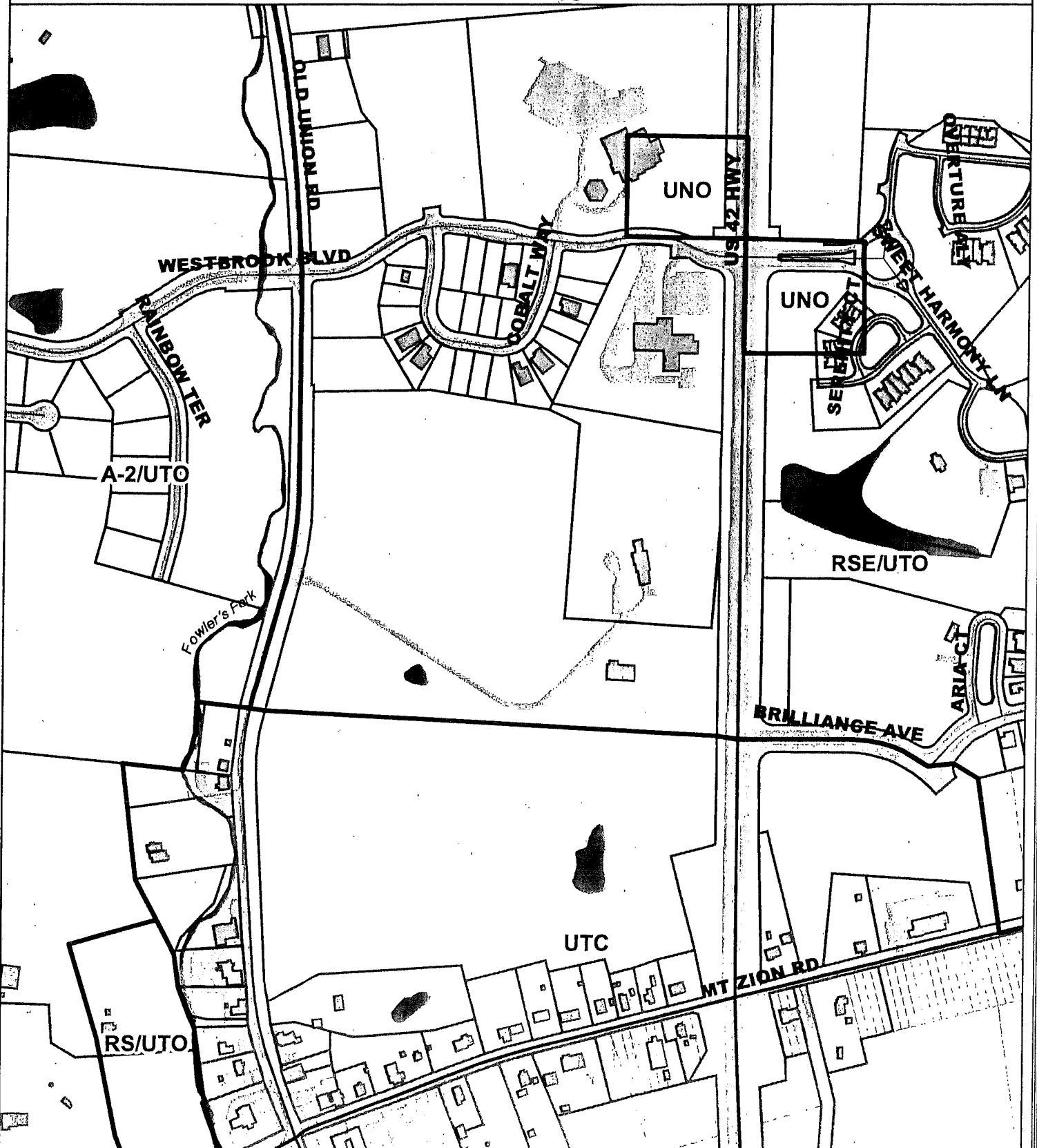
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**Boone County GIS - Putting Northern Kentucky on the Map**

