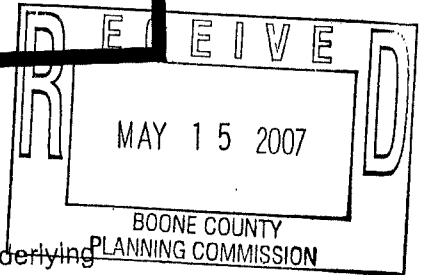


07-CCDP-014-A

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 Taco Bell
3. Location of Project 8526 US Highway 42; Florence, KY 41042
4. Total Acreage of Site 0.90 Ac.
5. Current Zoning CD, PD, & CD
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) _____
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) _____
8. Proposed Uses (please specify each use) Taco Bell
9. Proposed Building Intensities (please specify) _____
10. Have you submitted a Concept Development Plan? no
11. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance
12. Name of Applicant(s) Taco Bell of America, Inc.
 Phone Number 859-792-8598 Fax No. 859-792-4657
13. Address of Applicant(s) 439 Herrington Haven
Lancaster KY 40444
 City State Zip
14. Name of Property Owner(s) THE BANK OF KENTUCKY
 Phone Number 859-372-7740 Fax No. 859-578-2961
15. Address of Property Owner(s) 111 Lookout Farm Drive
Crestview Hills, KY 41017
 City State Zip
16. Are there any existing buildings on the site? no
 How many? N/A
17. Deed Book 758 Page No. 197 Group No. 2039
18. Have you had a pre-application meeting with BCPC Staff? Yes

(over)

EXHIBIT

“A”

STAFF REPORT

Request of Taco Bell of America, Inc. (applicant) for The Bank of Kentucky (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 US 42 at the intersection of Harvey Quast Drive and US 42, and immediately to the south/west of the property at 8522 US 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a drive-through restaurant.

June 27, 2007

Request

The applicant is requesting to change the approved use on this site from a bank (Peoples Bank) to a franchise style fast food restaurant, more specifically a Taco Bell restaurant with 40 parking spaces, seating for 63 as well as drive-thru service with stacking for 10 cars. A right turn lane from US 42 onto Harvey Quast Drive is proposed. The plan proposes an access point from Old Toll Road and closing the northwestern existing access point nearest Old Toll Road. A 5' concrete sidewalk is proposed along all three street frontages. An underground system is proposed to handle the storm water retention/detention and will be reviewed at the Site Plan review phase by Planning Commission Staff and City of Florence if this project is approved.

The applicant has submitted proposed building elevations with signage which have been attached to this staff report.

Site History

In 1986, the majority of this corridor was changed to Commercial Two/Planned Development (C-2/PD) through the Zoning Update.

The Concept Development Plan for what is now the Harvey Quast Subdivision was approved in June of 2001. The site plan for the Peoples Bank was approved in July of 2001.

A Public Hearing was held on October 18, 2006 for a Sonic restaurant with drive-in drive-thru and eat-in components. The major issue was the lack of parking considering all three (3) components. The application was withdrawn on October 25, 2006.

Surrounding Zoning

North: Across Old Toll Road, Panorama Plus Apartments zoned Urban Residential One/Planned Development with an approved Concept Development Plan (UR-1/PD/CD).

- East: Property owned by Jackman and Auto Zone zoned Commercial Two/Planned Development with an approved Concept Development Plan (C-2/PD/CD) as well as a single family residence owned by Haarman zoned Commercial Two/Planned Development (C-2/PD).
- South: Across US 42, Gunpowder Center, Key Bank and Brusters Ice Cream zoned Commercial Two/Planned Development with an approved Concept Development Plan (C-2/PD/CD).
- West: Across Harvey Quast Drive, McDonalds and a car wash zoned Commercial Two/Planned Development with an approved Concept Development Plan (C-2/PD/CD).

Relationship to the Boone County Comprehensive Plan

The Future Land Use Map still shows a majority of the subject property as Suburban Density Residential (SR) with a small amount of Industrial (I). The Boone County Comprehensive Plan defines these classifications as:

- SR: "Single family housing of up to four units per acre. This classification does not preclude low density or estate residential developed as a formal subdivision."
- I: "Manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses."

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

- A. Proper planning is achieved through accepted land use management tools and coordination with public infrastructure ("Overall," Goal).
- B. Boone County shall be viewed as an integral part of the Cincinnati Metropolitan Area ("Overall," Objective 1).
- C. 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).
- D. Proper design principles shall be applied in development ("Overall," Objective 3).

- 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. New development or redevelopment shall attempt to design sites utilizing existing topography and vegetation, and encourage preservation of the existing character of the land. New development shall be designed in harmony with the physical environment in such a way that each site's existing physical assets are used. Residential development design in particular should minimize grading work as opposed to clearing the entire site. Existing trees and pasture land shall be evaluated during the design and construction process as a visual and economic benefit to the community ("Environment," Physical Objective 2).

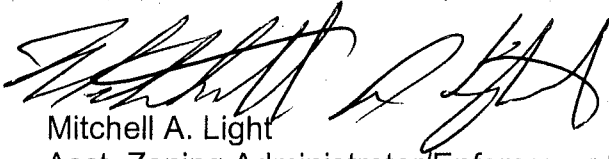
Staff Comments

1. The regulations require one (1) parking space per two (2) seats therefore the 63 seats proposed requires 32 parking spaces. The plan proposes 40 parking spaces for the "eat in" customers. Stacking has been provided for 10 cars in the drive-thru lane.
2. The building elevations that were submitted are attached to this Staff Report and are part of the presentation. Article 34 of the BCZR considers not only the words "Taco Bell" and the bell logo as signage, but the geometric colors around the roofline and within the wall insets. Sign area is calculated based on lineal feet of building width. The primary building elevation is calculated at two (2) square feet of signage per one (1) linear foot of building width. The secondary building elevations are calculated at one (1) square foot of signage per one (1) linear foot of building width. The proposed front elevation would allow up to 82 s.f., however the plan proposes only 69 s.f. The proposed right elevation would allow up to 70 s.f., but the plan shows 173 s.f. The proposed left elevation would allow up to 70 s.f., but the plan shows 184 s.f. Staff would like to point out that this is a PD which does allow some flexibility.
3. Preliminary review comments from the City of Florence are attached to this Staff Report.
4. If approved, a thorough site plan review will be conducted by the Boone County Planning Commission Staff as well as the City of Florence Project Review Committee.

Conclusion

This request needs to be evaluated by the Boone County Planning Commission and the City of Florence in terms of Articles 3 and 15 of the *Boone County Zoning Regulations*, the appropriate planning documents noted herein, and the potential impacts on the existing and planned uses in the area.

