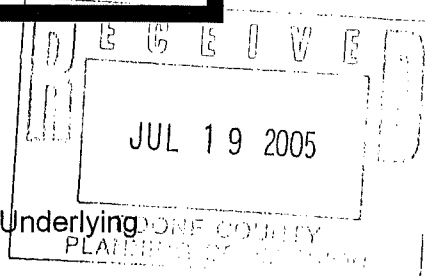


APPLICATION FORM

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 VILLAGE TERRACE
3. Location of Project US Hwy 42 8850 US42 FLORENCE KY 41042
4. Total Acreage of Site 1.1
5. Current Zoning UC/PD
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) 5/11/04
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) UNION TOWN PLAN
8. Proposed Uses (please specify each use) RETAIL COMMERCIAL
9. Proposed Building Intensities (please specify)
10. Have you submitted a Concept Development Plan? YES
11. Are you also applying for:
Conditional Use Permit
Dimensional Variance
12. Name of Applicant(s) TERRACE DEVELOPMENT Co LLC
Phone Number 342-7333 Fax No. 342-6080
13. Address of Applicant(s) 495 ERLANGER RD
ERLANGER KY 41042
City State Zip
14. Name of Property Owner(s) SAME AS APPLICANT
Phone Number Fax No.
15. Address of Property Owner(s)
City State Zip
16. Are there any existing buildings on the site?
How many?
17. Deed Book 677/873 Page No. 143/620 Group No.
18. Have you had a pre-application meeting with BCPC Staff? YES

(over)

EXHIBIT

“A”

STAFF REPORT

Request of **Terrace Development Company, LLC (owner)** for a Change in an Approved Concept Development Plan for an approximate 1.2 acre site located on the north side of US 42, immediately east of the property at 8912 Old Union Road, Florence, Kentucky (Lot 4, Village Terrace Subdivision). The request is for a Change in an Approved Concept Development Plan in a Union Commercial/Planned Development (UC/PD) zone to allow a second drive-through facility on the site which is located between two buildings.

August 17, 2005

REQUEST

This request is for a Change in an Approved Concept Development Plan for the western-most commercial lot (Lot 4) along US 42 in the Village Terrace Subdivision. The overall Village Terrace development is subject to a zone change/Concept Development Plan approval with supplemental conditions from 2004 (Committee Report which includes the original Concept Development Plan and City Council ordinance and conditions are attached). This zone change was from RS/UTO, UC, and UNO to UR-1/PD for approximately 5.2 acres of the site and to UC/PD for approximately 8.7 acres of the site, and was in conjunction with annexation into the City of Florence. The subject Lot 4 was approved for one multi-tenant commercial building with one drive-through window/lane along the west end of the structure on this original Concept Development Plan.

A Change in Concept Development Plan for the subject Lot 4 was conditionally approved on July 26, 2005 (Committee Report, City Council ordinance, and supplemental Council conditions which include the final revised Concept Development Plan, are attached). This change permits two separate commercial buildings on their own separate, platted lots. The landscape buffer yard that is required along the "interior" property line(s) was waived through this approval so that the development would appear as two structures on one lot with shared parking and vehicular areas. A drive-through lane/window was approved for each structure through this approval - the drive-through for the western building was along the west side of the building consistent with the original 2004 Concept Development Plan approval, and the drive-through for the eastern building was permitted along the north side of the building (at the rear, facing Bowman Way) per the plan that was modified through discussion with the Zone Change Committee and further modified at the City Council level.

The current application is to allow the drive-through for the eastern building to be moved from the rear of the building per the conditions and revised plan, to the west side of said building (i.e., will run in between the buildings and along an outdoor seating area). To insure visibility for vehicles exiting the drive-through into the front parking area, the adjoining corner of the eastern building (southwest corner of the building) has been "cut open" into an open foyer or porch area (labeled as "view triangle" on the plan), and the outside seating area is proposed on the other side of the drive-through lane. Open,

architectural steel or iron fencing on both sides of the lane is intended to channel pedestrians to a painted cross walk at the front of the buildings. Neither the location or configuration of the drive-through lane approved for the western building is proposed to change, thus, both drive-through facilities will run perpendicular to US 42. Consistent with the last approval for Lot 4, a shared parking agreement with the adjoining Lot 3 (currently undeveloped) has been recorded. Other than the drive-through changes noted, the proposal will follow all applicable conditions and terms of the prior approvals, such as signage and architectural requirements.

SITE HISTORY

The original RS/UTO, UC, and UNO zones which formerly applied to the site were adopted as part of the Union Town Plan in 2000. The previously mentioned annexation and zone change to UR-1/PD and UC/PD was conditionally approved in 2004. Preliminary Plat and Grading Plan approvals for the subdivision were granted on August 17, 2004, and an Improvement Plan was approved on October 22, 2004. Design Review approval was granted for one multi-tenant building on the subject Lot 4 on January 5, 2005, and the Major Site Plan application for that proposal is still pending.

A Change in Concept Development Plan to modify certain signage requirements for the overall Village Terrace Subdivision was conditionally approved by the Florence City Council on May 31, 2005. The previously mentioned Change in Concept Development Plan for the subject Lot 4 to allow two separate buildings on individual lots, each with a separate drive-through facility, was conditionally approved by the City Council on July 26, 2005. Major Site Plan and Design Review applications to develop Lot 4 in accordance with the last Concept Development Plan have been submitted, and the Design Review application is scheduled to be heard by the Planning Commission on August 17, 2005.

ADJACENT LAND USES AND ZONING

The land uses and zoning adjacent to the site include the following.

- A. The Boone County Library, Scheben Branch, and a retail center (Union Village) are located across US 42 to the south and southeast (C-2). An undeveloped tract is located across US 42 to the south and southwest (UNO).
- B. The remaining three commercial frontage lots in Village Terrace Subdivision are located to the immediate east (UC/PD), an undeveloped tract is located beyond along the east side of Bowman Way (UC; PNC Bank is proposed on part of this site), and an office building is located further to the east, near the US 42/Farmview Drive intersection (O-1).

- C. Two commercial lots and the residential condominium phase of Village Terrace are located to the north along the north side of Bowman Way (UC/PD and UR-1/PD), and a subdivision of detached single family residences (Farmview) is located further to the north and east (SR-1/PD).
- D. Several detached single family residences on acreage lots are located to the west and southwest along the north side of Old Union Road, and to the northwest along Fowler Creek Road (RS/UTO, RSE/UTO, RS, and RSE). The construction of an electrical substation is pending on the adjoining tract to the west.

SITE CHARACTERISTICS

The site is an approximate 1.2 acre portion of the overall 13.88 acre development. The lot has approximately 180 feet of frontage on both US 42 and Bowman Way. Old Union Road terminates at this site. The site contains no structures or trees. The lot is currently stripped and has been final platted. An electric transmission line runs along the west boundary of the site on the adjoining lot.

RELATIONSHIP TO COMPREHENSIVE PLAN

The 2000 Boone County Comprehensive Plan's Future Land Use Map designates the site as Commercial (C). The Commercial designation is described as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The Land Use Element text makes the following statements that relate to the overall area.

- A. Commercial development in the U.S. 42, Pleasant Valley Road intersection area should be of a local, rather than a regional scale, and should incorporate the reconstruction of Old Toll Road for use as an access road. Access Management at the intersection of U.S. 42 and Pleasant Valley should include access roads to serve commercial developments. Mixed-use development, that has commercial uses focused along U.S. 42 and that has varying types of residential uses, should occur to the southwest of this intersection on both sides of U.S. 42. The intensities of these commercial uses, in terms of building intensities, the size and style of individual structures, and the range of uses permitted, should begin with a broader range of commercial uses near the intersection and gradually decline to smaller-scaled office and institutional uses in the vicinity of Farmview Subdivision and the Florence/Union corporate boundary. Further, creative building layout and orientation should be used in lieu of strip-style commercial development, and Planned Development Overlay Districts should be utilized. Farmview Subdivision should continue to develop in a High Suburban Density Residential manner. All development in this area should be viewed as part of an entryway to both the Cities of Florence and Union ("Pleasant Valley - West Florence Area," pg. 164).

- B. 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 proposed 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 on the 2025 Future Land Use Map and also affect the Boone County Zoning Regulations ("Union Area," pg. 164).
- C. Neighborhood-oriented commercial uses may be provided along U.S. 42 between Farmview Subdivision and the Union city center in the form of small-scale nodes that are focused upon existing and future road intersections; regional retail uses are not appropriate in the U.S. 42 corridor. The physical development of these commercial nodes should be reflective of the existing rural environment and should include such elements as vernacular influenced architectural treatments, site planning arrangements reflective of the farmsteads in the area, parking areas situated at the sides and rear of buildings, tree lines along side property lines, and post and rail fencing. Residential subdivisions in this area should be cluster form so that the open space areas and pastures along U.S. 42 are maintained; density bonuses are encouraged for residential subdivisions in this area to accomplish this purpose. The new alignment of U.S. 42 offers a unique opportunity to prepare a model plan of a Transit Oriented Development (TOD) for the new corridor. This Comprehensive Plan recommends that such a specific area plan, that includes design review procedures, be explored for the U.S. 42 corridor between Farmview Subdivision and the south end of the Union city center within a few years of this Plan's adoption (quotation from the 1995 Comprehensive Plan in the "Union Area" section of current plan, pg. 165).

The Land Use Element provides the following general comments that relate to the proposal.

- A. Developments in Boone County should begin with an assessment of the existing site features to determine positive and useful attributes, as well as features which should or can be preserved. Development design should incorporate the use of these attributes for the benefit of the development and the County as a whole, rather than leveling an entire site to meet a pre-conceived project design.

Development plans should identify such areas, and delineate disturb limits to protect those areas that have been defined ("Utilization of Existing Vegetation and Topography," pg. 158).

- B. Developments in Boone County must recognize the potential impacts upon adjoining land uses and incorporate a transition of land uses, building setbacks, and/or landscaping to minimize these impacts. Potential impacts include visual, noise or vibrations, odors, dust, smoke, and light. Buffering to mitigate these impacts should be an integral part of the design of proposed projects; existing site features should be used in meeting this guideline. Developments should provide buffering along public roadways, to soften the visual impact. Appropriate wooded areas and stream valleys should remain as greenbelts and open space within developments and between developments. Developments proposed adjacent to planned or established greenbelts should provide pedestrian access where appropriate ("Buffering," pg. 159).
- C. Developments in Boone County must include landscaping to accompany the proposed project. This landscaping should be designed to improve the public view of a development, and should be incorporated into parking lots and other vehicle circulation areas as well as within open spaces and around structures. Landscaping is intended to minimize the visual impacts of the development from adjoining properties and roadways . . .

Developments along major roadways in Boone County must include landscaping and/or the use of berms between the development and the right-of-way in order to promote the aesthetic appearance from the roads and to facilitate the compatibility of differing uses ("Landscaping," pg. 159).

- D. Developments in Boone County must recognize the potential impacts of associated traffic on adjoining properties and transportation systems. The need exists to protect the capacity of the existing roadway network, and to plan improvements to accommodate new development and travel patterns. Access management provisions include the coordination of curb cuts, adequate corner clearance and site distance for access points, adequate space between access points, shared access points and parking facilities, and provisions for access connections to adjoining properties, and dedication of public right-of-way. In subdividing property, arterials or collectors should not be used for direct access to lots, rather a system of local streets should feed into the collector and arterial system ("Access Management," pg. 159).
- E. Developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify a specific development, but should not be used as a means to compete for motorist attention . . .

Neo-traditional residential and commercial development should be encouraged to provide quality development that blends with the natural or historic character of parts of Boone County . . .

The proper application of these guidelines help, in part, to achieve an overall objective of this Comprehensive Plan. This goal states that proper future growth management for Boone County is implemented. As a minimum, proper design and development must include the consideration and application of the above guidelines ("Designs, Signs, and Historic Preservation," pg. 160).

The Population Element outlines population projections based on the Ohio-Kentucky-Indiana Regional Council of Government's (OKI) transportation analysis zones. The population for the zone in question (889) is expected to increase from 5,229 in the year 2000 to 9,772 in 2010, and to 12,455 in 2020 (pp. 27-30).

The Business Activity Element provides the following statements that relate to the general area.

- A. Many problems with the location and arrangement of commercial uses have emerged, especially along the KY 18 and U.S. 42 corridors. Commercial developments along KY18 and U.S. 42 west of Mall Road should not be regionally oriented nor should they attract additional traffic, but rather be served by the existing or future population of the area ("Areas of Future Commercial Activity," pg. 70).
- B. The land surrounding the U.S. 42 area, southwest of Florence, will experience additional commercial growth toward the City of Union, but should be done on a smaller scale to mitigate any adverse impacts and to be compatible with surrounding land uses and densities. The U.S. 42 corridor toward Union will have a mixture of commercial, office, institutional, public facility and residential uses. As defined by the 2000 Union Town Plan, commercial development should occur in neighborhood business district form instead of strip style commercial ("Areas of Future Commercial Activity," pg. 70).
- C. Commercial developments that occur in the KY 18 and U.S. 42 corridors should be limited in scale (e.g. building, intensity, use, etc.) and clustered to serve growing residential neighborhoods. Planned Unit Developments should be encouraged so that commercial construction is incorporated within new residential areas. These commercial clusters should not function as an extension of Florence and Mall Road, but as a distinct unit serving the Burlington and Union areas ("Areas of Future Commercial Activity," pg. 70).

The Housing Element makes the following remarks which relate to the proposal or general area.

- A. The factors that will help fuel growth in this area include the improvements (expand from two to five lanes) of U.S. 42 from Florence to the new Ryle High School and Gray Middle School near Frogtown Road; the extension of water and sanitary sewer lines; access to the interstate highway system and the vast amount of developable land. The Union Town Plan sets the stage for development in this area when the new U.S. 42 is constructed around the year 2002, and sanitary sewer becomes widely available around the year 2006. Areas west and south of the Union Town Plan area, along U.S. 42, Hathaway Road, and Longbranch Road contain an existing agricultural, horse farm and estate residential character. Planning efforts, such as the Union Town Plan should be conducted in these areas. Street connections between developments and arterials are critical in this central part of Boone County. The connections shown in the Union Town Plan need to be continued outside the study area to the next logical properties and arterial roadways ("Union-West Florence Area," pg. 88).

The adopted 2005 Boone County Comprehensive Plan Goals and Objectives include the following pertinent statements.

- A. Development issues shall be viewed in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, within appropriately planned and designed neighborhood developments ("Overall," Objective 2).
- B. Proper design principles shall be applied in development ("Overall," Objective 3).
- C. Boone County shall strive to achieve both a diversity and balance in land use. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of the general public in a fair and impartial manner ("Overall," Objective 6).
- D. The needs of Boone County's population base are measured and fulfilled through the provision of orderly growth ("Population," Goal).
- E. New development or redevelopment within Boone County is designed, constructed and operated in such a way that the quality of the existing physical environment and social environment are enhanced. Development within Boone County preserves and promotes a better quality of life ("Environment," Goal).
- F. Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ("Business Activity," Goal).
- G. 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).

- H. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe and effective access and ample parking spaces (Commercial [Retail and Office], Objective 1).
- I. The large scale mixing of commercial and non-commercial uses shall occur in planned developments or in areas where consideration has been given to assure compatibility with surrounding land uses. The location of large scale commercial uses shall take into consideration existing or planned infrastructure conditions so as to protect the existing and future population and businesses. Small scale mixing of commercial uses within residential areas shall be carefully assessed and properly placed so as to enhance the neighborhood. Architectural Design Review and consistent sign standards shall be implemented on a corridor by corridor basis, when justified by legitimate land use planning principles (Commercial [Retail and Office], Objective 2).
- J. Highway commercial uses shall be in close proximity to highway interchanges for maximum convenience and economy to the traveling public, while minimizing impact to the community in terms of traffic congestion, local commuting patterns and access (Commercial [Retail and Office], Objective 3).
- K. New connector streets shall be developed where needed and feasible thus lessening the total dependence on arterial, collector, and local streets. Existing connector streets shall be improved where needed (Transportation, 2nd Goal, Objective 2).

RELATIONSHIP TO 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 Land Use Plan Map designates the overall Village Terrace site for three different land uses. Slightly more than the eastern one half of the southern portion of the site (US 42 frontage area south of Northfield Drive that included the prior motel building) is designated for Commercial uses. The remaining portion of the US 42 frontage area, including Lot 4, is designated for Office uses. The northern portion of the site is planned for Single Family Detached uses. The Union Town Land Use Plan Map illustrates a conceptual connector street in the same general alignment as "Bowman Way," which has been constructed.

STAFF COMMENTS

1. First, the Planning Commission and City Council will need to consider the Comprehensive Plan as it relates to this request. In addition to the Comprehensive Plan document itself, the Union Town Plan will need to be considered in the context of the Future Land Use Map and Land Use Element, which states "the (Union Town) plan's recommendations are shown on the 2025 Future Land Use Map." As discussed previously, the Future Land Use Map designates the site for Commercial uses. The Union Town Land Use Plan Map designates this site for Office uses. The two land use plan maps are consistent with one another based on the terminology used within each document (i.e., the "Office" designation in the Union Town Plan fits within the broader "Commercial" classification in the Comprehensive Plan).

The Comprehensive Plan text discusses the area in some detail. The Land Use Element states "the intensities of these commercial uses, in terms of building intensities, the size and style of individual structures, and the range of uses permitted, should begin with a broader range of commercial uses near the intersection (U.S. 42/Pleasant Valley Road) and gradually decline to smaller-scaled office and institutional uses in the vicinity of Farmview Subdivision and the Florence/Union corporate boundary. Further, creative building layout and orientation should be used in lieu of strip-style commercial development, and Planned Development Overlay Districts should be utilized."

Key to this discussion is whether the proposal involves the "smaller-scaled office and institutional uses" and whether a high quality site arrangement has been offered. Regarding this issue, the Committee Report which recommended conditional approval of the original zone change/Concept Development Plan stated "although the proposed commercial area includes retail uses, the Concept Development Plan is designed to have the characteristics of an integral development indicative of smaller-scaled office and institutional uses. It also uses the Planning Development Overlay District to provide a creative building layout which appropriately relates to both US 42 and the proposed internal street, which helps to minimize an automobile orientation and strip style development characteristics. In addition to building siting, the development will use low scaled signage, an integral architectural system throughout the development, and an appropriate streetscape design along US 42 and along the proposed internal street to accomplish these objectives."

The plan originally submitted with the last application showed the second drive-through in between the two buildings much like it is currently proposed. The drive-through was moved to the rear of the building through the Zone Change Committee process in response to pedestrian and vehicular safety concerns, as well as comments that the proposal had an auto-intense character with the inference being that both drive-throughs were visible from several vantage points on the site (notably from US 42). The main difference between the current proposal and the

original plan submitted for the last Lot 4 application is that an outdoor seating area that was initially proposed along the east boundary of the site has been moved to the interior of the site to adjoin the drive-through, therefore lessening the enclosed "alley" qualities of the original Lot 4 plan (although this outdoor space is in the same location as the plan version that was endorsed in the Committee Report and by the City Council). In Staff's view, aside from safety issues and compliance with the applicable prior conditions regarding design and other qualitative matters which are discussed below, the basic issue for this application is whether or not the governing bodies can reasonably conclude that the character and demeanor of the proposal agrees/complies with that sought by the applicable planning documents. This is particularly critical when considering that minimizing an "automobile orientation and strip style development characteristics" was a finding for the original zone change approval for the overall Village Terrace development.