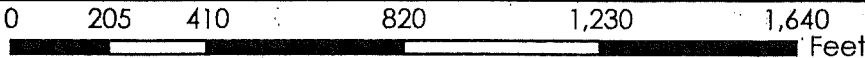
# ZONING MAP

www.boonecountygis.com



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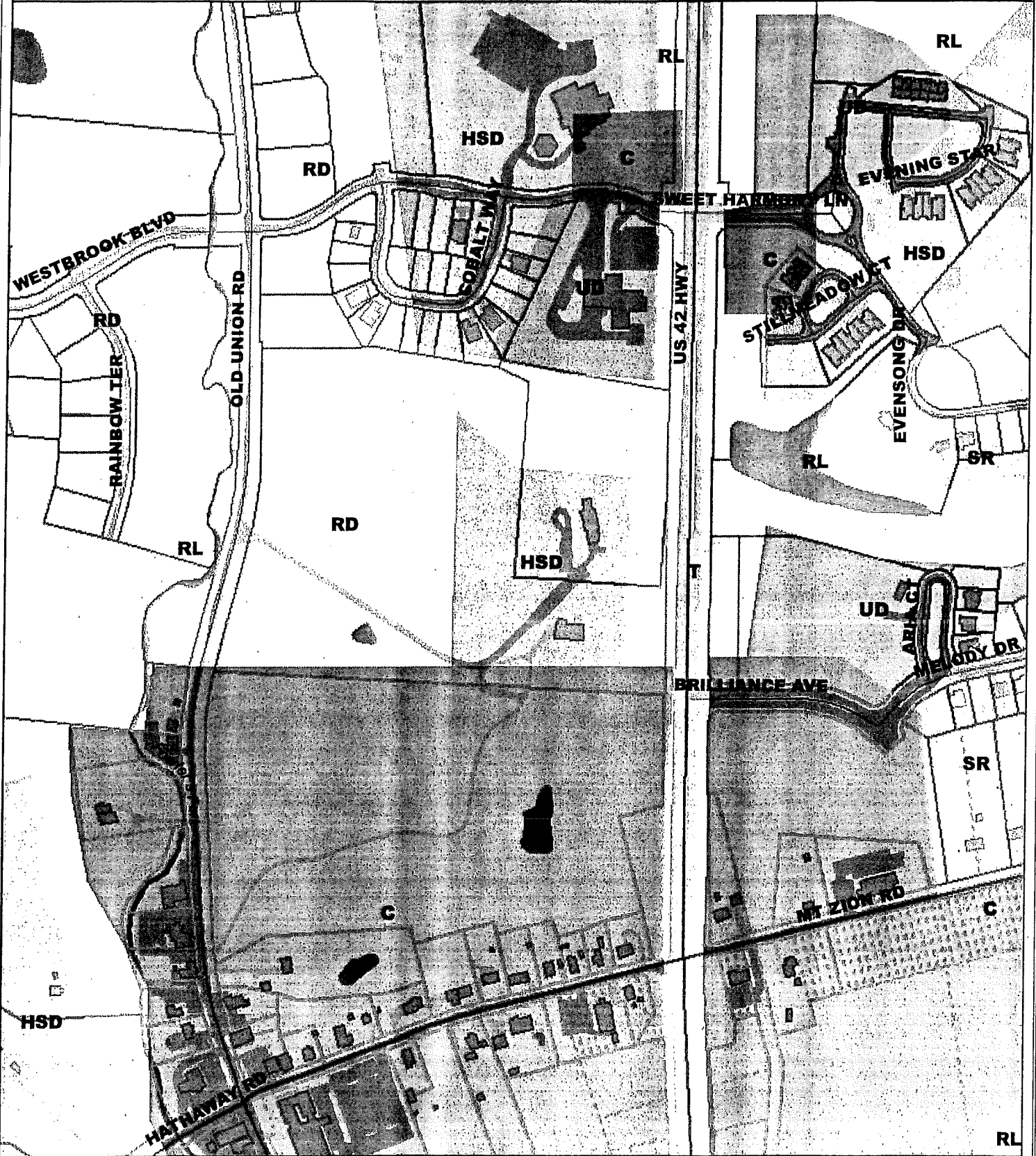


