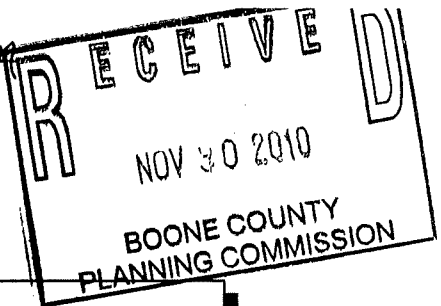


AI-CDP-008



APPLICATION FORM

CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION

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

1. Check One:

- x 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)
Zone Change Committee Review of previously approved Concept Development Plan Conditions or Zoning Map Amendment Conditions
Zoning Administrator Review (As stated in the Central Florence Strategic Plan, An Update of the Parkway Corridor Study)

- 2. Name of Project Colonial Square Plaza
3. Location of Project us 17 and Ewing Blvd., Florence, KY
4. Total Acreage of Site 3 +/-
5. Current Zoning O-2/UR-1/PD
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) None
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) yes-Central Florence Stratgic Plan
8. Proposed Uses (please specify each use) Pawn Shop
9. Proposed Building Intensities (please specify) existing building - no change

10. Have you submitted a Concept Development Plan? yes

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

12. Name of Applicant(s) KEH Enterprises
Phone Number c/o 859-371-7774 Fax No. c/o 859-371-0730

13. Address of Applicant(s) c/o Gregory W. McDowell
7415 Burlington Pike, Suite B, Florence, KY41042
City State Zip

14. Name of Property Owner(s) Griffith Holdings, LLC
Phone Number 859-371-8666 Fax No. 859-371-8871

15. Address of Property Owner(s) 1031 Steamboat Way
Villa Hills KY 41017
City State Zip

16. Are there any existing buildings on the site? yes
How many? 4

17. Deed Book 940 Page No. 804 Group No. 4442 2041 B

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

(over)

**EXHIBIT**

**“A”**

## STAFF REPORT

Request of KEH Enterprises c/o Gregory W. McDowell (applicant) for Griffith Holdings, LLC (owner) for a Concept Development Plan in an Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky. The request is for a Concept Development Plan approval to allow a pawn shop within an existing building.

January 5, 2011

### REQUEST

The applicant is requesting this Concept Development Plan approval to allow a pawn shop use to locate within one of the existing buildings on the property. The current zoning on the property of Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) does not allow a pawn shop. The only zoning district within the City of Florence that principally permits a pawn shop is the Commercial Services (C-3) zone.

### SITE HISTORY

The Central Florence Strategic Plan, which includes the subject site, was adopted in 2008. The adoption of the Planned Development overlay zone for the area resulted from the Study.

### ADJACENT ZONING AND LAND USES

- North: The Vineyard Apartments zoned Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD).
- East: Properties fronting US 42 zoned Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD).
- South: Properties across US 42 (including the Wildwood Inn) zoned Commercial Two/Planned Development (C-2/PD) and Commercial Services/Planned Development (C-3/PD).
- West: Across Ewing Boulevard, properties owned by Collett, Griffith, and Monohan, zoned Office Two/Planned Development (O-2/PD).

### **RELATIONSHIP TO COMPREHENSIVE PLAN**

The Future Land Use Map shows the subject property as Commercial (C) which is defined in the adopted Comprehensive Plan as:

- C: "Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

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

- A. Proper planning is achieved through specific land use regulation 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. Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ("Business Activity," Goal).

The Land Use Element (Florence Central, pg. 144) does not address this specific site but states that "the Parkway Corridor Study, prepared in the 1980's is currently being updated (Central Florence Strategic Plan)." That plan has been completed and adopted and serves as the guidelines for the area.

### **RELATIONSHIP TO THE CENTRAL FLORENCE STRATEGIC PLAN**

As stated above, the site is within the Central Florence Strategic Plan area. The Plan states the following regarding development in the study area as a whole:

The site is located within Area 6 - U.S. 42 on the study land use map. The following excerpt describes the area in question.

