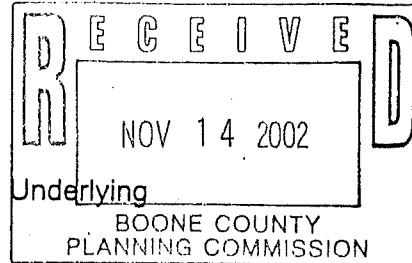


APPLICATION FORM

CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION



(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check One:

- Concept Development Plan (Includes Utilization of an Underlying Zone in a Planned Development)
- Change in an Approved Concept Development Plan
- Long Range Planning Committee Review (As stated in the Houston-Donaldson Study)
- Long Range Planning Committee Review (As stated in the Union Town Plan)

- 2. Name of Project Burlington Retail, LLC - The Shoppes at Burlington
- 3. Location of Project Patrick Drive
- 4. Total Acreage of Site 1.237 Acres
- 5. Current Zoning C-4-AD
- 6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) 9/18/1996
- 7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) NO
- 8. Proposed Uses (please specify each use) C-4-AD
- 9. Proposed Building Intensities (please specify) MAXIMUM ALLOWED IN C-4 IS 16,090 SQUARE FEET
- 10. Have you submitted a Concept Development Plan? Y
- 11. Are you also applying for:
 - NO Conditional Use Permit
 - NO Dimensional Variance
- 12. Name of Applicant(s) Douglas L. King
- Phone Number 513-232-2233 Fax No. 513-624-2634
- 13. Address of Applicant(s) 7346 Beechmont Ave
- Clark OH. 45230
- City State Zip
- 14. Name of Property Owner(s) Burlington Retail, LLC
- Phone Number 513-232-2233 Fax No. 513-624-2634
- 15. Address of Property Owner(s) 7346 Beechmont Ave
- Clark OH. 45230
- City State Zip
- 16. Are there any existing buildings on the site? NO
- How many? NA
- 17. Deed Book 790 Page No. 170 Group No. 2031
- 18. Have you had a pre-application meeting with BCPC Staff? YES

EXHIBIT

“A”

STAFF REPORT

Request of Douglas L. King (applicant) for Burlington Retail, LLC (owner) for a Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract located on south side of Patrick Drive, between the Patrick Drive/McGrath Drive intersection and the building located at 1793 Patrick Drive, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow uses permitted in the C-4 zone in a maximum 16,090 square foot building.

January 15, 2003

REQUEST

This application is for a Zoning Map Amendment to allow the subject property to be developed for commercial purposes with the principally permitted uses within the Commercial Four (C-4) zoning district. The applicant has already submitted a list of uses that would be excluded from the request (see attached). The subject property is currently zoned Suburban Residential Two/Planned Development (SR-2/PD), however, through the 1996 Zoning Map Amendment process this lot was approved conceptually for a TANK "Park and Ride" lot. The Transit Authority of Northern Kentucky (TANK) will be using a portion of the existing parking lot adjacent to the Blockbuster Video strip center (Outlot 1). A letter has been included in this Staff Report from TANK outlining the agreement with Brandicorp.

The applicant is agreeable to the conditions of approval, as they pertain to this parcel, from the 1996 Zoning Map Amendment. Many of these conditions have already been met through the development portion. A copy of these conditions have been attached. The applicant wishes to allow a drive-up window for a possible restaurant use. Since there is no tenant or user at this time, the applicant is basically asking for the possibility of a restaurant user with a drive-up/pick-up window.

All utilities are present on the site and a regional storm water system is present for the development. The location of the regional detention facility is what separates this parcel from the apartments.

The maximum intensity in the Commercial Four (C-4) zone is 13,000 square feet per acre. The required parking is based on use, meaning that a restaurant is required to provide 1 parking space per 2 seats and retail is required to provide 1 parking space per 250 square feet of gross floor area (gfa). Since the exact use/uses is unknown at this time the applicant can only speculate.

SITE HISTORY

In 1996 a Zoning Map Amendment with a Concept Development Plan was approved for the Combs property (Southeast Development applicant) for approximately 55 acres. The Zoning Map Amendment and Concept Development Plan approval permitted 396 apartment units in the SR-2/PD zone and a retail strip shopping center with four (4) outlots for commercial development. A fifth outlot was designated for use as a TANK "Park and Ride" lot and remained within the SR-2/PD zone.

ADJACENT LAND USES AND ZONING

The land uses and zoning adjacent to the subject site include:

- North: Across Patrick Drive - Burger King, Donato's and a Car Wash (under review) zoned Commercial Four/Planned Development (C-4/PD/CD).
- East: Shoppes of Burlington and Blockbuster/Concord Cleaners outlet development zoned Commercial Four/Planned Development (C-4/PD/CD).
- West: Boone County CO+OP property zoned Public Facilities (PF), and the First Church of Christ property zoned Suburban Residential One (SR-1).
- South: Burgundy Hill Apartment development zoned Suburban Residential Two/Planned Development (SR-2/PD/CD).

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The Land Use Element within the 2000 Boone County Comprehensive Plan (page 169 Burlington Area) only refers to this general area by stating:

"This section of Boone County contains Burlington, part of new KY 237, and a significant portion of KY 18. KY 18 and KY 237 are important roads to all of Boone County; the primary function of these roads is to move traffic through the area, with direct access to specific properties being a secondary function. Intersections along KY 18 should continue the existing pattern of spacing of major access points of approximately 600 feet. A parallel roadway network should be developed to provide access to properties fronting on the roadway."

The adopted 2000 Boone County Comprehensive Plan Goals and Objectives include the following pertinent statements:

- A. Proper future growth management for Boone County is implemented ("Overall," Goal).
- B. Boone County shall be viewed as an integral part of the Cincinnati Metropolitan Area ("Overall," Objective 1).
- C. Proper design principles shall be applied in development ("Overall," Objective 3).
- D. Future growth shall be accompanied by adequate infrastructure and services. Existing infrastructure and services shall be maintained or improved as needed ("Overall," Objective 4).
- E. ***A public process of visioning, which shall include the selection of specific areas of Boone County, shall be pursued as a means of recommending a theme or character for future land use planning and development design ("Overall," Objective 5).***
- F. Boone County shall have a sustainable economy that both restores and protects the environment and also brings forth innovation and prosperity with meaningful employment opportunities for all its citizens ("Economy," Goal).
- G. Employment opportunities shall be encouraged for the citizens of Boone County ("Economy," Objective 1).
- H. Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ("Business Activity," Goal).
- I. Compact, efficient development patterns shall be encouraged for business districts (e.g. industrial, commercial and office) with appropriately sized and well maintained buffer spaces between the business use and other land usage ("Business Activity," Objective).
- J. Effective site placement, architectural design and landscape design for industrial uses shall enable a favorable relationship with adjoining uses. Industrial nuisances such as smoke, dust, noise and odor shall be kept at a minimum, and site development and enforcement shall be carefully coordinated with necessary approvals or other regulatory agencies ("Business Activity," Industrial Objective 2).

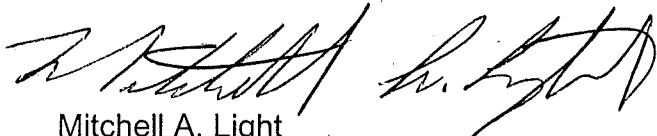
STAFF COMMENTS

1. This site is currently zoned Suburban Residential Two/Planned Development (SR-2/PD). The only use approved for this site is a TANK "Park and Ride" lot. Now that TANK no longer needs this specific lot, the Planning Commission and Boone County Fiscal Court must determine what, if anything, is acceptable for this site.
2. Staff has attached to this report, a copy of the standards set forth in Section 1514 "Planned Development Standards" of the Boone County Zoning Regulations. Concept Development Plan proposals in Planned Developments are to be primarily evaluated against these criteria.

CONCLUSION

The Boone County Planning Commission and the Boone County Fiscal Court must review this request on the basis of its relationship to the Comprehensive Plan and in terms of the three (3) criteria necessary for a Zoning Map Amendment and in terms of the Planned Development requirements stated in Article 15 of the Boone County Zoning Regulations, the appropriate planning documents noted herein, and the potential impacts on the existing and planned uses in the area. The Future Land Use Map will not need to be amended if this request is approved.