2. The prior Concept Development Plans were reviewed against the requirements of Article 15 "Planned Development District" of the zoning regulations, including Section 1514 "Planned Development Standards." Both sets of conditions of approval were designed with these standards and the planning documents discussed above in mind. Staff offers the following comments regarding the prior applicable conditions from the previous two approvals.

2004 Committee Report Conditions for Overall Village Terrace Development (no changes which would affect the City Council conditions have been proposed)

Condition #1: This condition requires the Concept Development Plan to be followed, except where superceded by the written conditions of approval. The last application was submitted because it changed the concept for lot 4, and the current application was submitted because it is a major change to the Concept Development Plan recently approved for Lot 4.

Condition #2: This condition expresses a number of requirements regarding the road system. The phrase which is specifically applicable to the current application states "the site shall be connected to the 'future frontage road by KTC' (note - now called 'Old Union Road') that is shown on the Concept Development Plan only if safe traffic movement with an appropriate geometric layout is demonstrated." This phrase is still applicable to this site and proposal, making the connection contingent upon a proper engineering design being provided at the site plan stage - relevant comments were made on the current site plan application regarding this issue.

Condition #6: In addition to a number of buffering requirements for the overall development, this condition states "all other landscaping shall meet the normal requirements of Article 36 of the zoning regulations." As noted above, one aspect of both the recently approved and proposed Concept Development Plans was/is to eliminate the shared 10 foot wide buffer yard that would normally be required along the common property line between lots 4 and 4A. Because the last proposal was knowingly approved without this landscape area, and there is no substantive

difference between the two plans which should compel any different treatment in this regard, Staff does not view this matter as an issue for the current proposal.

2005 Committee Report Conditions for Lot 4

Condition #1: This condition required adherence to the Concept Development Plan that was revised through the Zone Change Committee process and is superceded by City Council condition #2.

Condition #2: This condition required a certain clearance from the rear corner of the building to a pedestrian crossing. The condition as specifically written would be moot if the current proposal were approved.

Condition #3: This condition requires compliance with all applicable terms and conditions of the original 2004 zone change approval. This condition should be applied to any approval of the current application as well.

2005 City Council Conditions for Lot 4

Condition #1: This condition requires the provision of a decorative wrought iron style fence or a trellis which incorporates such a fence to be provided around the outdoor seating area, with the design being approved through the Design Review process. This condition would still be applicable to any approval of the current application.

Condition #2: This condition requires compliance with the revised Concept Development Plan received by the Planning and Zoning Committee and supercedes condition #1 in the Committee Report.

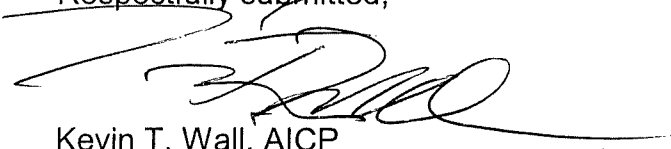
3. The proposal includes a defined crosswalk at the drive-through lane's exit as well as open areas on each side of the exit that are intended to provide visibility to both motorists and pedestrians. To further insure safety, Staff recommends that a defined crosswalk be provided on the entry side of the drive-through lane, as well as a stop sign at its exit, should the application be approved. For the applicant's information, the standards in Section 3155 "Drive-Through Facilities" of the zoning regulations must be met by both drive-through facilities.

CONCLUSION

This request needs to be evaluated by the Boone County Planning Commission and the Florence City Council in terms of the three criteria necessary for approving a Zoning Map

Amendment as stated in Article 3, "Amendment" of the Boone County Zoning Regulations, as the proposal is a modification to the original zone change approval, the requirements of Article 15 "Planned Development District" of the zoning regulations, and the potential impacts on the existing and planned uses in the area.

Respectfully submitted,

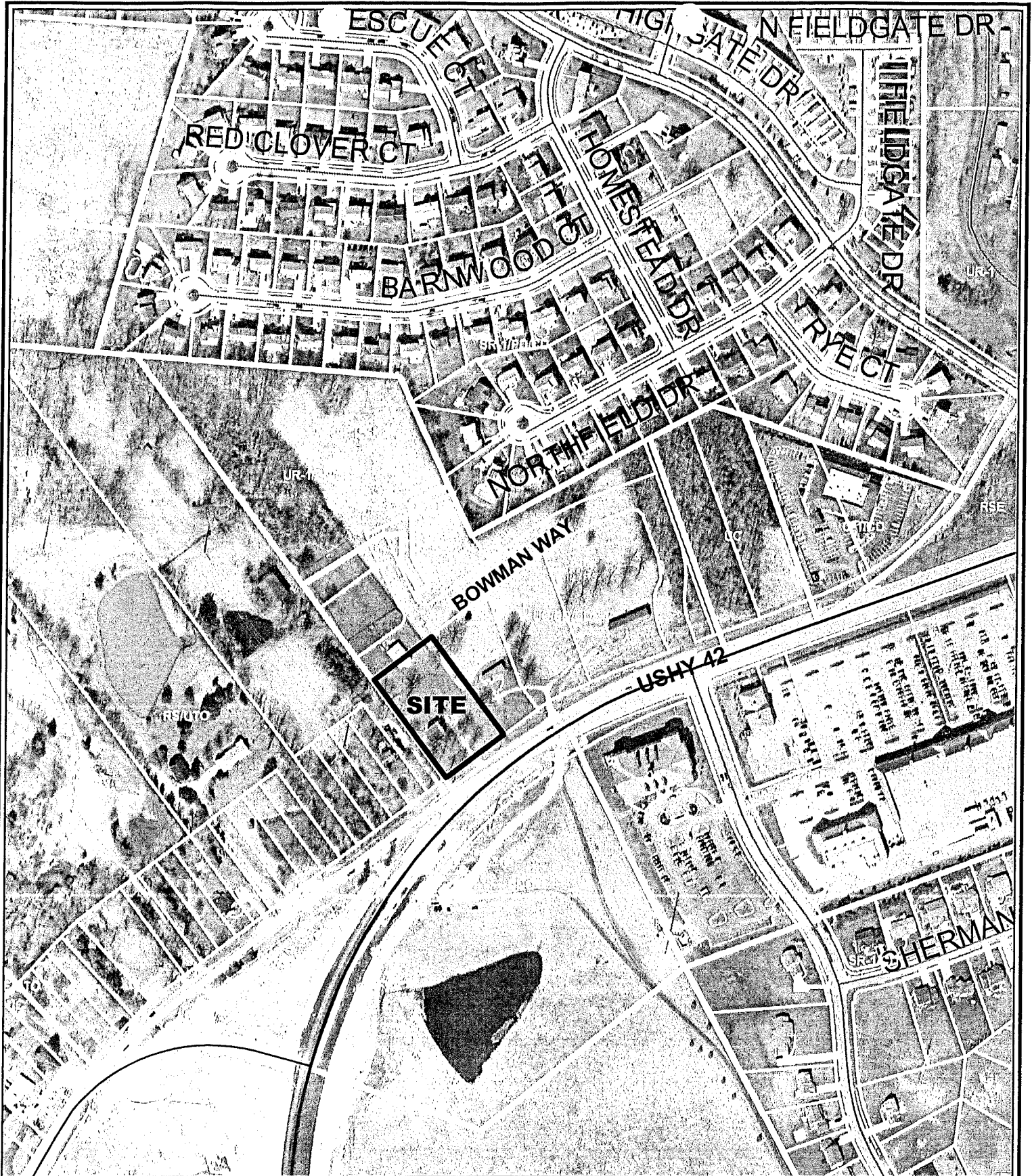


Kevin T. Wall, AICP
Director, Zoning Services

KTW/pr

attachments:

- location map
- aerial photo w/ zoning
- Future Land Use Map excerpt
- Union Town Plan Land Use Map excerpt
- 4/7/04 Committee Report for overall Village Terrace Development including Concept Development Plan and Ordinance O-16-04 w/ Supplemental Conditions Exhibit for Triangle/White/Bowman Zoning Map Amendment and Annexation
- 5/4/05 Committee Report for Lot 4 Revision including Concept Development Plan and Ordinance O-17-05 w/ Supplemental Conditions Exhibit
- application materials including Concept Development Plan

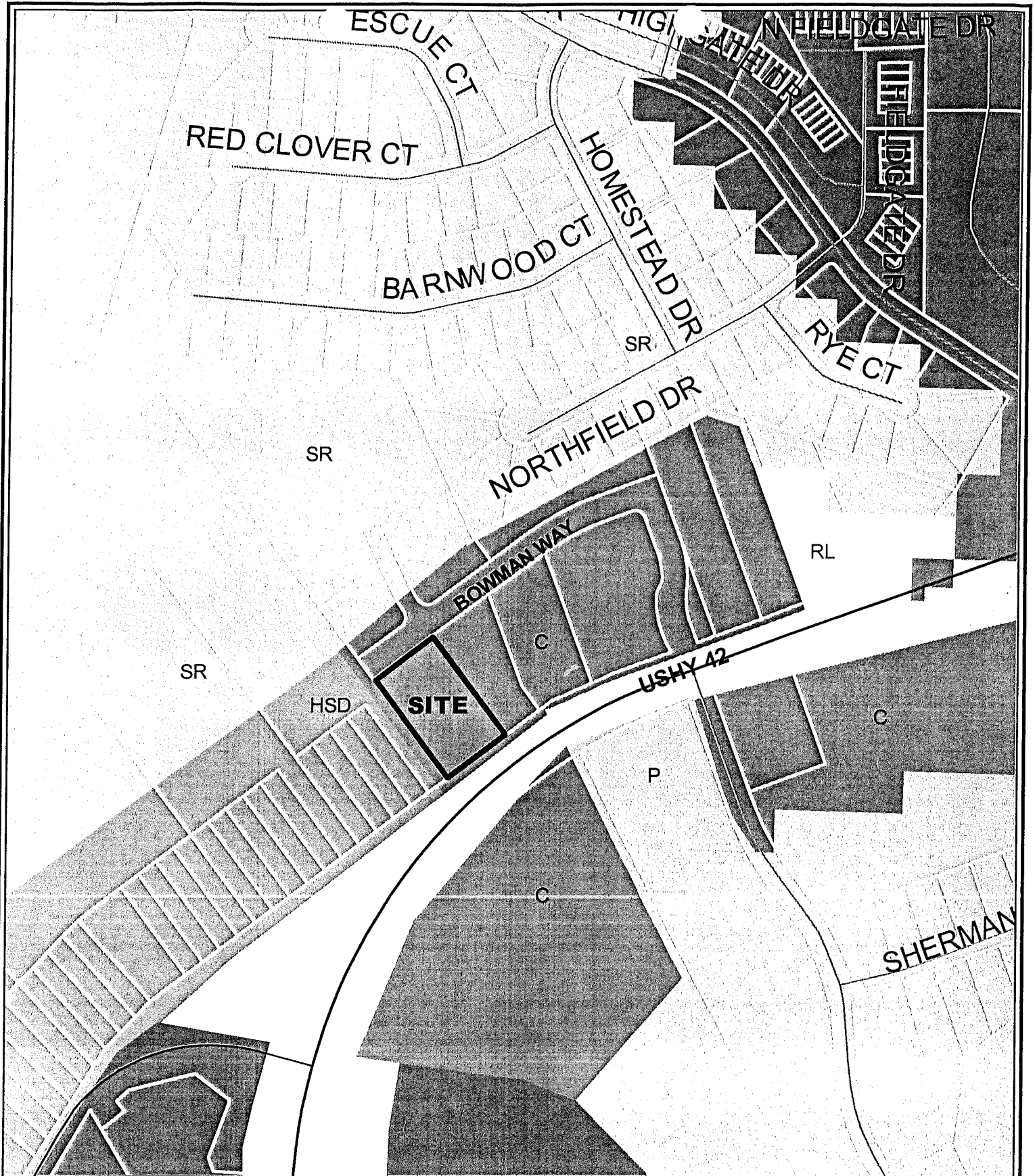


Zoning

300 0 300 Feet

1 inch equals 300 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 August 8, 2005





Future Land Use

300 0 300 Feet

1 inch equals 300 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 August 8, 2005



ng/Bike Trail From
npowder Creek

Individual
Driveways
Prohibited

SINGLE
FAM. DET

30' Minimum
Setback
OFFICE
COMMERCIAL

Library

Kroger

Green Space
City Purchase

Buildings Face
US 42. Parking
Located In Rear

Senior
Housing/
Institutional
Use/Church

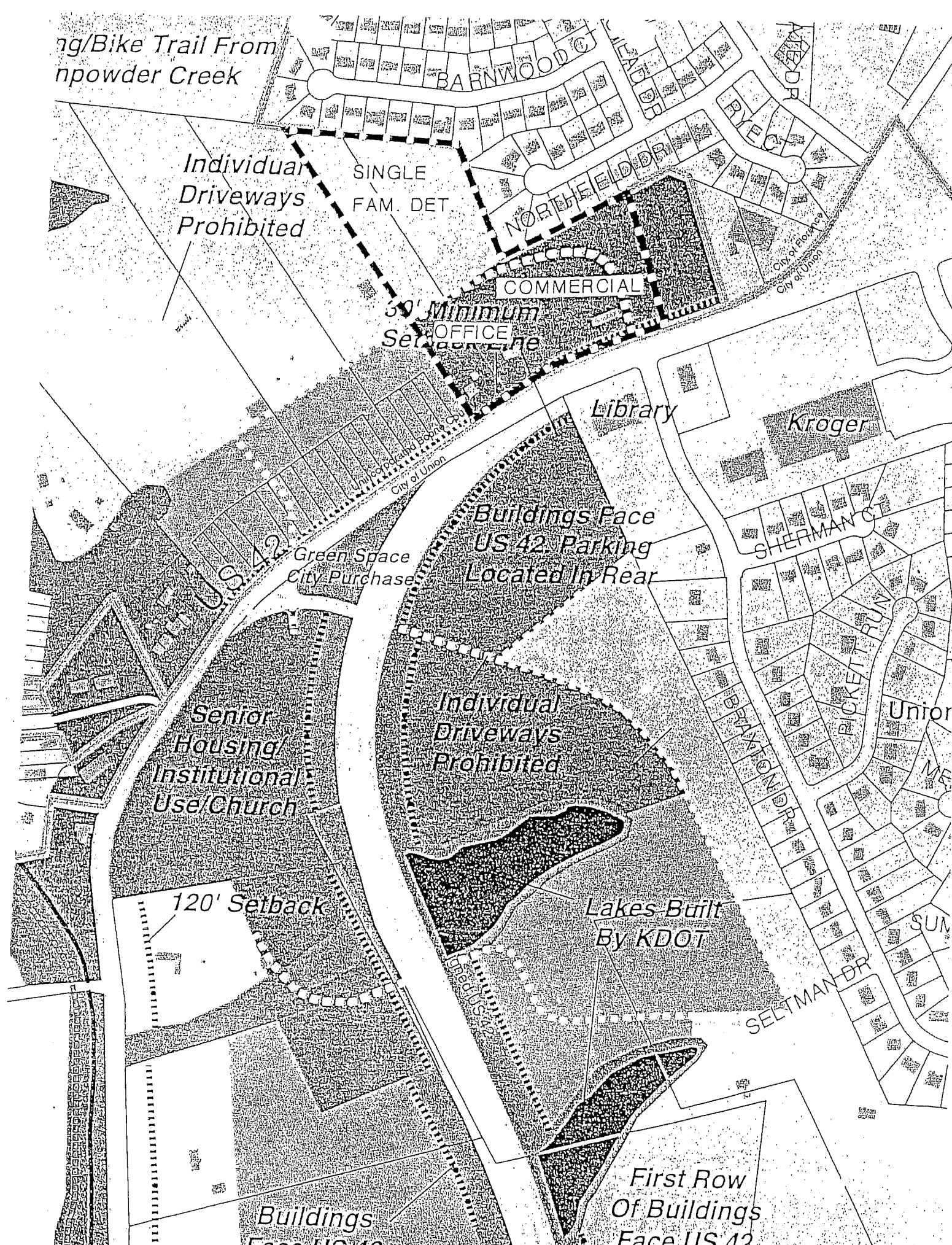
Individual
Driveways
Prohibited

120' Setback

Lakes Built
By KDOT

Buildings
Face US 42

First Row
Of Buildings
Face US 42



ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: April 7, 2004

RE: Request of Triangle Design Group (applicant) for Kenneth Bowman, Joyce Bowman, and William H. White (owners) for a Zoning Map Amendment from Rural Suburban/Union Town Overlay (RS/UTO), Union Commercial (UC), and Union Neighborhood Office (UNO) to Urban Residential One/Planned Development (UR-1/PD) for approximately 5.2 acres of the site, and to Union Commercial/Planned Development (UC/PD) for approximately 8.7 acres of the site, in conjunction with the annexation of real property into the City of Florence, all for 13.88 acres located at 8902 and 8908 US 42, Boone County, Kentucky. The request is for a zone change to allow commercial and office uses, and residential condominiums.

REMARKS:

We, the Committee, recommend approval of the above referenced request based on the following findings of fact and with the following conditions.

FINDINGS OF FACT

1. The Committee has concluded that the proposed Zoning Map Amendment and accompanying Concept Development Plan are in agreement with the Comprehensive Plan due to the following reasons.
 - A. The Future Land Use Map designates the southern portion of the site along US 42, which coincides with the proposed UC/PD area, as "Commercial." This designation is described as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc." Further, the 2000 Union Town Land Use Plan Map designates this part of the site for both Commercial and Office uses - both of these categories fall within the Comprehensive Plan's Commercial designation as it is described in the Land Use Element. The Union Town Plan is "designed to be a furtherance of the Comprehensive Plan's recommendations," and the Land Use Element ("Union Area," pg. 164) states that "the (Union Town) plan's recommendations are shown on the 2025 Future Land Use Map and also affect the Boone County Zoning Regulations." Additionally, the Union Town Land Use Plan Map illustrates a conceptual connector street in the same general alignment as the street shown on the Concept Development Plan.

April 7, 2004

Triangle Design/Bowman/White

- B. The Land Use Element ("Pleasant Valley - West Florence Area," pg. 164) states that smaller-scaled office and institutional uses are intended in the vicinity of Farmview Subdivision and the Florence/Union corporate boundary, and that creative building layout and orientation should be used in lieu of strip-style commercial development, and Planned Development Overlay Districts should be utilized. Although the proposed commercial area includes retail uses, the Concept Development Plan is designed to have the characteristics of an integral development indicative of smaller-scaled office and institutional uses. It also uses the Planning Development Overlay District to provide a creative building layout which appropriately relates to both US 42 and the proposed internal street, which helps to minimize an automobile orientation and strip style development characteristics. In addition to building siting, the development will use low scaled signage, an integral architectural system throughout the development, and an appropriate streetscape design along US 42 and along the proposed internal street to accomplish these objectives.
- C. The Land Use Element (quotation from the 1995 Comprehensive Plan in the "Union Area" section of current plan, pg. 165) also states that "neighborhood-oriented commercial uses may be provided along U.S. 42 between Farmview Subdivision and the Union city center in the form of small-scale nodes that are focused upon existing and future road intersections; regional retail uses are not appropriate in the U.S. 42 corridor. The physical development of these commercial nodes should be reflective of the existing rural environment and should include such elements as vernacular influenced architectural treatments, site planning arrangements reflective of the farmsteads in the area, parking areas situated at the sides and rear of buildings, tree lines along side property lines, and post and rail fencing." The proposal is a small-scale, neighborhood oriented commercial node which is focused upon the existing US 42/Braxton intersection. Based on the site arrangement, proposed architectural design, amenities, and other commitments in the agreed conditions outlined below, the character of the development will properly relate to the rural environment of the US 42 corridor to the west and south. These attributes of the proposal also demonstrate agreement with the Business Activity Element ("Union Area," pg. 164), which advocates limited scale commercial clusters, or "neighborhood business district form," in the US 42 corridor.