"The Vineyard Apartments site on Ewing Boulevard and the multi-tenant office/commercial development on the northeast corner of the Ewing Boulevard/U.S. 42 intersection are not anticipated to further develop or redevelop. If they do, these same types of uses are recommended with an emphasis on offices, local consumer services, and incidental retail for the northeast corner of the Ewing Boulevard/U.S. 42 intersection (pg. 7.3)."

The Area 6 - U.S. 42 and Ewing Boulevard section (pg. 8.3) of the Office, Commercial, And Industrial Project Design Requirements chapter outlines the following:

Intent: To reinforce and further define a higher density, suburban strip style campus character with naturalistically arranged landscaping.

Building and Parking Location: Buildings shall be located close to the U.S. 42 right-of-way with parking generally located at the side and rear of buildings. The maximum depth for parking areas between buildings and the U.S. 42 right-of-way shall be the width of one standard driveway, which runs parallel to the right-of-way, which is double loaded with parking stalls. No more than fifty percent (50%) of all on site parking may be located in the front yard area.

Streetscape/Street Frontage Landscaping: Clusters of a variety of large hardwood trees (such as red oak, pin oak, red maple, and lindens) and evergreen trees (such as blue spruce, hemlock, and austrian pine) shall be provided along all street frontages. The clusters shall be informal groupings spread throughout the street frontage area; formal axial or rectilinear planting arrangements are not permitted. Although the street frontage landscaping requirements in Article 36 must still be fulfilled, the clusters of trees required herein shall be credited towards the street frontage landscaping requirements.

Architectural Design:

- a) **Materials/Colors**: Exterior walls shall be constructed of brick (clay only, although architectural grade CMU or stone may be used for knee walls) which have natural tones such as those in the beige/tan/warm grey, brown, red-brown, or red ranges. White or exceptionally dark colors are not permitted. Trim and detailing may be any masonry or pre-cast product. Window framing and doors may be other colors. All colors must be warm tones.

- b) Facade Treatment: Defined masonry detailing shall be provided, minimally to include defined window sills or lintels; masonry detailing such as quoins, soldier courses, herringbone detailing, or medallions can be substituted for the defined sills or lintels. Windows and doors shall be recessed within their openings ("punched" openings) to create shadow lines and three-dimensional relief. Facade treatments which emphasize or over-scale the main public entrance shall be provided.
- c) Roof Shape: Gabled and hipped roof designs which have a minimum 4/12 pitch shall be used. The pitched roof shall cover the entire structure. Multiple pitched forms and secondary roof elements, such as dormers, are permitted. Roofing materials shall be architectural grade, three dimensional asphalt shingles, clay tile, or slate. Standing seam metal roofing with darker, neutral tones, such as browns or grays, are also permitted.

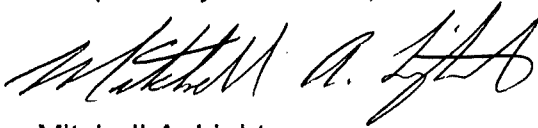
#### **STAFF CONCERNS/COMMENTS**

1. Staff would like to point out that the applicant outlined in their application materials (attached) that, if approved, only one (1) pawn shop use would ever be permitted on this property.
2. The property currently has two (2) freestanding signs for advertising the businesses on the property. This is a pre-existing and non-conforming condition of the property. Only one (1) freestanding development sign is currently permitted. The application materials (attached) indicate no change to the free standing signage on the site. Consolidation of the two signs into one should be considered if this request is ultimately approved.
3. Staff recognizes that the property owner is only asking for a pawn shop use, however Staff is concerned about the street frontage landscaping along U.S. 42 and Ewing Boulevard. The entire site should be brought up to the current standards set forth in Article 36 (Landscaping) of the Boone County Zoning Regulations.
4. Staff has attached to this report, a copy of the standards set forth in Section 1514 "Planned Development Standards" of the Boone County Zoning Regulations. Concept Development Plan proposals in Planned Developments are to be primarily evaluated against these criteria.