Respectfully submitted,

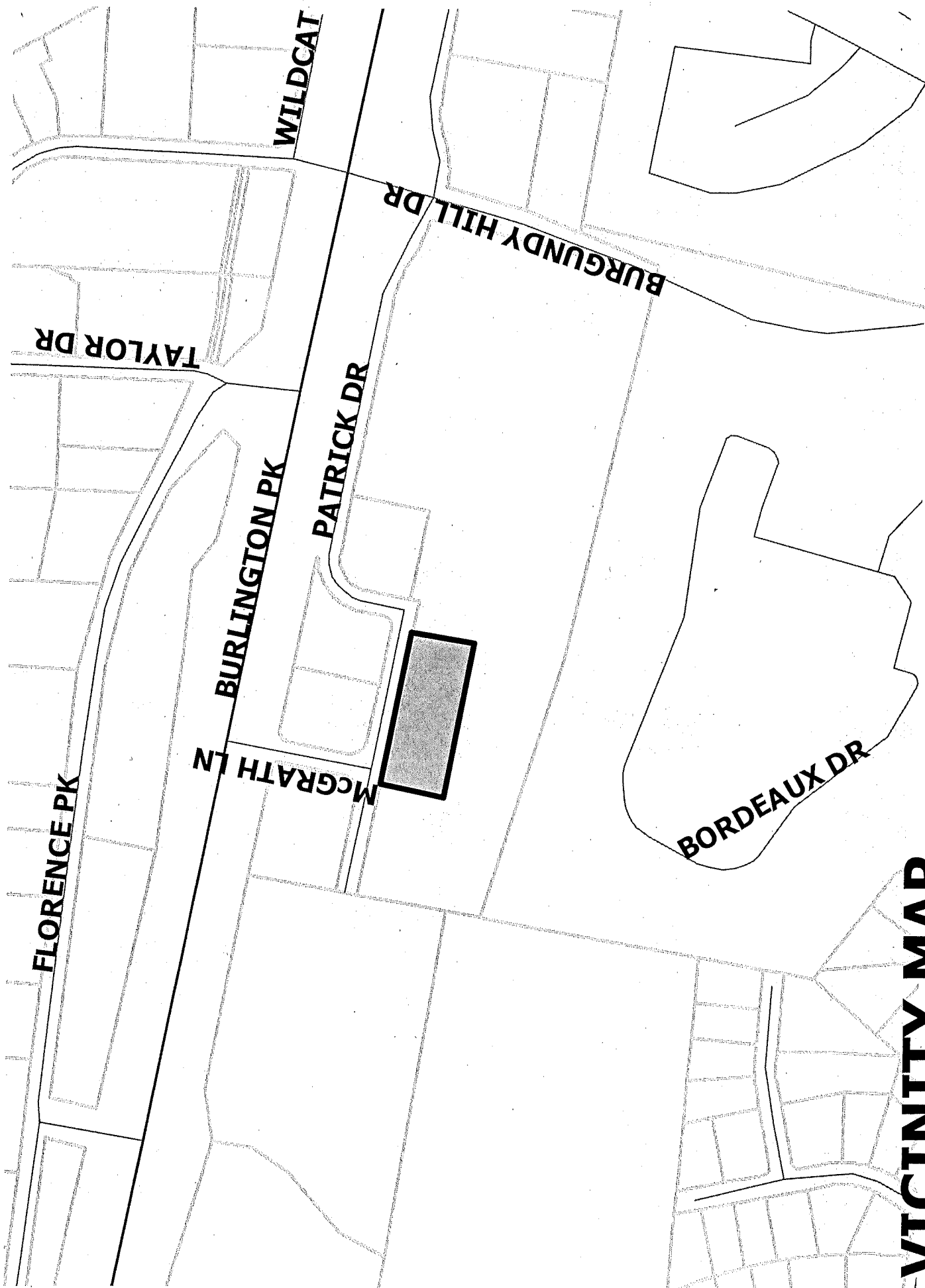


Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

MAL\pr

Attachments:

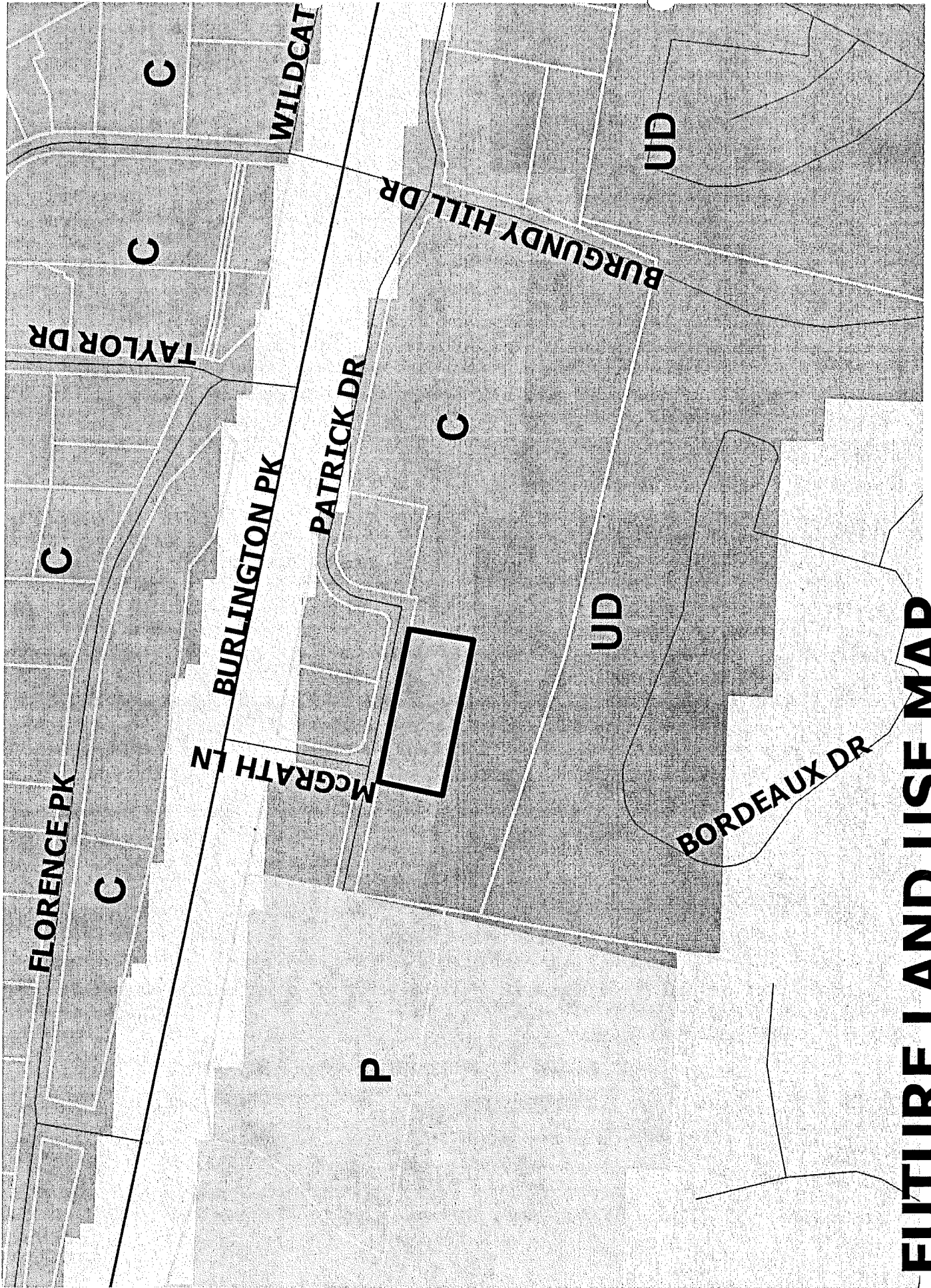
- Vicinity Map
- Zoning Map
- Future Land Use Map
- Topography & Drainage
- 2002 Aerial Photography
- Concept Development Plan
- Request
- TANK Letter
- 1996 Conditions of Approval
- Commercial Four (C-4) Uses
- Planned Development Standards
- Application