Respectfully Submitted,

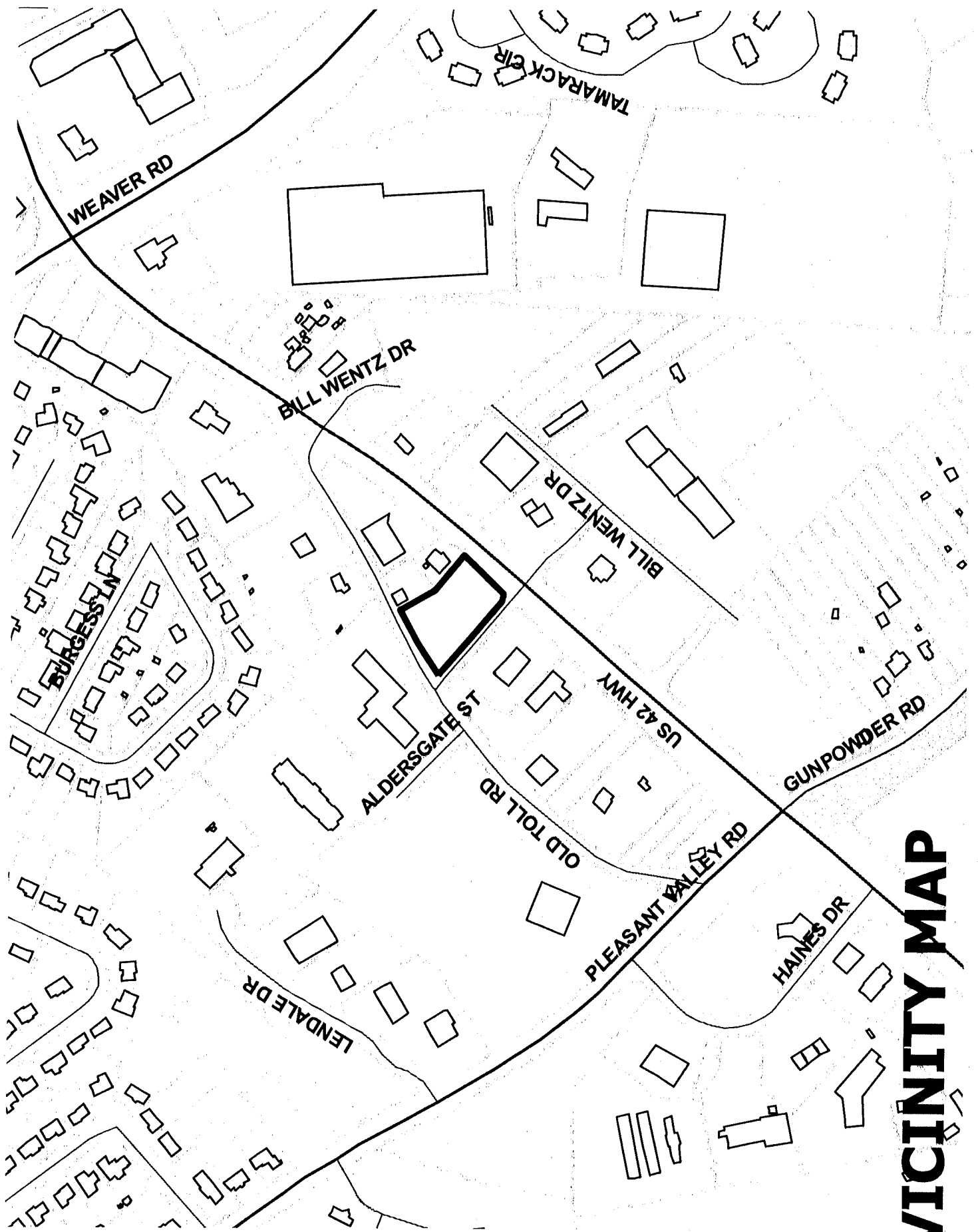


Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

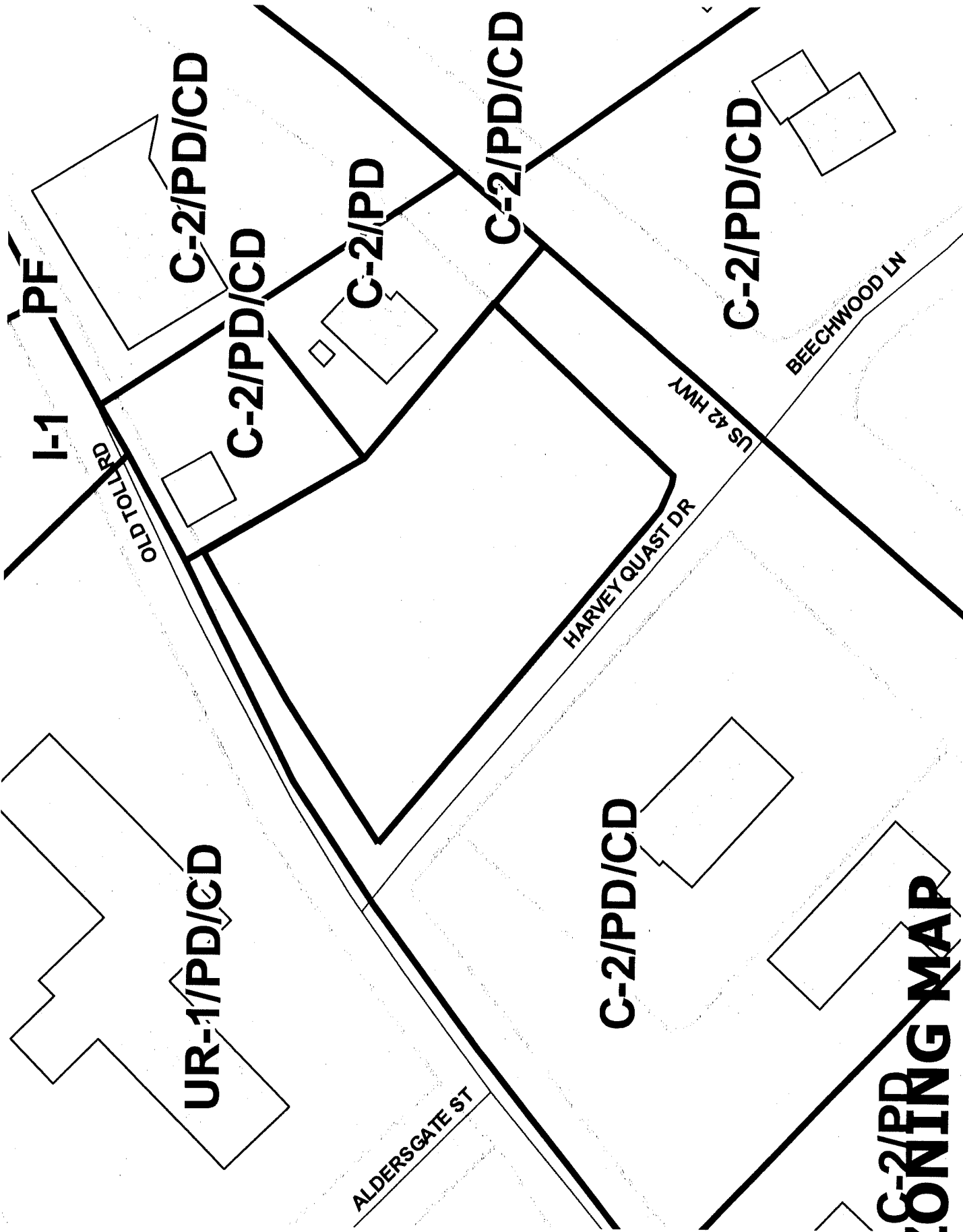
MAL/dw

Attachments

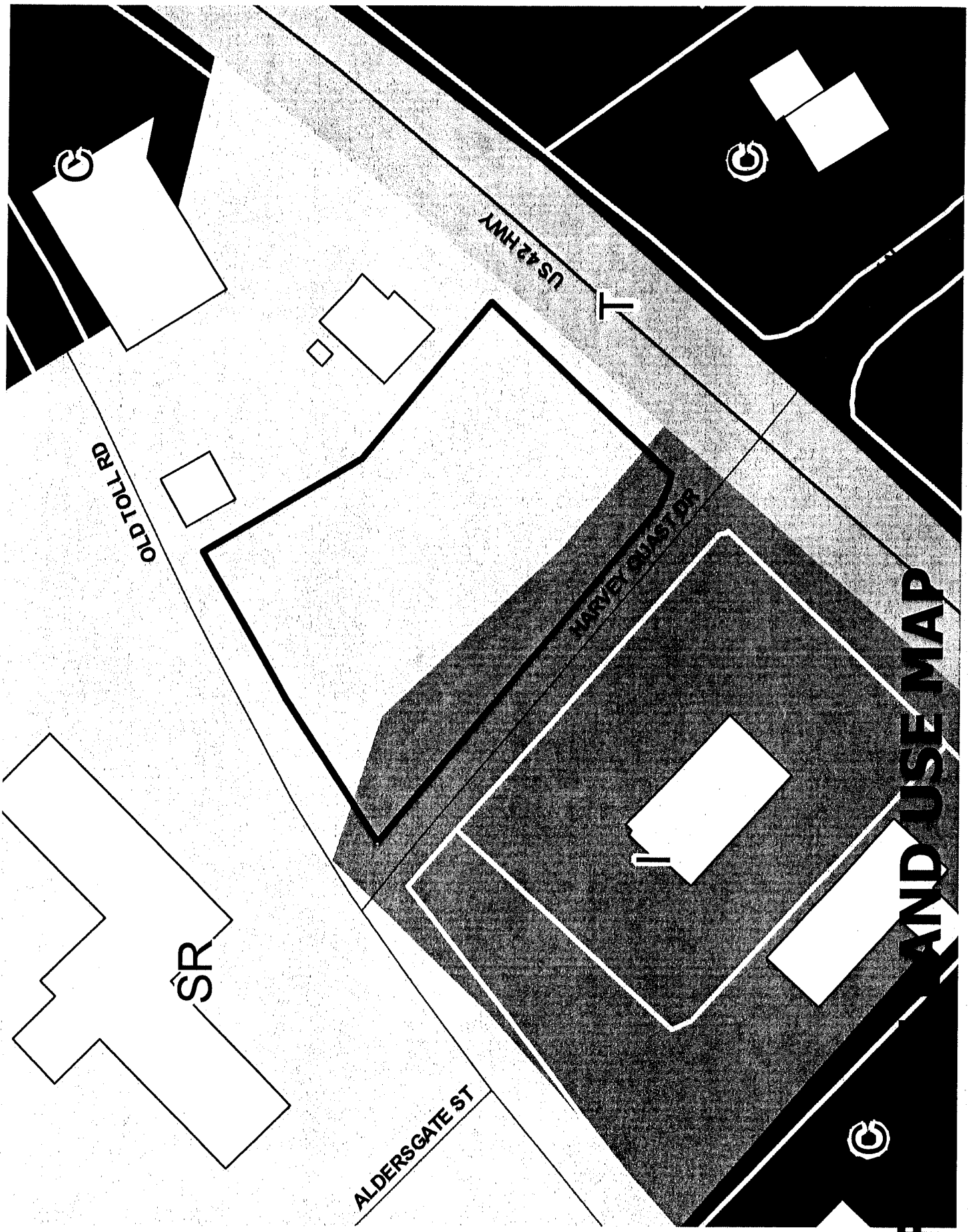
- Vicinity Map
- Zoning Map
- Future Land Use Map
- Existing Topography
- 2004 Aerial Photography
- Concept Development Plan
- Conceptual Building Elevations
- Comments from the City of Florence
- Comments from the Kentucky Transportation Cabinet
- Application