**CONCLUSION**

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

Respectfully Submitted,

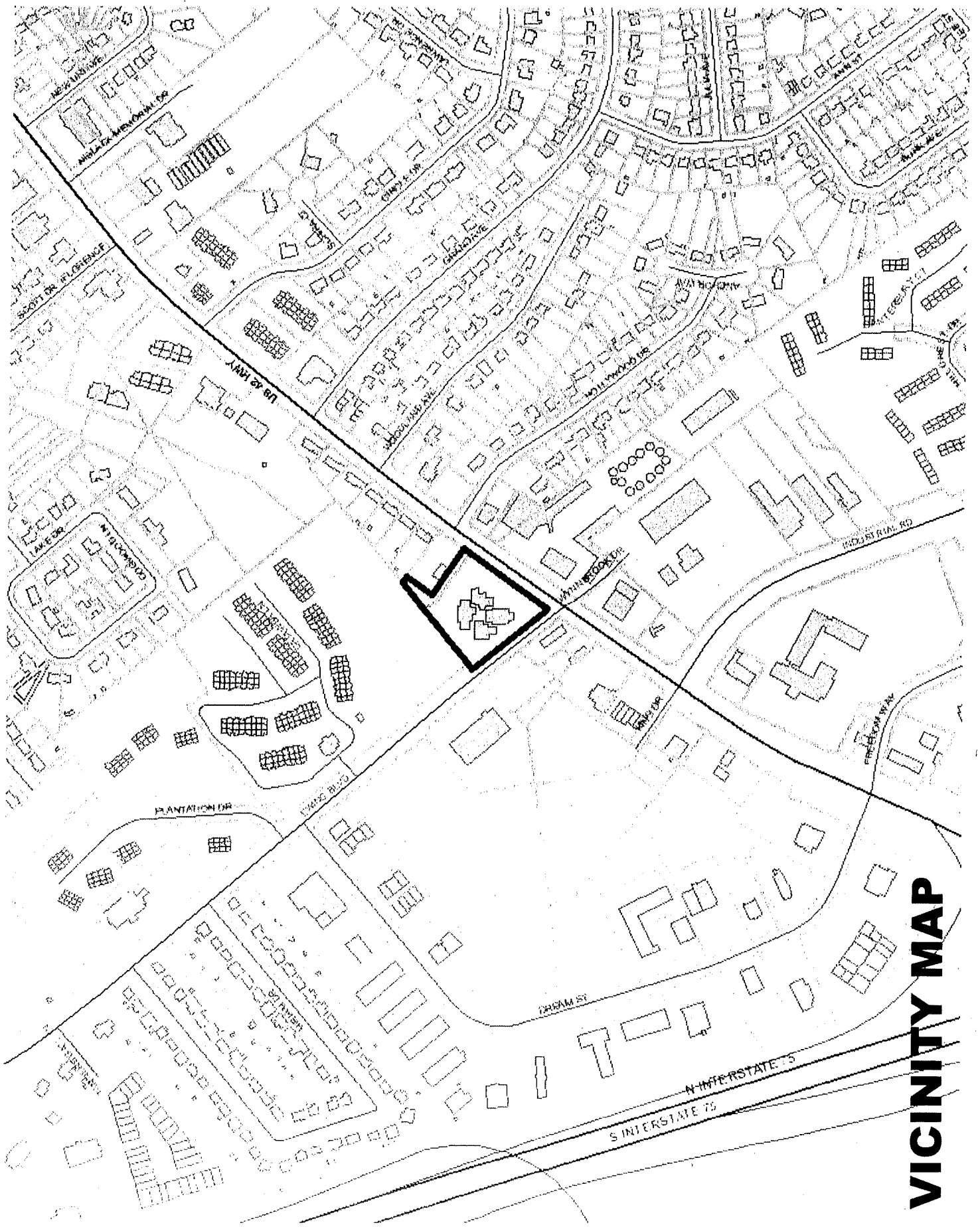


Mitchell A. Light  
Asst. Zoning Administrator/Enforcement Officer

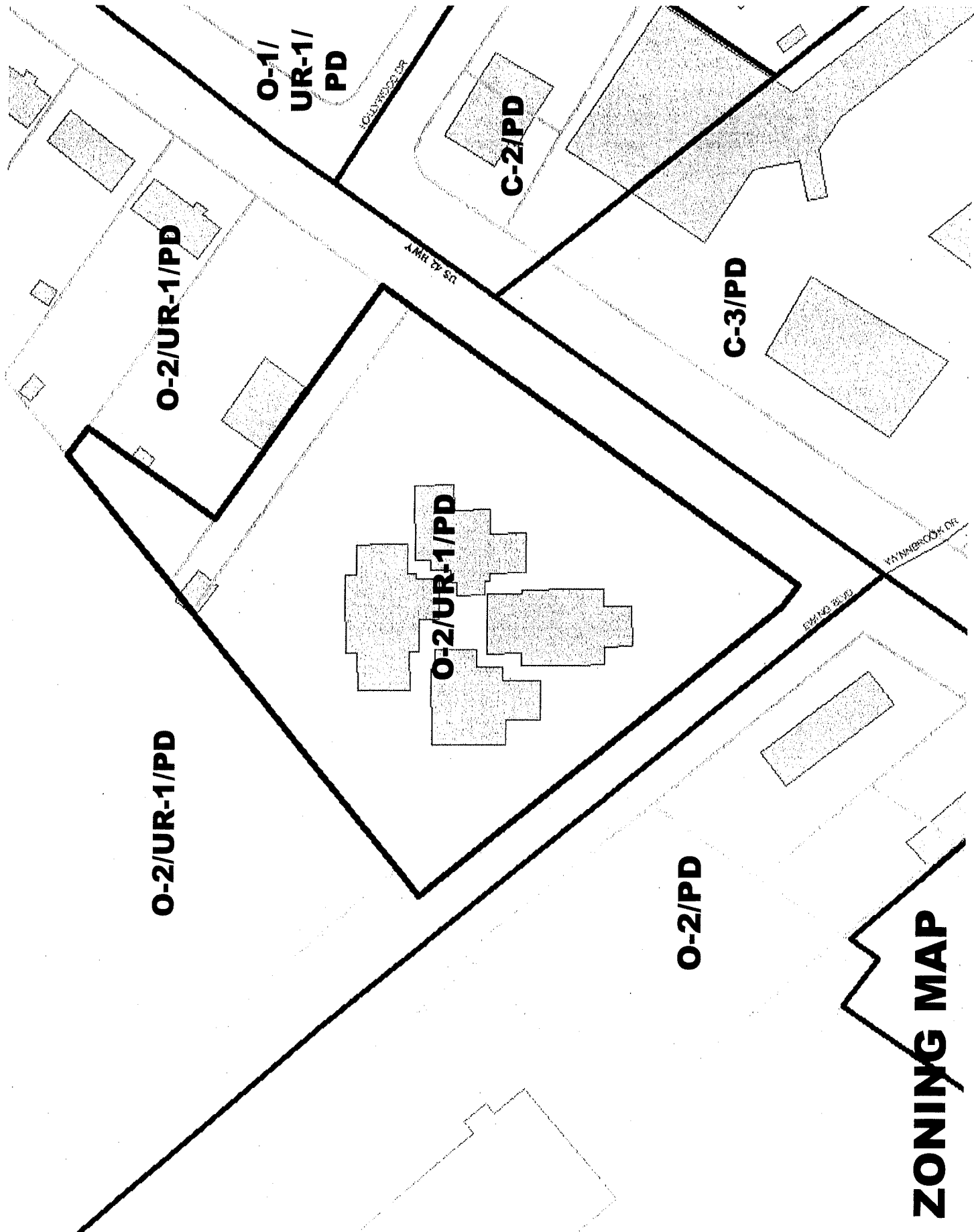
MAL/pr

Attachments:

- Vicinity Map
- Zoning Map
- Future Land Use Map
- 2007 Aerial Photography
- Central Florence Strategic Plan - Study Area 6 Proposed Zoning
- Applicants "Proposal for Concept Development Plan"
- Planned Development Standards
- Application