**Boone County GIS - Putting Northern Kentucky on the Map**



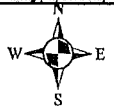
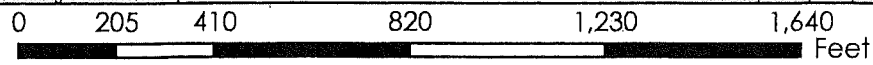
# FUTURE LAND USE MAP

www.boonecountygis.com



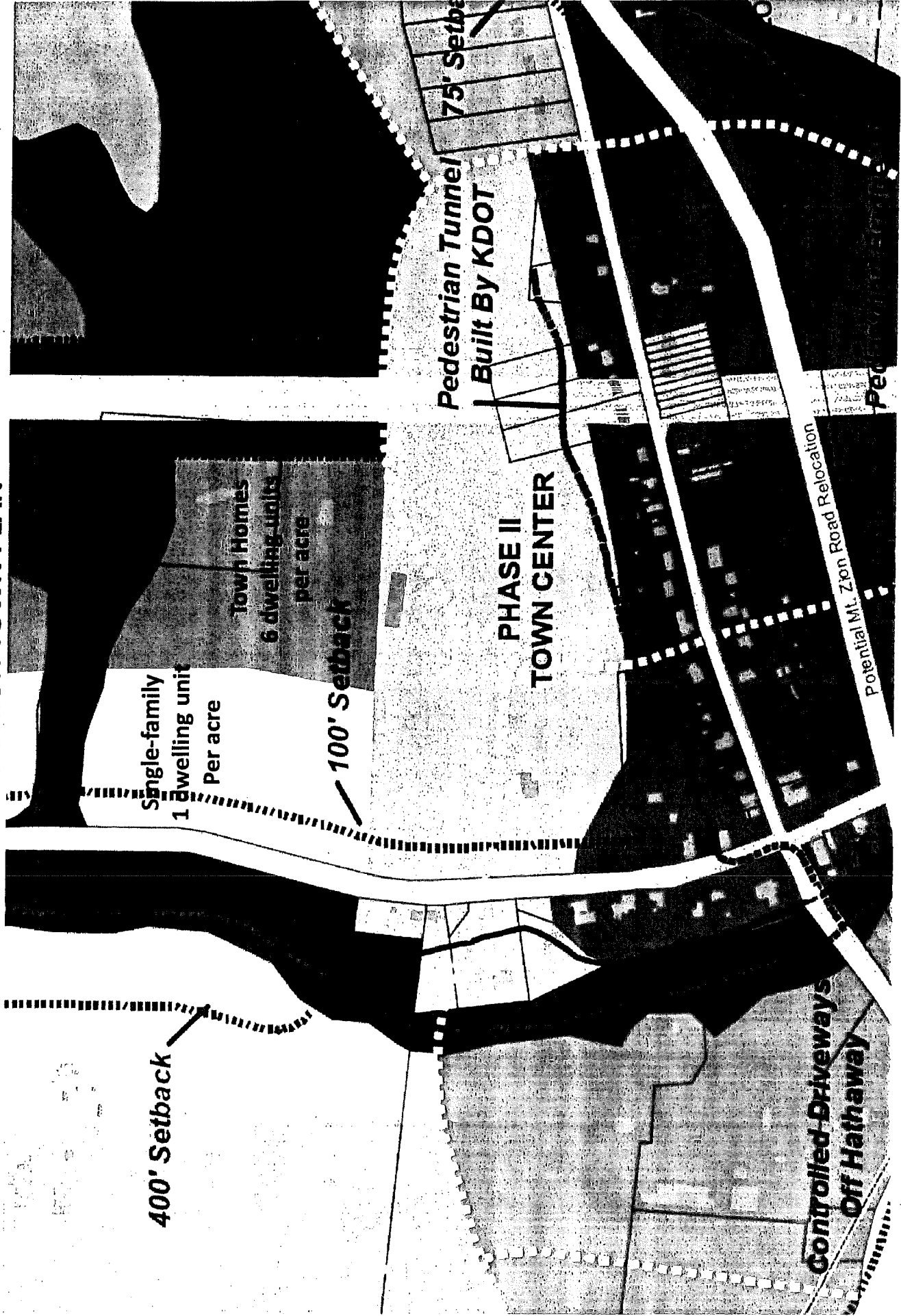
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**Boone County GIS - Putting Northern Kentucky on the Map**