VICINITY MAP



ZONING MAP



AND USE MAP

C

C

C

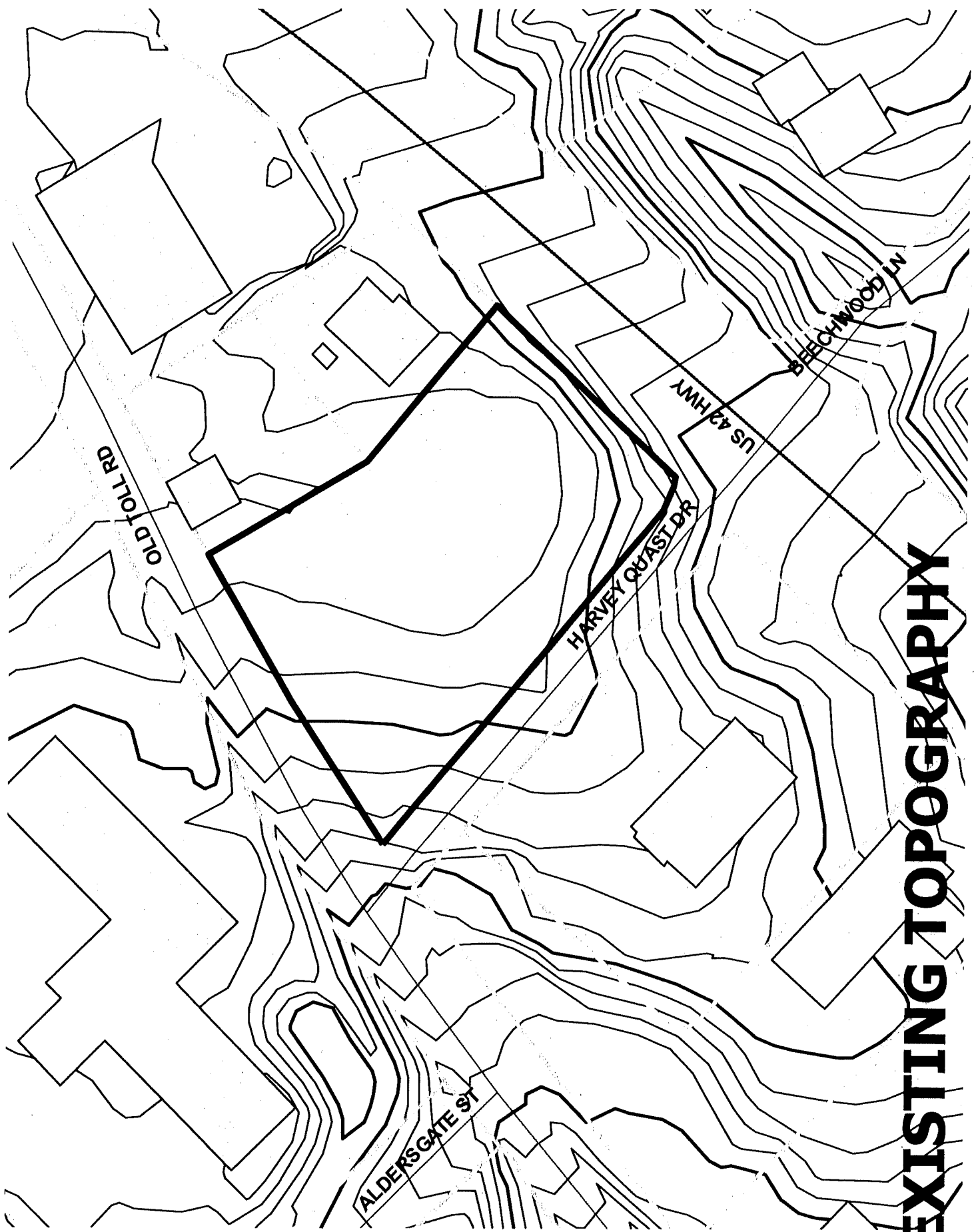
OLD TOLL RD

US 42 HWY

SR

ALDERSGATE ST

HARVEY BUAST DR



OLD TOLL RD

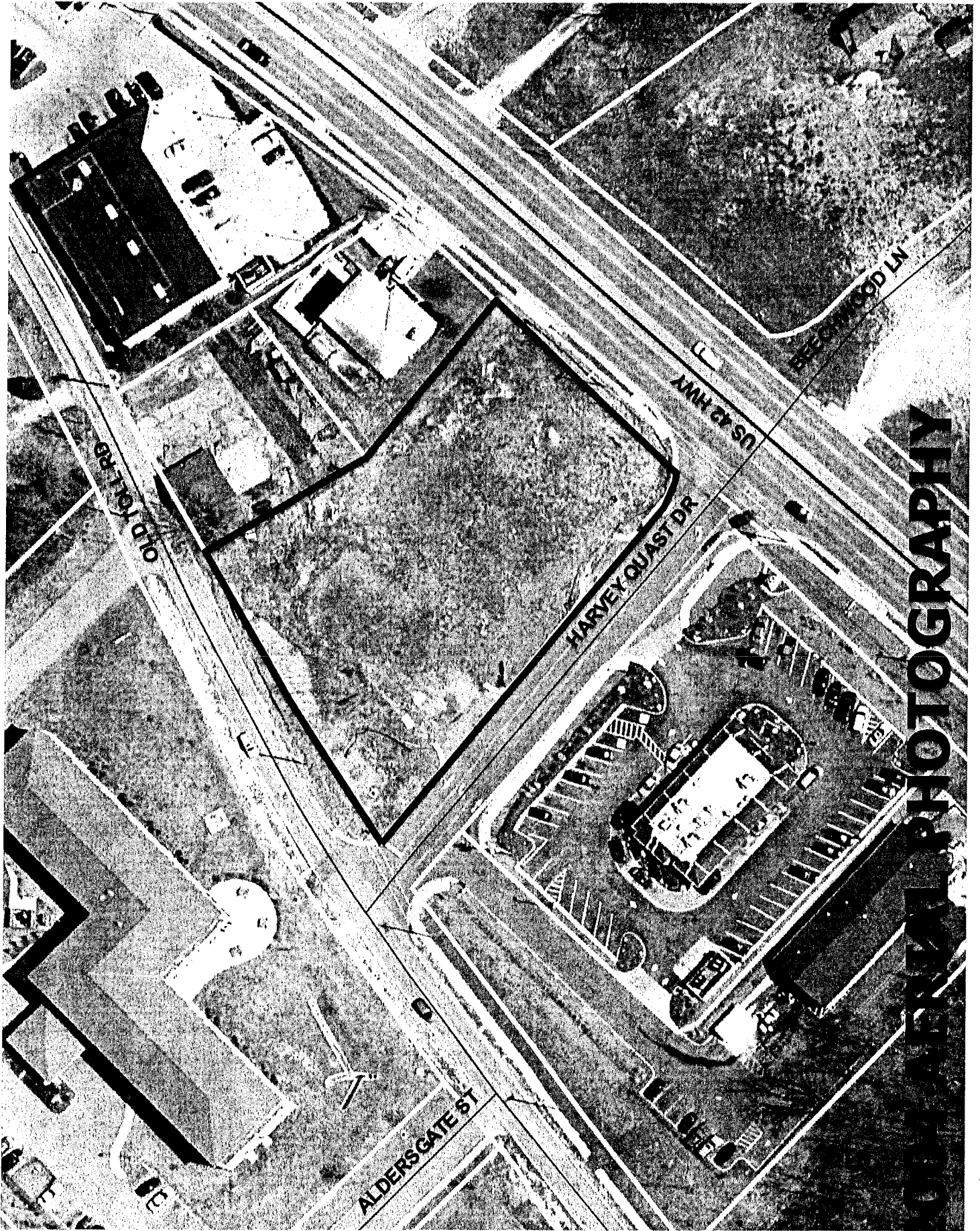
ALDERSGATE ST

HARVEY QUAST DR

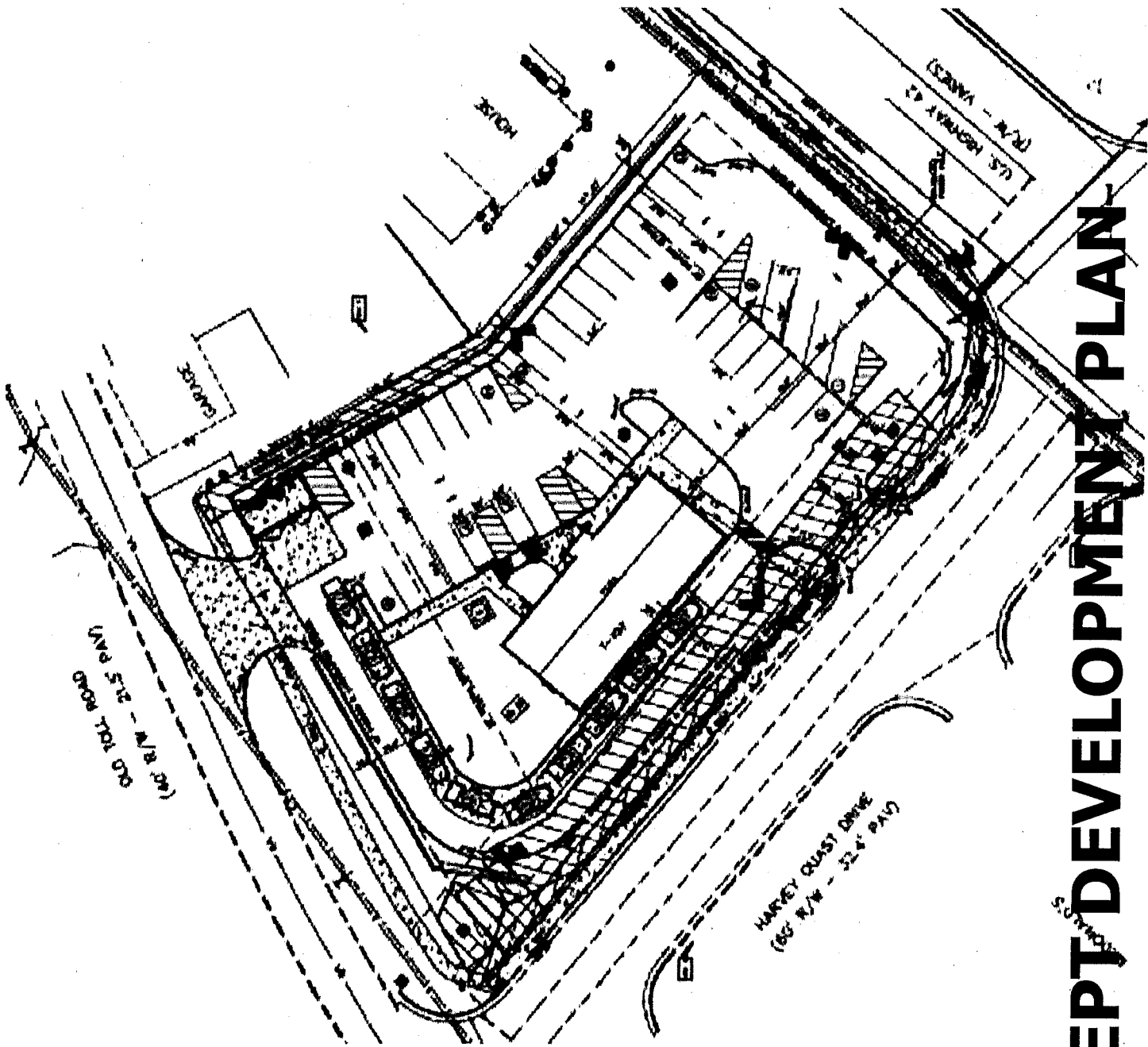
US 42 HWY

BEECHWOOD LN

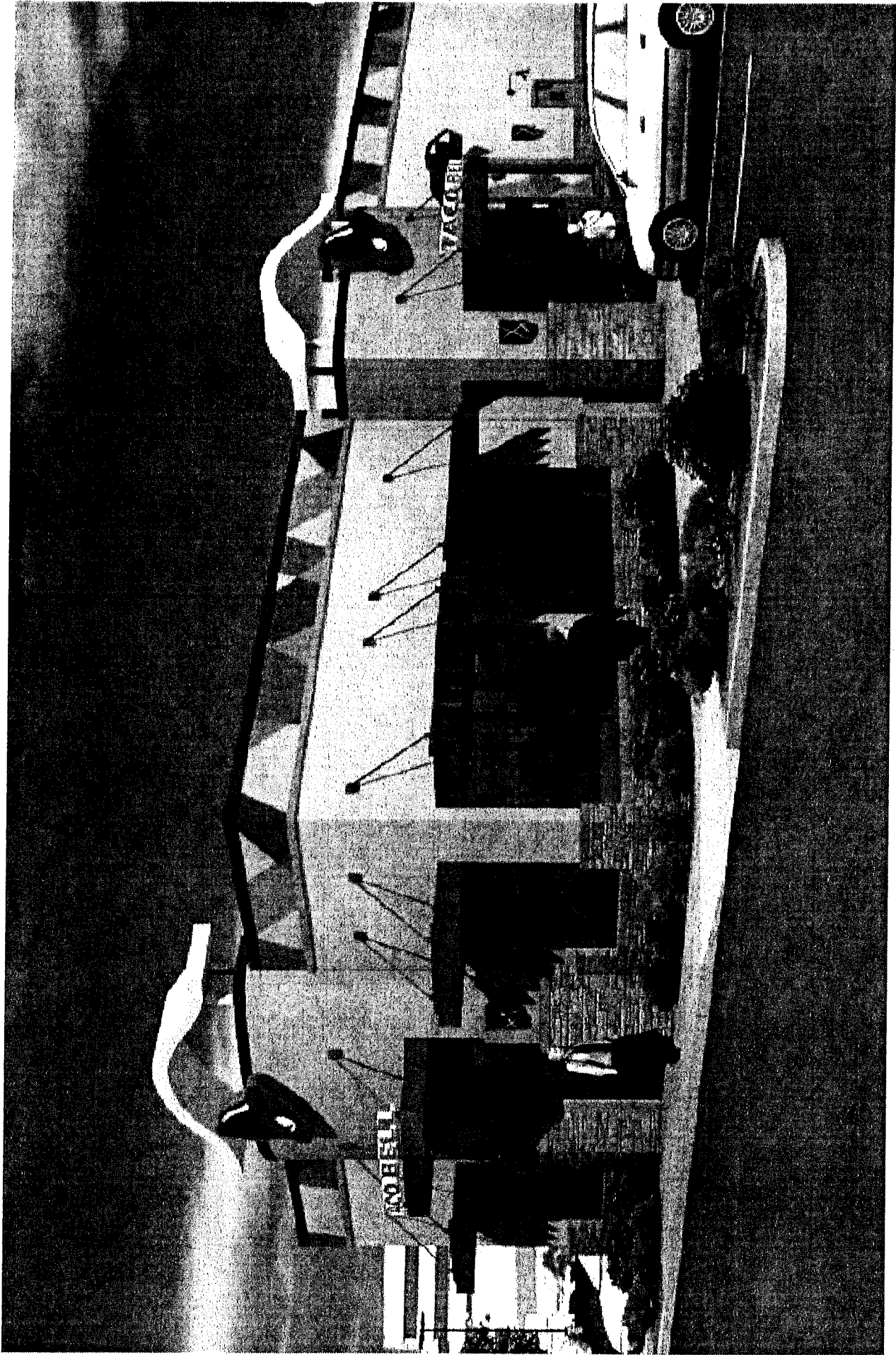
EXISTING TOPOGRAPHY



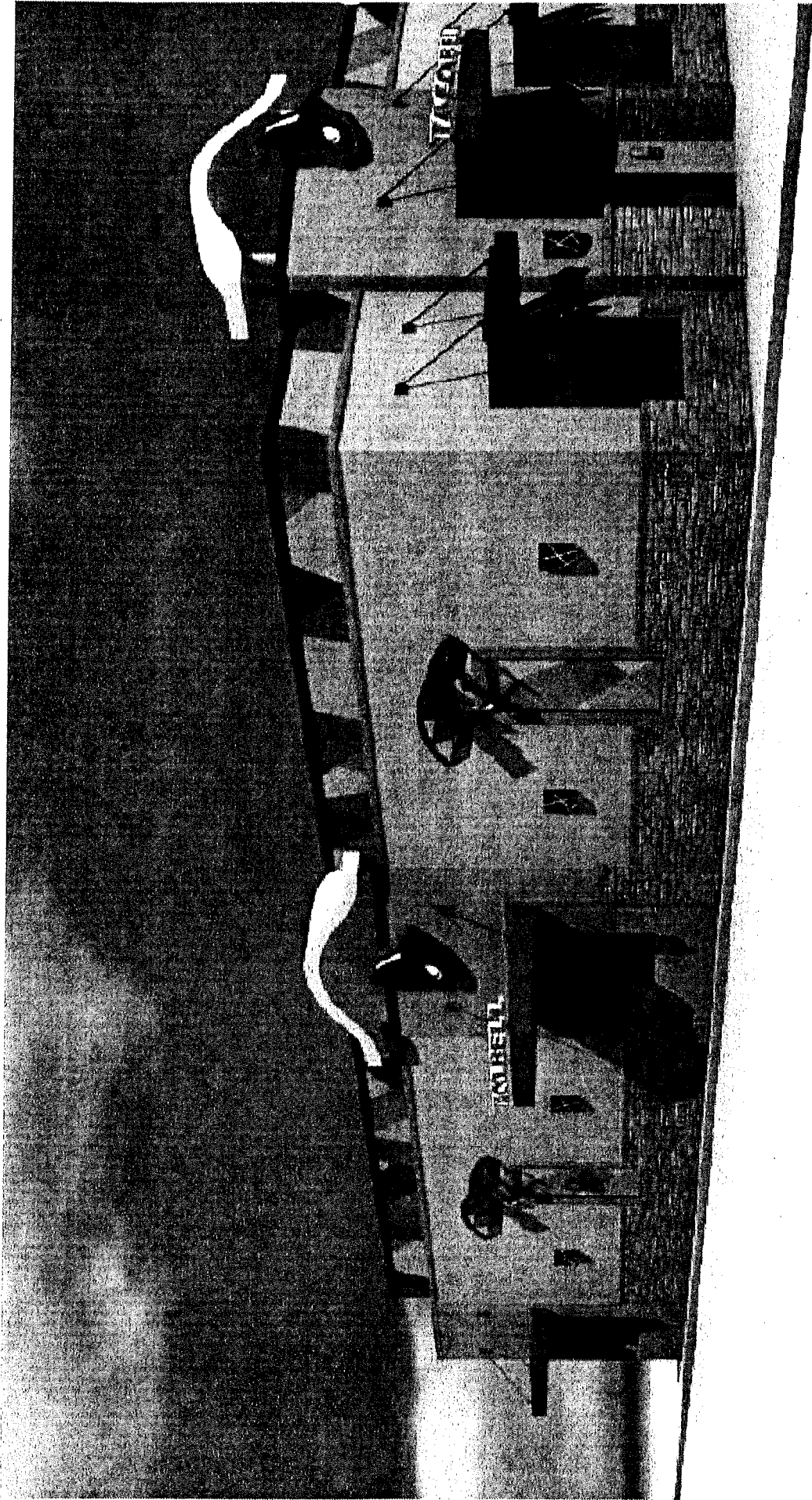
PHOTOGRAPHY



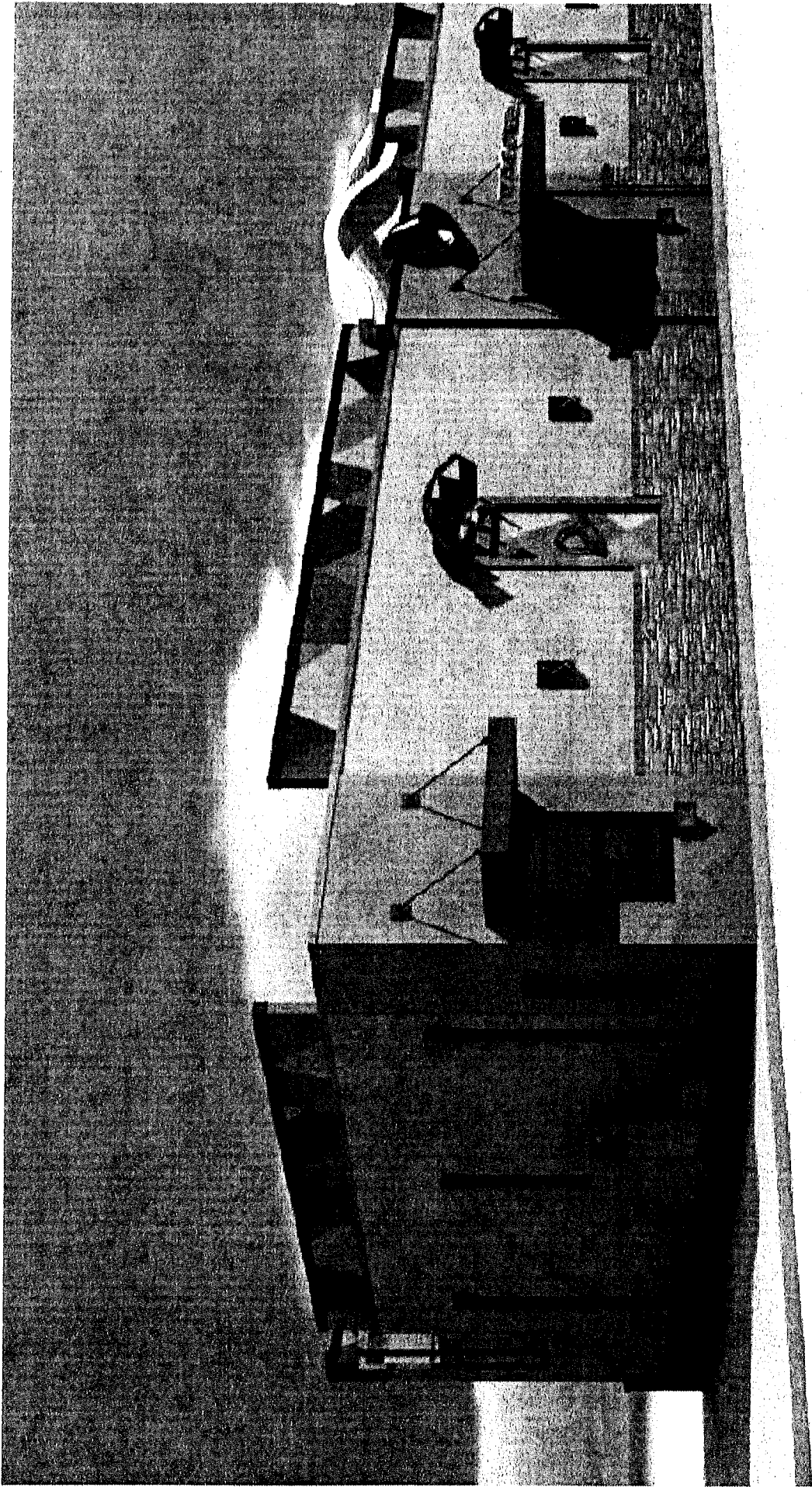
CONCEPT DEVELOPMENT PLAN



PROPOSED FRONT / RIGHT SIDE ELEVATION



PROPOSED FRONT / LEFT SIDE ELEVATION



PROPOSED REAR/LEFT SIDE ELEVATION

Mitch Light

From: Bob Townsend [Bob.Townsend@Florence-KY.gov]
Sent: Monday, June 04, 2007 1:52 PM
To: Mitch Light
Subject: Taco Bell

Mitch,

I received a copy of the site plan for Taco Bell on US 42 and the below comments represent Rick's as well.

Elevations

1. Wrap the rock material around the rear of the building.
2. Substitute brick as the other primary exterior material between the lower rock material and the multi-colored EIFS at the parapet as shown. Except, the colored EIFS material at the entry points and drive-thru windows may remain EIFS as an accent.

Buffer

1. Does the proposed plan meet the buffer yard/landscape code requirements adjacent to the existing house to the northeast?
2. What will the proposed fence on the northeast side of the property be constructed of?

Dumpster Enclosure

1. Materials used to construct the dumpster enclosure should be brick to match brick suggested above under the elevations comments.

Storm Water

1. Is note # 26 on page C-111 to indicate the catch basin correct?
2. How will storm water detention be handled on site (Are they using the existing detention area).

General

1. No light or sound to be projected on adjacent properties.
2. Note #7 needs to reference the City of Florence's curb cut detail.
3. All requirements will still need to be met during site plan review.

Let me know if you have any other questions.

Thanks,

Bob Townsend

City of Florence

Public Services Director

Ph: 859-647-5416

Fax: 859-647-5438

Bob.Townsend@florence-ky.gov

Mitch Light

From: Hans, Robert (KYTC-D06) [Robert.Hans@ky.gov]
Sent: Tuesday, June 05, 2007 4:02 PM
To: Mitch Light
Cc: Thompson, Ed (KYTC-D06); Madden, Bill F (KYTC-D06); Schomaker, Tom (KYTC-D06)
Subject: Change in Concept Development Plan for Taco Bell, 8526 US 42, Florence

Mitchell,

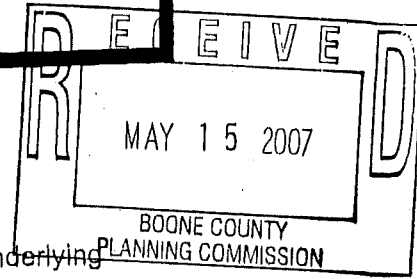
The Kentucky Department of Highways has no specific comments related to the requested change in concept development plan for the subject location.

Thanks,

Rob Hans, TEBM - Planning
KY Department of Highways, District Six
(859) 341-2707, ext. 256

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 Taco Bell
3. Location of Project 8526 US Highway 42; Florence, KY 41042
4. Total Acreage of Site 0.90 Ac.
5. Current Zoning CA, PD, & CD
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) _____
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) _____
8. Proposed Uses (please specify each use) Taco Bell
9. Proposed Building Intensities (please specify) _____
10. Have you submitted a Concept Development Plan? No
11. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance
12. Name of Applicant(s) Taco Bell of America, Inc.
 Phone Number 859-792-8598 Fax No. 859-792-4657
13. Address of Applicant(s) 439 Herrington Haven
Lancaster KY 40444
 City State Zip
14. Name of Property Owner(s) THE BANK OF KENTUCKY
 Phone Number 859-372-7740 Fax No. 859-578-2961
15. Address of Property Owner(s) 111 Lookout Farm Drive
Crestview Hills, KY 41017
 City State Zip
16. Are there any existing buildings on the site? No
 How many? N/A
17. Deed Book 758 Page No. 197 Group No. _____
18. Have you had a pre-application meeting with BCPC Staff? Yes

(over)

Public Hearing Item No. 2:

Commission Members Present: Mrs. Arnett – Secretary/Treasurer, Mr. Breetz, Mr. Bunger, Mr. Carmichael, Mr. McMillian, Mr. Charlie Reynolds, Mr. Patrick Reynolds, Mr. Rolfsen, and Mr. Schwenke.

Staff Members Present: Ms. Jan Hancock, Recording Secretary; Mr. Robert Jonas, AICP, GIS Specialist; and Mr. Mitch Light, Assistant Zoning Administrator/ZEO.