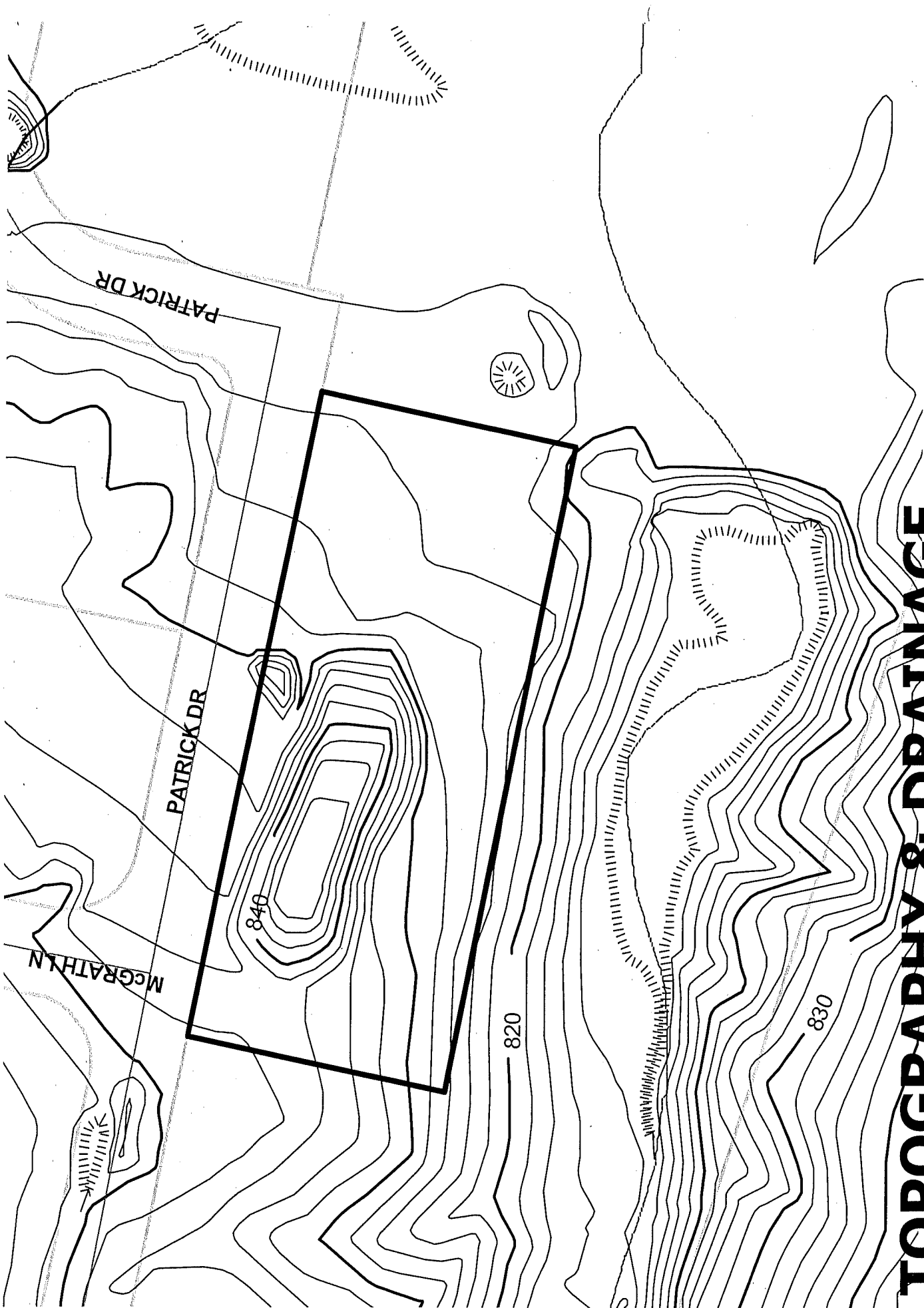
VICINITY MAP



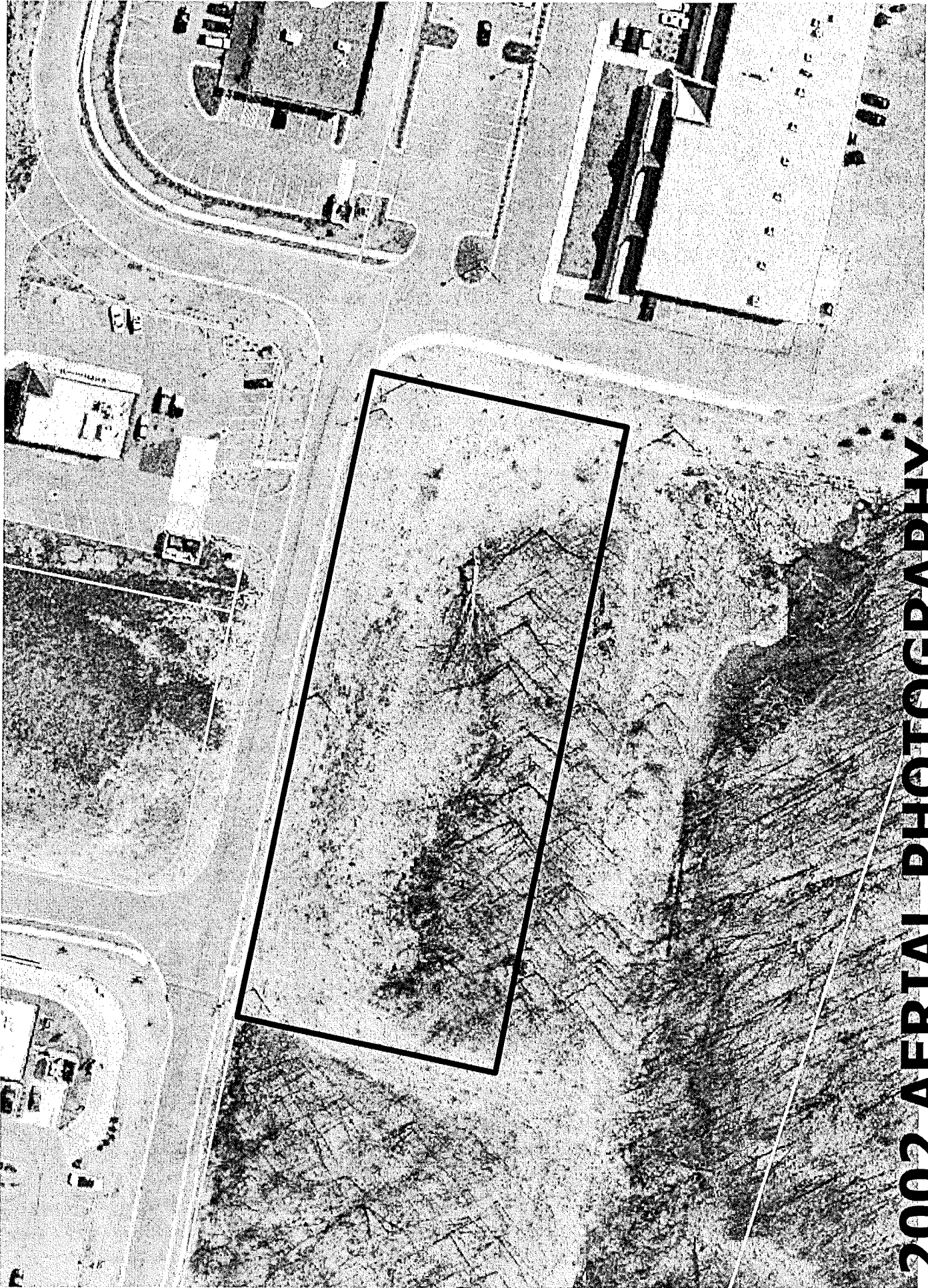
ZONING MAP



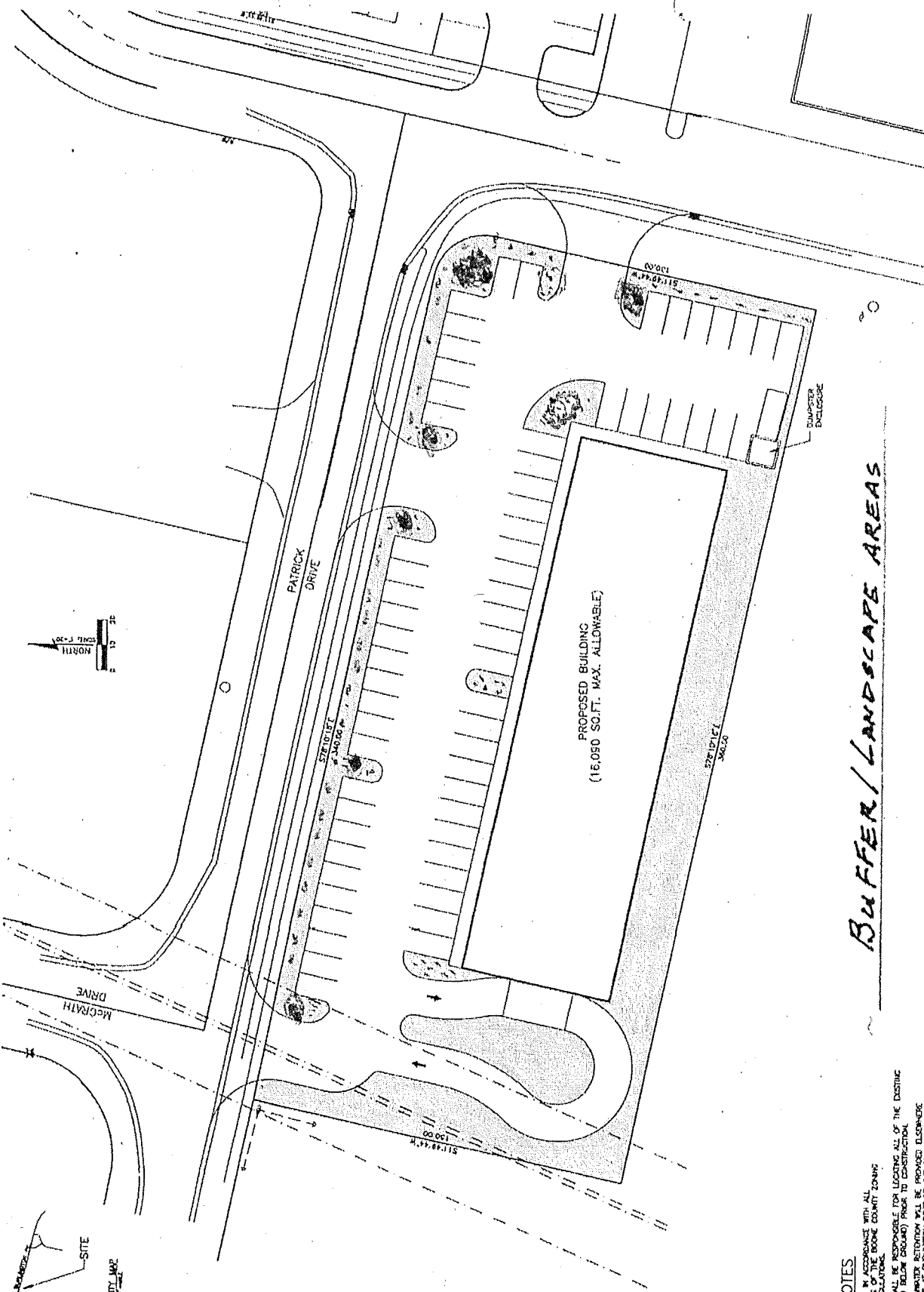
FUTURE LAND USE MAP



TOPOGRAPHY & DRAINAGE



2002 AERIAL PHOTOGRAPHY



BUFFER / LANDSCAPE AREAS

NOTES

- 1) ALL WORK SHALL BE IN ACCORDANCE WITH ALL APPLICABLE SECTIONS OF THE BOONE COUNTY ZONING AND SUBDIVISION REGULATIONS.
- 2) THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING ALL OF THE DISTINGUISHED MARKERS AND BEING RESPONSIBLE FOR THE PROTECTION OF ALL MARKERS FROM CONSTRUCTION.
- 3) ALL SETBACKS AND BUFFER AREAS SHOWN AS FOR THE PURPOSES OF REGULATIONS SHALL BE PROVIDED AS SHOWN UNLESS OTHERWISE NOTED.
- 4) THE CURRENT ZONING OF THE PROPERTY IS "PUD (C) (COMMERCIAL PLANNED DEVELOPMENT OVER RESIDENTIAL)".

CONCEPT DEVELOPMENT PLAN

NO.	REVISION	DATE	BY	CHK.

BURLINGTON RETAIL, LLC
7346 BEECHMONT AVE.
CINCINNATI OH. 45230
(513) 232-2233 FAX(624-2834)

November 12, 2002

Mr. Mitchell A. Light
Asst. Zoning Administrator
Boone County Planning Commission
2995 Washington Street
Burlington KY 41005

Re: Zoning Map Amendment -Out lot 5, Shoppes Of Burlington

Dear Mitch;

Per our previous conversations, we are submitting an application for a Zoning Map Amendment" for the parcel known as Out Lot 5 of the Shoppes Of Burlington.

We wish to modify or change certain Conditions contained in the Boone County Planning Commission's Zone Committee Change Report of September 18, 1996.

The Committee approved "Recommended Conditions of Approval for Zoning Map Amendment Application" ,(which had been submitted by Southeast Development Corp. the previous owner of the property).

Paragraph 5 of the report contains a condition that a parcel (Out Lot 5) be reserved for a TANK Park & Ride Lot , with a maximum capacity of 50 cars.