April 7, 2004

Triangle Design/Bowman/White

- D. The proposed UR-1/PD portion of the development is in agreement with the Housing Element text. The Element ("Housing Types," pg. 82) notes that "multi-family housing developments should have convenient access to commercial districts or should provide their own supporting commercial uses" and that "high density residential areas should be located sufficiently near and with convenient access to major streets, highways, and shopping and public facilities. A progression of densities of residential uses from high (multi-family) to low (single family) shall be encouraged." The proposed residential condominiums will be located in close proximity to US 42 with immediate access to the proposed commercial area and other commercial areas in the vicinity. The proposal also transitions from the more intense commercial uses along US 42, to an office orientation in the center of the site, and then to attached residential which adjoins the existing single family detached development in Farmview Subdivision.
- E. The Committee has concluded that the proposal is in agreement with the applicable Future Land Use Development Guidelines as described in the Comprehensive Plan and the Goals and Objectives. Specific references to the guidelines and Goals and Objectives are outlined in the staff report for this request.
2. Due to the narrow width of the northern portion of the site that is proposed for residential condominiums, and the fact that the construction of an electrical substation is pending immediately to the west, which is adverse to a single family residential character and limits the ability of the parcel to be assembled with the adjoining lots for a substantive single family development, the Committee has concluded that the existing RS/UTO zone is inappropriate and that the proposed UR-1/PD zone is appropriate. The pending construction of the substation also represents a major change of a physical nature not anticipated in the adopted comprehensive plan that substantially alters the area's character. As noted under paragraph 1.D above, the Committee has concluded that the proposed UR-1 zone is part of an effective land use transition which is in agreement with the Housing Element.
3. The Committee has concluded that the Concept Development Plan, coupled with the agreed conditions, fulfill the applicable requirements of Article 15 "Planned Development District" and Article 25 "Union Town Plan Districts" of the Boone County Zoning Regulations. Due to the varying requirements of each article, the Committee has concluded that the combination of the Concept Development Plan and the agreed conditions represents an appropriate "merging" of the various requirements via the flexibility in standards permitted by the PD overlay zone.

April 7, 2004

Triangle Design/Bowman/White

4. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2000 Boone County Comprehensive Plan, the Union Town Plan as it relates to the Comprehensive Plan, and the standards and policies of Article 15 "Planned Development District" and Article 25 "Union Town Plan Districts." The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owners have signed a letter demonstrating agreement with these conditions.

CONDITIONS

1. The development shall follow the version of the Concept Development Plan presented by the applicant at the 2/25/04 Public Hearing for this request, except where superceded by the following conditions.
2. The transition of the main internal road between the north-south leg and the east-west leg shall be a three-way stop, "T" intersection (with the third leg of the intersection being completed when the property to the east develops), unless it is demonstrated through the Preliminary Plat review that a radial curve is safer in terms of traffic circulation. Additionally, the site shall be connected to the "future frontage road by KTC" that is shown on the Concept Development Plan only if safe traffic movement with an appropriate geometric layout is demonstrated.
3. The development shall comply with the requirements of the following subsections of Section 2540 of the Boone County Zoning Regulations: #5 "Utilities," #7 "Fences," #9.b "Street Trees," #9.f "Street Lights," and #9.g "Street Furniture." Sidewalks shall be provided on at least one side of the street and may be integral curb/walks where appropriate. Additionally, the sidewalk links normally required under Section 3327 "Pedestrian/Bicycle Improvements" shall also be provided.
4. The architectural design in the development shall follow the submitted written guidelines and the conceptual elevation (attached) and the conceptual illustration which is attached to the 3/16/04 letter from Phil Drees (attached).
5. The on-site storm water system shall be designed to help remedy existing storm water problems in the area through the use of extra catch basins, over-detention, etc., per the City Engineer's direction.

April 7, 2004

Triangle Design/Bowman/White

6. Healthy, existing trees shall be retained and buffering shall be provided per the 3/16/04 letter from Phil Drees, including the attached buffer profile drawing. Additionally, a minimum 30 foot wide buffer which contains the required plantings from Buffer Yard B in Article 36 of the zoning regulations, in addition to the retained trees, shall be provided along the north and east property lines of the northern (residential condo/office/day care) section of the development. The combination of the buffering commitments in the 3/16/04 letter and additional plantings along the south property line of the lots in Farmview Subdivision which adjoin the proposed internal road shall be minimally equivalent to Buffer Yard C as outlined in Article 36. All other landscaping shall meet the normal requirements of Article 36 of the zoning regulations.
7. Lighting shall conform to the commitments outlined in the 3/16/04 letter from Phil Drees. Measurable light shall be less than one (1) footcandle at all project boundaries.
8. Freestanding signs shall be limited to three monument signs total along the U.S. 42 frontage (one overall development identification sign and two signs for specific businesses). The design of the signs shall mimic the development's architectural theme and shall follow the submitted schematic drawings. Each sign shall be a maximum of 8 (eight) feet high (as measured from the top of the appurtenant retaining wall base) and contain a maximum of sixty (60) square feet. Manually changeable copy shall only be permitted, for the two monument signs for specific businesses, for up to thirty percent (30%) of the total copy area of each sign. Electronically changeable copy of any type is not permitted.

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 Committee Vote.

Exhibit "B"

Union Terrace
Design Guidelines (Preliminary)

The purpose of establishing design guidelines is to reinforce the theme and character of Union Terrace. The guidelines will protect each commercial and residential user as well as enhance the physical features and amenities within the overall environment.

Note: the Union Terrace Design Review Committee must approve all site and building plans.

Architectural Building Guidelines:
Commercial

Roof:

- At least 20% of the Roof line has to pitched (mansard roof line is acceptable)
- Pitched roof has to be metal or equivalent (color to be determined)
- If roof is used over pick-up or drive-thru windows then pitched roof is required

Exterior of Building:

- Brick material has to be on 80% of the Building (Color/type to be determine)
- Arch, walkways or Arch windows to be incorporated into building. Arch concrete lintels (on similar looking material) to be used where practical
- Use beige colored band trim, belt course or cornice line at or above window height
- Colors and accents to match other commercial users within development
- Stamp concrete or color concrete sidewalks to be used next to building (Color and pattern to be determine)

No temporary buildings including trailers, incomplete buildings, tents, or shacks shall be permitted on the property.

Union Terrace Design Review Committee reserves the right to waive any of these requirements when, in its sole judgment, the waiver provides for a more appropriate design of a building and does not compromise the integrity of the development.

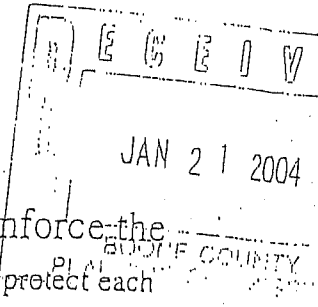
Commercial site design requirements:

Outdoor Storage/Trash

- Outdoor storage and trash location must be concealed using the primary building design requirements

Parking and Lighting

- No solid concrete islands in parking lot allowed, landscaped islands to be used unless approved Streetscape materials used.
- Light post and fixture (selection yet to be determine)



- Light post base to use brick or stone (color/type same as buildings or entry monument)
- Connectivity with other parking areas must be made
 - Use "Stamp" concrete or color concrete sidewalks to connect (pattern to be determine)
 - Coordinate and blend parking lot entrances and exits with adjacent users

Landscaping

- A separate landscape plan shall be submitted prior to building construction. Union Terrace Design Review Committee must approve plant materials and landscape construction that is to be installed on the lot.
- All unpaved areas of each site not utilized for parking or buildings shall be landscape,
- Landscape shall be used to mark entrance points and parking areas.
- Landscape shall be used to enhance building scale and forms.
- Landscape treatment shall not interfere with sight line requirements at street or driveway intersections. All landscaping shall be designed for reasonable maintenance, and all landscape areas shall be maintained in a quality manner at all times. Paving or terracing may be used in areas where excessive maintenance would otherwise be required.

Signage

- All exterior signs shall be approved by Union Terrace Design Review Committee
- No sheet metal signs, flat wood painted, or exposed fluorescent lights signage allowed.
- The location, size, and construction of signs will be in keeping with the character of the development.
- Ground mounted signs shall not have a gross area of more than Eighty (80) square feet and shall not exceed ten feet (10') in height and shall be connected to the ground along the base length.
- Illuminated signs shall be rear lighted or lighted from a nonapparent light source
- Other signs allowed may be of a directional nature or temporary signs indicating "For Sale" or For Lease"
- All permitted signs shall be of a design and material consistent with the building and/or developers monumentation itself.

Union Terrace
Design Guidelines (Preliminary)

The purpose of establishing design guidelines is to reinforce the theme and character of Union Terrace. The guidelines will protect each commercial and residential user as well as enhance the physical features and amenities within the overall environment.

Note: the Union Terrace Design Review Committee must approve all site and building plans.

Architectural Building Guidelines:
Residential Condo's

Roof:

- Define overhangs, cornice lines, dormers
- Utilize gable and/or hip roof shapes with a minimum roof slope of 4:12
- Material shall be heavy weight dimensional shingles or metal. Color to coordinated with commercial roof lines
- Flat roofs and mansard roofs are not allowed

Exterior of Building:

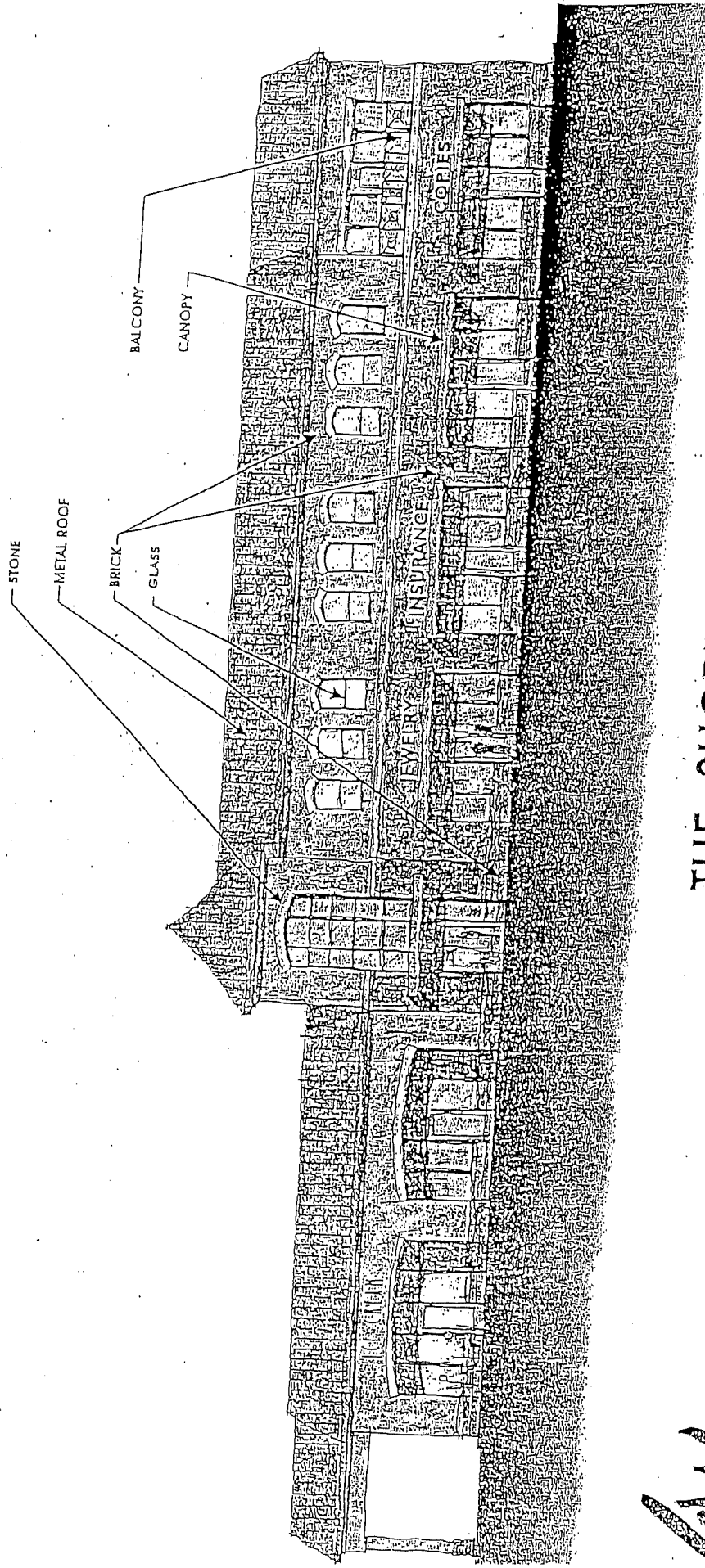
- Brick or stone material has to be on 65% of the Building (Color/type to match commercial buildings)
- Arch walkways or Arch windows to be incorporated into building. Arch concrete lintels (on similar looking material) to be used where practical
- Colors and accents to match other commercial users within development

No temporary buildings including trailers, incomplete buildings, tents, or shacks shall be permitted on the property.

Union Terrace Design Review Committee reserves the right to waive any of these requirements when, in its sole judgment, the waiver provides for a more appropriate design of a building and does not compromise the integrity of the development

Amenities

- Developer to provide a common area amenity such as a "pocket park" for public open space gathering
- Agree to be a member of the "Union Terrace commercial association" that will provide the vehicle to maintain the open space grounds and features
- Developer will place "Union Terrace" signage at entrance with each commercial user listed (Must have at least 3000 Sq. Ft.)
-



THE SHOPPES AT UNION TERRACE
TRIANGLE DESIGN GROUP





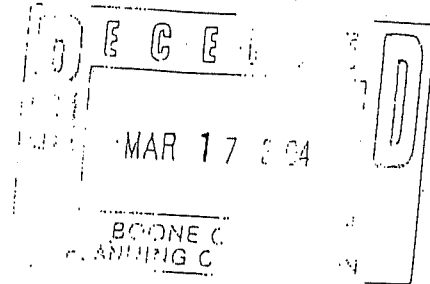
Triangle Design Group, Inc.

495 Erlanger Rd
Suite 201
Erlanger, Ky 41018

Office (859) 342-7333
Fax (859) 342-6080

March 16, 2004

Mr. Kevin Wall
Boone Co. Planning Commission
2995 Washington Street
Burlington, KY 41005



Dear Kevin,

The following is a summary of the various neighbor concerns that have been brought to our attention regarding the proposed Union Terrace Project (UT). Triangle Design Group (TDG) has been working with the existing residential property owners to the North of UT in an effort to mitigate their concerns.

These concerns are as follows:

1. Buffering- Can the road be moved in order to create more buffering?
2. Detention- Will the UT detention area be adequate to prevent storm water runoff from entering the residential area?
3. Lighting- Can TDG use a less invasive lighting system to guard against light pollution? In addition, how will UT address the impact of car lights on the residences behind the intersection at UT?
4. Noise- What can TDG do to minimize noise pollution?
5. Trees on the property line- Will the UT development impact the mature existing trees along the property line?
6. Hours of Operation- What will the hours of operation be and can they be controlled?

How are the developers of Union Terrace addressing these issues?

1. Buffering

TDG has submitted an option that has the potential of mitigating the buffering concern. The option of "sweeping" the road has been reviewed by the residential neighbors and TDG. If this option meets subdivision requirements, we will be willing to make the change. However, the "sweep" needs to be reviewed by the proper engineering representative for the county and or city of Florence before acceptance.

Another option looked at by the neighbors and TDG was to install some fencing and low hedging along with the already proposed trees and swale/berm area. TDG feels that portions of a strategically placed fence will severely reduce any light and noise emanating from UT, as well provide a sense of safety for the neighboring homeowners. (Examples of each option are included in this packet).

2. Detention

By law, TDG is not able to increase storm water runoff onto neighboring properties. It is our impression that the neighboring property owners are concerned that existing storm water problems will be amplified by the UT development. This will definitely not be the case. TDG is currently working with its engineers and tenants to actually reduce the current amount of storm water runoff onto neighboring properties.

The Detention area along the back of the properties on Northfield Dr. could possibly be reduced in size if Walgreen's were to agree to install underground detention. TDG has also determined that the Detention area can be moved slightly away from the adjoining property owners if the "sweeping" option explained in the buffering section is determined feasible. If practical, the Detention area will outlet into the ditch along US Hwy 42.

The Detention along Barnwood Court is under review as well. A meeting was held on March 10, 2004 with Cingery to explore placing the Detention area on their property. The outlet will still follow the normal outlet that is shown on our plan.

3. Lighting

TDG has submitted for your review the lighting provided by Cingery. The gas light replica will be used on all public streets and throughout the residential condominium area. Light options run 12' to 16' in height and have a lower luminary range than standard streetlights (included in packet). In addition, a light plan will be submitted, illustrating how lighting on individual commercial lots will be contained on site as opposed to drifting onto neighboring properties.

4. Noise

The UT development is governed by current zoning regulations for allowable noise levels projected through the site. It is our intention not to exceed these regulations. With the fencing and hedges, there should be ample barriers and reduction in noise to prevent noise from negatively affecting neighboring residences.

5. Existing Trees

TDG has instructed its engineer (CDS and Associates) to provide a 15' buffer around the entire rear of the property. The disturbed limits will not encroach upon this buffer therefore saving all of the existing trees. Elsewhere, it is our intention to preserve as much of the existing mature live trees as possible.

6. Hours of Operation

TDG has spoken with all tenants and future business owners. Expected business volumes do not justify 24-hour operations. The hours of operation will be consistent with other retail and restaurant hours in similar surrounding areas.

Summary

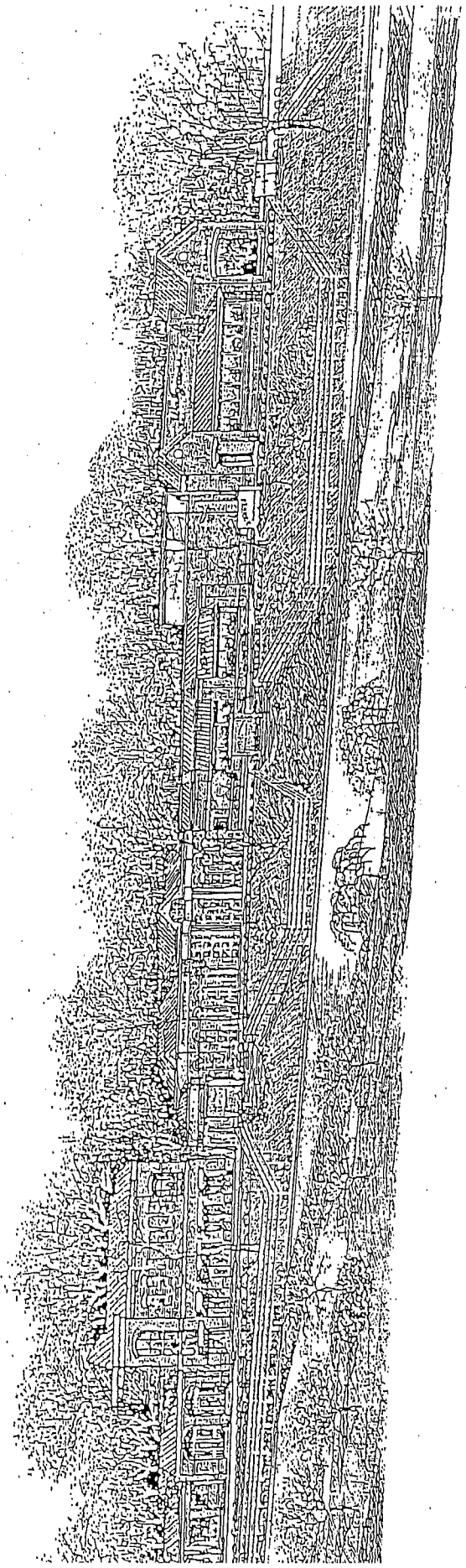
TDG met with the existing residential neighbors on March 11, 2004 at the proposed site. Our overall opinion of the meeting was that the neighboring property owners were, for the most part, satisfied with the options and solutions outlined in this letter.