Legal Counsel Present: Mr. Dale Wilson

2. **Applicant:** **Taco Bell of America, Inc. for
The Bank of Kentucky (owner)**

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

The request of Taco Bell of America, Inc. (applicant) for The Bank of Kentucky (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 U.S. 42 at the intersection of Harvey Quast Drive and U. S. 42, and immediately to the south/west of the property at 8522 U.S. 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a drive-through restaurant.

Staff Member Mitch Light presented the Staff Report which included a Power Point presentation and review of the attached email from the City of Florence Public Services Director (see Staff Report).

Mrs. Arnett asked for the applicant's presentation.

Mr. Dennis Williams, attorney with Adams Stepner Woltermann & Dusing, was present on behalf of Gerald Dusing and representing the applicant. He introduced Mr. Joe Boyle with GPD Engineering Group. Mr. Williams stated that Staff did a good job of addressing the issues. He stated that the site has a long history and noted the previous Sonic application. He stated that they have tried to address the concerns identified previously.

Mr. Boyle, Project Engineer with GPD Engineering Associates, Akron, OH stated that he was the project engineer for the Taco Bell on Mall Road, and GPD did the engineering for National City Bank and the Dunkin' Donuts across the street from this site. He stated that they will work with the Committee in regard to the signage. He would like to see more colors added to the building because the building on Mall Road is plain. He stated that if they cannot have the colored parapet bands, they will remove the canopies and side expression panels. They

would prefer the building to have color and stand out. He stated that the right turn lane shown is preliminary and they will work with the traffic engineer and KDOT to determine if a right turn lane is required. The Traffic Study prepared for the Sonic request recommended a right-turn lane, but they will have to look at the extent of that lane. In regard to the comments from the City of Florence (attached to the Staff Report), he stated that they do not have a problem with putting stone around the back of the building. They like the EIFS and brick would add cost – but they will work with the Committee in regard to the building materials. He stated that a fence is not required along the north property line, but Taco Bell likes to work with the community and is being proactive. There will be a small retaining wall along that side and the fence is for safety because of the grade difference. They have no problem with directing the lighting into the site. He offered to answer any questions. This concluded the applicant's presentation.

Mrs. Arnett asked if there was anyone else present who wished to speak in favor of the request. There being no response she asked if there was anyone present in opposition to the request.

Mr. Bill Adams, owner of the property where the garage is located, stated that Taco Bell will have to put in a retaining wall. He questioned how they will prevent trash from the dumpster from going over onto this property. He also wants a fence so that people cannot go onto his property any more than they do now or hit his garage.

Mr. Ron Harmon, who lives in the house to the north of the site, stated that there is an 8' – 10' grade different between his yard and the subject property. He stated that Taco Bell will have to put up a wall because he does not want to lose any of his property. He wants a privacy fence at least six feet tall so that headlights do not shine in his windows, to help with the noise, and to stop people from cutting through there. He stated that a right turn lane would take all of his front yard and his front door will be less than twenty feet from the road. Most of his front yard was taken when they widened U.S. 42 and his front porch is currently only about fifty feet from the road. He does not want his front door to be right on the road.