We have been working successfully with TANK to provide them with a better located parking arrangement, and 52 parking spaces. The attached letter confirms their satisfaction with the proposed arrangement and their opinion that it fulfills the obligation to them as set forth in Paragraph 5 of the committee's report/ Zoning Map Amendment.

Since Out lot 5 would no longer be held for a Park and Ride facility, we would also like to include in the Concept Change, approval for a "fast food restaurant with drive through service" for this parcel.

Enclosed for your review are the following related documents:

- Letter from Mark Donaghy of Tank requesting approval of the change.
- Concept Development Plan (Change)Application
- Concept Development Plan reflecting potential use of Outlot 5 (5 sealed copies and one reduction)

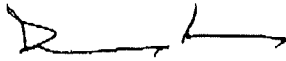
BURLINGTON RETAIL, LLC
7346 BEECHMONT AVE.
CINCINNATI OH. 45230
(513) 232-2233 FAX(624-2634)

- Plan of the existing center showing proposed Tank parking and shelter,(minor site plan)
- Legal description of the effected parcel (Out lot 5)
- A check in the amount of \$1,357.38
- List of the adjacent property owners
- Letter agreement from The Boone County Planning Commission to South east Development Corp. outlining conditions of Committee report.

In response to certain questions related to the Zoning Map Amendment, please find attached a memo addressing these required and or optional items and any necessary attachments.

Please let me know if there is any further information necessary to complete this application.

Sincerely



Douglas King
Director Of Development

BURLINGTON RETAIL, LLC
7346 BEECHMONT AVE.
CINCINNATI OH. 45230
(513) 232-2233 FAX(624-2634)

November 12, 2002

Mr. Mitchell A. Light
Asst. Zoning Administrator
Boone County Planning Commission
2995 Washington Street
Burlington KY 41005

Re: Zoning Map Amendment-Out Lot 5 Shoppes Of Burlington:
Excluded uses:

Dear Mitch;


Burlington Retail, LLC has submitted a Zoning Map Amendment application for the above referenced out lot number 5.

The application states that we are requesting approval for all of the approved uses under the "C-4" zoning.

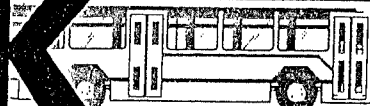
However, at this time we are prepared to exclude certain uses that we have no intention of developing or that are restricted by existing leases.

These uses are: Grocery stores and Supermarkets; Drug Stores; Recreation center, gymnasiums, clubs and similar athletic uses; Video stores; Hotels and motels including convention facilities.

Please let me know if you need any further information.


Doug King
Director Of Development

TANK

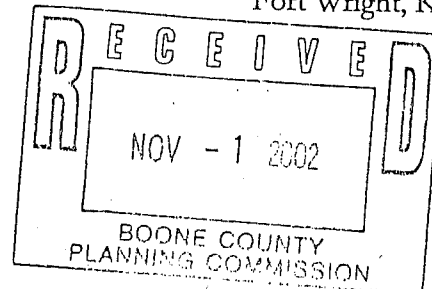


TRANSIT AUTHORITY OF NORTHERN KENTUCKY

3375 Madison Pike
Fort Wright, KY 41017

October 30, 2002

Kevin Wall, Director of Zoning Services
2995 Washington Street
Burlington, KY 41005



Dear Mr. Wall,

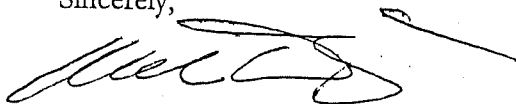
TANK staff and our Board of Directors have reached an agreement with the Burlington Retail Center LLC. to provide a Park and Ride facility with the following amenities at 1751 Patrick Drive:

- 52 marked parking spaces
- Reimbursement to TANK for the installation of up to 8 Park and Ride signs indicating the location of park and ride spaces and hours of use
- Reimbursement to TANK for a bus shelter equivalent to TANK's most recent purchase of shelters in August 2002 (including concrete pad and electricity)
- Use of other spaces on the property for overflow parking without penalty and an agreement to review the number of spaces if the lot is consistently over parked

This arrangement, we believe, satisfies Condition #5 of the Zoning Map Amendment for the said development.

If you need additional information, then feel free to contact me.

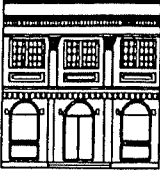
Sincerely,



Mark Donaghy

cc: Doug King, Burlington Retail Center LLC.

BOONE COUNTY PLANNING COMMISSION



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

September 18, 1996

Mr. Steven Poe
Southeast Development Corporation
462 South Fourth Ave
Suite 625, Meidinger Tower
Louisville, KY 40202

RE: Recommended Conditions of Approval for the Zoning Map Amendment Application for the Southeast Development Corporation and Charlene Combs Site.

Dear Mr. Poe:

The following represent potential conditions of approval as agreed by the Boone County Planning Commission's Zone Change Committee. If you, as the applicant will agree to the following conditions, please indicate so by signing at the space provided at the end of this letter and returning it to the Planning Commission office by Tuesday, September 17, 1996.

Conditions of Approval

1. The applicant shall provide an easement from the property line of the First Church of Christ through the applicant's site which shall afford the church the ability to connect with the proposed traffic light at KY 18. The Church shall be responsible for the development and payment of the roadway and shall work out the details of the placement of the easement and the construction of the driveway with the applicant. The driveway should be designed to prevent public use as a cut thru to Camp Ernst Road or KY 18.
2. The applicant shall be required to undergo Design Review for the retail center and outlots during the Site Plan Review procedure. The Planning Commission shall review the development as it relates to the surrounding environment of KY 18 and Burlington. The development should create a unique design to the area, but at the same time be sensitive to the established character of KY 18 and Burlington. A unified design theme shall be incorporated throughout the development for the retail center, outlots and apartments. This design theme will not prohibit corporate identity, but rather enhance any franchise style design, thus creating a design which is unique to this development. Architectural details, roof types, and shapes, scale, landscaping, color and materials, roof equipment screening and quality of design are all elements which shall be reviewed by the Planning Commission during Design Review. The design of the apartments shall be as presented at the Public Hearing.

1966-1996

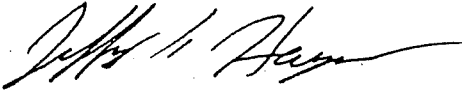
"30 YEARS OF PLANNING THE FUTURE OF BOONE COUNTY"

3. All signage for the site shall be required to undergo Design Review along with the review of the building design. All outlot signs shall be of a monument design with stone, brick or like material for the base. The maximum height of these signs shall be 10 feet from the ground level. The retail center shall be permitted one free-standing sign which shall not exceed forty (40) feet in height and shall be designed with similar materials to that of the center. No support structures shall be uncovered and visible to adjoining properties or public right-of-way.
4. The four outlots will not be permitted to have parking in front of the building facing KY 18. However, driveways shall be permitted in the front of the building. The applicant shall also be held to only developing two of the outlots for fast-food restaurants which shall be defined as a restaurant which has a drive-thru and high customer turn over. Restaurants which have a drive thru, but are more of a family oriented sit down type of restaurant, in which the food is served to the customer at their table, shall not be classified as fast food restaurant.
5. The approximately three acre Open Space area shown on the applicant's Concept Development Plan, shall be set aside for use by TANK in the future. The applicant shall work with TANK to develop a Park & Ride facility as the need and demand develops. The applicant shall develop the facility at their expense, but can develop the Park & Ride facility in two phases. The facility shall be constructed as the need is identified by TANK and shall include a transit shelter if needed by TANK. The maximum size of the park & ride facility required to be developed by the applicant would be 50 parking spaces.
6. The applicant shall provide sidewalks within the development and between the apartments and retail uses. In addition, the applicant shall provide a bicycle path which connects the apartment use to the retail uses from KY 18. Bicycle racks shall also be provided near the retail center.
7. The applicant shall clearly indicate the grading limits on the appropriate subdivision review plan. These grading limits shall be clearly marked in the field and it shall be the responsibility of the applicant to contact the Boone County Planning Commission Staff to review the location of the grading limits before any grading can occur. The undisturbed areas shall remain the same as identified on the submitted Concept Development Plan.
8. The applicant shall provide a detailed lighting plan for the overall development with special emphasis given to the loading dock area of the retail center. The applicant shall provide details of the lighting fixtures which include specification on the power and direction of each light. There shall be no spill over lighting into any of the adjoining residential properties. In addition, the applicant shall provide berming or fencing along the eastern property line which shall be reviewed during Site Plan review to the satisfaction of the Planning Commission. The objective of the berming or fencing shall be to screen the loading dock area of the retail center and the side parking area from the view of the existing apartment development to the east.

Mr. Steven Poe
Southeast Development Corporation
September 18, 1996
Page 3

9. The alignment of the roadway to the apartments and the Pennington property shall be redeveloped so that the roadway continues south to the Pennington property and the apartments access this road at a right angle. This design shall be reviewed during the appropriate development review procedure by the Planning Commission.
10. The applicant shall be required to work with the property owner to the east to create an even alignment of Patrick Drive. This alignment should allow for the stacking of appropriately 5 to 7 automobiles between the traffic light on KY 18 and the intersection of Patrick Drive. If this alignment cannot be secured the applicant shall work with the Boone County Planning Commission to their satisfaction regarding a secondary alignment. In addition, the control of the intersection shall be reviewed to the satisfaction of the Planning Commission during the appropriated development review procedure.

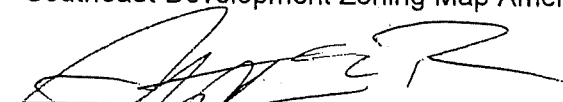

Sincerely,



Jeffrey F. Hayes, AICP
Planner

JFH\par

We, the owner/applicant, agree to the above listed condition for approval of the request for the Southeast Development Zoning Map Amendment.