**2000 UNION TOWN PLAN**



Single-family Dwelling unit Per acre

Town Homes 6 dwelling units per acre

100' Setback

Pedestrian Tunnel Built By KDOT

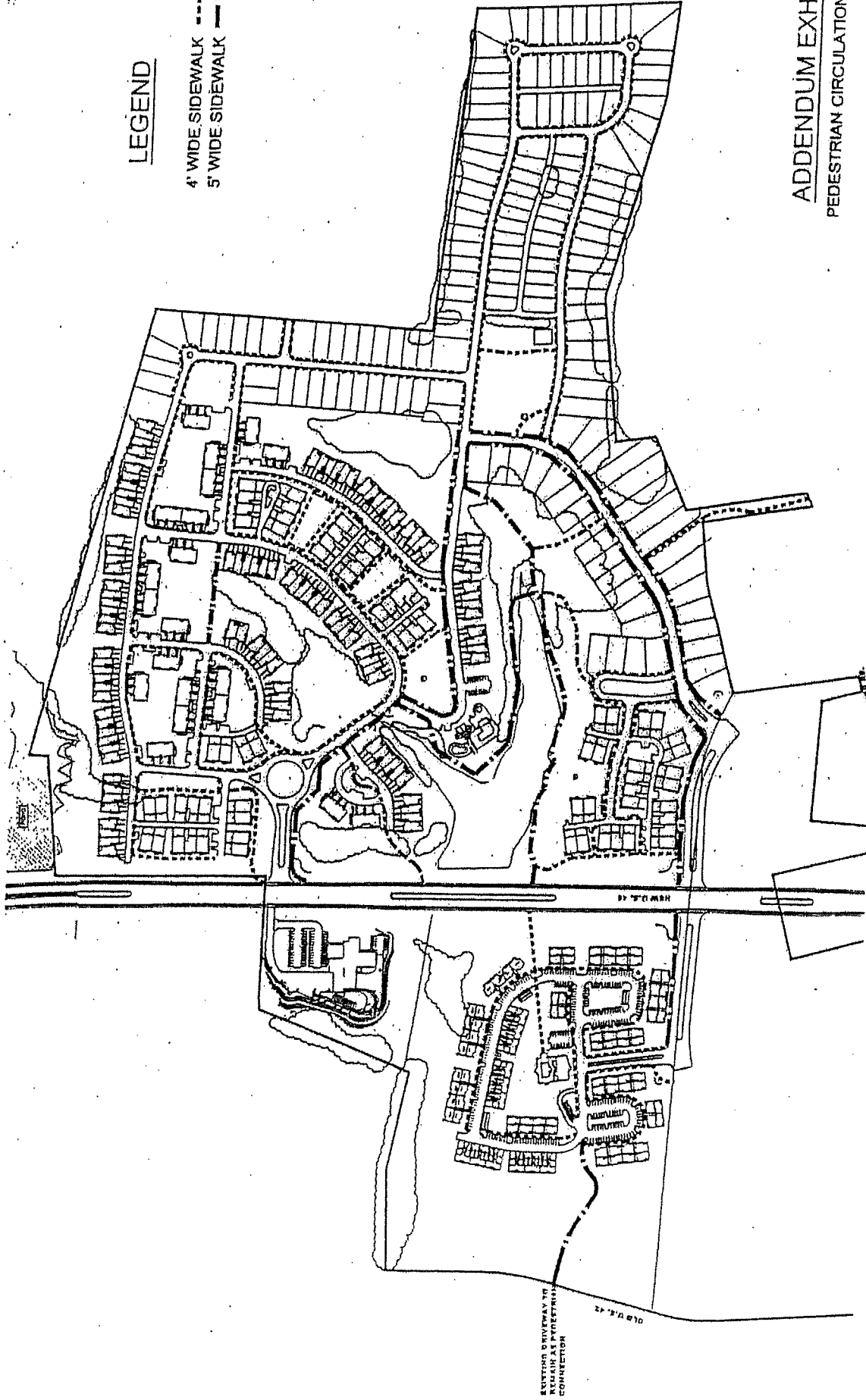
PHASE II TOWN CENTER

Controlled Driveways Off Hathaway

Potential Mt. Zion Road Relocation

75' Setback

# 12/17/03 CONCEPTUAL PLAN FOR HARMONY SUBDIVISION



## LEGEND

- 4' WIDE SIDEWALK - - - - -
- 5' WIDE SIDEWALK - - - - -

ADDENDUM EXHIE  
PEDESTRIAN CIRCULATION S

**Drees**  
HOMES

HARMONY PLAN BOOK

Add



**UNION BOARD OF ADJUSTMENT  
SPECIAL BUSINESS MEETING  
UNION CITY BUILDING  
Union, Kentucky  
May 22, 2007  
6:30 P.M.**

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**BOARD MEMBERS PRESENT:**

Mr. Terrill Kidwell, Chair  
Ms. Sharon Bellan  
Mr. Andy Rosen

All members were present

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

Chairman Kidwell called the meeting to order at 6:32 PM.