**VICINITY MAP**



O-1/  
UR-1/  
PD

C-2/PD

C-3/PD

O-2/UR-1/PD

O-2/UR-1/PD

O-2/UR-1/PD

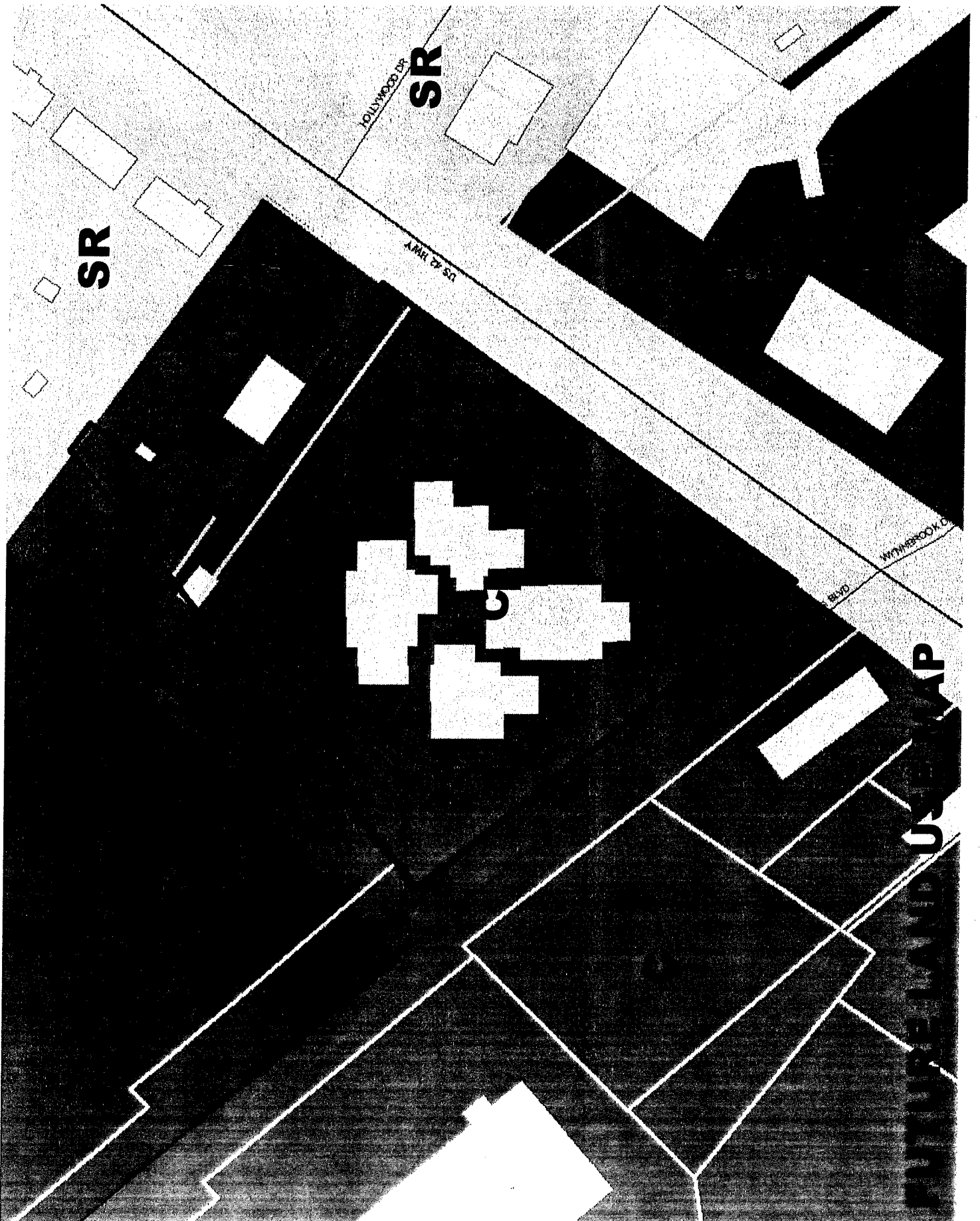
O-2/PD

ZONING MAP

US 40 HWY

E 21st St

W 11th St



SR

SR

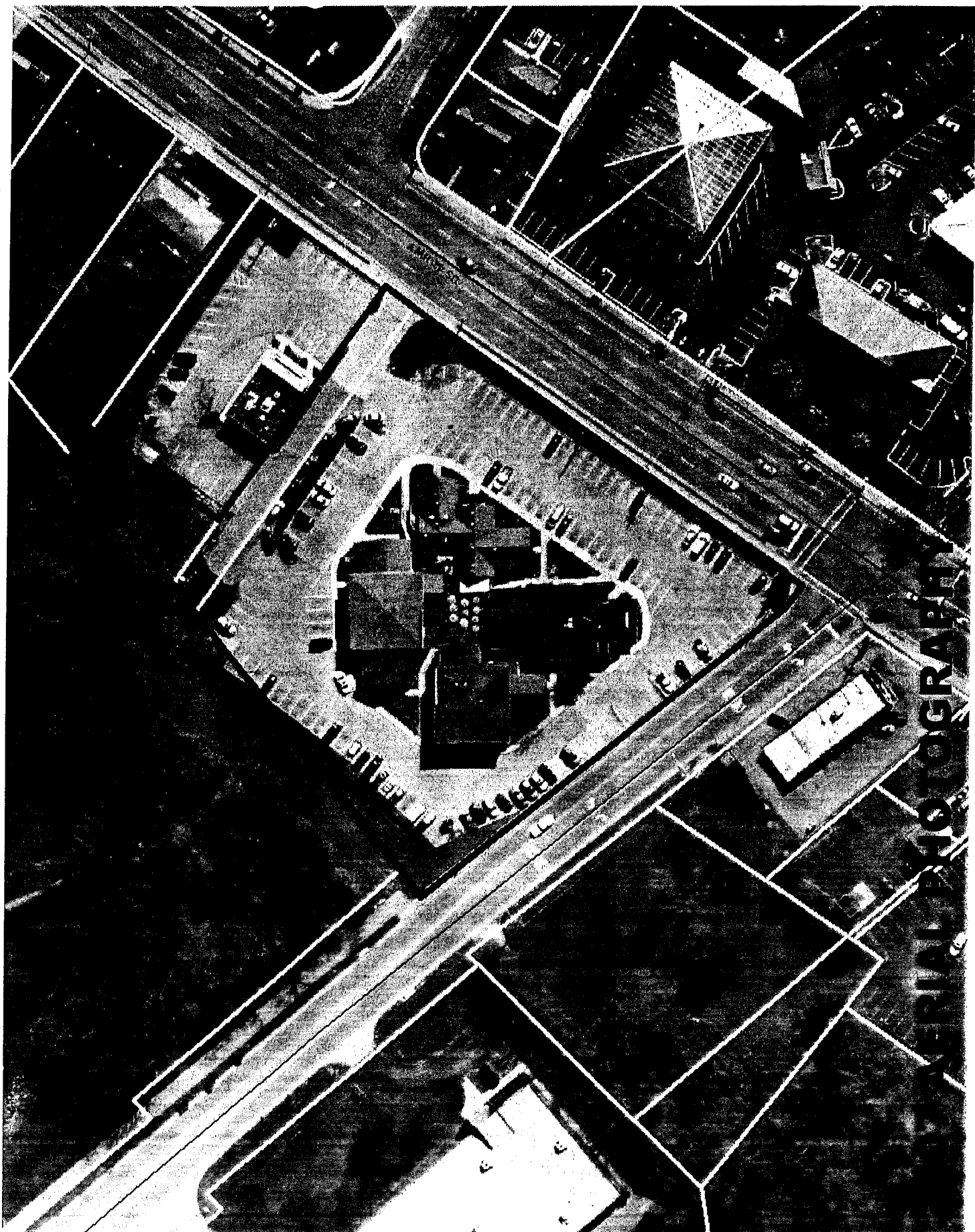