Steven Poe (Applicant)
Charlene Combs, (Owner)

SECTION 1040

COMMERCIAL FOUR (C-4)

The purpose of the Commercial Four district is to provide locally oriented commercial services, either retail, recreational or office uses, in areas located near or adjacent to interstate highways and arterial roads. These areas are either currently or expected to experience rapid growth due to the population projections and recommended land uses in the Boone County Comprehensive Plan and in other land use studies. Such uses would serve to accommodate the service demands of an expanding local population that normally can't be met because of the limited type and scale of office, recreational or retail use in the immediate area. These types of uses are intended to serve the local population or community rather than regional interests. Such districts shall be located near or adjacent to interstate highways and along arterial roads whereby access and visibility are required to serve local residents. These districts shall be limited in size in order to provide maximum egress and ingress for the local population.

SECTION 1041

Principally Permitted Uses

The following uses are permitted, subject to the minimum and maximum size, standards and intensity provisions of this zoning district:

1. Grocery stores and supermarkets;
2. Convenience stores;
3. Banking services, savings and loan associations, credit unions and other credit services;
4. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
5. Department stores or general merchandise stores;
6. Gasoline filling stations, automotive repair facilities and wash facilities;
7. Eating and drinking establishments including alcoholic beverages;
8. Furniture stores;
9. Hardware stores;
10. Recreation centers, gymnasiums, clubs and similar athletic uses;
11. Medical offices, clinics and laboratory services;
12. Travel agencies;
13. Legal, architectural, engineering, accounting, insurance and real estate services;

14. Photo finishing services;
15. Florists, excluding greenhouses;
16. Shoe repair and dry cleaning services;
17. Nursery and day care centers;
18. Beauty and barber salons;
19. Veterinary services and pet grooming services;
20. Bakery stores;
21. Apparel shops;
22. Drug store;
23. Garden and landscaping sales and supplies including florist greenhouse;
24. Fire stations and related services and police stations;
25. Laundromats and self-service washing and drying;
26. Opticians and optical goods;
27. Television and audio sales and repair;
28. Paint and wallpaper stores;
29. Carpet stores;
30. Books, stationery, gift shops and card shops;
31. Household and electrical appliance stores including repair;
32. Sporting goods stores;
33. Video stores;
34. Churches, synagogues, temples and other places or religious assembly for workshop;
35. Funeral homes and crematoriums excluding cemeteries or mausoleums;
36. Liquor, beverage, drug and proprietary stores;
37. Auto parts and accessories stores;
38. Hotels and motels including convention facilities.

SECTION 1042

Accessory Uses

Accessory uses, building and structures customarily incidental and subordinate to any of the permitted uses including:

1. Recreation uses, buildings and structures customarily incidental and subordinate to any of the permitted uses and defined to be:
 - a. Stages and similar assemble areas;
 - b. Auditoriums, exhibition halls and other public assembly spaces;
 - c. Amusement centers;
 - d. Tennis courts and swimming pools;
 - e. Play lots, tot lots, recreation centers and similar athletic uses;
 - f. General leisure, ornamental and other park spaces;
2. Signage (See Article 34);
3. Parking (See Article 33);
4. Temporary buildings incidental to construction;
5. Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use, and which are conducted in accordance with Section 3154;
6. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
 - a. Private garage and parking;
 - b. Structures such as fences and walls;
 - c. Buildings such as storage sheds;
 - d. Appropriate storage of a recreation vehicle or unit;
 - e. The keeping and use of appropriate household pets;
7. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);
8. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155.

SECTION 1043

Conditional Uses and Criteria

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 an integral and subordinate function of a permitted commercial use or service; or b) 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 to the district:

1. Mini-warehouses or storage facilities;

SECTION 1044

Intensity

The intensity of use in a Commercial Four (C-4) district is 9,000 - 13,000 square feet of gross floor area per 1 acre. The maximum intensity for any principally permitted use or accessory use shall not exceed 100,000 square feet.

SECTION 1045

Minimum/Maximum Size

The minimum size and extent of a Commercial Four (C-4) district, including all the contiguous private property so designated, shall not be less than three (3) acres. There is no maximum size limit of a C-4 district. However, no development or project in a C-4 district shall exceed 30 acres in size.

SECTION 1046

Minimum Standards

See Article 31 for dimensional standards. (Site Plan Review required for all permitted uses, See Article 30)

SECTION 1514

Planned Development Standards

Concept Development Plan proposals in a Planned Development shall be primarily evaluated against the criteria listed below. The Concept Development Plan shall fulfill the following criteria unless a portion of the criteria do not apply or relate, in whole or part, to a specific proposal.

1. **Mixed Use Development and Pedestrian Orientation:** Planned Developments shall generally have a mixed use orientation (combination of differing types of residential, commercial, and/or industrial uses) both within the development itself and relative to the relationship between the proposed planned development and adjacent sites. In general, planned developments shall have a pedestrian orientation. The additional intensity allowed in a Planned Development by Section 1500 shall only be permitted when a mixed use development as described in this standard is provided.
2. **Compatibility of Uses:** Measures shall be taken to assure compatibility of land uses within a planned development itself and adjacent sites. Such measures may include the provisions of buffer zones, common open space areas and landscape features, transitional land uses, or a mixed-use development in which no specific type of land use is dominate. Compatibility measures/mitigation measures shall exceed the usual minimum standards of this order when needed to address impacts of the proposed development.
3. **Open Space:** Useable open space(s), in an amount over and above setback areas and open areas required by the underlying zone, shall be provided. These spaces may be provided in the form of parks, plazas, arcades, commons, trails, sports courts or other athletic and recreational areas, outdoor areas for the display of sculptural elements, etc. Land reservations for community facilities may be considered in lieu of useable open space.
4. **Multi-Modal Transportation System:** Planned developments shall incorporate multi-modal transportation elements through the development, depending on the foreseeable needs of future residents and users of the site, and the relationship of the project site to the community at large. Such multi-modal elements may include provisions for mass transit stops or stations, car pooling lots, pedestrian and bicycle paths and lanes, bicycle parking areas, etc.
5. **Preservation of Existing Site Features:** Existing topography, significant tree cover, and water courses and water bodies shall be largely preserved and incorporated into the project design, where appropriate and consistent with the remainder of this article.
6. **Landscaping:** Substantial landscaping shall be provided in a planned development with emphasis given to street scape areas, buffer zones, and the provision of significant landscaping (in terms of size of landscape areas, and quantity and quality of landscape materials) within the developed portions of the site. The use of landscape design guidelines is required for multi-phased projects.
7. **Architecture:** A consistent architectural theme shall be provided in planned developments. The theme shall largely use traditional, regionally influenced architectural forms and elements and shall allow variations within it. The architectural theme shall also relate to existing structures on the project site and adjacent sites, especially if such existing structures are historic. The use of architectural guidelines is required for multi-phased projects.

8. Historic and Prehistoric Features: Historic and prehistoric features on the project site shall be retained, utilized, and incorporated into the overall project design if physically and economically feasible.
9. Signage: A consistent signage theme shall be provided within a planned development. Building mounted signs shall be the predominate signage on the project site. Freestanding signs shall be monument style and of a limited size and height. The use of signage design guidelines is required for multi-phased projects.
10. Transportation Connections and Entry Points: The provision of transportation connections (street connections, pedestrian paths and sidewalks, bicycle facilities) shall be provided in all planned development unless physically unfeasible or undesirable due to land use characteristics. In addition, the various entry points (streets, paths, etc.) into a planned development shall be marked or otherwise defined through the use of landscaping, low-key signage on retaining walls, architectural or sculptural elements, archways, markers, etc.
11. Conformance with Comprehensive Plan: All planned developments shall conform to the provisions of the adopted Comprehensive Plan and take into account the limitations or existing or planned infrastructure.

Further, Concept Development Plan proposals within areas that are subject to a specific land use or corridor study shall be evaluated against the criteria or requirements of such study as well as the criteria in this section.

A Planned Development and its uses, buildings or structures shall be minimally subject to the supplemental performance and development standards of this order, unless superseded by any special requirements, conditions, variances or other particulars imposed by the Planning Commission during the concept or preliminary application and hearing phases described in this article. Such special conditions may include provisions governing, common open space, lands or facilities, disposition of open land, infrastructure provisions including any physical design and/or any other requirement found to be necessary, appropriate or desirable for the purposes of this district.

Such conditions shall be made a part of the terms under which the development is approved. Any violation of such conditions shall be deemed a violation of this order.

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

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

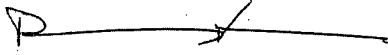
1. Name of Project Burlington Retail, LLC "The Shoppes at Burlington"
 2. Location of Project Patrick Dr.
 3. Total Acreage of Site 1.237 Acres
 4. Current Zoning of Site SR2-PD
 5. Proposed Zoning (Classification being requested) C-4-PD
 6. Proposed Uses (please specify each use) C-4-PD
-
7. Names of Applicant(s) Doug King For Burlington Retail, LLC
Phone Number 613-232-2233 Fax No. 513-624-2634
 8. Address of Applicant(s) 7346 Beechmont Ave
Chicki OH 45200
City State Zip
 9. Name of Property Owner(s) Burlington Retail, LLC
Phone Number 513-232-2233 Fax No. 513-624-2634
 10. Address of Property Owner(s) 7346 Beechmont Ave
Chicki OH 45200
City State Zip
 11. Proposed Building Intensities (please specify) MAXIMUM ALLOWED IN C-4
WHICH IS 16090 SQUARE FEET
 12. Are there any existing buildings on the site? NO
How many? —
 13. Deed Book 790 Page No. 170 Group No. 2031
 14. Are you also applying for:
N Conditional Use Permit
N Dimensional Variance
 15. Have you submitted a Concept Development Plan? YES
 16. Have you had a pre-application meeting with BCPC Staff? YES
 17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

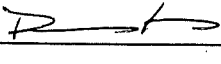
- Boone County Water and Sewer District
- Florence Water and Sewer Commission
- Union Light Heat and Power
- Cincinnati Bell
- Owen County Rural Electric
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- City of Florence Public Services Department
- Boone County Building Department

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

- Northern Kentucky Health District
- U.S. Soil Conservation Service
- Local School District
- Local Fire District
- Other: _____

18. Project Jurisdiction/Location
 Unincorporated Boone County Walton
 Florence Union

19. Applicant's Signature 

Property Owner's Signature  (Agent for owner)

SECTION B (To be completed by BCPC Staff)

1. Date Received _____
2. Review Fee _____
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of copies of plan received**
4. Is application complete? Yes No
5. Staff Reviewer _____
6. Committee Chairman _____
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - Approval
 - Approval with Conditions
 - Denial
9. Other: _____

**** Five (5) Copies Are Required**

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
www.boonecountyky.org - Web Page

NOTE: An application consists of all fees paid in full, submitted drawings and a completed application form.