**Approval of the Minutes:**

Chairman Kidwell stated that the Board members received copies of the Minutes of the Union Board of Adjustment Meeting of November 14, 2006. He asked if there were any comments or corrections. There being no changes to the Minutes, Mr. Rosen moved that they be approved as mailed. Mrs. Bellan seconded the motion and it carried unanimously.

**Agenda Item:**

1. The request of Florence Christian Church for a Conditional Use Permit to allow the following modifications to their February 21, 2006 Conditional Use Permit approval: (A) Extend the time limit that the church and daycare can operate on the property from September 2007 to December 2008; (B) Increase the number of children that the Monday-Friday daycare can care for at any given time from 20 to 49; and (C) Extend the hours of operation for the daycare from 9:00 AM through 4:00 PM to 6:30 AM through 6:00 PM. The site is located at 9779 Old Union Road, Union, Kentucky. The property is currently zoned rural suburban Estates/Union Town Overlay (RSE/UTO).

Staff Member Todd Morgan, AICP, presented the Staff Report which included a Power Point presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Bob Smith with Florence Christian Church stated that the play area is adequate. The outside play times for the children will be staggered for the two-, three- and four-year olds.

Reverend Jerry Zehr, co-pastor of Florence Christian Church, stated that the McKnight group has done other churches in the area and has a good reputation. In response to Staff Comment #3, he stated that the McKnight Group has a design that the church will approve and, hopefully, they will work on it through the summer. He stated that they are constantly turning people away from their main daycare facility in Florence because they do not have space for them there. They want to be able to expand this facility to accommodate them here. He stated that there are people in Union who drive their children to the Florence facility.

Chairman Kidwell questioned the age limit. Mr. Smith responded that they take children up to Kindergarten age.

Mr. Morgan indicated on the Power Point slide the two lots the church owns that will be used for their permanent facility. He stated that they will come back to the Board in the next few months with a request for the permanent facility.

Mr. Rosen questioned the number of accidents that have occurred on Old Union Road within 500 feet of the driveway. Rev. Zehr responded that he is not aware of any accidents there. Mr. Morgan stated that he is also not aware of any problems in that location. He stated that he has visited the site and there is good sight distance from the driveway. He stated that the concern with the first request was that the driveway was not 20 feet wide and did not allow for two-way traffic, but that concern has been addressed.

Mrs. Bellan stated that there is a sign on the property that they will be starting 9:30 AM worship services – but she thought they were already having those services. Mr. Smith stated that the 9:30 AM services started last fall. He stated that the current sign should be taken down, but they are waiting for a determination on the proposed modifications to the Conditional Use Permit before they change the sign.

Mrs. Bellan questioned the attendance on Sunday. Mr. Smith responded that there are about 50 to 70 people there on Sunday. Rev. Zehr stated that the building only holds 80 people.

Mr. Rosen questioned the approximate opening date of Westbrook Estates and where the entrance will be located. Mr. Morgan responded that their Improvement Plan has been approved and they can start final platting. They will need to do

extensive grading and there will be a bridge, which involves the Division of Water. He believes they will start building before fall. He stated that Westbrook Estates entrance will be in close proximity to the existing bridge. Mr. Rosen questioned the distance from their access to the access to the daycare facility. Mr. Smith responded that the distance is approximately 800 feet. Mr. Morgan agreed.

Rev. Zehr stated that they are asking for the permit to be good until December 2008, but they hope to be in the new campus by August or September 2008.

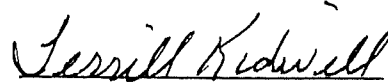
Chairman Kidwell noted that there was no one else present in the audience.