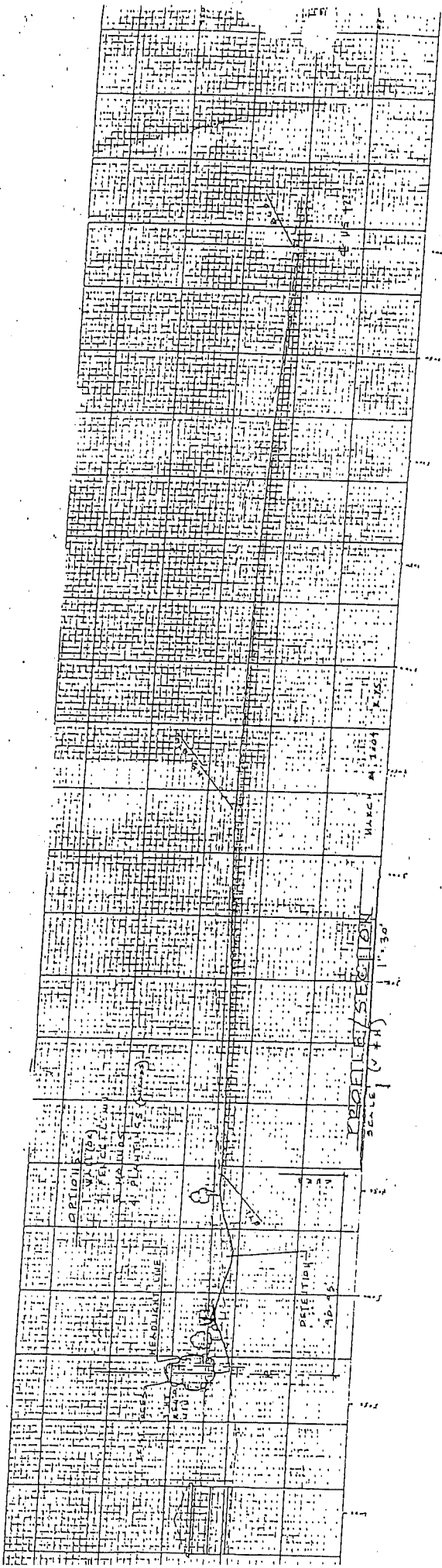
Union Terrace is poised to be a special development unlike any in the existing area. We hope that you can appreciate the time and effort put in by the development team to find solutions and overcome the objections presented by the neighbors. We hope that these efforts will further your ability to recommend approval of the UT development to the entire planning commission.

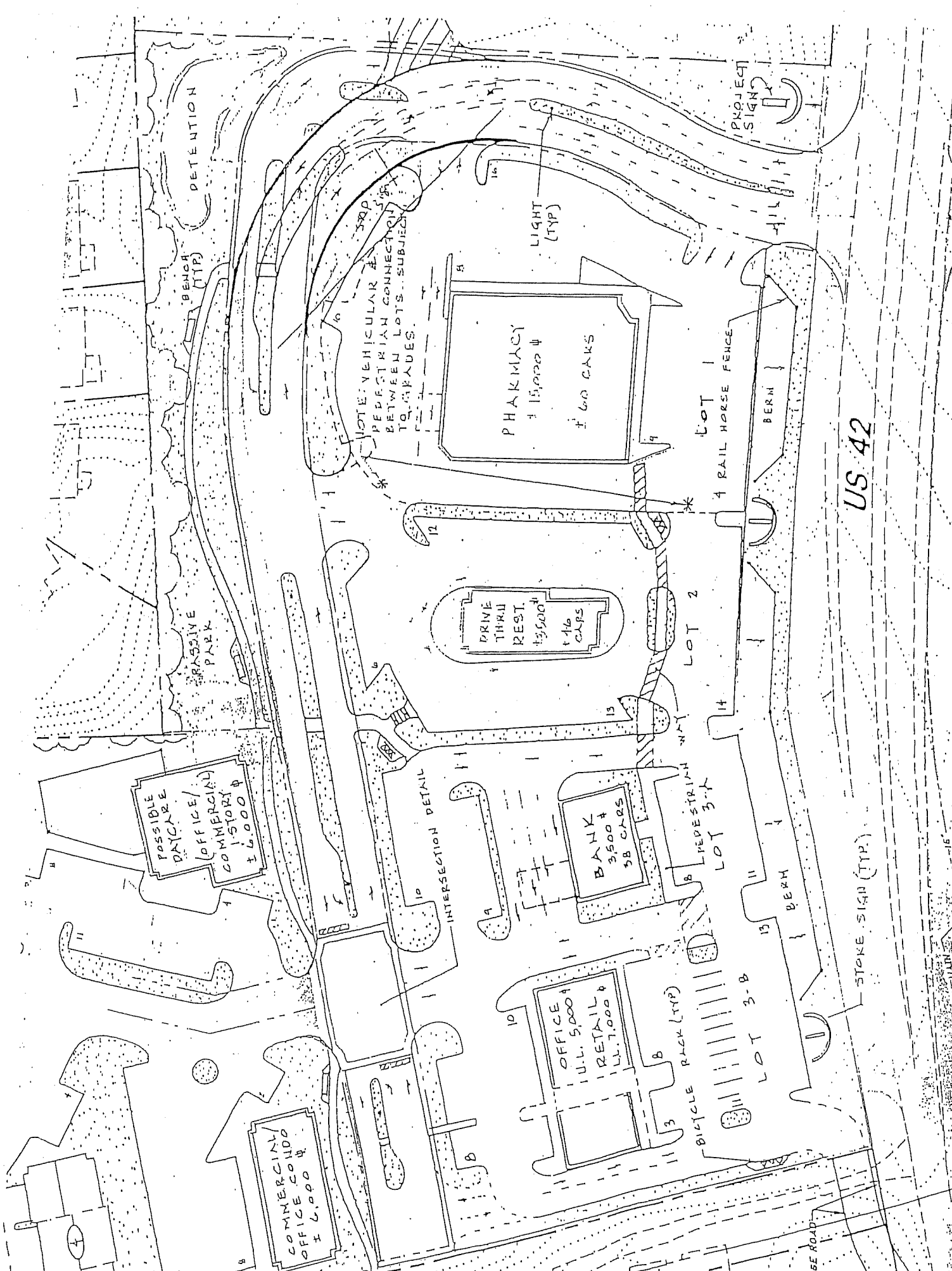
Sincerely,



Phil Drees,
President,
Triange Design Group, Inc.







POSSIBLE DAYCARE OFFICE/COMMERCIAL 1-STORY \$6,000

COMMERCIAL OFFICE BUILDING \$6,000

DRIVE THRU REST. \$3,600 \$16 CARS

BANK \$3,500 58 CARS

PHARMACY \$15,000 \$60 CARS

OFFICE U.L. 5,000 RETAIL U.L. 7,000

NOTE: VEHICULAR & PEDESTRIAN CONNECTION BETWEEN LOTS SUBJECT TO GRADES.

BENCH (TYP)

LIGHT (TYP)

PROJECT SIGN

LOT 1

LOT 2

LOT 3

LOT 3-B

RAIL HORSE FENCE

BERM

BERM

BERM

INTERSECTION DETAIL

BICYCLE RACK (TYP)

STONE SIGN (TYP)

US 42

16E ROAD

15

17 (S)

ORDINANCE NO. 0-16-04

AN ORDINANCE ADOPTING AND APPROVING A ZONING MAP AMENDMENT FROM RURAL SUBURBAN/UNION TOWN OVERLAY (RS/UTO), UNION COMMERCIAL (UC), AND UNION NEIGHBORHOOD OFFICE (UNO), TO URBAN RESIDENTIAL ONE/PLANNED DEVELOPMENT (UR-1/PD), FOR APPROXIMATELY 5.2 ACRES AND TO UNION COMMERCIAL/PLANNED DEVELOPMENT (UC/PD), FOR APPROXIMATELY 8.7 ACRES, THESE ZONING MAP AMENDMENTS BEING FOR A 13.88 ACRE SITE LOCATED AT 8902 AND 8908 U.S. HIGHWAY 42, BOONE COUNTY, KENTUCKY, TO ALLOW COMMERCIAL AND OFFICE USES AND RESIDENTIAL CONDOMINIUMS. (BOWMAN/WHITE/TRIANGLE DESIGN GROUP PROPERTY).

WHEREAS, the City of Florence, Kentucky, is a member of the county-wide planning unit, having a county-wide planning commission known as the Boone County Planning Commission, and

WHEREAS, the Boone County Planning Commission by Resolution No. R-04-009-A recommended approval of the rezoning described above, and

WHEREAS, the recommendation for approval of the Boone County Planning Commission is based upon certain findings and conditions attached to its Resolution, all of which have been reviewed by the City Council for the City of Florence, Kentucky.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FLORENCE, KENTUCKY AS FOLLOWS:

SECTION I

That the request of Triangle Design Group (applicant) for Kenneth Bowman, Joyce Bowman, and William H. White (owners) for zoning map amendments for an approximate 13.88 acre site located at 8902 and 8908 U.S. Highway 42 in Boone County, Kentucky, these zoning map amendments being to rezone the site from Rural Suburban/Union Town Overlay (RS/UTO), Union Commercial (UC), and Union Neighborhood Office (UNO), to Urban Residential One/Planned Development (UR-1/PD), for approximately 5.2 acres and to Union Commercial/Planned Development (UC/PD), for approximately 8.7 acres, in conjunction with proposed annexation of the 13.88 acres into the City of Florence to allow commercial and office uses and residential condominiums shall be and is hereby approved, subject to a Concept Development Plan and agreed conditions. The real estate which is the subject of this Ordinance is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference. The zoning map of Boone County, Kentucky, as it applies to the City of Florence, Kentucky, shall be amended and designated to reflect the approval of these zoning map amendments for this 13.88 acres.

SECTION II

Approval of these zoning map amendments is granted subject to the conditions, terms and provisions of the Boone County Planning Commission recommendation, including the Committee Report made a part of that recommendation, a copy of that recommendation and Committee Report of the Boone County Planning Commission being attached, marked Exhibit "B" and incorporated herein as if fully set out, this recommendation being in the form of Resolution No. R-04-009-A of the Boone County Planning Commission, along with the referenced exhibits to that Resolution.

SECTION III

In addition to those conditions set forth in the recommendation of the Boone County Planning Commission, this approval of the City of Florence, Kentucky, through its City Council shall be and is hereby subject to additional conditions that have been agreed to by the property owner/applicant as shown on Exhibit "C", a copy of which is attached and incorporated herein by reference.

SECTION IV

This approval is granted based on the Findings of Fact made by the Boone County Planning Commission and contained within its recommendation, including the Committee Report of that Commission, which is attached and part of the Commission's Resolution No. R-04-009-A, marked Exhibit "B" hereto.

SECTION V

If this approval for these zoning map amendments shall be held invalid, in whole or in part, by any court of proper jurisdiction, such invalidity shall not affect the validity of any of the other zoning regulations, zoning map, or comprehensive plan provisions as they are severable from this Ordinance and they are intended to have effect regardless of any invalidity relating to this particular Ordinance.

SECTION VI

Publication of this Ordinance is hereby authorized to be by summary publication in accordance with Kentucky law.

PASSED AND APPROVED ON FIRST READING THIS 25th DAY OF MAY, 2004.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS
8th DAY OF June, 2004.

APPROVED:

Dean E. White
MAYOR

ATTEST:

Jan A. [Signature]
CITY CLERK

We, William White, Louise White, Kenneth Bowman and Joyce Bowman as the property owners of the real estate referenced herein and the authorized representative from Triangle Design Group (applicant) hereby agree to the Special Conditions of approval placed on this project by the City of Florence, Kentucky as setforth below:

1. The hours of operation for the commercial businesses that locate within the development shall not be permitted to be open for business twenty four (24) hours a day. The hours of operation shall be consistent with other retail and restaurant hours of operation in the surrounding area.
2. The commercial parcel immediately adjacent to the rear of the residential properties on Northfield Drive, the proposed daycare center or any such future use, shall not have daily hours of operation past 10:00 p.m.
3. A pedestrian sidewalk system shall be constructed along the west or internal commercial side of the main boulevard type road in the development.
4. Buffer yard cross sections shall be submitted to the Boone County Planning Commission for review and approval during the improvement plan process for all portions of the proposed development property where it is adjacent to Farmview residential property. The review and approval shall evaluate lines of sight to determine the most effective method of buffering the development from the adjacent residential subdivision through the utilization of fencing, berming, and/or installation of trees.
5. Freestanding signs shall be limited to three monument style signs total along the U.S. 42 frontage (one overall development sign and two signs for specific businesses). The development sign shall be a maximum of ten (10) feet in height and a maximum of one hundred (100) square feet. The two monument style signs for specific businesses shall be a maximum of eight (8) feet in height and a maximum of seventy (70) square feet. Note, the height and size restrictions contained in this condition supercede the height and size restrictions contained in Boone County Planning Commission Number 8. However, all other restrictions relative to signage contained in Boone County Planning Commission Condition number 8 remain in effect.

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: May 4, 2005

RE: Request of Terrace Development Company, LLC (owner) for a Change in an Approved Concept Development Plan for an approximate 1.2 acre site located on the north side of US 42, immediately east of the property at 8912 Old Union Road, Florence, Kentucky (future Lot 4, Village Terrace Subdivision). The request is for a Change in an Approved Concept Development Plan in a Union Commercial/Planned Development (UC/PD) zone to allow two commercial buildings with drive-through facilities on separate lots.

REMARKS:

We, the Committee, recommend approval of the above referenced request based on the following findings of fact and with the following conditions.

FINDINGS OF FACT

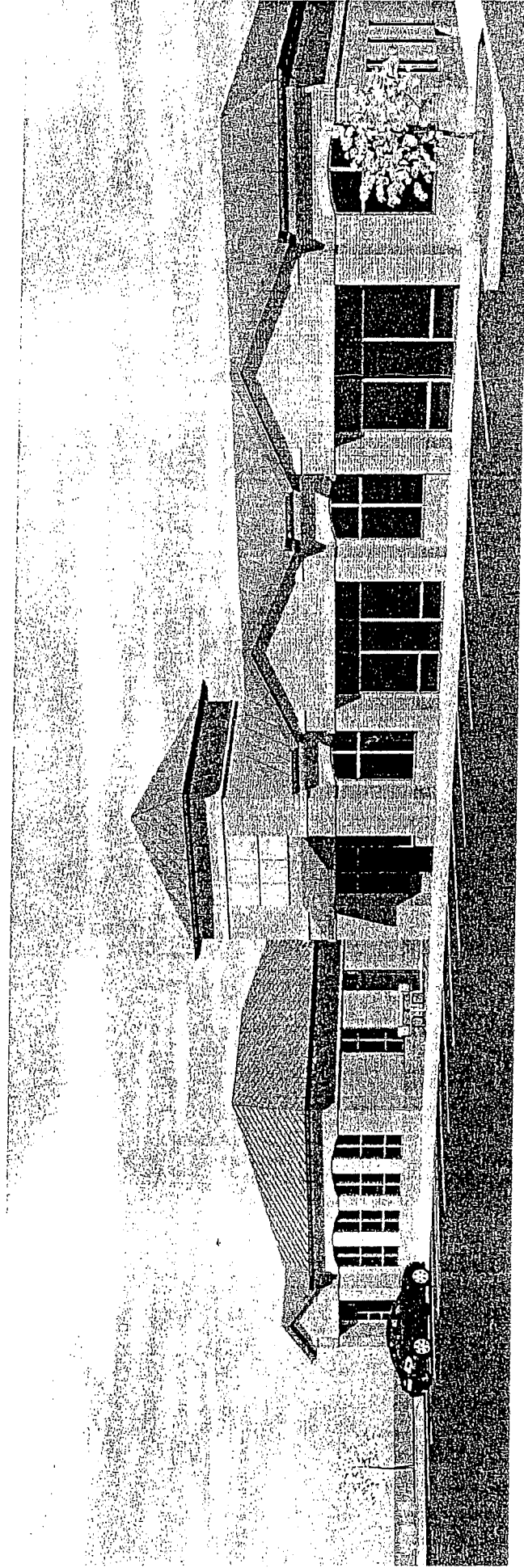
1. The Committee has concluded that the proposed Change in Approved Concept Development Plan is in agreement with the Comprehensive Plan due to the following reasons.
 - A. The Future Land Use Map designates the site as "Commercial." This designation is described as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc." Further, the 2000 Union Town Land Use Plan Map designates the site for Office uses - this category falls within the Comprehensive Plan's broader Commercial designation as it is described in the Land Use Element. The Union Town Plan is "designed to be a furtherance of the Comprehensive Plan's recommendations," and the Land Use Element ("Union Area," pg. 164) states that "the (Union Town) plan's recommendations are shown on the 2025 Future Land Use Map and also affect the Boone County Zoning Regulations."

- B. The Land Use Element ("Pleasant Valley - West Florence Area," pg. 164) states that smaller-scaled office and institutional uses are intended in the vicinity of Farmview Subdivision and the Florence/Union corporate boundary, and that creative building layout and orientation should be used in lieu of strip-style commercial development, and Planned Development Overlay Districts should be utilized. Although the proposal is for retail uses, the Concept Development Plan, which was revised through the Zone Change Committee process, is designed to have the characteristics of an integral development indicative of smaller-scaled office and institutional uses. It also uses the Planning Development Overlay District to provide a creative building layout which appropriately relates to both US 42 and Bowman Way by providing the second drive-through lane at the rear of the eastern building and facing away from US 42, which helps to minimize an automobile orientation and strip style development characteristics. With the exception of the specific changes requested through the revised Concept Development Plan, the applicant has agreed to follow all applicable terms and conditions of the original zone change/Concept Development Plan approval. Overall, the changes proposed on the revised Concept Development Plan will not alter the basic character of the original development as expressed through its Concept Development Plan and zone change conditions, nor does it change the applicability of the findings in the 4/7/04 Committee Report for the original zone change approval.
- C. The Committee has concluded that the proposal is in agreement with the applicable Future Land Use Development Guidelines as described in the Comprehensive Plan and the Goals and Objectives. Specific references to the guidelines and Goals and Objectives are outlined in the staff report for this request.
2. The Committee has concluded that the Change in Concept Development Plan, coupled with the agreed conditions, fulfill the applicable requirements of Article 15 "Planned Development District" and Article 25 "Union Town Plan Districts" of the Boone County Zoning Regulations.
3. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2000 Boone County Comprehensive Plan, the Union Town Plan as it relates to the Comprehensive Plan, and the standards and policies of Article 15 "Planned Development District" and Article 25 "Union Town Plan Districts." The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

CONDITIONS

1. The development shall follow the revised Concept Development Plan (plot plan and perspective drawings) received by the Planning Commission on 4/15/05 (attached).
2. To insure pedestrian visibility across the rear drive-through lane at the northwest corner of the "Village Terrace" building shown on the revised Concept Development Plan, pedestrian crossing at this point shall be at least 7 feet from the corner of the building. This 7-foot clearance shall be physically maintained through the provision of a defined crosswalk, landscaping, fence or rail, and/or other means as determined through the site plan review process.
3. The development is still subject to all applicable terms and conditions of the original zone change approval for the overall Village Terrace development.