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
January 15, 2003
7:30 P.M.**

PUBLIC HEARING

Commission Members Present: Mr. Barlow, Mr. Bunger, Mr. Hicks - Chairman, Mrs. Kegley, Mr. Knock - Temporary Presiding Officer, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Reynolds, Mr. Schwenke, Mr. White, Mrs. Wilson - Secretary/Treasurer, and Mr. Zimmer.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Jan Hancock, Secretary; Mr. Mitch Light, Assistant Zoning Administrator/ZEO; and Mr. Kevin Wall, AICP, CDT - Director, Zoning Services.

Legal Counsel Present: Mr. Dale Wilson

Mr. Mark Hicks, Chairman, called the meeting to order at 8:02 PM and introduced the item on the Agenda:

1. **Applicant:** Douglas L. King for Burlington Retail, LLC (owner)

Request: Zoning Map Amendment

The request of Douglas L. King (applicant) for Burlington Retail, LLC (owner) for a Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract on the south side of Patrick Drive, between the Patrick Drive/McGrath Drive intersection and the building at 1793 Patrick Drive, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow uses permitted in the C-4 zone in a maximum 16,090 square foot building.

Staff Member Mitch Light presented the Staff Report which included a Power Point presentation.

The Chairman asked for the applicant's presentation (see Staff Report).

Mr. Douglas King, 7346 Beechmont Avenue, representing Burlington Retail, LLC, the owner of all of the parcels in question, was present. Mr. King showed the Commissioners a map of the areas they have discussed with TANK for their future use. He indicated the Kroger building and retail shops and the parcel in question (Outlot #5). He noted the fifty two-parking spaces (outlined in yellow) that would be dedicated to TANK, and the bus shelter on Patrick Drive. He stated that the proposal has been discussed with Public Works and they had no opposition to it. This concluded the applicant's presentation.

Chairman Hicks asked if there was anyone else present who wished to speak in favor of the request. There being no response, he asked if there was anyone present who wished to speak in opposition to the request or to ask questions. There was no response.

The Chairman asked if there were any comments or questions from the Commissioners.

Mr. McMillian questioned the proposed signage. Mr. King responded that they will comply with the 1996 agreement that specifies the size and scope of signage for the entire development. He stated that each outlot receives a monument sign and the normal building-mounted signage in the C-4 zone. Mr. McMillian stated that there cannot be any more signs.

Mr. Zimmer asked if this proposal takes away parking spaces from the Kroger development. Mr. Light responded that they are well over the number of parking spots required for that development. He will provide the exact number at the Committee Meeting. Mr. King stated that he has been monitoring the parking since their company bought the Kroger center. It is an empty piece of the parking lot and in the day there is from one to six cars maximum there. The school bus drivers who want to spend a few minutes before starting the next route park there because there are no cars there. He stated that most of the cars belong to the employees of the dry cleaners in the Block Buster strip center -- they have their own parking, but this is closer.

Mr. Zimmer stated that on November 12, 2002, Mr. King sent a letter to Staff (copy attached to the Staff Report) stating that he would exclude certain uses. He noted the uses listed in the letter that are excluded by existing leases. Mr. King stated that those uses are excluded by existing leases, or they will agree to exclude them. Mr. Zimmer questioned eliminated clubs and other athletic uses. Mr. King responded that they are excluded in the Kroger Center by an agreement with Kroger's, but he does not know if this lot would come under that agreement or not. In response to a question from Mr. Zimmer, Mr. Light stated that there is a list of the C-4 uses in the packet, along with the uses the applicant has agreed to eliminate. Mr. Zimmer asked if the applicant is willing to exclude any other uses. Mr. King responded that there are certain uses they feel a pressure to bring to the community, such as a sit-down restaurant. He stated that they would be happy to

look at the list. Mr. Zimmer stated that it would facilitate discussion at the Committee level if the applicant had already eliminated any other uses they are willing to exclude.

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Mr. Barlow stated that many of the surrounding buildings have brick, and some have gables and recessed walkways. He stated that the Committee should have some idea of the architecture that will be used so that it is not a small box development in an area of nice buildings. He does not want to miss the opportunity for architectural review.

Mrs. Poston stated that they show one proposed building – but what if the tenants want separate buildings? Mr. King responded that they have to keep within the lot sizes available and meet the setbacks. Mr. Light stated that it would be difficult to do more than one building since they cannot even grade over the pipeline. Mr. King stated that they have to match the rest of the site up with the pipeline easement – they cannot grade the easement to match the rest of the site.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on January 22, 2003 at 5:00 PM. This item will be on the Agenda for the Business Meeting on February 5, 2003 at 7:30 PM.

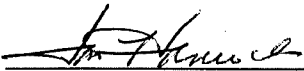
The Chairman closed this Public Hearing at 8:37 PM.

APPROVED:



Mark Hicks, Chairman

Attest:



Jan Hancock, Recording Secretary

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
February 5, 2003
7:30 P.M.**

Mr. Mark Hicks, Chairman, called the meeting to order at 7:34 PM.

COMMISSION MEMBERS PRESENT:

Mr. Randy Barlow
Mr. Kim Bunger
Mr. Mark Hicks, Chairman
Mrs. Janet Kegley
Mr. Richard Knock, Temporary Presiding Officer
Mr. Don McMillian
Mr. Robert Newman
Mr. Randy Poe
Mrs. Susan Poston, Vice Chairwoman
Mr. Charlie Reynolds
Mr. Earl White
Mrs. Lisa Wilson, Secretary/Treasurer

COMMISSION MEMBERS NOT PRESENT:

Mr. Arnold Caddell
Mr. Bob Schwenke
Mr. David Zimmer

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Ms. Patty Bachman, Planner
Ms. Jan Hancock, Secretary
Mr. Mitch Light, Assistant Zoning Administrator/ZEO
Mr. Kevin Wall, AICP, CDT – Director, Zoning Services

ACTION ON PLAN REVIEWS:

1. Zoning Map Amendment

The request of Douglas L. King (applicant) for Burlington Retail, LLC (owner) for a Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract on the south side of Patrick Drive, between the Patrick Drive/McGrath Drive intersection and the building at 1793 Patrick Drive, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow uses permitted in the C-4 zone in a maximum 16,090 square foot building.

Staff Member Mitch Light presented the Committee Report which recommended approval of the request based on the Findings of Fact, but subject to conditions (see Committee Report). The property owner has signed the letter agreeing to the conditions.

Mrs. Poston moved by resolution to Boone County Fiscal Court that the request be approved based on the Committee Report with the conditions. Mrs. Wilson seconded the motion.

Mr. Barlow read the last sentence of Condition #4 "The building materials will be consistent in appearance with the other buildings within the Shoppes of Burlington". He stated that he is concerned about the architecture and design of the building and questioned if there was any discussion at the Committee level about the design of the building. Mrs. Poston responded that the Committee did not discuss the design of the building because the user is not known. Mr. Light stated that there could be three or four businesses or just one user. He stated that the theme in the center is that some have recessed walkways and some do not. One does not have a pitched roof, but has a design to the roof. There is a standing seam metal roof (some variation in the color of green) and certain brick colors. There are some variations in colors -- but there is a consistent theme of brick and masonry. Mr. Barlow stated that he is concerned about ending up with a rectangular box like the old strip shopping centers, and he does not feel that the conditions provide protection from that occurring.

Mr. Poe suggested adding to the condition that "the building materials and design must be consistent with the others in the center". He stated that there are two variations and they would have to match at least one of them. Chairman Hicks asked if Mr. Barlow wants the request to go through Technical Design Review. Mr. Barlow responded "no" and stated that adding wording as suggested by Mr. Poe would satisfy his concern. Counselor Wilson advised that the applicant would need to agree in writing to an addition to the conditions.

Mr. Douglas King, representing Burlington Retail Center, stated that he does not think there is a problem with adding the wording and he believes it is in the

conditions from 1996. He stated that they know that they have to be relatively consistent. He is agreeable to the change in the conditions as long as it does not slow the approval process. Counselor Wilson stated that the motion can stand with the condition that the new language is agreed to in writing by the applicant.

Mr. Bunger asked if the uses which are excluded were requested of the applicant or if the applicant voluntarily excluded them. Mr. Light responded that the applicant came to the Committee Meeting with the uses excluded and there was discussion at the Committee level – but no other uses were removed by the Committee.

Chairman Hicks questioned Condition #3 – would the Zone Change Committee have the power to deny a drive-thru window at that time? Mr. Light responded that there was lengthy discussion at the Committee Meeting regarding the drive-thru window and the applicant wanted it outright – but Mr. Zimmer was not comfortable with allowing it outright because it is not known what might be there in the future. He stated that Panera Bread would be considered franchise fast food since people walk up, order, and then sit down at the table. Mrs. Poston stated that the idea was that if the request came to Kevin Wall, he would say “no” to a use such as Starbucks because it is a fast food restaurant.

Chairman Hicks stated that he is concerned about Condition #3. Mr. King questioned the Zone Change Committee recommending disapproval. Chairman Hicks responded that the Zone Change Committee may not have the power to say “no”. Counselor Wilson stated that if the proposal is for uses that are Principally Permitted, the Committee probably could not say “no”.

Mr. Costello recommended that the condition state that the Zone Change Committee will “review and approve” the proposal. Mr. King responded that they understand the condition to say “review and approve”. Mr. Wall stated that he believes Condition #3 should say “review and approve” and that is what the applicant understands it to mean. Mr. King agreed.