Mrs. Arnett asked if there was anyone else present who wished to speak. There being no response, she asked if there were any comments or questions from the Commissioners.

Mr. Charlie Reynolds stated that the City of Florence has asked for the dumpster enclosure to be made of the same material as the building or covered in like materials. He recommended that the enclosure be high enough to cover an open lid, since a dumpster is often left open, and to help prevent garbage from spilling out. Mr. Boyle responded that dumpster enclosures are usually about six feet tall and they do not want the dumpster enclosure to be so tall that it sticks out, but they will look into it.

Mr. Charlie Reynolds questioned reducing the parapet band so that it goes around the sides just to the first canopy and does not extend further back. Mr. Boyle responded that it would be a good option and they will look into it.

Mr. Carmichael questioned why they do not use the existing rear access onto Harvey Quast Drive. He stated that people will exit the drive-through and try to make an immediate left to get to the light. They will be doing that at lunchtime when everyone is trying to go into McDonald's. This issue was brought up during the Sonic request and it is still an issue. He stated that people are not going to go back around the building to get out of the property and, if they do, that is also a safety concern. If people exit right from the drive-through and make an immediate left to go to the light, it creates an issue on the site that needs to be overcome – it is a big problem. He recommended that they design the site so that people can pull into the drive-through (stacking 3 or 4 cars at the order board and 3 or 4 at the window), and then exit straight out the back onto Harvey Quast Drive to access the light. He questioned how close the rear ingress/egress on the site is to the neighbor's driveway. Mr. Adams stated that he has driveways on both sides of his building and one of the driveways is one foot off of the property line. Mr. Carmichael stated that the new design leaves about ten feet from Mr. Adams' driveway to this access and the turning radius would almost match up. He asked the applicant to try to resolve these issues and bring the information to Committee. He asked the Committee to keep the signage within the Code.

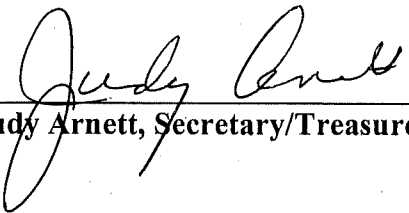
Mr. Bunger asked if the site will be connected to the sewer so that water does not run down the ditches along Old Toll Road. Mr. Boyle responded that they will tie into the existing storm sewer system along Harvey Quast Drive.

Mrs. Arnett asked Staff or the applicant to respond to the concerns raised. Mr. Light questioned the type of business that Mr. Adams is operating there. Mr. Adams stated that he does not have a business there, he is just using the garage. Mr. Light asked the applicant to address the grading. He stated that once the retaining wall gets to a certain level, a railing is required so that someone does not fall into the parking lot.

Mr. Charlie Reynolds asked the Committee to look closely at the turning lane so that Mr. Harmon does not lose any more property. Mr. Light explained that when the road was widened, the right-of-way was purchased and the road improvement will have to be within that right-of-way -- unless additional right-of-way is purchased. He does not know how much of Mr. Harmon's front yard is currently right-of-way. It appears that the right-of-way goes a couple of feet beyond the sidewalk. Mr. Charlie Reynolds asked Staff to provide the information to the Committee.

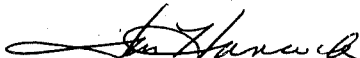
There being no further comments, Mrs. Arnett stated that everyone is invited to attend the Committee Meeting for this item which will be held on July 11, 2007 at 4:30 PM in this room. This item will be on the Agenda for the Business Meeting on July 18, 2007 at 7:00 PM. Mrs. Arnett closed this Public Hearing.

APPROVED:



Judy Arnett, Secretary/Treasurer

Attest:



Jan Hancock, Recording Secretary

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
FIRST FLOOR FISCAL COURTROOM
BUSINESS MEETING
July 18, 2007
7:00 P.M.**

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:03 PM.

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett, Secretary/Treasurer
Mr. Greg Breetz
Mr. Kim Bunger
Mr. Arnold Caddell, Chairman
Mr. Jim Carmichael
Mrs. Linda Herald
Mrs. Janet Kegley
Mr. Richard Knock, Temporary Presiding Officer
Mr. Don McMillian
Mrs. Susan Poston, Vice Chairwoman
Mr. Charlie Reynolds
Mr. Patrick Reynolds
Mr. Charlie Rolfsen
Mr. Bob Schwenke

COMMISSION MEMBERS NOT PRESENT:

Mr. Randy Poe

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

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

applicant will need to submit turning radii information for the tanker trucks at Site Plan Review and Staff will make sure that the Conditional Use Permit condition is enforced per the Code.

Chairman Caddell asked if the applicant wished to make a summary statement in regard to items raised at the Public Hearing or discussed at the Committee Meeting before the Planning Commission takes action on this request.

Mr. Gerry Dusing, attorney for the applicant, stated that the Design Engineer and principles from Dudley Construction were also present. Mr. Dusing stated that the adjacent lot, which was previously the old motel lot, has gravel frontage on U.S. 25 and a curb cut that is located near their curb cut. How the adjacent lot develops will determine if they will have an independent curb cut or shared access. He stated that the conditions dictate interior circulation for the tanker trucks and Staff is retaining jurisdiction to make sure the circulation works based on what happens with the site next door and how this site develops.

Chairman Caddell asked if there was anyone present who wished to make a summary statement on behalf of the opposition. There was no response.

There being no discussion, **Mr. Rolfsen moved by resolution to Boone County Fiscal Court that the Zoning Map Amendment request be approved based on the Committee Report with the Conditions. Mr. Charlie Reynolds seconded the motion and it carried unanimously.**

Mr. Rolfsen moved that the Variance request be approved based on the Committee Report with the conditions. Mr. Charlie Reynolds seconded the motion and it carried unanimously.

Mr. Rolfsen moved that the Conditional Use Permit request be approved based on the Committee Report with the conditions. Mr. Charlie Reynolds seconded the motion and it carried unanimously.

4. Change in Approved Concept Development Plan

The request of Taco Bell of America, Inc. (applicant) for The Bank of Kentucky (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 U.S. 42 at the intersection of Harvey Quast Drive and U. S. 42, and immediately to the south/west of the property at 8522 U.S. 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a drive-through restaurant.

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 and applicant have signed the letter agreeing to the conditions. In response to a question from the Chairman, Mr. Light stated that the count shown on the Committee Vote sheet attached to the Committee Report is incorrect. The correct count was three votes in favor of the Committee Report and two opposed.

Chairman Caddell asked if the applicant wished to make a summary statement in regard to items raised at the Public Hearing or discussed at the Committee Meeting before the Planning Commission takes action on this request.

Mr. Gerry Dusing, representing Taco Bell, stated that Engineer Joe Boyle revised the Site Plan based on the comments made at the Committee meeting. Mr. Dusing stated that the site was originally approved for a bank with a drive-through window. He noted the existing curb cut. He stated that when Sonic came before the Planning Commission, their application was turned down because they did not have sufficient parking for their services outside (ladies on roller skates) and there were design issues. He stated that they reviewed the proposed Sonic design and the concerns, they met with the City of Florence, and they had a pre-application conference with Staff. He stated that they have addressed all of the problems. He stated that he did not attend the June 27, 2007 Public Hearing, but he has reviewed the minutes and talked with his partner, attorney Dennis Williams, who attended the Committee Meeting. They understand the concerns about traffic congestion and the curb cut being so close to traffic generated by McDonald's. The Revised Site Plan, which was prepared at the Committee's request, reflects the traffic flow in and out and moves the outgoing traffic to Old Toll Road further away from U.S. 42. He stated that there will probably be additional suggestions from the City of Florence. He stated that the land use is appropriate for this zoning. It is the same zoning and the same drive-through concept originally approved for the bank. Taco Bell is compatible with McDonald's. Traffic concerns have been resolved with the decel lane and the traffic pattern within the site which minimizes the impact on ingress and egress. Mr. Boyle is present to answer any questions. He stated that they are in agreement with the conditions.

Chairman Caddell asked if there was anyone present who wished to make a summary statement on behalf of the opposition. There was no response.

Mr. Rolfsen moved by resolution to the City of Florence that the request be approved based on the Committee Report with the conditions. Mrs. Poston seconded the motion.

Mr. Charlie Reynolds stated that at the Public Hearing, Mr. Harmon was concerned about a retaining wall in the area of his garage. Mr. Light responded that the height of the retaining wall will not be known until they get into full engineering. He stated that Mr. Harmon asked for a fence and there is a six-foot tall fence. It is not known at this time if the retaining wall needs to have a railing or not. He indicated on the slide where there may just be a handrail.

Mr. Breetz stated that he attended two Committee meetings. He was not pleased with the number of access points and the implied congestion and it appeared that there would be traffic issues on Harvey Quast Drive and on Old Toll Road. He stated that the engineer worked with the Committee in regard to the concerns. There was originally a curb cut closer to Old Toll Road and the Revised Plan shows a much better location. The Revised Plan shows greatly needed improvements to the plan since the last Committee Meeting. His other concern was in regard to sight distance issues at the curb cut on Old Toll Road due to the neighbor's garage, which is very close to the roadway.

Mrs. Arnett stated that she voted against the project due to the traffic congestion from the exit on the site to the exchange on U.S. 42. She stated that with two fast food restaurants there will be major traffic congestion at high volume times with people trying to get out of the site and onto U.S. 42.

Mr. Carmichael questioned what happens if they are not able to meet the sight distance requirements. Mr. Light responded that if they do not meet the sight distance requirements, they may have to move the curb cut. He stated that the existing garage sits on, and possibly within, the right-of-way. He provided the Committee with the Concept Plan approved for that lot, which did not develop, and that plan does not show a building up by the road. If that lot develops, there will not be a sight distance issue – but there may be at this time and they must meet the sight distance requirements.

Mr. Carmichael questioned the enter only access on Harvey Quast Drive. He asked if the turning radius will be such that it is not convenient to turn out of the drive-through access. Mr. Costello responded that they will fix the radius and it will be a single-lane eleven or twelve feet wide. Mr. Light stated that during Site Plan Review they will look at vehicles coming out of the drive-through and going around the building to exit the site. Mr. Carmichael asked if the applicant prepared a Concept Plan showing the building located anywhere else on the lot so that vehicles are not making laps around the building. Did they explore moving the building to the other side of the lot, which would make sense from a safety standpoint? Mr. Light reviewed the initial concept presented at the pre-application meeting when Staff suggested closing the curb cut which is now exit-only. He reviewed the modifications made through the Committee process, including making one access point enter-only, and how vehicles would go into the drive-through and into the exit lane. They did not review a Concept Plan with the building located on the other side of the lot.

Mr. Schwenke stated that he is concerned about the drive-through and the parking. He questioned how many seats are inside of the building. Mr. Boyle responded that there are 63 seats. Mr. Schwenke stated that people going inside the building will have to walk through the drive-through traffic. He commented that the building and amount of business appear to be too large for the lot.

Chairman Caddell asked Staff to review the curb cuts and traffic flow. Using the Power Point slide, Mr. Light indicated the enter-only access point which allows vehicles from U.S. 42 to turn into the site, but not to exit the site into the traffic from McDonald's or from Old Toll Road. He indicated how a vehicle would come into the site and enter a parking space or go into the drive-through. He indicated the exit-only access which is not directly across from the curb cut to the car wash site because that curb cut is too close to Old Toll Road. He indicated the full access point (in and out) onto Old Toll Road.

Chairman Caddell stated that anyone exiting the drive-through will have cross the traffic and anyone entering the property. Mr. Light agreed. He stated that the vehicles exiting the drive-through will have to yield to on-coming traffic. Chairman Caddell noted the angular parking along the U.S. 42 side due to the length of the parking spaces. He asked if cars exiting those spaces would have to back out at a reverse angle and go out the way they came in. Mr. Light reviewed the plan and explained how those vehicles could exit the site via the shaded area for the sewer easement.

Mr. Bunger asked Staff to review how a vehicle would use the right turn lane to go into the site, the flow of traffic within the site, how traffic not entering the site would flow on Harvey Quast Drive -- including traffic eastbound on Harvey Quast Drive to U. S. 42 and traffic turning into McDonald's. Mr. Light indicated the turn lane onto Harvey Quast Drive and how vehicles could turn into Taco Bell or McDonald's, or continue to the car wash (which has a back entrance into McDonald's). The center lane on Harvey Quast Drive becomes a turn lane to go left at the light towards Florence. The right turn lanes goes to U.S. 42 and Union. Mr. Boyle stated that there is a center turn lane across from McDonald's to turn into the Taco Bell site. He indicated the left and right turn lanes.