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 Committee Vote.

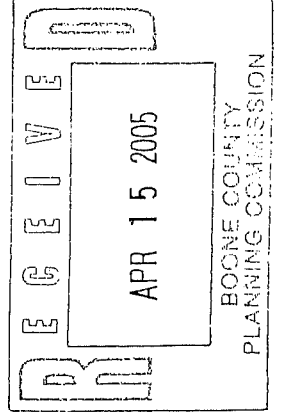


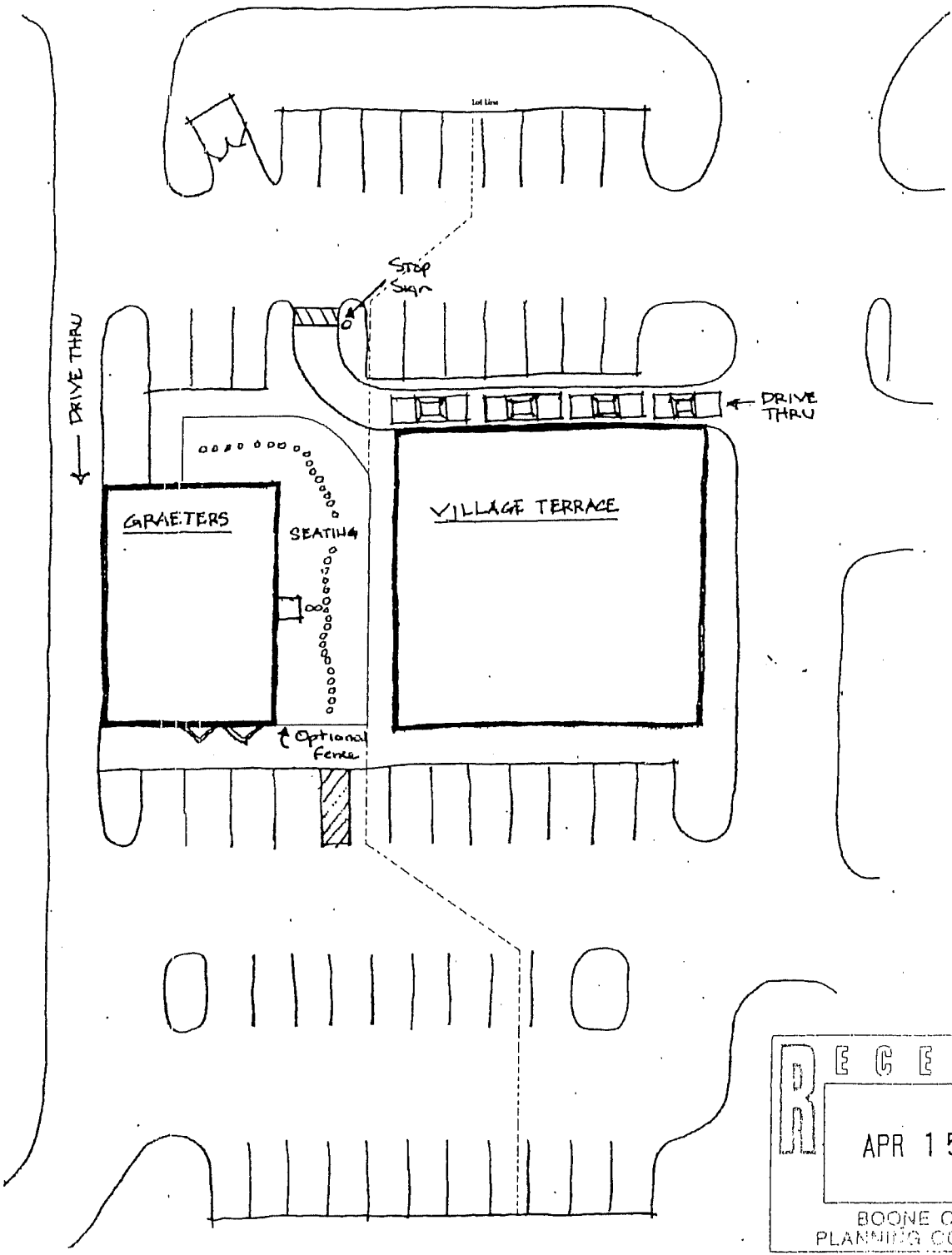
VILLAGE TERRACE / GRAETERS



Hub+Weber
Architects, PLC

4-15-05





RECEIVED
APR 15 2005
BOONE COUNTY
PLANNING COMMISSION

(A)

ORDINANCE NO. O-17-05

AN ORDINANCE ADOPTING AND APPROVING A CHANGE IN CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 1.2 ACRE SITE GENERALLY LOCATED ON THE NORTH SIDE OF U.S. 42, IMMEDIATELY EAST OF THE PROPERTY AT 8912 OLD UNION ROAD, FLORENCE, KENTUCKY (FUTURE LOT 4, VILLAGE TERRACE SUBDIVISION), TO ALLOW TWO COMMERCIAL BUILDINGS WITH DRIVE-THROUGH FACILITIES ON SEPARATE LOTS. (TERRACE DEVELOPMENT COMPANY, LLC)

WHEREAS, the City of Florence, Kentucky, is a member of the county-wide planning unit with a county-wide planning commission known as the Boone County Planning Commission, and

WHEREAS, the Boone County Planning Commission has recommended approval, subject to a development plan and agreed conditions of a change in a previously approved concept development plan, and

WHEREAS, the recommendation for approval by the Boone County Planning Commission is based upon certain findings and conditions attached to its Resolution of Recommendation, all of which have been reviewed by the City Council for the City of Florence, Kentucky.

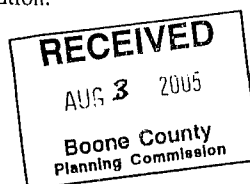
NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FLORENCE, KENTUCKY, AS FOLLOWS:

SECTION I

That the requested change in concept development plan for an approximate 1.2 acre site generally located on the north side of U.S. 42, immediately east of the property at 8912 Old Union Road, Florence, Kentucky (Future Lot 4, Village Terrace Subdivision), shall be and is hereby approved, subject to the concept development plan previously approved and now amended as well as other agreed conditions for this site, this change in concept development plan being to allow two commercial buildings with drive-through facilities on separate lots. In all other respects, the previously approved concept development plan for this property shall remain in full force and effect.

SECTION II

The approval of this change in concept development plan is granted subject to the conditions, terms and provisions of the Boone County Planning Commission recommendation, including its Committee Report, made a part of that recommendation, and all provisions comprising the development plan herein, a copy of that recommendation and Committee Report of the Boone County Planning Commission being attached, marked Exhibit "A" and incorporated herein as if fully set out, this recommendation being in the form of Resolution No. R-05-008-A of the Boone County Planning Commission, including the exhibits referenced to that Resolution.



SECTION III

In addition to those conditions set forth in the recommendations of the Boone County Planning Commission, this approval of the City of Florence, Kentucky, through its City Council shall be and is hereby subject to those additional conditions that have been agreed to in writing by the property owner/applicant as shown on Exhibit "B", a copy of which is attached and incorporated herein by reference as if fully set out.

SECTION IV

This approval is granted based on the Findings of Fact made by the Boone County Planning Commission and contained within its recommendation that is attached and part of the Commission's Resolution No. R-05-008-A, marked Exhibit "A", and attached hereto.

SECTION V

If this approval for this change in concept development plan shall be held invalid, in whole or in part, by any Court of proper jurisdiction, that invalidity shall not affect the validity of any of the other zoning regulations, zoning map, comprehensive plan, or other portions, provisions or terms of the approved concept development plan for this property as they are severable from this Ordinance and are intended to have full force and effect regardless of any invalidity relating to this particular Ordinance.

SECTION VI

Publication of this Ordinance is hereby authorized to be by summary publication in accordance with Kentucky law.

PASSED AND APPROVED ON FIRST READING THIS 19th DAY OF July, 2005.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 26th DAY OF July, 2005.

APPROVED:

David E. Whalen
MAYOR

ATTEST:

[Signature]
CITY CLERK

CITY OF FLORENCE, KENTUCKY
PLANNING AND ZONING COMMITTEE

IN RE: REPORT AND RECOMMENDATION - REQUEST OF TERRACE DEVELOPMENT COMPANY, LLC (OWNER) FOR A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 1.2 ACRE SITE GENERALLY LOCATED ON THE NORTH SIDE OF U.S. 42, IMMEDIATELY EAST OF THE PROPERTY AT 8912 OLD UNION ROAD, FLORENCE, KENTUCKY (FUTURE LOT 4, VILLAGE TERRACE SUBDIVISION), TO ALLOW TWO COMMERCIAL BUILDINGS WITH DRIVE-THROUGH FACILITIES ON SEPARATE LOTS.

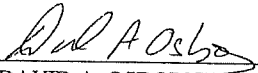
The Committee met in a special meeting on July 12, 2005 at the Florence Government Center Building to consider Resolution No. R-05-008-A of the Boone County Planning Commission which recommended approval of the request described above. The Committee reviewed the record of proceedings before the Boone County Planning Commission, including said Resolution and the exhibits thereto, and the approved Minutes of the public hearing. The Committee determined that the record from the Boone County Planning Commission contains adequate information for consideration of the recommendation and that no need exists for an additional hearing before the City Council.

Further, the Committee determined, and the applicant has agreed, that the recommendation for approval should be affirmed, based upon the findings contained in the record before the Boone County Planning Commission, subject to the additional conditions which are attached hereto and incorporated herein.

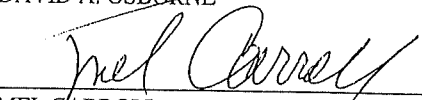
NOW, THEREFORE, the Planning and Zoning Committee recommends to the City Council of the City of Florence, Kentucky, as follows:

- a. That this matter be considered solely on the record before the Boone County Planning Commission and that no additional hearings be held; and
- b. That the recommendation of approval from the Boone County Planning Commission be affirmed, subject to the additional conditions attached hereto and incorporated herein.

MEMBERS OF THE COMMITTEE:



DAVID A. OSBORNE



MEL CARROLL

CITY OF FLORENCE, KENTUCKY
SUMMARY OF ORDINANCE NO. 0-17-05

The City of Florence, Kentucky, enacted on second reading Ordinance No. 0-17-05 on July 26, 2005. The title of this Ordinance is as follows:

ORDINANCE NO. 0-17-05

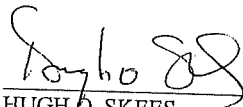
AN ORDINANCE ADOPTING AND APPROVING A CHANGE IN CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 1.2 ACRE SITE GENERALLY LOCATED ON THE NORTH SIDE OF U.S. 42, IMMEDIATELY EAST OF THE PROPERTY AT 8912 OLD UNION ROAD, FLORENCE, KENTUCKY (FUTURE LOT 4, VILLAGE TERRACE SUBDIVISION), TO ALLOW TWO COMMERCIAL BUILDINGS WITH DRIVE-THROUGH FACILITIES ON SEPARATE LOTS. (TERRACE DEVELOPMENT COMPANY, LLC)

The effect of this Ordinance is to allow two commercial buildings with drive-through facilities on separate lots within Future Lot 4 of the Village Terrace Subdivision. In all other respects, the previously approved concept development plan for this approximate 1.2 acre site remains in full force and effect.

The full text of Ordinance No. 0-17-05, including its exhibits, is available for examination in the office of the City Clerk of the City of Florence, Kentucky, in the Florence Government Center, 8100 Ewing Blvd., Florence, Kentucky, during regular office hours.

CERTIFICATION

I hereby certify that the foregoing is a summary of the contents of Ordinance No. 0-17-05 and that it has been prepared by me on the 19th day of July, 2005, and I am an attorney licensed to practice law in the Commonwealth of Kentucky.



HUGH D. SKEES
SKEES, WILSON & DILLON, PLLC
7699 Ewing Blvd., P.O. Box 756
Florence, KY 41042-0756
(859) 371-7407

**CITY OF FLORENCE
SPECIAL CONDITIONS OF APPROVAL
FOR
CHANGE IN APPROVED CONCEPT DEVELOPMENT
PLAN
FUTURE LOT 4, VILLAGE TERRACE SUBDIVISION**

The undersigned, on behalf of Terrace Development Company, LLC, hereby agrees to the following special conditions of approval for the requested change in concept development plan for the approximate 1.2 acre site known as future lot 4 of the Village Terrace Subdivision Florence, Kentucky.

1. That a decorative wrought iron style fence, which may include one or more pedestrian gates, or a trellis feature which incorporates a fence with materials compatible with the trellis shall be constructed around the outside seating area for lot 4 (Greater's) as shown on Exhibit B1. The final design shall be approved by the Design Review Committee of the Boone County Planning Commission.

2. This approval shall follow the revised Concept Development Plan (Exhibit B1) received by the City of Florence at the July 13, 2005 Planning and Zoning Committee Meeting (see attached). This condition of approval shall supercede Boone County Planning Commission Condition of Approval # 1 for this request.

7-14-05
Date


Member, Terrace Development Company, LLC

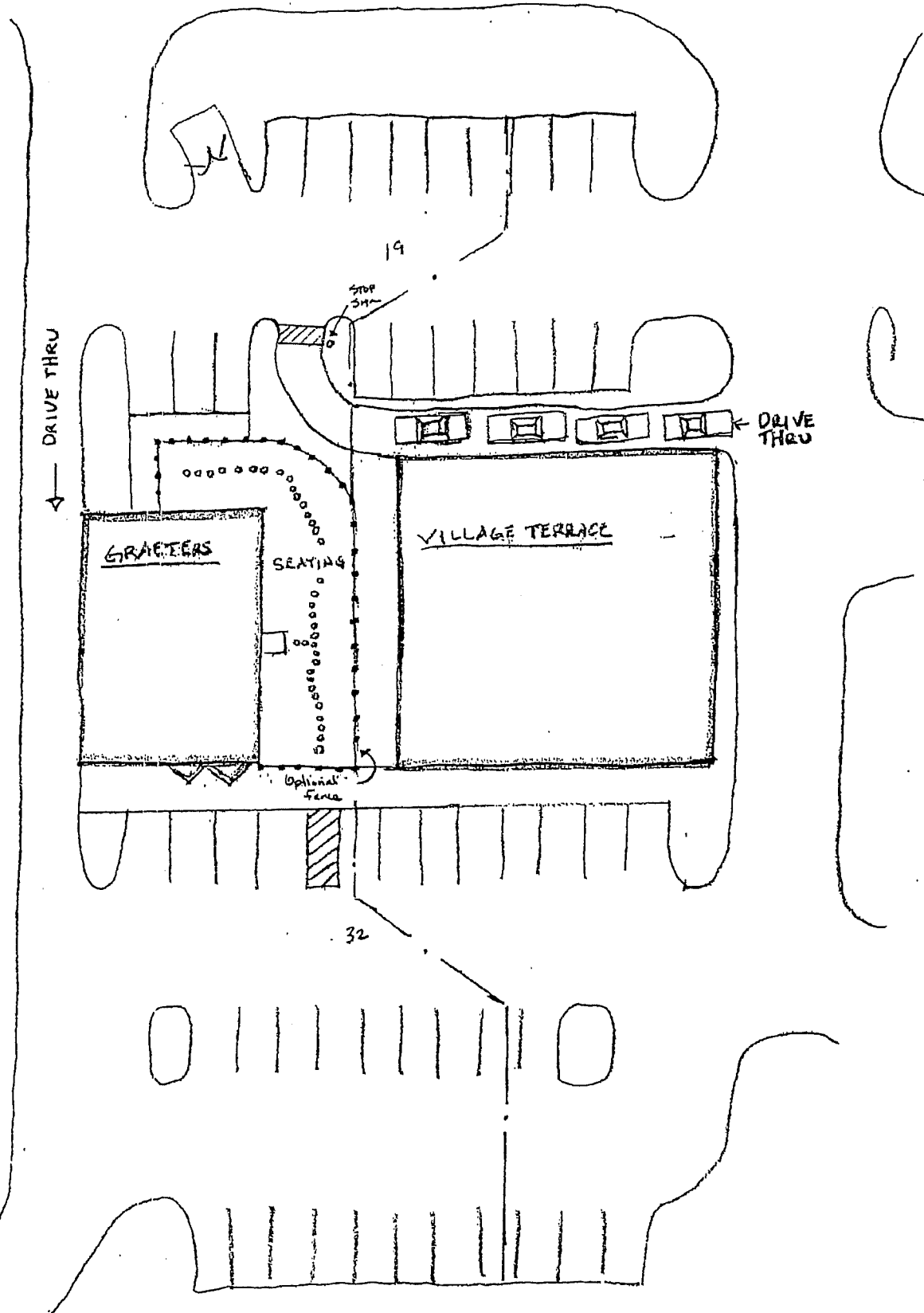
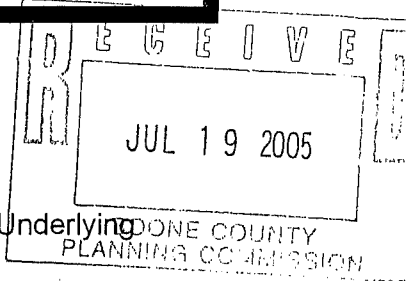


Exhibit (B)

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 VILLAGE TERRACE
3. Location of Project US Hwy 42 8850 US42 FLORENCE KY 41042
4. Total Acreage of Site 1.1
5. Current Zoning UC/DP
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) 5/11/04
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) UNION TOWN PLAN

8. Proposed Uses (please specify each use) RETAIL COMMERCIAL

9. Proposed Building Intensities (please specify)

10. Have you submitted a Concept Development Plan? YES

11. Are you also applying for:
Conditional Use Permit
Dimensional Variance

12. Name of Applicant(s) TERRACE DEVELOPMENT Co LLC
Phone Number 342-7333 Fax No. 342-6080

13. Address of Applicant(s) 495 ERLANGER Rd
ERLANGER KY 41042
City State Zip

14. Name of Property Owner(s) SAME AS APPLICANT
Phone Number Fax No.

15. Address of Property Owner(s)
City State Zip

16. Are there any existing buildings on the site?
How many?

17. Deed Book 677/822 Page No. 143/620 Group No.

18. Have you had a pre-application meeting with BCPC Staff? YES

(over)

Concept Development Plan

Page 2

19. Please check the following organizations/agencies which you have discussed the proposed development with in the last several months:

- Boone County Water District
- Florence Water and Sewer Dept.
- Cinergy/U.L.H & P. Co
- Sanitation District #1
- Cincinnati Bell
- Owen County Rural Electric
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- City of Florence Public Services Department
- Boone County Building Department
- Northern Kentucky Health District
- USDA NRCS/Boone County Conservation District
- KY Division of Water
- Local School District
- Local Fire District
- Other: _____

20. Concept Development Plan Jurisdiction/Location

- Unincorporated Boone County Walton
- Florence Union

21. Applicant's Signature(s) _____

22. Property Owner's Signature(s) _____

SECTION B (To be completed by BCPC Staff)