Mr. Barlow asked if the conditions in the letter of September 18, 1996 still apply to this development. Mr. Light responded “yes”. Mr. Barlow reviewed the 1996 conditions and noted that one of the conditions states that “the Planning Commission shall review the development as it relates to the surrounding development and KY 18 and Burlington” – and questioned if that condition requires the request to come back to the Planning Commission.

Counselor Wilson advised that the Committee and Staff were concerned that by coming in with a subsequent applicant, it would be inferred that they were seeking relief from the prior conditions. Mr. Light stated that the applicant agreed that every condition from 1996 would still apply to this lot.

Mr. King asked if Mr. Barlow was suggesting that the conditions from 1996 give the Zone Change Committee the power to approve a drive-thru if it meets the design criteria. Mr. Barlow responded “yes”. He stated that the condition only refers to the Planning Commission -- but the “Planning Commission” can be Staff,

a Committee, or the full Commission. Mr. Wall stated that their Design Review has been done by Staff through their Site Plan.

Mr. Costello stated that an option would be a condition that refers to the 1996 conditions. The condition could supersede the 1996 condition because it specifies the Zone Change Committee based on this request. He asked if the issue is so critical that the Planning Commission specifically wants the Zone Change Committee versus Staff to look at it. Mr. Barlow stated that he would prefer to leave Condition #3 and let the Zoning Administrator decide if the change is so significant that it should come back to Committee – which is how Receptions came back – it was a significant change to an approved Site Plan.

Chairman Hicks stated that changing Conditions #3 and #4 strengthens the 1996 condition.

Mr. Newman stated that the Haines property was a major change, but the Zone Change Committee only had the authority to approve it or send it back the full Commission. The Zone Change Committee did not have the authority to say “no”. Mr. Costello responded that there was specific language for that project that any change in the Approved Concept Plan had to go to the Committee to determine if it was minor or major.

Mr. Knock recommended that the modifications to Conditions #3 and #4 be made with the caveat that the intent is not to change the 1996 decision.

At this time, Mrs. Poston amended the motion. **Mrs. Poston moved by resolution to Boone County Fiscal Court that the request be approved based on the Committee Report with the conditions, and with modification to Conditions #3 and #4 to read “3. *The property owner agrees that if a drive-up window would be desired in the final building design, the Zoning Change Committee will review and approve the proposal for window location, landscaping, location of menu/read board(s), etc.” and “4) The property owner agrees to Design Review by Planning Commission Staff for the monument style sign and building materials. The monument style sign will be a maximum of ten (10) feet in height and a maximum of one hundred (100) square feet. The base of the monument style sign will be constructed of the dominant building material. The building materials and design must be consistent in appearance with the other buildings within the Shoppes of Burlington”.*** These modifications are to be agreed to by the applicant in writing. Mrs. Wilson seconded the amended motion and it carried unanimously.

2. Technical Design Review - Home Depot Garden Center Expansion
99 Spiral Boulevard

Staff Member Kevin Wall provided the Commissioners with a set of plans for the request. He stated that the proposal is to expand the Home Depot Garden Center by 7,200 square feet. The existing garden center is about eighty feet wide and they

EXHIBIT
"B"

**PRESENTED AND AMENDED
AT THE 2/5/03 BUSINESS MEETING**

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: February 5, 2003

RE: Request of **Douglas L. King (applicant)** for **Burlington Retail, LLC (owner)** for a Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract located on the south side of Patrick Drive, between the Patrick Drive/McGrath Drive intersection and the building located at 1793 Patrick Drive, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow uses permitted in the C-4 zone in a maximum 16,090 square foot building.

REMARKS:

We, the Committee, recommend approval of this request based upon the following findings of fact and with the following conditions:

Findings of Fact

1. The Committee has concluded that the applicant has adequately demonstrated that the existing zoning classification of Suburban Residential Two/Planned Development (SR-2/PD) is inappropriate and that the proposed zoning classification of Commercial Four/Planned Development (C-4/PD) is appropriate due to the topography of the lot, its location in a growing local commercial area and that the TANK Park & Ride will be located within existing parking spaces for the Shoppes at Burlington.
2. The Committee has also concluded that the map amendment request is in agreement with the adopted Comprehensive Plan and its Future Land Use Map. Specific references to the Comprehensive Plan are provided in the Staff Report for this request.
3. The Committee has concluded that the applicant has adequately demonstrated that there have been major changes of an economic, physical, or social nature that alters or change the character of the area.
4. The Committee has concluded that the attached condition is necessary to mitigate any foreseeable impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

Conditions

1. The TANK Park & Ride area will be located along Patrick Drive utilizing the existing parking spaces for the retail center. A copy of the letter outlining the agreement between TANK and Burlington Retail, LLC is included in the Staff Report.
2. The property owner agrees that there will only be one (1) principle structure on this 1.237 acre tract.
3. The property owner agrees that if a drive-up type window would be desired in the final building design, the Zone Change Committee will review and approve the proposal for window location, landscaping, location of menu/reader board(s), etc.
4. The property owner agrees to Design Review by Planning Commission Staff for the monument style sign and building materials. The monument style sign will be a maximum of ten (10) feet in height and a maximum of one hundred (100) square feet. The base of the monument style sign will be constructed of the dominant building material. The building materials and design will be consistent in appearance with the other buildings within the Shoppes of Burlington.
5. The property owner agrees to coordinate construction of the additional pedestrian connection from Patrick Drive to the adjacent Burgundy Hill Apartments with the developer of the apartment community.
6. The following are the Principally Permitted Commercial Four (C-4) uses with the excluded uses stricken:

COMMERCIAL FOUR (C-4)

Principally Permitted Uses

The following uses are permitted, subject to the minimum and maximum size, standards and intensity provisions of this zoning district:

- ~~1. Grocery stores and supermarkets;~~
2. Convenience stores;
3. Banking services, savings and loan associations, credit unions and other credit services;
4. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;

5. Department stores or general merchandise stores;
6. Gasoline filling stations, automotive repair facilities and wash facilities;
7. Eating and drinking establishments including alcoholic beverages;
8. Furniture stores;
9. Hardware stores;
- ~~10. Recreation centers, gymnasiums, clubs and similar athletic uses;~~
11. Medical offices, clinics and laboratory services;
12. Travel agencies;
13. Legal, architectural, engineering, accounting, insurance and real estate services;
14. Photo finishing services;
15. Florists, excluding greenhouses;
16. Shoe repair and dry cleaning services;
17. Nursery and day care centers;
18. Beauty and barber salons;
19. Veterinary services and pet grooming services;
20. Bakery stores;
21. Apparel shops;
- ~~22. Drug store;~~
23. Garden and landscaping sales and supplies including florist greenhouse;
24. Fire stations and related services and police stations;

25. Laundromats and self-service washing and drying;
26. Opticians and optical goods;
27. Television and audio sales and repair;
28. Paint and wallpaper stores;
29. Carpet stores;
30. Books, stationery, gift shops and card shops;
31. Household and electrical appliance stores including repair;
32. Sporting goods stores;
- ~~33. Video stores;~~
34. Churches, synagogues, temples and other places or religious assembly for workshop;
35. Funeral homes and crematoriums excluding cemeteries or mausoleums;
36. Liquor, beverage, drug and proprietary stores;
37. Auto parts and accessories stores;
- ~~38. Hotels and motels including convention facilities.~~

A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request. Attached is the signature page for the Zone Change/Concept Plan Committee Vote.

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
January 15, 2003
7:30 P.M.**

PUBLIC HEARING

Commission Members Present: Mr. Barlow, Mr. Bunger, Mr. Hicks - Chairman, Mrs. Kegley, Mr. Knock - Temporary Presiding Officer, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Reynolds, Mr. Schwenke, Mr. White, Mrs. Wilson - Secretary/Treasurer, and Mr. Zimmer.

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Chairman Hicks stated that on the driver's side (left side) is an island and there is a big island on the right side. He stated that it would look nicer if that island was dedicated to landscaping. There should not just be big board advertisements – there should be landscaping to soften the signs. Mr. King responded that the signs would face the woods to the west. Chairman Hicks stated that there is enough room there to do a nice job of landscaping to soften the signs.

Mr. Barlow stated that many of the surrounding buildings have brick, and some have gables and recessed walkways. He stated that the Committee should have some idea of the architecture that will be used so that it is not a small box development in an area of nice buildings. He does not want to miss the opportunity for architectural review.

Mrs. Poston stated that they show one proposed building – but what if the tenants want separate buildings? Mr. King responded that they have to keep within the lot sizes available and meet the setbacks. Mr. Light stated that it would be difficult to do more than one building since they cannot even grade over the pipeline. Mr. King stated that they have to match the rest of the site up with the pipeline easement – they cannot grade the easement to match the rest of the site.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on January 22, 2003 at 5:00 PM. This item will be on the Agenda for the Business Meeting on February 5, 2003 at 7:30 PM.

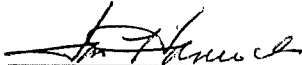
The Chairman closed this Public Hearing at 8:37 PM.

APPROVED:



Mark Hicks, Chairman

Attest:



Jan Hancock, Recording Secretary

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Susan Poston, Committee Chairwoman

DATE: January 22, 2003

RE Request of **Douglas L. King (applicant)** for **Burlington Retail, LLC (owner)** for a Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract located on south side of Patrick Drive, between the Patrick Drive/McGrath Drive intersection and the building located at 1793 Patrick Drive, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow uses permitted in the C-4 zone in a maximum 16,090 square foot building.