Mr. Carmichael asked if they will cut into the property to create the turn lane off U.S. 42 or if it will stop at Harvey Quast Drive. Mr. Light indicated where the right turn lane would start on the property and stated that they will have to take out the sidewalk and the curb to put in the turn lane. He reviewed the aerial photograph and noted the left turn lane on Harvey Quast Drive. Chairman Caddell stated that Harvey Quast Drive is three lanes. Mr. Light agreed.

Mr. Bunger asked Staff to review the traffic flow from the rear exit at Harvey Quast Drive. Mr. Light stated that traffic could turn left or right out of the exit. He stated that comments were made at the Public Hearing that traffic exiting the drive-through would cut across traffic coming from U.S. 42 so close to U.S. 42 and they propose resolving that issue with an enter-only access point. Mr. Bunger stated that there will be vehicles turning left out of Taco Bell towards U.S. 42 and vehicles turning right out of Taco Bell towards Old Toll Road, vehicles leaving the car wash turning left and right, and vehicles turning left out of McDonald's towards Old Toll Road and interacting at the intersection. Mr. Light agreed.

Chairman Caddell stated that if cars were stacked one car length more than what is shown on the drawing, vehicles would not be able to get out. Mr. Light agreed. He stated that Staff discussed with the applicant how short the queue line is on Mall Road and that is why they built the queue line for ten cars. The road between the Mall Road site and H.H. Gregg is private so the queue line is not an issue that has ever been policed, but it blocks traffic and that is why it was brought up in regard to this site. He stated that they need to have enough stacking distance.

Mr. Dusing stated that normally there are two or three cars stacked. Mr. Boyle stated that they typically design their stores to have six or seven cars stacked. He stated that they do not want interior circulation issues. Mr. Dusing commented that Taco Bell knows how to design a drive-through window. Mr. Carmichael questioned the number of cars that can stack from the order board – which is the problem at Mall Road. Mr. Boyle responded that they have a total ten-car stacking zone, even though the typical length is seven cars. They have stacking for four cars from the menu board back. He stated that internal circulation is important to Taco Bell. They have looked at the options and understand the concerns regarding traffic on public roads. He stated that they have addressed the concerns with the revisions to the plan and they feel that the internal circulation will be sufficient. Mr. Boyle stated that he is an engineer with GPD Associates, 520 Main Street, Akron, OH.

Mr. Rolfsen stated that the Committee looked at all of the options, including moving the building to a different location, and what is presented is the best solution. He stated that at McDonald's and many other businesses people have to walk through the drive-through lane to get into the building.

Mrs. Arnett stated that vehicles go through the drive-through and then go back around the building and out onto Harvey Quast Drive. Mr. Boyle agreed.

There being no further comments, the Chairman asked for a **vote on the motion made by Mr. Rolfsen which found Mr. Breetz, Mrs. Herald, Mrs. Kegley, Mr. McMillian, Mr. Charlie Reynolds, Mr. Rolfsen, Mr. Knock, and Mrs. Poston in favor. Mr. Bunger, Mr. Carmichael, Mr. Patrick Reynolds, Mr. Schwenke, Mrs. Arnett and Chairman Caddell were opposed. The motion carried with 8 votes in favor and 6 opposed.**

5. Zoning Map Amendment for Special Sign District

The request of Mike Cassidy for Atlantic Signs, Inc. (applicant) for Kitty Pilger, Turfway Ltd. Partnership (owner) for a Zoning Map Amendment for a Special Sign District for 24 acre site located at 7380 Turfway Road, Florence, Kentucky (St. Luke Hospital West). The request is for a Special Sign District in a Public Facilities/Planned Development (PF/PD) zone for free-standing and directional signage.

EXHIBIT

“B”

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Charlie Rolfsen, Chairman

DATE: July 18, 2007

RE: Request of Taco Bell of America, Inc. (applicant) for The Bank of Kentucky (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 US 42 at the intersection of Harvey Quast Drive and US 42, and immediately to the south/west of the property at 8522 US 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a drive-through restaurant.

REMARKS:

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

Findings of Fact

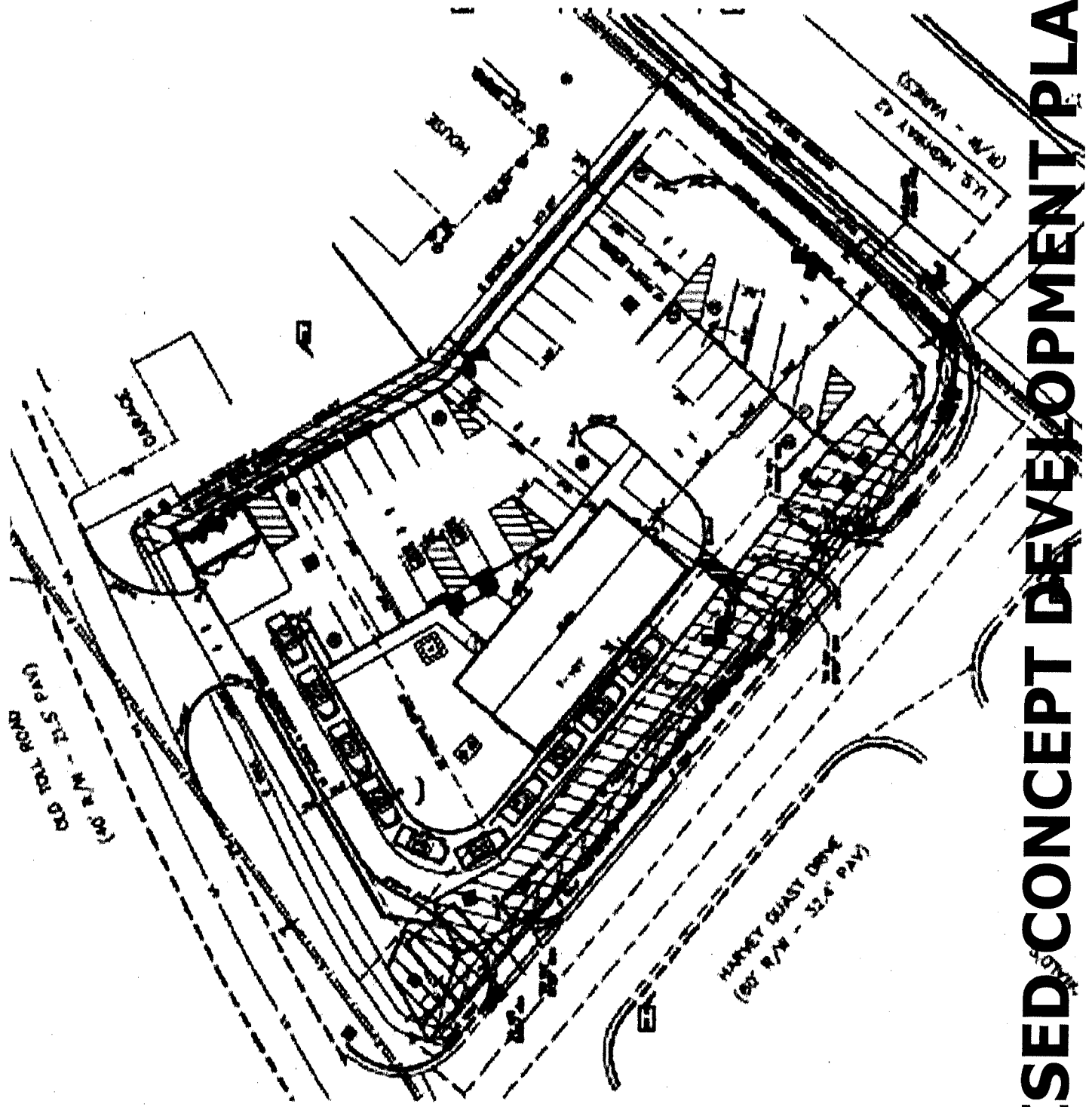
1. The Committee has concluded that the proposal, with the agreed conditions outlined below, demonstrate agreement with the Land Use Element's Future Land Use Development Guidelines as well as the applicable Goals and Objectives. Specific references to the guidelines and Goals and Objectives are outlined in the staff report for this request.
2. The Committee has concluded that the request fulfills the applicable requirements of Article 15 "Planned Development District" 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 2005 Boone County Comprehensive Plan and 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 revised Concept Development plan presented at the July 11, 2007 Zone Change Committee shall be approved as part of this submittal. This revised Concept Development Plan shows the "enter only" on Harvey Quast, the "exit only" across from the car wash entrance, as well as the access onto Old Toll Road.

2. The property owner agrees that any signage for the Taco Bell will not exceed the minimum requirements as set forth in Article 34 of the Boone County Zoning Regulations.
3. The property owner agrees to construct a brick dumpster enclosure a minimum of 9 feet high.
4. The property owner agrees to install a deceleration lane on US 42 in front of this property only.
5. The property owner agrees to a construct a 6 foot high privacy fence along the Haarman property.
6. The property owner agrees that the sight distance for the proposed access at Old Toll Road will be reviewed at Major Site Plan review to insure that the minimum requirements are met.
7. The property owner agrees to wrap the rear elevation with the rock material shown on the front and sides as well as making the EIFS an accent building material by substituting it with brick per the City of Florence comments.

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



REVISED CONCEPT DEVELOPMENT PLAN

Public Hearing Item No. 2:

Commission Members Present: Mrs. Arnett – Secretary/Treasurer, Mr. Breetz, Mr. Bunger, Mr. Carmichael, Mr. McMillian, Mr. Charlie Reynolds, Mr. Patrick Reynolds, Mr. Rolfsen, and Mr. Schwenke.

Staff Members Present: Ms. Jan Hancock, Recording Secretary; Mr. Robert Jonas, AICP, GIS Specialist; and Mr. Mitch Light, Assistant Zoning Administrator/ZEO.

Legal Counsel Present: Mr. Dale Wilson

2. **Applicant:** **Taco Bell of America, Inc. for**
 The Bank of Kentucky (owner)

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

The request of Taco Bell of America, Inc. (applicant) for The Bank of Kentucky (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 U.S. 42 at the intersection of Harvey Quast Drive and U. S. 42, and immediately to the south/west of the property at 8522 U.S. 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a drive-through restaurant.

Staff Member Mitch Light presented the Staff Report which included a Power Point presentation and review of the attached email from the City of Florence Public Services Director (see Staff Report).

Mrs. Arnett asked for the applicant's presentation.

Mr. Dennis Williams, attorney with Adams Stepner Woltermann & Dusing, was present on behalf of Gerald Dusing and representing the applicant. He introduced Mr. Joe Boyle with GPD Engineering Group. Mr. Williams stated that Staff did a good job of addressing the issues. He stated that the site has a long history and noted the previous Sonic application. He stated that they have tried to address the concerns identified previously.

Mr. Boyle, Project Engineer with GPD Engineering Associates, Akron, OH stated that he was the project engineer for the Taco Bell on Mall Road, and GPD did the engineering for National City Bank and the Dunkin' Donuts across the street from this site. He stated that they will work with the Committee in regard to the signage. He would like to see more colors added to the building because the building on Mall Road is plain. He stated that if they cannot have the colored parapet bands, they will remove the canopies and side expression panels. They

would prefer the building to have color and stand out. He stated that the right turn lane shown is preliminary and they will work with the traffic engineer and KDOT to determine if a right turn lane is required. The Traffic Study prepared for the Sonic request recommended a right-turn lane, but they will have to look at the extent of that lane. In regard to the comments from the City of Florence (attached to the Staff Report), he stated that they do not have a problem with putting stone around the back of the building. They like the EIFS and brick would add cost – but they will work with the Committee in regard to the building materials. He stated that a fence is not required along the north property line, but Taco Bell likes to work with the community and is being proactive. There will be a small retaining wall along that side and the fence is for safety because of the grade difference. They have no problem with directing the lighting into the site. He offered to answer any questions. This concluded the applicant's presentation.