- 1. Date Received 7-19-05 Fee Received 1366.26 #43129
- 2. Check what has been submitted:
 - Application Fee Legal Description
 - Concept Development Plan Addresses of Adjoining Property Owners
 - No. of copies of plan received **
- 3. Is application complete? YES NO
- 4. Staff Reviewer KEVIN JALL
- 5. Committee Chairperson _____
- 6. Scheduled Public Hearing Date 8/17/05
- 7. Boone County Planning Commission Action:
 - Approved
 - Approved With Conditions
 - Denied
- 8. Other: _____

** Five (5) Copies 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

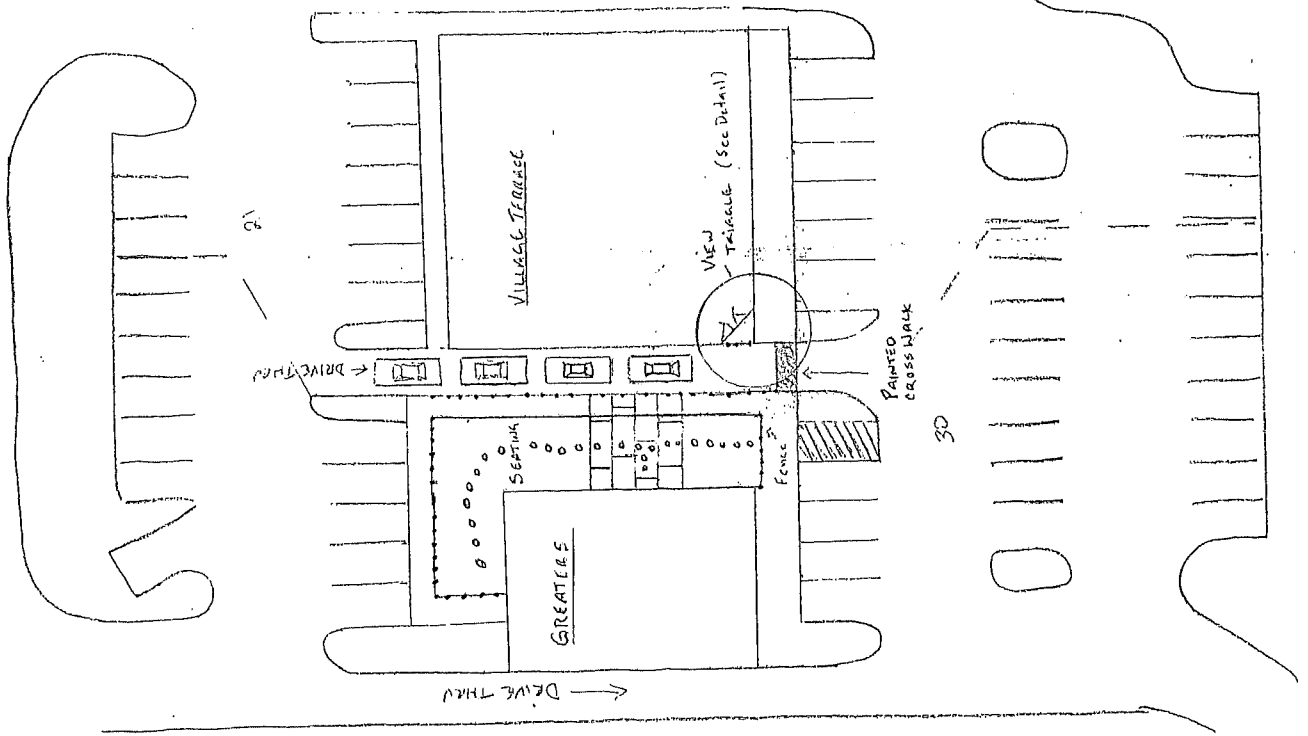
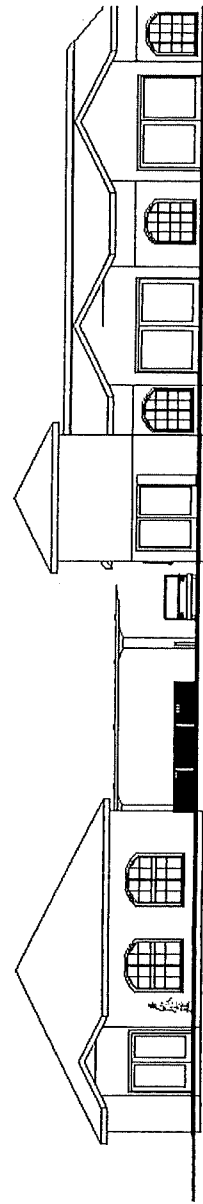
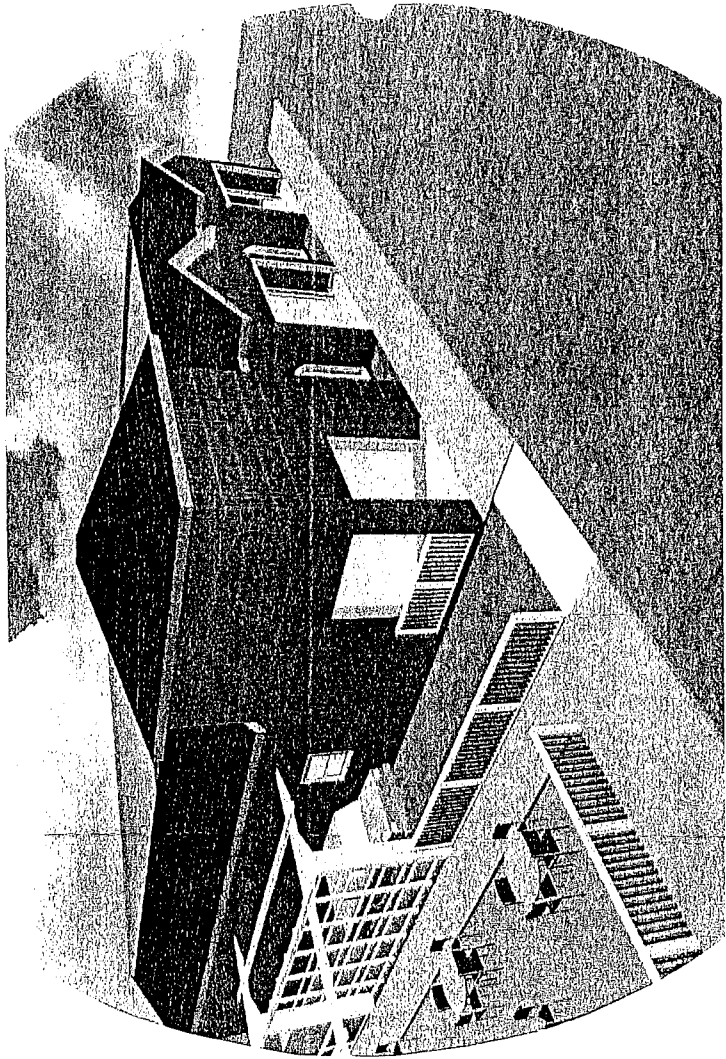
Note: See Boone County Planning Commission Fee Schedule for Concept Development Plan Fees. An application consists of all fees paid in full, submitted drawings and a completed application form.



1. This application is for a change in the approved concept development plan as it relates to lot 4 of the Village Terrace Subdivision. Attached is a concept plan that shows the proposed changes. For your convenience along with the proposed concept plan we have included a copy of the approved plan. Renderings of the buildings will be available for the public hearing.

We are asking that the concept plan be approved as submitted.

*Please note that there is a shared parking agreement between Lots 3 & 4 as defined in Boone County records (Book MC1024 Pages 480-490).



Public Hearing Item No. 3:

Commission Members Present: Mr. Barlow, Mr. Breetz, Mr. Bungler, Mr. Caddell - Chairman, Mr. Carmichael, Mrs. Kegley, Mr. Knock, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Reynolds, Mr. Schwenke, and Mr. White.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Jan Hancock, Secretary; and Mr. Kevin Wall, AICP, CDT – Director, Zoning Services.

Legal Counsel Present: Mr. Dale Wilson

3. Applicant: **Terrace Development Company, LLC (owner)**

Request: **Change in Approved Concept Development Plan**

The request of Terrace Development Company, LLC (owner) for a Change in an Approved Concept Development Plan for an approximate 1.2 acre site located on the north side of US 42, immediately east of the property at 8912 Old Union Road, Florence Kentucky (Lot 4, Village Terrace Subdivision). The request is for a Change in an Approved Concept Development Plan in a Union Commercial/Planned Development (UC/PD) zone to allow a second drive-through facility on the site which is located between two buildings.

Staff Member Kevin Wall presented the Staff Report which included a Power Point presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Adam Chaney with Terrace Development Company, 8100 Camp Ernst Road, presented and reviewed Power Point slides of Village Terrace Subdivision. He stated that their objective is to change the design of Lot #4 to create the best possible plan for the county, the city, the public and the tenants. The current plan with the drive-through in the middle is substantially different than the first plan they presented. He presented a rendering of the original proposal, submitted in March 2005, with the drive-through in the middle and stated that there was very little public comment at the Public Hearing, but at the Committee Meeting there were concerns that the buildings were too close together and there was an alley effect. The request was tabled for them to come up with a better plan to address the safety concerns. He presented a copy of the Revised Plan to mitigate the concerns regarding the alley. The Revised Plan included a drive-through window at the rear of the building. He stated that the other safety request was for a 7-foot

railing at the back of the building so that pedestrians would have to walk around and be able to see cars coming through the drive-through. He stated that they overlooked the stacking issue and subsequently realized that they did not present the best plan. After approval of the Revised Plan by the Planning Commission, their engineer pointed out issues including the stacking and they took the new plan, with the engineer's recommended changes, to the City of Florence. The City of Florence approved that plan subject to the condition that the Planning Commission did not consider it to be a major change – but Kevin Wall determined that it is a major change and that is why they are here tonight. He stated that they would have presented this plan to the Committee the first time, but they did not have it then. The new plan improves safety, drive-through stacking and functionality of the site. He introduced Mark Brueggemann and reviewed his credentials and experience in providing transportation and traffic engineering design services, accident analysis, access management and site circulation. He served as City Engineer for several communities in Northern Kentucky and was part of the design team for Dixie Highway.

Mr. Mark Brueggemann stated that after they went through the Planning Commission's process and started preparing the detailed construction drawings, there was an immediate concern with the proposed layout. Reviewing the Power Point slides, he stated that they could only stack three or four cars before there would be a backup onto the main access road serving Lots 3, 4, and 4A. He stated that most drive-throughs go counter-clockwise, but this drive-through was in a clockwise direction, which people are not used to seeing. He reviewed the traffic flow through the drive-through for each of the buildings. He stated that there is a standard counter-clockwise flow and they can stack 7 – 8 vehicles without stacking onto the main drive. The corner of the building was cut out so that a pedestrian crossing there would have a good line of sight. He stated because the drive-through is a narrow lane next to a building, people will go slowly. They are proposing a banded crosswalk on a textured pavement so that it will be obvious to people that it is a crosswalk. They are agreeable to the crosswalk proposed by Staff. He indicated the location where they are proposing a stop sign. He stated that it is common for pedestrians to have to walk across drive-throughs, but this is safer because there is a designated crossing location so that people are not walking between cars. He stated that they have improved the sight distance and this is a safer, more efficient, typical type of drive-through arrangement.

Mr. Chaney reviewed their Power Point presentation and stated that their tenants will have backroom operations – for a restaurant it would be the kitchen with pick up and deliveries in the back of the building. He stated that when they came in the first time, they did not realize that they eliminated the service entrances, but on the approved plan they are moved to the right and left sides as indicated. If the service entrances were on the side of the building by the main thoroughfare, trucks would have to unload there and deliveries would be in the middle of the pedestrian crosswalk and across the drive-through. He stated that this is a more practical plan with deliveries in the rear and the service doors in the rear. He

reviewed a 3D version of the buildings and indicated how pedestrians can walk along the sidewalk and see through the open corner of the building. He stated that the view corridor is a safer approach than having the drive-through in the back with the 7-foot rail. He stated that they are not opposed to the stop sign. He indicated the visibility above the railing. He stated that the current plan is much safer and improves the stacking and functionality for customers and tenants. This concluded the applicant's presentation.

The Chairman asked if there was anyone 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. There was no response.

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

Mr. Reynolds stated that the diagram shows three cars blocking five parking spaces. He stated that people trying to get in and out of the parking spaces would be blocked by stacked cars if there were eight vehicles in the drive-through lane. Mr. Chaney responded that it is atypical of what you see in a restaurant and it is better than having five cars blocking the main thoroughfare. Mr. Costello stated that there are standards for drive-through lanes. Mr. Wall stated that a drive-through lane is a separate entity from the parking lot drive.

Mrs. Poston asked if the footprints of the buildings are different. Mr. Chaney responded that the footprints are the same, but they have addressed the view corridor in response to safety concerns. He presented the original plan. Mrs. Poston stated that the footprints have changed from the original plan. Mr. Chaney responded that the exterior site amenities have changed but there is not a change in the footprint. Mrs. Poston questioned why they do not put the drive-through on the other side of the building. Mr. Chaney reviewed the traffic flow. He stated that it would be difficult from a traffic engineering standpoint and it would not work. He stated that they looked at this 150 different ways.

Mr. Knock questioned the width of the drive-through lane between the buildings. Mr. Chaney responded that from the curb to the wall it is ten feet and the fence is offset a little on the Graeter's side. Mr. Costello questioned the standard for a drive-through. Mr. Wall responded that the standard is 10 feet, but for a one-way driveway within a parking lot it is 14 feet. Mr. Costello stated that generally a drive-through lane is wider because people can slide when there is ice.

Mr. Knock questioned the depth of the building. Mr. Chaney responded "70 feet". Mr. Knock questioned installing speed bumps so that traffic does not go too fast through there. Mr. Chaney responded that they are open to any safety suggestions.

Mr. Schwenke stated that the parking spaces across the front are not shown in the 3D rendering. He stated that there will be people walking around their cars. He questioned the sidewalk visibility with cars parked there. Mr. Brueggemann responded that the parked cars should not make a difference because the traffic is only going one way. He stated that cars parked out front will not affect the line of sight of someone in regard to a car coming out of the drive-through. Mr. Schwenke responded that people do not always do what they are supposed to do and he is concerned about people walking around their cars. Mr. Chaney responded that people getting out of their cars will be stepping into their parking space or the island.

Mr. Carmichael stated that the approved plan showed the trellis just shy of the fence, but the drawings show the trellis going all the way over to the other building. Mr. Zaki Barkette with Graeter's stated that the trellis will be the same as what was approved and the rendering is just illustrative. Mr. Chaney stated that what was shown in the Design Review this evening is what will be there (Item #4 on the Business Meeting Agenda).

Mr. Barlow stated that his concern at the Committee Meeting was safety and that is his concern now. He stated that the cars going between two buildings is a safety problem. He is concerned about how they get in and the radius. He stated that parking spaces will be blocked. Cars will be going through a ten-foot wide section and it appears that they could cross the lot line onto the Graeter's property. Mr. Chaney indicated the property line. Mr. Barlow asked if they are permitted to build directly on the lot line and have the drive-through lane adjoin as shown. He stated that the Graeter's property is defined, but there is not a defined tenant for the second building. He stated that Graeter's will attract young people and children do not have any concept about sight lines – they will be thinking about ice cream. He stated that the Planning Commission has a responsibility not to present a situation that puts children in front of moving cars. Mr. Chaney responded that if a mother parks in the rear, it would be the same concept. Mr. Barlow stated that it is a different situation in a parking lot because people are aware that cars could be coming from other directions – but people walking down the sidewalk in front of an ice cream parlor are not expecting a car to come out from between the buildings. He stated that cars coming between the two buildings is a major safety problem. Mr. Chaney stated that they and their engineers think it is safer. Mr. Barlow asked if they have designed and had approved a drive-through between two buildings before. Mr. Brueggemann responded that he cannot specify a particular location where the situation is exactly like this, but it could be equated to an urban situation where there are alleys between buildings. In response to questions from Mr. Barlow, Mr. Brueggemann indicated that he has been involved with designs involving alleys but he has not been involved with a drive-through between two buildings. Mr. Barlow stated that all of the concerns brought up in Committee and at the Public Hearing have convinced him that the building size is too large to include a drive-through. He asked if they had considered reducing the size of the buildings. Mr.

Chaney responded that they reduced the buildings two feet in the back and two feet on the sides in all directions. He stated that they equate this to a Walgreen's and a Wendy's. He stated that there are drive-throughs between buildings everywhere. He stated that the concern is not that the drive-throughs are between two buildings, the concern is whether there is enough sight distance for a mother or a child to see a car. He stated that they have 35 feet or 40 feet and he does not think another 30 feet would make a difference.

Chairman Caddell asked if there is a committed user for the other drive-through. Mr. Chaney responded that it is Donato's.

In response to a question from the Chairman regarding what is currently approved for this site, Mr. Wall stated that Exhibit B1 (attached to the Staff Report) shows two buildings and two drive-throughs. Exhibit B1 shows the approved Concept Plan and the prior conditions from the original plan apply. Also attached to the Staff Report are the City of Florence Special Conditions of Approval. He stated that there are conditions from the 2004 Concept Plan, from the Committee, and from the City of Florence. Chairman Caddell stated that the Planning Commission and the City of Florence have already approved what is shown on Exhibit B1 and there are two drive-throughs shown on two buildings. Mr. Wall agreed and stated that safety issues were a primary concern. Chairman Caddell stated that there were a good deal of concerns, but the plan was approved. Mr. Wall agreed. Chairman Caddell stated that the Planning Commission has already approved the plan shown in Exhibit B1 and the applicant can legally go ahead with that plan. He stated that it is the charge of the Committee in looking at the current proposal to see if there is a way to strengthen it that is acceptable to the applicant. He stated that the applicant can go ahead with the approved plan. Counselor Wilson agreed and noted that the approved plan has two drive-throughs.

Mr. Poe stated that the applicant is asking the Planning Commission to agree to a change that was approved by the City of Florence. Chairman Caddell agreed and noted that the applicant can fall back to the approved plan (Exhibit B1).

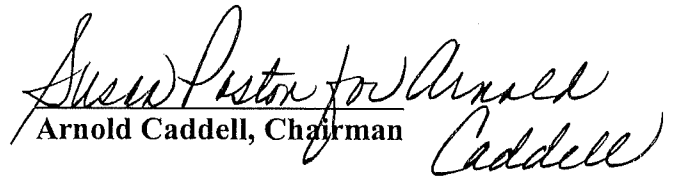
Mr. McMillian stated that he thinks it is a great plan and he does not have any problems with the drive-throughs. He questioned how wide the terrace is for the ice cream and if there is a childproof fence. Mr. Zaki Barkette with Graeter's responded that the seating area from the side of the Graeter's building to the sidewalk is 15' - 16' plus 5 feet of sidewalk to the fence followed by the ten-foot drive-through lane. He stated that the distance between the buildings is 15 feet + 5 feet + 10 feet. He stated that the fencing will be childproof and they will make sure the fencing meets the criteria at Design Review. Mr. Costello asked if there will be a gate in the fence. Mr. Chaney responded that it will be a solid fence and he believes the Design Review shows a gate. Mr. McMillian stated that the trellis does not appear to be childproof. Mr. Chaney stated that the approved Design

Review shows exactly what will be built. The 3D Power Point presentation is only for illustrative purposes.


Mr. Barlow stated that from the beginning he has been against the drive-through between the buildings. He stated that the applicant came back with a plan that moved the drive-through to the back of the building, which is a safer situation because it keeps pedestrians separate from the drive-through. Putting the drive-through in the center puts everyone in jeopardy of moving cars. The drive-through in the back of the building is a more appropriate response to a safety issue – it is a safer situation for customers and pedestrians.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on September 7, 2005 at 5:00 PM in this room. This item will be on the Agenda for the Business Meeting on September 21, 2005 at 7:00 PM. The Chairman closed this Public Hearing at 9:25 PM.