REMARKS:

We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

January 22, 2003

Douglas King/Burlington Retail, LLC

Patrick Drive/McGrath Drive

Susan Poston

Susan Poston, Chairwoman

For Project Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Bob Newman

For Project _____ Absent
 Against Project _____
 Abstain _____ Deferred _____

Earl White

For Project _____ Absent
 Against Project _____
 Abstain _____ Deferred _____

Lisa Wilson

Lisa Wilson

For Project Absent _____
 Against Project _____
 Abstain _____ Deferred _____

David Zimmer

David Zimmer

For Project Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Randy Barlow (Alternate)*

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

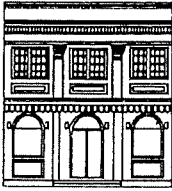
Janet Kegley (Alternate)*

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

TOTAL: _____ DEFERRED 3 FOR PROJECT 2 ABSENT
 _____ AGAINST PROJECT _____ ABSTAIN

SUPPORTING INFORMATION

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

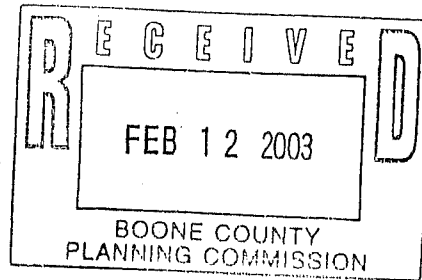
www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

January 27, 2003



Mr. Michael Brandy
Brandicorp
7346 Beechmont Ave.
Cincinnati, OH 45230

RE: Recommended Conditions of Approval for the Request of **Douglas L. King (applicant)** for **Burlington Retail, LLC (owner)** for a Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract located on the south side of Patrick Drive, between the Patrick Drive/McGrath Drive intersection and the building located at 1793 Patrick Drive, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow uses permitted in the C-4 zone in a maximum 16,090 square foot building.

Dear Mr. Brandy:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their January 22, 2003 meeting. If you, as the property owner, agree with these conditions, please indicate by providing your signature in the space provided at the end of this letter, and return the original letter to the Planning Commission's office by Friday, January 31, 2003.

CONDITIONS

1. The TANK Park & Ride area will be located along Patrick Drive utilizing the existing parking spaces for the retail center. A copy of the letter outlining the agreement between TANK and Burlington Retail, LLC is included in the Staff Report.
2. The property owner agrees that there will only be one (1) principle structure on this 1.237 acre tract.
3. The property owner agrees that if a drive-up type window would be desired in the final building design, the Zone Change Committee will review the proposal for window location, landscaping, location of menu/reader board(s), etc.
4. The property owner agrees to Design Review by Planning Commission Staff for the monument style sign and building materials. The monument style sign will be a maximum of ten (10) feet in height and a maximum of one hundred (100) square feet. The base of the monument style sign will be constructed of the dominant building material. The building materials will be consistent in appearance with the other buildings within the Shoppes of Burlington. *AND APPROVE MIB*
5. The property owner agrees to coordinate construction of the additional pedestrian connection from Patrick Drive to the adjacent Burgundy Hill Apartments with the developer of the apartment community. *AND DESIGN MIB*

6. The following are the Principally Permitted Commercial Four (C-4) uses with the excluded uses stricken:

COMMERCIAL FOUR (C-4)

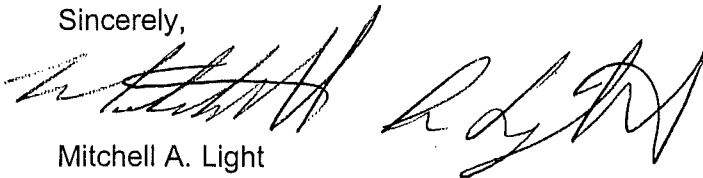
Principally Permitted Uses

The following uses are permitted, subject to the minimum and maximum size, standards and intensity provisions of this zoning district:

- ~~1. Grocery stores and supermarkets;~~
2. Convenience stores;
3. Banking services, savings and loan associations, credit unions and other credit services;
4. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
5. Department stores or general merchandise stores;
6. Gasoline filling stations, automotive repair facilities and wash facilities;
7. Eating and drinking establishments including alcoholic beverages;
8. Furniture stores;
9. Hardware stores;
- ~~10. Recreation centers, gymnasiums, clubs and similar athletic uses;~~
11. Medical offices, clinics and laboratory services;
12. Travel agencies;
13. Legal, architectural, engineering, accounting, insurance and real estate services;
14. Photo finishing services;
15. Florists, excluding greenhouses;
16. Shoe repair and dry cleaning services;
17. Nursery and day care centers;
18. Beauty and barber salons;
19. Veterinary services and pet grooming services;

20. Bakery stores;
21. Apparel shops;
- ~~22. Drug store;~~
23. Garden and landscaping sales and supplies including florist greenhouse;
24. Fire stations and related services and police stations;
25. Laundromats and self-service washing and drying;
26. Opticians and optical goods;
27. Television and audio sales and repair;
28. Paint and wallpaper stores;
29. Carpet stores;
30. Books, stationery, gift shops and card shops;
31. Household and electrical appliance stores including repair;
32. Sporting goods stores;
- ~~33. Video stores;~~
34. Churches, synagogues, temples and other places or religious assembly for workshop;
35. Funeral homes and crematoriums excluding cemeteries or mausoleums;
36. Liquor, beverage, drug and proprietary stores;
37. Auto parts and accessories stores;
- ~~38. Hotels and motels including convention facilities.~~

Sincerely,



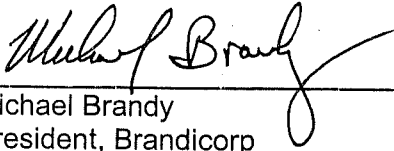
Mitchell A. Light
Assistant Zoning Admin/Enforcement Officer

MAL/pr

Mr. Michael Brandy
January 27, 2003
Page 4

AGREEMENT

I, Michael Brandy, do hereby agree to the recommended conditions of approval stated above for the Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract located on the south side of Patrick Drive, between the Patrick Drive/McGrath Drive intersection and the building located at 1793 Patrick Drive, Boone County, Kentucky.



Michael Brandy
President, Brandicorp

2/3/03

Date



JAMES W. BERLING ENGINEERING, PLLC

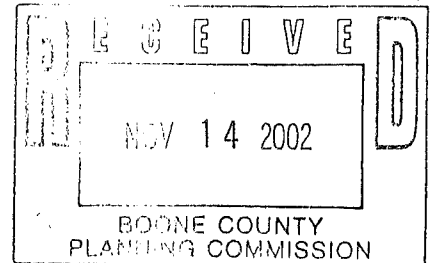
Land Surveying • Site Development • Civil Engineering Services • Land Planning

1671 PARK ROAD, SUITE ONE • FT. WRIGHT, KENTUCKY 41011 • (606) 331-9191 • FAX (606) 344-7432

KY Registration No. 3723

Land Surveyor Registration KY No.

May 3, 2000



LEGAL DESCRIPTION

SHOPPES @ BURLINGTON

LOT NO. 5

Beginning at a point in the south right of way line of Patrick Drive, said point being 266.44 feet east of the west line of Section No. 1 of The Shoppes @ Burlington; thence through the lands of the grantor S-11°-49'-44"-W 130.00 feet, S-78°-10'-16"-E 360.00 feet, and N-11°-49'-44"-E 130.00 feet to a point; thence in a northerly direction along a curve as it deflects to the left with a radius of 20.00 feet, an arc distance of 31.42 feet to a point in the south right of way line of Patrick Drive; thence N-78°-10'-16"-W along said south right of way of Patrick Drive 340.00 feet to the place of beginning.

Containing 1.2377 Acres

Group: 2031

Ordinance
Of
The Boone County Fiscal Court

Ordinance No. 03-10

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT APPROVING, WITH CONDITIONS, A REQUEST OF DOUGLAS L. KING (APPLICANT) FOR BURLINGTON RETAIL, LLC (OWNER) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM SUBURBAN RESIDENTIAL TWO/PLANNED DEVELOPMENT TO COMMERCIAL FOUR/PLANNED DEVELOPMENT (C-4/PD) FOR A 1.237 ACRE TRACT GENERALLY LOCATED ON THE SOUTH SIDE OF PATRICK DRIVE, BETWEEN THE PATRICK DRIVE/MCGRATH DRIVE INTERSECTION AND THE BUILDING LOCATED AT 1793 PATRICK DRIVE, BOONE COUNTY, KENTUCKY, AS RECOMMENDED UNANIMOUSLY BY THE BOONE COUNTY PLANNING COMMISSION VIA RESOLUTION NO. R-03-002-A.

WHEREAS, the Boone County Fiscal Court received a request for a Zoning Map Amendment to the Boone County Zoning Map and such Zoning Map Amendment being a zone change from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract generally located on the south side of Patrick Drive, between the Patrick Drive/McGrath intersection and the building located at 1793 Patrick Drive, Boone County, Kentucky, which is more particularly described below; and,

WHEREAS, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval, with conditions, for the Zoning Map Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOONE COUNTY FISCAL COURT AS FOLLOWS:

SECTION I

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and is hereby approved, with conditions, this Zoning Map Amendment being a zone change from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for a 1.237 acre tract generally located on the south side of Patrick Drive, between the Patrick Drive/McGrath intersection and the building located at 1793 Patrick Drive, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in a Suburban Residential Two/Planned Development (SR-2/PD) zone is more particularly described in DEED BOOK 790, PAGE NO. 170 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

Ordinance
Of
The Boone County Fiscal Court

Ordinance No. 03-10

SECTION II

That as a basis for the recommendation of approval for a Zoning Map Amendment request are the findings of fact and conditions of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Ordinance and marked as "Exhibit A."

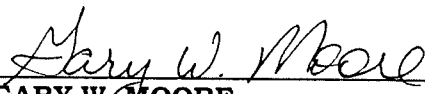
The Committee recommended approval for this request based on the findings of fact and conditions as set forth in the Committee Report and the Boone County Planning Commission Business Meeting minutes and marked as "Exhibit B."

SECTION III

That this Ordinance shall take effect and be in full force when passed, published and recorded according to law.

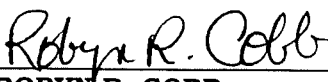
Introduced and given First Reading on the 11th day of March, 2003.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the 8th day of April, 2003, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested by the County Fiscal Court Clerk and declared to be in full force and effect.



GARY W. MOORE
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:



ROBYN R. COBB
FISCAL COURT CLERK



JAMES R. SCHRAND II
BOONE COUNTY ATTORNEY

4-17-03

DATE PUBLISHED