Mrs. Arnett asked if there was anyone else present who wished to speak in favor of the request. There being no response she asked if there was anyone present in opposition to the request.

Mr. Bill Adams, owner of the property where the garage is located, stated that Taco Bell will have to put in a retaining wall. He questioned how they will prevent trash from the dumpster from going over onto this property. He also wants a fence so that people cannot go onto his property any more than they do now or hit his garage.

Mr. Ron Harmon, who lives in the house to the north of the site, stated that there is an 8' – 10' grade different between his yard and the subject property. He stated that Taco Bell will have to put up a wall because he does not want to lose any of his property. He wants a privacy fence at least six feet tall so that headlights do not shine in his windows, to help with the noise, and to stop people from cutting through there. He stated that a right turn lane would take all of his front yard and his front door will be less than twenty feet from the road. Most of his front yard was taken when they widened U.S. 42 and his front porch is currently only about fifty feet from the road. He does not want his front door to be right on the road.

Mrs. Arnett asked if there was anyone else present who wished to speak. There being no response, she asked if there were any comments or questions from the Commissioners.

Mr. Charlie Reynolds stated that the City of Florence has asked for the dumpster enclosure to be made of the same material as the building or covered in like materials. He recommended that the enclosure be high enough to cover an open lid, since a dumpster is often left open, and to help prevent garbage from spilling out. Mr. Boyle responded that dumpster enclosures are usually about six feet tall and they do not want the dumpster enclosure to be so tall that it sticks out, but they will look into it.

Mr. Charlie Reynolds questioned reducing the parapet band so that it goes around the sides just to the first canopy and does not extend further back. Mr. Boyle responded that it would be a good option and they will look into it.

Mr. Carmichael questioned why they do not use the existing rear access onto Harvey Quast Drive. He stated that people will exit the drive-through and try to make an immediate left to get to the light. They will be doing that at lunchtime when everyone is trying to go into McDonald's. This issue was brought up during the Sonic request and it is still an issue. He stated that people are not going to go back around the building to get out of the property and, if they do, that is also a safety concern. If people exit right from the drive-through and make an immediate left to go to the light, it creates an issue on the site that needs to be overcome – it is a big problem. He recommended that they design the site so that people can pull into the drive-through (stacking 3 or 4 cars at the order board and 3 or 4 at the window), and then exit straight out the back onto Harvey Quast Drive to access the light. He questioned how close the rear ingress/egress on the site is to the neighbor's driveway. Mr. Adams stated that he has driveways on both sides of his building and one of the driveways is one foot off of the property line. Mr. Carmichael stated that the new design leaves about ten feet from Mr. Adams' driveway to this access and the turning radius would almost match up. He asked the applicant to try to resolve these issues and bring the information to Committee. He asked the Committee to keep the signage within the Code.

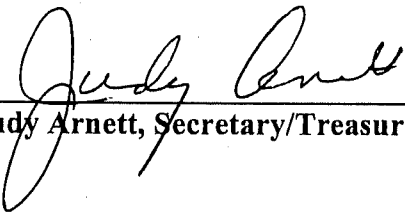
Mr. Bunger asked if the site will be connected to the sewer so that water does not run down the ditches along Old Toll Road. Mr. Boyle responded that they will tie into the existing storm sewer system along Harvey Quast Drive.

Mrs. Arnett asked Staff or the applicant to respond to the concerns raised. Mr. Light questioned the type of business that Mr. Adams is operating there. Mr. Adams stated that he does not have a business there, he is just using the garage. Mr. Light asked the applicant to address the grading. He stated that once the retaining wall gets to a certain level, a railing is required so that someone does not fall into the parking lot.

Mr. Charlie Reynolds asked the Committee to look closely at the turning lane so that Mr. Harmon does not lose any more property. Mr. Light explained that when the road was widened, the right-of-way was purchased and the road improvement will have to be within that right-of-way -- unless additional right-of-way is purchased. He does not know how much of Mr. Harmon's front yard is currently right-of-way. It appears that the right-of-way goes a couple of feet beyond the sidewalk. Mr. Charlie Reynolds asked Staff to provide the information to the Committee.

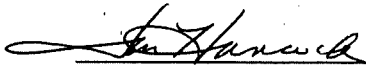
There being no further comments, Mrs. Arnett stated that everyone is invited to attend the Committee Meeting for this item which will be held on July 11, 2007 at 4:30 PM in this room. This item will be on the Agenda for the Business Meeting on July 18, 2007 at 7:00 PM. Mrs. Arnett closed this Public Hearing.

APPROVED:



Judy Arnett, Secretary/Treasurer

Attest:



Jan Hancock, Recording Secretary

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Charlie Rolfsen, Chairman

DATE: July 11, 2007

RE: Request of Taco Bell of America, Inc. (applicant) for The Bank of Kentucky (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 US 42 at the intersection of Harvey Quast Drive and US 42, and immediately to the south/west of the property at 8522 US 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a drive-through restaurant.

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.

Taco Bell

July 11, 2007

Charlie Rolfsen
Charlie Rolfsen, Chairman

For Project Absent
 Against Project
 Abstain Deferred

Judy Arnett
Judy Arnett

For Project Absent
 Against Project
 Abstain Deferred

Greg Breetz
Greg Breetz

For Project Absent
 Against Project
 Abstain Deferred

Kim Bunger

For Project Absent
 Against Project
 Abstain Deferred

Janet Kegley
Janet Kegley

For Project Absent
 Against Project
 Abstain Deferred

Susan Poston
Susan Poston

For Project Absent
 Against Project
 Abstain Deferred

Jim Carmichael (Alternate)

For Project Absent
 Against Project
 Abstain Deferred

Charlie Reynolds (Alternate)

For Project Absent
 Against Project
 Abstain Deferred

Bob Schwenke (Alternate)

For Project Absent
 Against Project
 Abstain Deferred

TOTAL: DEFERRED 3 FOR PROJECT 1 ABSENT
 2 AGAINST PROJECT ABSTAIN

SUPPORTING INFORMATION



BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org

July 16, 2007

Mr. Joseph V. Boyle
GPD Group
Suite 2531
520 South Main Street
Akron, OH 44311

RE: Request of **Taco Bell of America, Inc. (applicant)** for **The Bank of Kentucky (owner)** for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 US 42 at the intersection of Harvey Quast Drive and US 42, and immediately to the south/west of the property at 8522 US 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a drive-through restaurant.

Dear Mr. Boyle:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their July 11, 2007 meeting. Please have the property owner and applicant sign in the space provided at the end of this letter, and return the original letter to the Planning Commission's office by Wednesday, July 18, 2007.

CONDITIONS

1. The revised Concept Development plan presented at the July 11, 2007 Zone Change Committee shall be approved as part of this submittal. This revised Concept Development Plan shows the "enter only" on Harvey Quast, the "exit only" across from the car wash entrance, as well as the access onto Old Toll Road.
2. The property owner agrees that any signage for the Taco Bell will not exceed the minimum requirements as set forth in Article 34 of the Boone County Zoning Regulations.
3. The property owner agrees to construct a brick dumpster enclosure a minimum of 9 feet high.
4. The property owner agrees to install a deceleration lane on US 42 in front of this property only.

5. The property owner agrees to a construct a 6 foot high privacy fence along the Haarman property.
6. The property owner agrees that the sight distance for the proposed access at Old Toll Road will be reviewed at Major Site Plan review to insure that the minimum requirements are met.
7. The property owner agrees to wrap the rear elevation with the rock material shown on the front and sides as well as making the EIFS an accent building material by substituting it with brick per the City of Florence comments.

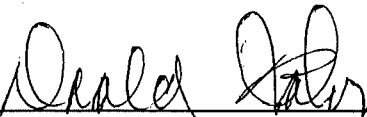
Sincerely,

Mitchell A. Light
Assistant Zoning Admin/Enforcement Officer

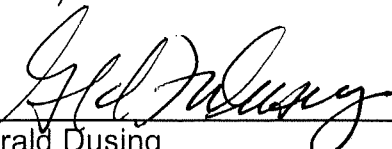
MAL/pr

AGREEMENT

We do hereby agree to the recommended conditions of approval stated above for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 0.90 acre site located at 8526 US 42 at the intersection of Harvey Quast Drive and US 42, and immediately to the south/west of the property at 8522 US 42 to allow a drive-through restaurant.



Donald Bahr, Executive Vice President, Bank of Kentucky
(owner) July 16, 2007
Date



Gerald Dusing
(applicant) July 16 2007
Date

RECEIVED

BOOK 758 PAGE 197

1999 SEP -1 A 11: 23

BOONE COUNTY CLERK

DEED

ARNHEM, PARRY & WENTZ, P.S.C.
600 Greenup Street, P.O. Box 472
Covington, KY 41012-0472
Phone: 606/431-6100

RETURN TO:

KNOW ALL MEN BY THESE PRESENTS:

That TAPPAN PROPERTIES LIMITED PARTNERSHIP, an Ohio limited partnership, the GRANTOR, for and in consideration of THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$325,000.00) paid to the GRANTOR by the GRANTEE herein, the receipt of which is hereby acknowledged, does bargain, sell and convey to the following named GRANTEE, PEOPLES BANK OF NORTHERN KENTUCKY, a Kentucky banking institution, its successors or assigns forever, the following described real estate, in the city of Florence county of Boone, and state of KENTUCKY, to wit:

PROPERTY TRANSFER TAX PAID \$325.00
MARILYN K. ROUSE, CLERK

Street Address: 8526 U. S. Route 42, Florence, Kentucky 41042

Grantee(s) Address: 111 Lookout Farm Drive, Crestview Hills, Kentucky 41017

Grantor(s) Address: 1150 West 8th Street, Suite 255, Cincinnati, Ohio 45203

Group No.: 880

Plat No.: 7/2

Being all of Lots Numbered One (1), Two (2), Five (5), and Six (6) of Hamilton Resubdivision as shown on the plat for said Subdivision which is recorded in Plat Book 7, Page 2 of the Boone County Clerk's records at Burlington, Kentucky.

Less and except the property conveyed at Highway Deed Book 13, Page 195.

Subject to easements and restrictions of record and/or physically located on the property.

Being the same property conveyed to the Grantor, Tappan Properties Limited Partnership, an Ohio limited partnership, from Toebben, Ltd., a Kentucky limited partnership, by deed dated August 8, 1997 and recorded on August 18, 1997 at Deed Book 661, Page 58 of the Boone County Clerk's records at Burlington, Kentucky.

This conveyance has been authorized by resolutions of the Grantor and Grantee and the persons signing on behalf of the Grantor and Grantee have been authorized to do so.

Taxes for the year 1999 are to be prorated as of the date of closing.

(2)

33130

Together with all the privileges and appurtenances to the same belonging. To have and to hold forever the same to the GRANTEE, in the fashion and manner stated above in the conveying clause, with covenants of general warranty.

GRANTOR and GRANTEE both certify, under oath, that the consideration reflected in this deed is the full consideration paid for the property and GRANTEE joins in this deed for the sole purpose of making this certificate about the consideration.

DATED this 30 day of August, 1999.

GRANTOR:

TAPPAN PROPERTIES
LIMITED PARTNERSHIP
BY: TAPPAN PROPERTIES, INC.
Its: General Partner

BY: Charles S. Tappan
Charles S. Tappan
Its: President

GRANTEE:

PEOPLES BANK OF NORTHERN KENTUCKY

BY: John O. Finnan, President
John O. Finnan
Its: President and Chief Executive Officer

COMMONWEALTH OF KENTUCKY, COUNTY OF Kenton (GRANTOR)

The foregoing instrument was sworn to and acknowledged before me this 30 day of August, 1999, by Charles S. Tappan, President of TAPPAN PROPERTIES, INC, General Partner of TAPPAN PROPERTIES LIMITED PARTNERSHIP, an Ohio limited partnership, on behalf of the partnership.

Jeffrey C. Arzen
Notary Public JEFFREY C. ARZEN
Kentucky State at Large
My Commission Expires: _____

JEFFREY C. ARZEN
Notary Public, Kentucky State at Large
My Commission Expires July 22, 2003

STATE OF Kentucky, COUNTY OF Kenton (GRANTEE)

The statement about consideration in the foregoing instrument was sworn to and acknowledged before me this 30 day of August, 1999, by John O. Finnan, President and Chief Executive Officer of Peoples Bank of Northern Kentucky, a Kentucky banking institution, on behalf of the bank.