APPROVED:


Arnold Caddell, Chairman

Attest:


Jan Hancock, Recording Secretary

Mr. McMillian moved that the salaries, benefits, and bills due be approved and paid as presented; and indicated approval of those items which have been paid. Mr. Barlow seconded the motion. A vote on the motion found all voting members in favor. Chairman Caddell abstained due to his relationship with Heritage Bank. Mr. Schwenke was not yet present. The motion carried.

ACTION ON PLAN REVIEWS:

1. Change in Approved Concept Development Plan

The request of Terrace Development Company, LLC (owner) for a Change in an Approved Concept Development Plan for an approximate 1.2 acre site located on the north side of US 42, immediately east of the property at 8912 Old Union Road, Florence Kentucky (Lot 4, Village Terrace Subdivision). The request is for a Change in an Approved Concept Development Plan in a Union Commercial/Planned Development (UC/PD) zone to allow a second drive-through facility on the site which is located between two buildings.

Staff Member Kevin Wall presented the Committee Report which recommended denial of the request based on the Findings of Fact (see Committee Report).

Mr. Schwenke arrived during the presentation of the Committee Report.

The Chairman allowed the applicant up to five minutes to summarize their position.

Mr. Phil Drees, 1055 Thornwilde Drive, Hebron, stated that do not think the existing approved plan is the best plan. He stated that moving the drive-through from the back to the side of the strip center is an improvement over the existing plan because of safety. He stated that they have provided a view corridor and sufficient building separation to allow pedestrian and vehicular traffic with a safe sight distance. There is a stop sign, a crosswalk, and a fence to address safety. He stated that this request deletes the concerns about stacking as they are not putting cars into the access lane. He stated that Mark Brueggemann, an experienced traffic engineer, testified at the Public Hearing that the direction of the traffic within the site and the overall flow of the site are improved by placing the drive-through in the same direction as the two buildings. It is a safer and easier experience for the public. The proposed plan creates a better looking entry for the site from the major access point on Bowman Way. He stated that people will be entering from the back of the building and they do not want to look at the drive-through. He asked for approval of the application.

There was no one present to speak against the application.

Mr. Barlow moved by Resolution to the City of Florence that the request be denied based on the Committee Report. Mrs. Kegley seconded the motion.

Mrs. Kegley stated that from the beginning this site was to be a transition between the normal development along U.S. 42 and the Union Town Plan area. She stated that the Union Town Plan generally calls for buildings to be close to the road, but there was a compromise on that because of the elevation change, which meant that some of the vehicles would be visible from U.S. 42. She stated that the Committee felt that the pedestrian friendly character would be lost, which was the reason for the denial.

The Chairman asked for **a vote on the motion made by Mr. Barlow which found all ten voting members in favor. Mr. Bunger abstained to a commercial interest in the property. The motion carried.**

2. Zoning Map Amendment

The request of Viox & Viox for Paul Hemmer Development III (owner by option) for a Zoning Map Amendment from Agricultural Estate (A-2) to Industrial One (I-1) for a 28,159 acre site located at the western terminus of Aviation Boulevard and to the north and east of the property at 1404 Elijah Creek Road, Boone County, Kentucky. The request is for a zone change to allow industrial uses.

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.

The Chairman allowed the applicant up to five minutes to summarize their position.

Mr. Mike Hargis, Vice President of Paul Hemmer Construction Company, agreed with the Committee Report.

There was no one present in opposition to the request.

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

Mr. Breetz stated that this development is next to sensitive hillsides that are highly subject to erosion and the Committee worked with the County Engineer and came up with a post-development discharge that is 75% of the pre-development discharge for two-, five- and ten-year storm events (Condition #3). He stated that the verbiage in Condition #4 is to help with light pollution and visual effects on the river. He commended Staff and the developer for working together diligently.

EXHIBIT

“B”

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Randy Barlow, Chairman

DATE: October 5, 2005

RE: Request of **Terrace Development Company, LLC (owner)** for a Change in an Approved Concept Development Plan for an approximate 1.2 acre site located on the north side of US 42, immediately east of the property at 8912 Old Union Road, Florence, Kentucky (Lot 4, Village Terrace Subdivision). The request is for a Change in an Approved Concept Development Plan in a Union Commercial/Planned Development (UC/PD) zone to allow a second drive-through facility on the site which is located between two buildings.

REMARKS:

We, the Committee, recommend denial of the above referenced request based on the following findings of fact.

FINDINGS OF FACT

The Committee has concluded that the proposed Change in Concept Development Plan is not in agreement with the Boone County Comprehensive Plan and Union Town Plan as they relate to this request. Although the Comprehensive Plan's Future Land Use Map designates the site for "Commercial" uses, this designation is further qualified by the text of the Land Use Element and the by the Union Town Plan. The Land Use Element ("Pleasant Valley - West Florence Area," pg. 164) states:

Access Management at the intersection of U.S. 42 and Pleasant Valley should include access roads to serve commercial developments. Mixed-use development, that has commercial uses focused along U.S. 42 and that has varying types of residential uses, should occur to the southwest of this intersection on both sides of U.S. 42. The intensities of these commercial uses, in terms of building intensities, the size and style of individual structures, and the range of uses permitted, should begin with a broader range of commercial uses near the intersection and gradually decline to smaller-scaled office and institutional uses in the vicinity of Farmview Subdivision and the Florence/Union corporate boundary. Further, creative building layout and orientation should be used in lieu of strip-style commercial development, and Planned Development Overlay Districts should be utilized.

This passage is key to the nature, character, and demeanor of specific land uses for the area, and was relied on previously to approve two prior Concept Development Plans for this site. The 5/4/05 Committee Report for the currently approved Concept Development Plan for Lots 4 and 4A stated:

Although the proposal is for retail uses, the Concept Development Plan, which was revised through the Zone Change Committee process, is designed to have the characteristics of an integral development indicative of smaller-scaled office and institutional uses. It also uses the Planning Development Overlay District to provide a creative building layout which appropriately relates to both US 42 and Bowman Way by providing the second drive-through lane at the rear of the eastern building and facing away from US 42, which helps to minimize an automobile orientation and strip style development characteristics.

The current proposal simply does not produce the same or comparable results which would reasonably agree with the Land Use Element. The two drive-through lanes, which both run perpendicular to US 42, would be simultaneously visible from said road. With the relocation of the second drive-through lane between the buildings, the quality of the central pedestrian space is substantially eroded by the introduction of a "parking lot" quality by this amenity, and the "block" created by the two buildings and the central space is bisected by a drive and an additional pedestrian crossing. These aspects of the proposal are contrary to the Land Use Element's Future Land Use Development Guidelines ("Buffering," pg. 158 and "Design, Signs, and Historic Preservation," pg. 160), Section 1514 "Planned Development Standards" (#1 Mixed Use Development and Pedestrian Orientation and #3 Open Space) of the zoning regulations, and the Union Town Land Use Plan Map which designates the site for Office uses.

In short, the proposed Concept Development Plan is not "indicative of smaller-scaled office and institutional uses," nor is it "reflective of the existing rural environment" as sought by the Land Use Element for commercial nodes in this area (quotation from the 1995 Comprehensive Plan in the "Union Area" section of current plan, pg. 165), but has an automobile orientation reflective of a high turn-over retail strip. This is unacceptable to the Committee in light of the character sought by the various planning and regulatory documents noted herein, especially in light of the fact that the approved Concept Development Plan for Lots 4 and 4A provides the same utility by permitting two drive-through facilities that serve the same two buildings, but in a manner that better respects the planned character of this development and the general area. As a supplemental issue, the Committee is also concerned with traffic safety and circulation, notably that traffic could back up into the rear parking lot and block parked cars or interfere with motorists attempting to park, especially if the drive-through lane in the center of the site served a high volume/high turnover user.

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 Committee Vote.

Public Hearing Item No. 3:

Commission Members Present: Mr. Barlow, Mr. Breetz, Mr. Bunger, Mr. Caddell - Chairman, Mr. Carmichael, Mrs. Kegley, Mr. Knock, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Reynolds, Mr. Schwenke, and Mr. White.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Jan Hancock, Secretary; and Mr. Kevin Wall, AICP, CDT – Director, Zoning Services.

Legal Counsel Present: Mr. Dale Wilson

3. Applicant: **Terrace Development Company, LLC (owner)**

Request: **Change in Approved Concept Development Plan**

The request of **Terrace Development Company, LLC (owner)** for a Change in an Approved Concept Development Plan for an approximate 1.2 acre site located on the north side of US 42, immediately east of the property at 8912 Old Union Road, Florence Kentucky (Lot 4, Village Terrace Subdivision). The request is for a Change in an Approved Concept Development Plan in a Union Commercial/Planned Development (UC/PD) zone to allow a second drive-through facility on the site which is located between two buildings.

Staff Member Kevin Wall presented the Staff Report which included a Power Point presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Adam Chaney with Terrace Development Company, 8100 Camp Ernst Road, presented and reviewed Power Point slides of Village Terrace Subdivision. He stated that their objective is to change the design of Lot #4 to create the best possible plan for the county, the city, the public and the tenants. The current plan with the drive-through in the middle is substantially different than the first plan they presented. He presented a rendering of the original proposal, submitted in March 2005, with the drive-through in the middle and stated that there was very little public comment at the Public Hearing, but at the Committee Meeting there were concerns that the buildings were too close together and there was an alley effect. The request was tabled for them to come up with a better plan to address the safety concerns. He presented a copy of the Revised Plan to mitigate the concerns regarding the alley. The Revised Plan included a drive-through window at the rear of the building. He stated that the other safety request was for a 7-foot

railing at the back of the building so that pedestrians would have to walk around and be able to see cars coming through the drive-through. He stated that they overlooked the stacking issue and subsequently realized that they did not present the best plan. After approval of the Revised Plan by the Planning Commission, their engineer pointed out issues including the stacking and they took the new plan, with the engineer's recommended changes, to the City of Florence. The City of Florence approved that plan subject to the condition that the Planning Commission did not consider it to be a major change – but Kevin Wall determined that it is a major change and that is why they are here tonight. He stated that they would have presented this plan to the Committee the first time, but they did not have it then. The new plan improves safety, drive-through stacking and functionality of the site. He introduced Mark Brueggemann and reviewed his credentials and experience in providing transportation and traffic engineering design services, accident analysis, access management and site circulation. He served as City Engineer for several communities in Northern Kentucky and was part of the design team for Dixie Highway.

Mr. Mark Brueggemann stated that after they went through the Planning Commission's process and started preparing the detailed construction drawings, there was an immediate concern with the proposed layout. Reviewing the Power Point slides, he stated that they could only stack three or four cars before there would be a backup onto the main access road serving Lots 3, 4, and 4A. He stated that most drive-throughs go counter-clockwise, but this drive-through was in a clockwise direction, which people are not used to seeing. He reviewed the traffic flow through the drive-through for each of the buildings. He stated that there is a standard counter-clockwise flow and they can stack 7 – 8 vehicles without stacking onto the main drive. The corner of the building was cut out so that a pedestrian crossing there would have a good line of sight. He stated because the drive-through is a narrow lane next to a building, people will go slowly. They are proposing a banded crosswalk on a textured pavement so that it will be obvious to people that it is a crosswalk. They are agreeable to the crosswalk proposed by Staff. He indicated the location where they are proposing a stop sign. He stated that it is common for pedestrians to have to walk across drive-throughs, but this is safer because there is a designated crossing location so that people are not walking between cars. He stated that they have improved the sight distance and this is a safer, more efficient, typical type of drive-through arrangement.

Mr. Chaney reviewed their Power Point presentation and stated that their tenants will have backroom operations – for a restaurant it would be the kitchen with pick up and deliveries in the back of the building. He stated that when they came in the first time, they did not realize that they eliminated the service entrances, but on the approved plan they are moved to the right and left sides as indicated. If the service entrances were on the side of the building by the main thoroughfare, trucks would have to unload there and deliveries would be in the middle of the pedestrian crosswalk and across the drive-through. He stated that this is a more practical plan with deliveries in the rear and the service doors in the rear. He

reviewed a 3D version of the buildings and indicated how pedestrians can walk along the sidewalk and see through the open corner of the building. He stated that the view corridor is a safer approach than having the drive-through in the back with the 7-foot rail. He stated that they are not opposed to the stop sign. He indicated the visibility above the railing. He stated that the current plan is much safer and improves the stacking and functionality for customers and tenants. This concluded the applicant's presentation.

The Chairman asked if there was anyone 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. There was no response.

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

Mr. Reynolds stated that the diagram shows three cars blocking five parking spaces. He stated that people trying to get in and out of the parking spaces would be blocked by stacked cars if there were eight vehicles in the drive-through lane. Mr. Chaney responded that it is atypical of what you see in a restaurant and it is better than having five cars blocking the main thoroughfare. Mr. Costello stated that there are standards for drive-through lanes. Mr. Wall stated that a drive-through lane is a separate entity from the parking lot drive.

Mrs. Poston asked if the footprints of the buildings are different. Mr. Chaney responded that the footprints are the same, but they have addressed the view corridor in response to safety concerns. He presented the original plan. Mrs. Poston stated that the footprints have changed from the original plan. Mr. Chaney responded that the exterior site amenities have changed but there is not a change in the footprint. Mrs. Poston questioned why they do not put the drive-through on the other side of the building. Mr. Chaney reviewed the traffic flow. He stated that it would be difficult from a traffic engineering standpoint and it would not work. He stated that they looked at this 150 different ways.

Mr. Knock questioned the width of the drive-through lane between the buildings. Mr. Chaney responded that from the curb to the wall it is ten feet and the fence is offset a little on the Graeter's side. Mr. Costello questioned the standard for a drive-through. Mr. Wall responded that the standard is 10 feet, but for a one-way driveway within a parking lot it is 14 feet. Mr. Costello stated that generally a drive-through lane is wider because people can slide when there is ice.

Mr. Knock questioned the depth of the building. Mr. Chaney responded "70 feet". Mr. Knock questioned installing speed bumps so that traffic does not go too fast through there. Mr. Chaney responded that they are open to any safety suggestions.

Mr. Schwenke stated that the parking spaces across the front are not shown in the 3D rendering. He stated that there will be people walking around their cars. He questioned the sidewalk visibility with cars parked there. Mr. Brueggemann responded that the parked cars should not make a difference because the traffic is only going one way. He stated that cars parked out front will not affect the line of sight of someone in regard to a car coming out of the drive-through. Mr. Schwenke responded that people do not always do what they are supposed to do and he is concerned about people walking around their cars. Mr. Chaney responded that people getting out of their cars will be stepping into their parking space or the island.

Mr. Carmichael stated that the approved plan showed the trellis just shy of the fence, but the drawings show the trellis going all the way over to the other building. Mr. Zaki Barkette with Graeter's stated that the trellis will be the same as what was approved and the rendering is just illustrative. Mr. Chaney stated that what was shown in the Design Review this evening is what will be there (Item #4 on the Business Meeting Agenda).

Mr. Barlow stated that his concern at the Committee Meeting was safety and that is his concern now. He stated that the cars going between two buildings is a safety problem. He is concerned about how they get in and the radius. He stated that parking spaces will be blocked. Cars will be going through a ten-foot wide section and it appears that they could cross the lot line onto the Graeter's property. Mr. Chaney indicated the property line. Mr. Barlow asked if they are permitted to build directly on the lot line and have the drive-through lane adjoin as shown. He stated that the Graeter's property is defined, but there is not a defined tenant for the second building. He stated that Graeter's will attract young people and children do not have any concept about sight lines – they will be thinking about ice cream. He stated that the Planning Commission has a responsibility not to present a situation that puts children in front of moving cars. Mr. Chaney responded that if a mother parks in the rear, it would be the same concept. Mr. Barlow stated that it is a different situation in a parking lot because people are aware that cars could be coming from other directions – but people walking down the sidewalk in front of an ice cream parlor are not expecting a car to come out from between the buildings. He stated that cars coming between the two buildings is a major safety problem. Mr. Chaney stated that they and their engineers think it is safer. Mr. Barlow asked if they have designed and had approved a drive-through between two buildings before. Mr. Brueggemann responded that he cannot specify a particular location where the situation is exactly like this, but it could be equated to an urban situation where there are alleys between buildings. In response to questions from Mr. Barlow, Mr. Brueggemann indicated that he has been involved with designs involving alleys but he has not been involved with a drive-through between two buildings. Mr. Barlow stated that all of the concerns brought up in Committee and at the Public Hearing have convinced him that the building size is too large to include a drive-through. He asked if they had considered reducing the size of the buildings. Mr.

Chaney responded that they reduced the buildings two feet in the back and two feet on the sides in all directions. He stated that they equate this to a Walgreen's and a Wendy's. He stated that there are drive-throughs between buildings everywhere. He stated that the concern is not that the drive-throughs are between two buildings, the concern is whether there is enough sight distance for a mother or a child to see a car. He stated that they have 35 feet or 40 feet and he does not think another 30 feet would make a difference.

Chairman Caddell asked if there is a committed user for the other drive-through. Mr. Chaney responded that it is Donato's.

In response to a question from the Chairman regarding what is currently approved for this site, Mr. Wall stated that Exhibit B1 (attached to the Staff Report) shows two buildings and two drive-throughs. Exhibit B1 shows the approved Concept Plan and the prior conditions from the original plan apply. Also attached to the Staff Report are the City of Florence Special Conditions of Approval. He stated that there are conditions from the 2004 Concept Plan, from the Committee, and from the City of Florence. Chairman Caddell stated that the Planning Commission and the City of Florence have already approved what is shown on Exhibit B1 and there are two drive-throughs shown on two buildings. Mr. Wall agreed and stated that safety issues were a primary concern. Chairman Caddell stated that there were a good deal of concerns, but the plan was approved. Mr. Wall agreed. Chairman Caddell stated that the Planning Commission has already approved the plan shown in Exhibit B1 and the applicant can legally go ahead with that plan. He stated that it is the charge of the Committee in looking at the current proposal to see if there is a way to strengthen it that is acceptable to the applicant. He stated that the applicant can go ahead with the approved plan. Counselor Wilson agreed and noted that the approved plan has two drive-throughs.

Mr. Poe stated that the applicant is asking the Planning Commission to agree to a change that was approved by the City of Florence. Chairman Caddell agreed and noted that the applicant can fall back to the approved plan (Exhibit B1).

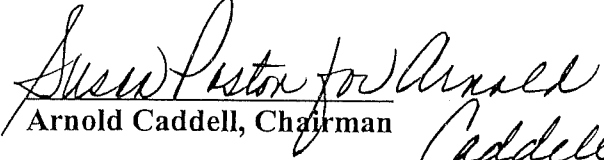
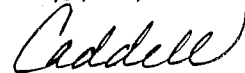
Mr. McMillian stated that he thinks it is a great plan and he does not have any problems with the drive-throughs. He questioned how wide the terrace is for the ice cream and if there is a childproof fence. Mr. Zaki Barkette with Graeter's responded that the seating area from the side of the Graeter's building to the sidewalk is 15' - 16' plus 5 feet of sidewalk to the fence followed by the ten-foot drive-through lane. He stated that the distance between the buildings is 15 feet + 5 feet + 10 feet. He stated that the fencing will be childproof and they will make sure the fencing meets the criteria at Design Review. Mr. Costello asked if there will be a gate in the fence. Mr. Chaney responded that it will be a solid fence and he believes the Design Review shows a gate. Mr. McMillian stated that the trellis does not appear to be childproof. Mr. Chaney stated that the approved Design

Review shows exactly what will be built. The 3D Power Point presentation is only for illustrative purposes.