In response to a question from the Chairman, Mr. Morgan stated that Condition #2 of the previous approval was that there are to be no activities on the site after 9:30 PM. The applicant did not request modification of that condition and it stays the same.


There being no further discussion, Mrs. Bellan moved to approve the following modifications to the existing Conditional Use Permit: (1) the time limit that the church and daycare can operate on the property is extended through December 2008, (2) the number of children that the Monday-Friday daycare can care for at any given time is increased to 49; and (3) the hours of operation for the daycare are extended to 6:30 AM through 6:00 PM. Mr. Rosen seconded the motion and it carried unanimously.

There being no further business to come before the Board, Mrs. Bellan moved to adjourn. Mr. Rosen seconded the motion. The meeting was adjourned by unanimous consent at 6:55 PM.

APPROVED:

  
Terrill Kidwell, Chairman

Attest:

  
Jan Hancock, Recording Secretary

APPLICATION FORM

\$782.00

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED MAR 24 2010 BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone Florence Walton X Union
2. (Check One) X Conditional Use Permit Variance Appeal
3. Applicant's Name Florence Christian Church - Julie Linville
4. Description of Request: Occupy space on Church and Child Care
5. Name of Development: Harmony Place Christian Church
6. Location of Development: 9779 Old Union Rd.
7. Acreage Under Review: Approx 2.77
8. Lot Number and Name of Subdivision
9. Owner of Property: TIMBELACK FAMILY LTD PARTNERSHIP SOLE OWNER AFFILIATE OF UNION LLC
10. Proposed Use(s) on Site: Church & Men-Fer Child Care
11. Total Square Footage of Existing and/or Proposed Buildings: 9,000 +/- Sq. Ft.
12. Current Zoning on Property: RSE1 LTD
13. Deed Book: 950, 950 Page No. 212, 217 Group No. 2047
14. Is the site subject to a zone change? NO
15. Have you submitted a Site Plan with this request? Yes
16. Have you submitted a list of adjoining property owners with this request?
17. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CLUR #10-UBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Timberlake Family Ltd. Partnership/Affinity of Union, LLC  
495 Erlanger Road, Suite 202  
Erlanger, KY 41018
  
2. ADDRESS OF PROPERTY  
9779 Old Union Road  
Union, KY 41091
  
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Harmony Place Christian Church
  
4. DEED BOOK 950      PAGE NOS. 213 & 217      GROUP NO. 2047
  
5. TYPE OF RESTRICTION(S) (Check all that apply)  
 Zoning Map Amendment:  
From  To  Conditional Use Permit  
 Development Plan       Conditional Zoning  
 Subdivision Plat  
(Not Recorded)       Other:  
 Variance
  
6. 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  
2950 WASHINGTON STREET, ROOM 317  
P.O. BOX 958  
BURLINGTON, KENTUCKY 41005

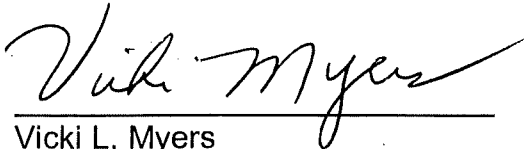
Todd K. Morgan  
SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Senior Planner, Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

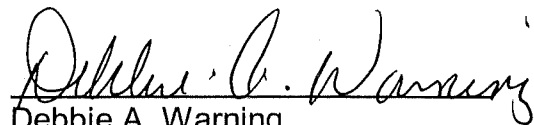
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 4 day of May, 2010.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2011

This instrument was prepared for recording purposes only by:



Debbie A. Warning  
Boone County Planning Commission  
2950 Washington Street, Room 317  
P.O. Box 958  
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 Union Board of Adjustments and in accordance with the current zoning in effect as of April 19, 2010 Certificate of Land Use Restriction (#10-UBOA-001-A), for Timberlake Family Ltd. Partnership/Affinity of Union, LLC, Property Owner(s).

The following conditions will apply:

- 1) The church and day care use can continue on the property until such time that Florence Christian Church vacates the premises.
- 2) The Monday to Friday day care can care for up to 49 children at any given time.
- 3) The Monday to Friday day care can operate from 6:30 A.M. through 6:00 P.M.
- 4) There shall be no church activities on the site after 9:30 P.M.

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

DEED BOOK 950

PAGE NOS. 213 & 217

GROUP NO. 2047