J. B. Baker
Notary Public
Kentucky State at Large
My Commission Expires: 8/30/2001

Return to: This instrument prepared by ZIEGLER & SCHNEIDER, P.S.C. Attorneys at Law, 541 Buttermilk Pike, Suite 500, P. O. Box 175710, Covington, Kentucky 41011, by J. B. Baker, Attorney.
KAREN BURRIS BAKER

State of Kentucky, County of Boone
MARILYN K. ROUSE, Clerk of the Boone County
Court, do certify that the foregoing
Deed was, on the 1 day of Sept
99, at 11:30 A M, lodged in my office
for record, and that it has been duly recorded in
my said office, together with this and the
certificate thereon endorsed.
Given under my hand this 1 day of Sept
99
BY Marilyn K. Rouse D.C.

APPROVED

Staff

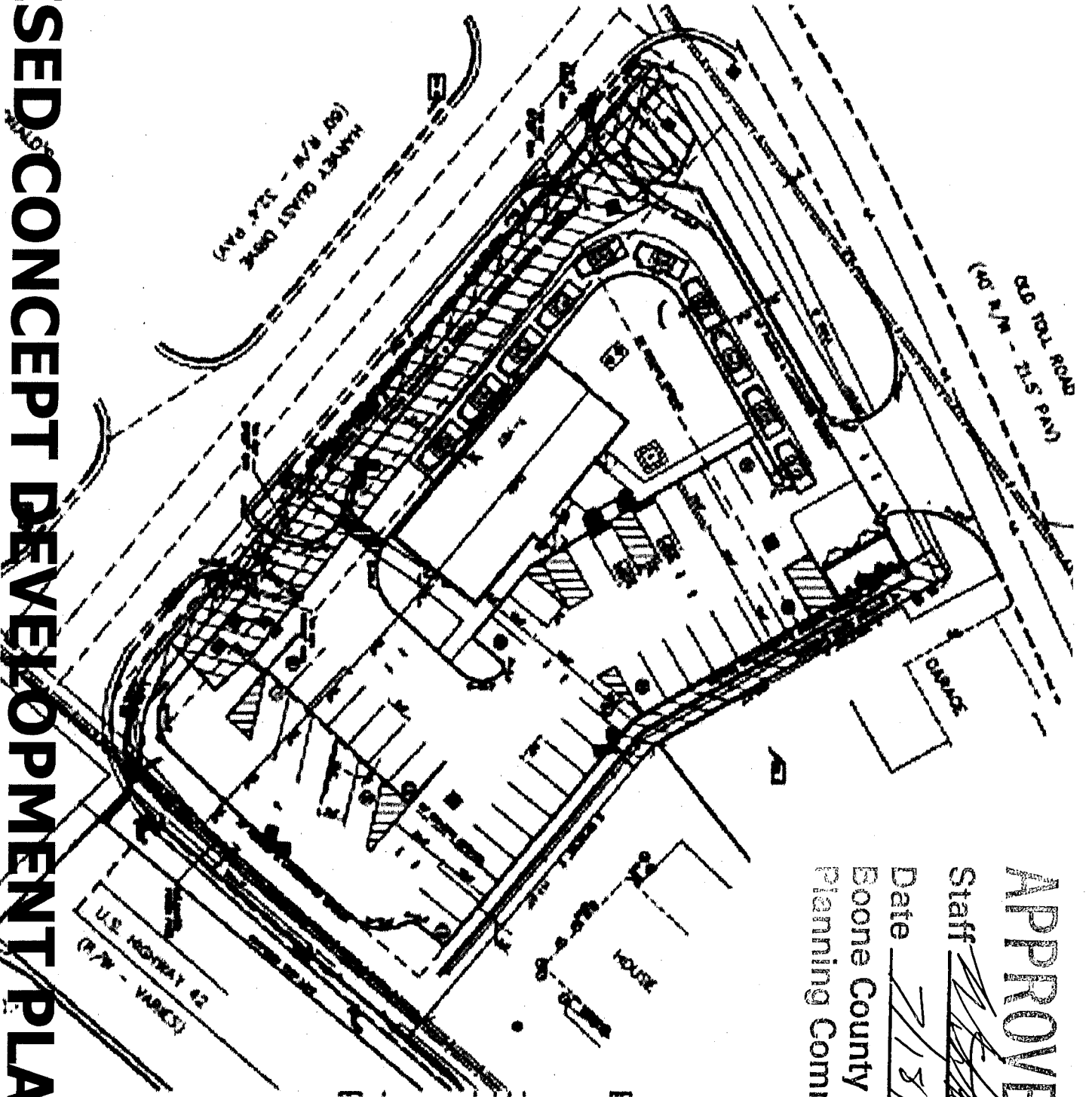


Date

7/8/07

Boone County

Planning Commission



REVISED CONCEPT DEVELOPMENT PLAN

ORDINANCE NO. 0-21-07

AN ORDINANCE ADOPTING AND APPROVING A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN IN A COMMERCIAL TWO/PLANNED DEVELOPMENT (C-2/PD) ZONE FOR A 0.90 ACRE SITE LOCATED AT 8526 U.S. 42 AT THE INTERSECTION OF HARVEY QUAST DRIVE AND U.S. 42, IMMEDIATELY TO THE SOUTH/WEST OF THE PROPERTY AT 8522 U.S. 42, FLORENCE, KENTUCKY, TO ALLOW A DRIVE-THROUGH RESTAURANT. (TACO BELL OF AMERICA, INC. - THE BANK OF KENTUCKY PROPERTY)

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 by Resolution No. R-07-014-A recommended approval, with conditions, for a change in an 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 the Commission's 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 Taco Bell of America (Applicant) for The Bank of Kentucky (Owner), for a change in an approved concept development plan in a Commercial Two/Planned Development (C-2/PD) zone, for a 0.90 Acre site located at 8526 U.S. 42 at the intersection of Harvey Quast Drive and U.S. 42, immediately to the south/west of the property at 8522 U.S. 42, Florence, Kentucky, shall be and is hereby approved, subject to agreed conditions for this site, this change in concept development plan being to allow a drive-through restaurant. The zoning map of Boone County, Kentucky, as it applies to the City of Florence, Kentucky, shall be designated to reflect the approval of this change in the concept development plan for this subject property.

SECTION II

The approval of this change to the 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-07-014A of the Boone County Planning Commission, including the exhibits referenced 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 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-07-014A, marked Exhibit "A", and attached hereto.

SECTION V

If the approval for this change in the 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.

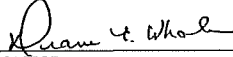
SECTION VI

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

PASSED AND APPROVED ON FIRST READING THIS 11th DAY OF September, 2007.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 25th DAY OF September, 2007.

APPROVED:


MAYOR

ATTEST:


CITY CLERK

City of Florence Special Conditions of Approval
For
A Change in an Approved Concept Development Plan
On a .90 Acre Site Located at 8526 U.S. 42 at the Intersection
Of U.S. 42 and Harvey Quast Drive
Bank of Kentucky, Owner

The undersigned on behalf of the Bank of Kentucky, as owner, hereby agrees to the following Special Condition of Approval placed on this Change in an Approved Concept Development Plan by the City of Florence, Kentucky. The property to which this Special Condition of Approval applies is located on a .90 acre site at 8522 U.S. 42 at the intersection of U.S. 42 and Harvey Quast Drive in Florence, Kentucky.

1. The applicant agrees to redesign a portion of the parking lot adjacent to U.S. 42 by eliminating the front row of parking for the purpose of improving on-site traffic flow. The reconfigured parking lot design shall be approved by the City of Florence city staff. The revised Concept Development Plan established by this Special Condition of Approval shall supersede the Concept Development Plan recommended for approval by the Boone County Planning Commission (dated July 18, 2007).

8/27/07

Date

Robert W. Zipp

Signature



Chief **Marc Muench**
Florence Fire/EMS Department
Fire Station 3, 1152 Weaver Road
Florence, KY 41042

Chief **Tom Szurlinski**
Florence Police Department
Florence Government Center
Florence, KY 41042

Director **Bob Townsend**
Florence Public Services
Florence Government Center
Florence, KY 41042

Chief Building Official **Jim Key**
Boone County Building Inspection Office
2950 Washington Street, Room 312
P.O. Box 960
Burlington, KY 41005

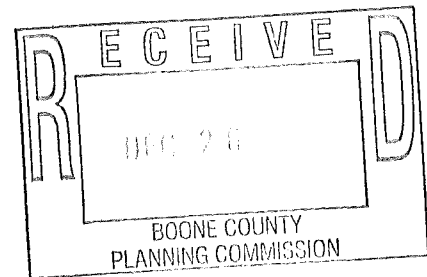
Judge/Executive **Gary Moore**
Boone County
P.O. Box 900
Burlington, KY 41005

Administrative Services Manager **Vicki Myers**
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Property Valuation Administrator **Cindy Rich**
Boone County
P.O. Box 388
Burlington, KY 41005

PSCC Director **James Staverman**
Boone County
Florence Government Center
Florence, KY 41042

City Engineer **Bill Viox**
Florence
Viox & Viox Inc.
466 Erlanger Road
Erlanger, KY 41018





Taco Bell of America, Inc.
439 Herrington Haven
Lancaster, KY 40444

Staff Engineer **Joseph Boyle**
GPD Group
520 South Main Street
Suite 2531
Akron, OH 44311

Gerry Dusing
Adams, Stepner, Woltermann & Dusing
40 W. Pike Street
P.O. Box 861
Covington, KY 41012



Dear Sirs and/or Madams:

Enclosed please find a certified copy of City of Florence, Kentucky Ordinance No. O-21-07:

AN ORDINANCE ADOPTING AND APPROVING A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN IN A COMMERCIAL TWO/PLANNED DEVELOPMENT (C-2/PD) ZONE FOR A 0.90 ACRE SITE LOCATED AT 8526 U.S. 42 AT THE INTERSECTION OF HARVEY QUAST DRIVE AND U.S. 42, IMMEDIATELY TO THE SOUTH/WEST OF THE PROPERTY AT 8522 U.S. 42, FLORENCE, KENTUCKY, TO ALLOW A DRIVE-THROUGH RESTAURANT. (TACO BELL OF AMERICA, INC.- THE BANK OF KENTUCKY PROPERTY)

The First Reading of Ordinance No. O-21-07 was held on the 11th Day of September, 2007. The Second Reading of Ordinance No. O-21-07 was held on the 25th Day of September, 2007. The Ordinance was published in the *Boone County Recorder* on the 4th Day of October, 2007 at which time the Ordinance became statutorily official.

If you require additional information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Christofield", written over a horizontal line.

Joseph A. Christofield
City Clerk
Florence

I, Joseph A. Christofield, City Clerk for the City of Florence, Kentucky, do hereby certify the foregoing is a true and correct copy of Ordinance No. O-21-07 as same appears in the official records of my office.

Dated this 21st day of December, 2007.

A handwritten signature in black ink, appearing to read "J. Christofield", written over a horizontal line.

Joseph A. Christofield
City Clerk
Florence

EXHIBIT

“A”

City of Florence Special Conditions of Approval
For
A Change in an Approved Concept Development Plan
On a .90 Acre Site Located at 8526 U.S. 42 at the Intersection
Of U.S. 42 and Harvey Quast Drive
Bank of Kentucky, Owner

The undersigned on behalf of the Bank of Kentucky, as owner, hereby agrees to the following Special Condition of Approval placed on this Change in an Approved Concept Development Plan by the City of Florence, Kentucky. The property to which this Special Condition of Approval applies is located on a .90 acre site at 8522 U.S. 42 at the intersection of U.S. 42 and Harvey Quast Drive in Florence, Kentucky.

1. The applicant agrees to redesign a portion of the parking lot adjacent to U.S. 42 by eliminating the front row of parking for the purpose of improving on-site traffic flow. The reconfigured parking lot design shall be approved by the City of Florence city staff. The revised Concept Development Plan established by this Special Condition of Approval shall supersede the Concept Development Plan recommended for approval by the Boone County Planning Commission (dated July 18, 2007).

8/27/07

Date

Robert W. Zipp

Signature