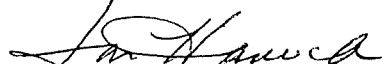
Mr. Barlow stated that from the beginning he has been against the drive-through between the buildings. He stated that the applicant came back with a plan that moved the drive-through to the back of the building, which is a safer situation because it keeps pedestrians separate from the drive-through. Putting the drive-through in the center puts everyone in jeopardy of moving cars. The drive-through in the back of the building is a more appropriate response to a safety issue – it is a safer situation for customers and pedestrians.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on September 7, 2005 at 5:00 PM in this room. This item will be on the Agenda for the Business Meeting on September 21, 2005 at 7:00 PM. The Chairman closed this Public Hearing at 9:25 PM.

APPROVED:


Arnold Caddell, Chairman 

Attest:


Jan Hancock, Recording Secretary

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission


FROM: Randy Barlow, Chairman

DATE: September 21, 2005

RE: Request of **Terrace Development Company, LLC (owner)** for a Change in an Approved Concept Development Plan for an approximate 1.2 acre site located on the north side of US 42, immediately east of the property at 8912 Old Union Road, Florence, Kentucky (Lot 4, Village Terrace Subdivision). The request is for a Change in an Approved Concept Development Plan in a Union Commercial/Planned Development (UC/PD) zone to allow a second drive-through facility on the site which is located between two buildings.

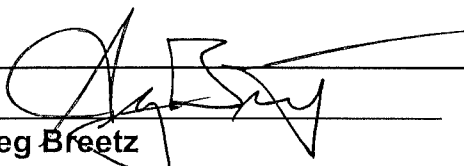
REMARKS:

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.

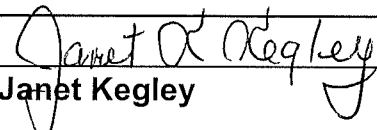


Randy Barlow, Chairman
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___

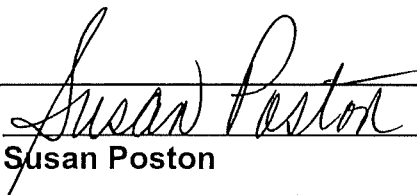
Kim Bunger
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___



Greg Breetz
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___



Janet Kegley
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___



Susan Poston
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___

Charlie Reynolds (Alternate)
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___

Earl White (Alternate)
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___

Lisa Wilson (Alternate)
For Project ___ Absent ___
Against Project _____
Abstain ___ Deferred ___

TOTAL: ___ DEFERRED ___ FOR PROJECT ___ ABSENT
4 ___ AGAINST PROJECT ___ ABSTAIN

SUPPORTING INFORMATION

8-405

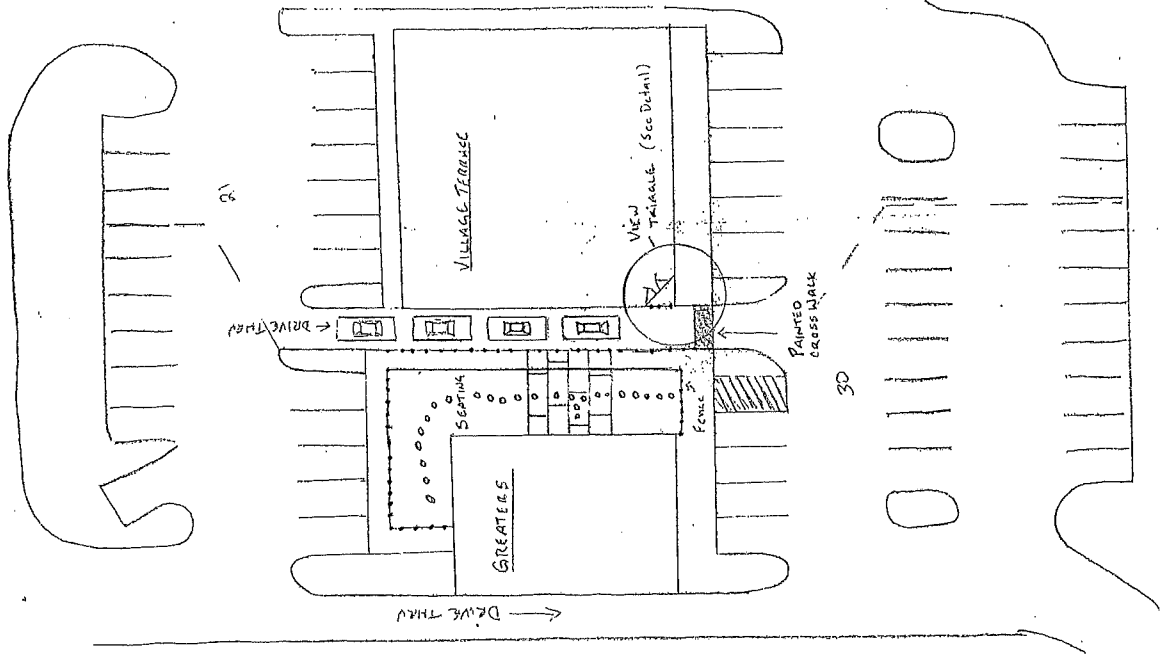
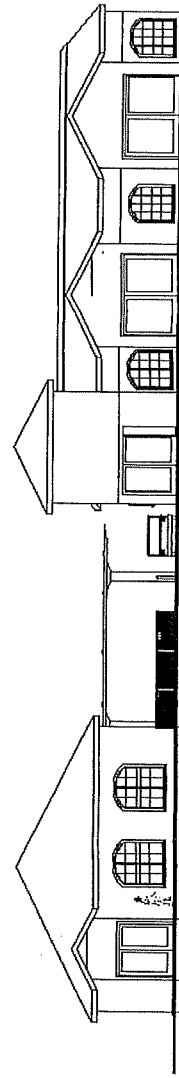
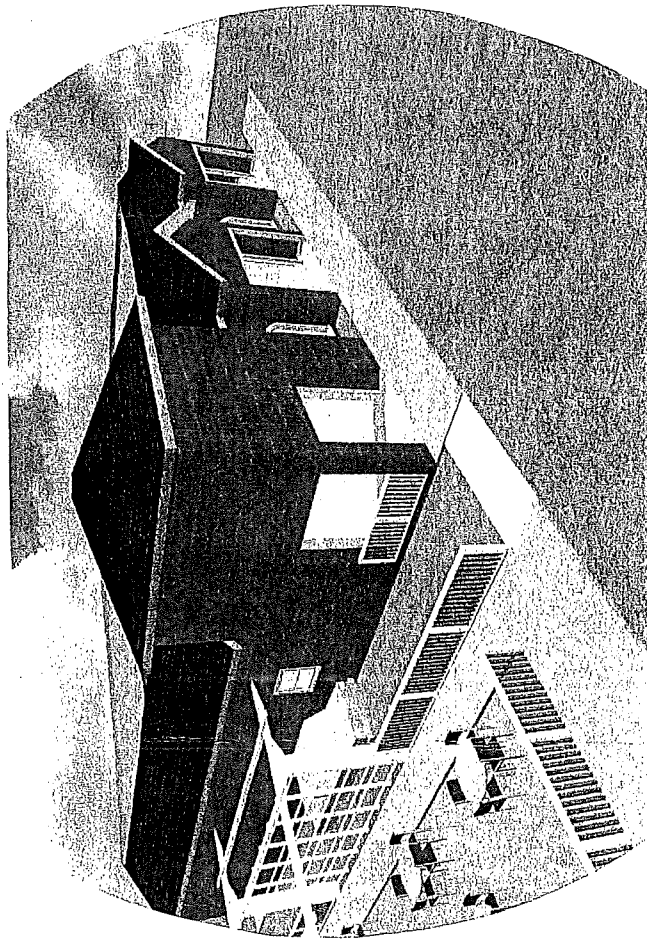
NOTICE PUBLIC HEARING

Notice is hereby given that the Boone County Planning Commission will hold a Public Hearing regarding a request of Terrace Development Company, LLC for certain real estate owned by Terrace Development Company, LLC. The request is for a Change in an Approved Concept Development Plan in an Union Commercial/Planned Development zone allow a second drive-through facility on the site which is located between two buildings. The Public Hearing is to be held Wednesday, August 17, 2005 at 7:30 p.m., prevailing time, in Courtroom 3A of the Boone County Administration Building, 2950 Washington Street, Burlington, Kentucky.

The real estate for which the Change in an Approved Concept Development Plan is requested is located on the north side of U.S. 42, immediately east of the property at 8912 Old Union Road (Lot 4, Village Terrace Subdivision), Florence, Kentucky. The legal description for this property is represented as a part of or the complete tract as recorded in DEED BOOK 877, PAGE 143 of the Boone County Clerk's Office, as supplied by the applicant for this application. This Public Hearing is to serve as a due process, trial type hearing where all persons may be heard regarding this request.

The Boone County Comprehensive Plan, including its Land Use Plan Map, will be reviewed to determine whether the request, if approved, would be consistent with the Comprehensive Plan. If such a request would be inconsistent with the Comprehensive Plan, then any changes to the Comprehensive Plan to make it consistent with the request, if approved, will be reviewed. All interested persons are encouraged to attend and be heard. (BCR08042005)

rw



ORDINANCE NO. 0-30-05

AN ORDINANCE ADOPTING AND APPROVING A CHANGE IN APPROVED CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 1.2 ACRE SITE LOCATED ON THE NORTH SIDE OF U.S. 42, IMMEDIATELY EAST OF THE PROPERTY AT 8912 OLD UNION ROAD, FLORENCE, KENTUCKY (LOT 4, VILLAGE TERRACE SUBDIVISION) TO ALLOW A SECOND DRIVE-THROUGH FACILITY BETWEEN TWO BUILDINGS ON THE SITE. (TERRACE DEVELOPMENT COMPANY, LLC)

WHEREAS, the City of Florence, Kentucky, is a member of the county-wide planning unit with a county-wide planning commission known as the Boone County Planning Commission, and

WHEREAS, the Boone County Planning Commission has recommended denial of a requested change in a previously approved concept development plan, and

WHEREAS, the Planning & Zoning Committee of the Florence City Council has reviewed the record of proceedings before the Boone County Planning Commission, including Resolution No. R-05-021-D which recommended denial of the requested change in approved concept development plan, and

WHEREAS, the Planning & Zoning Committee has recommended approval of the above request based upon certain findings and conditions attached to its Report and Recommendation, all of which have been reviewed by the City Council for the City of Florence, Kentucky.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FLORENCE, KENTUCKY, AS FOLLOWS:

SECTION I

That the requested change in concept development plan for an approximate 1.2 acre site located on the north side of U.S. 42, immediately east of the property at 8912 Old Union Road, Florence, Kentucky (Lot 4, Village Terrace Subdivision) shall be and is hereby approved, subject to the concept development plan previously approved and now amended as well as other agreed conditions for this site, this change in concept development plan being to allow a second drive-through facility on this site which is located between two buildings. In all other respects, the previously approved concept development plan for this property shall remain in full force and effect.

SECTION II

Approval of this change in concept development plan is granted subject to the conditions, terms and provisions of the City of Florence Planning & Zoning Committee Report and Recommendation, a copy of that Recommendation being attached, marked Exhibit "A", and incorporated herein as if fully set out.

SECTION III

This approval is granted based on the findings of fact made by the Planning & Zoning Committee of Florence City Council and contained in Exhibit "A", which are hereby adopted by the City Council.

SECTION IV

That if this approval for this change in concept development plan shall be held invalid, in whole or in part, by any Court of proper jurisdiction, that invalidity shall not affect the validity of any of the other zoning regulations, zoning map, comprehensive plan or other portions, provisions or terms of the approved concept development plan for this property as they are severable from this Ordinance and are intended to have full force and effect regardless of any invalidity relating to this particular Ordinance.

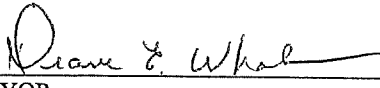
SECTION V

Publication of this Ordinance is hereby authorized to be by summary publication in accordance with Kentucky law.

PASSED AND APPROVED ON FIRST READING THIS 13th DAY OF December, 2005.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 20th DAY OF December, 2005.

APPROVED:


MAYOR

ATTEST:


CITY CLERK

CITY OF FLORENCE, KENTUCKY
SUMMARY OF ORDINANCE NO. 0-30-05

The City of Florence, Kentucky, enacted on second reading Ordinance No. _____
0-30-05. The title of this Ordinance is as follows:

ORDINANCE NO. 0-30-05


AN ORDINANCE ADOPTING AND APPROVING A CHANGE IN APPROVED CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 1.2 ACRE SITE LOCATED ON THE NORTH SIDE OF U.S. 42, IMMEDIATELY EAST OF THE PROPERTY AT 8912 OLD UNION ROAD, FLORENCE, KENTUCKY (LOT 4, VILLAGE TERRACE SUBDIVISION) TO ALLOW A SECOND DRIVE-THROUGH FACILITY BETWEEN TWO BUILDINGS ON THE SITE. (TERRACE DEVELOPMENT COMPANY, LLC)

The effect of this Ordinance is to allow a second drive-through facility between two buildings. In all other respects, the previously approved concept development plan for this approximate 1.2 acre site remains in full force and effect.

The full text of Ordinance No. 0-30-05, including its Exhibits, is available for examination in the office of the City Clerk of the City of Florence, Kentucky in the Florence Government Center, 8100 Ewing Boulevard, Florence, Kentucky, during regular office hours.

CERTIFICATION

I hereby certify that the foregoing is a summary of the contents of Ordinance No. 0-30-05 and that it has been prepared by me this 7th day of December, 2005, and I am an attorney licensed to practice law in the Commonwealth of Kentucky.


HUGH O. SKEES
SKEES, WILSON & DILLON, PLLC
7699 Ewing Boulevard, P.O. Box 756
Florence, Kentucky 41042-0756
Phone: (859) 371-7407
Fax: (859) 371-9872

CITY OF FLORENCE, KENTUCKY
PLANNING AND ZONING COMMITTEE

IN RE: REPORT AND RECOMMENDATION - REQUEST OF TERRACE DEVELOPMENT COMPANY, LLC (OWNER) FOR A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 1.2 ACRE SITE LOCATED ON THE NORTH SIDE OF U.S. 42, IMMEDIATELY EAST OF THE PROPERTY AT 8912 OLD UNION ROAD, FLORENCE, KENTUCKY (LOT 4, VILLAGE TERRACE SUBDIVISION). THE REQUEST IS FOR A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN IN A UNION COMMERCIAL/PLANNED DEVELOPMENT (UC/PD) ZONE TO ALLOW A SECOND DRIVE-THROUGH FACILITY ON THE SITE WHICH IS LOCATED BETWEEN TWO BUILDINGS.

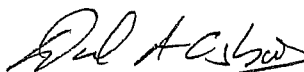
The Committee met in a special meeting on November 22, 2005, at the Florence Government Center Building to consider Resolution No. R-05-021-D of the Boone County Planning Commission which recommended denial of the request described above. The Committee reviewed the record of proceedings before the Boone County Planning Commission, including said Resolution and the exhibits thereto, and the approved Minutes of the public hearing. The Committee determined that the record from the Boone County Planning Commission contains adequate information for consideration of the recommendation and that no need exists for an additional hearing before the City Council.

Further, the Committee determined, and the applicant has agreed, that the recommendation for denial should be overridden, based upon the Findings of Fact attached hereto and marked as Exhibit "A", subject to the additional conditions which are attached hereto and incorporated herein marked as Exhibit "B".

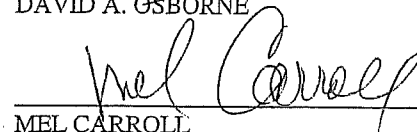
NOW, THEREFORE, the Planning and Zoning Committee recommends to the City Council of the City of Florence, Kentucky, as follows:

- a. That this matter be considered solely on the record before the Boone County Planning Commission and that no additional hearings be held; and
- b. That the recommendation of denial from the Boone County Planning Commission be overridden, and the request described above be approved, subject to the additional conditions attached hereto and incorporated herein.

MEMBERS OF THE COMMITTEE:



DAVID A. OSBORNE



MEL CARROLL

EXHIBIT "A"

FINDINGS OF FACT

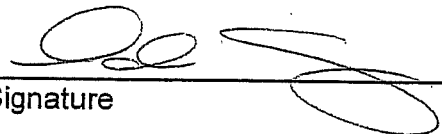
- The proposed Change in Concept Development Plan is in agreement with the Boone County Comprehensive Plan and Union Town Plan as they relate to this request. The site, being 1.2 acres located on the north side of U.S. 42 immediately east of the property at 8912 Old Union Road, is in a transitional area. The mere fact that the two drive-through lanes which run perpendicular to U.S. 42 will be simultaneously visible from U.S. 42 will not so substantially diminish the pedestrian orientation of the development so as to be in contravention of the Land Use Element's Future Land Use Development guidelines, Section 1514 Planned Development Standards, and the Union Town Land Use Plan Map which designates the site for smaller scale office and institutional uses.
- The proposed change in Concept Development Plan is satisfactorily reflective of the existing rural environment as sought by the Land Use Element for commercial nodes in this area (as sought by the 1995 Comprehensive Plan in the "Union Area" section of the current plan, pg. 165) and will not have an automobile orientation reflective of a high turn-over retail strip.
- The Planning Commission's recommendation reflects a concern for the safety of pedestrians if the Change in Concept Development Plan is approved. This is a concern which is shared by members of the Planning and Zoning Committee of City Council. The Planning and Zoning Committee believes these concerns have been satisfactorily addressed through the attached Special Conditions of Approval outlined in Exhibit "B". The Special Conditions of Approval outlined in Exhibit "B" have been agreed to by the applicants as reflected by their signatures shown on Exhibit "B".

**City of Florence Special Conditions of Approval
For
A Change in Concept Development Plan Approval
For Lot 4, Village Terrace Subdivision
Florence, Kentucky**

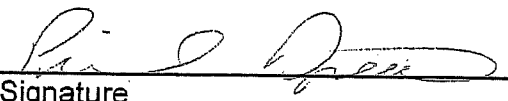
The undersigned, on behalf of Terrace Development Company, LLC (owner) hereby agrees to the following Special Conditions of Approval for a Change in an Approved Concept Development Plan. The property to which these Special Conditions of Approval apply is located on a 1.2-acre parcel known as lot 4 of the Village Terrace Subdivision, Florence, Kentucky. All previous applicable conditions of approval from prior Concept Development Plan Approvals for Lot 4 shall remain in effect.

1. Stamped colored concrete pavement shall be incorporated into the construction of the drive-through lane that clearly delineates the entry point and exit point of the drive-through lane. The stamped colored concrete pavement may serve as a crosswalk at the entry point and exit point to the drive-through lane.
2. Rumble strip(s) shall be incorporated into the construction of the drive-through pavement before the stamped colored concrete crosswalk at the exit point of the drive-through lane.
3. An outside chime system that is not audible from beyond the limits of the property that is directed toward the pedestrian system near the exit point of the drive-through shall be provided. The chime system shall be activated before a vehicle exits the drive-through to provide an audible alert to pedestrians near the exit point of the drive-through.
4. A stop sign shall be provided before the crosswalk near the exit point of the drive-through lane.
5. The use of a menu board or speaker system that allows the placement of an order to a tenant inside the retail building shall be prohibited.

11-28-05
Date


Signature

11/28/05
Date


Signature