HOLLYWOOD DR

JIMMIE ST

WYNDHAM ST

SR

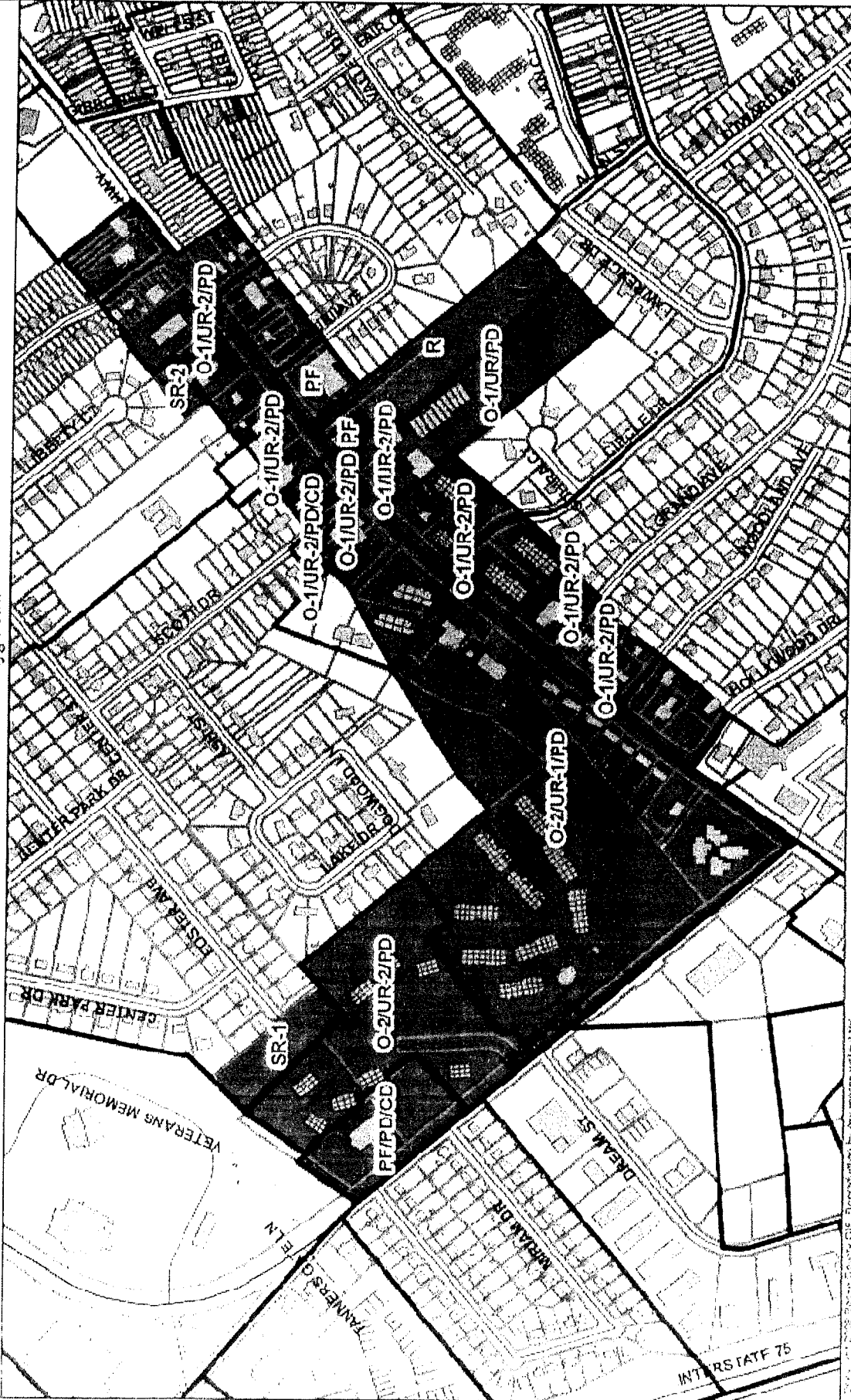
FUTURE MAP



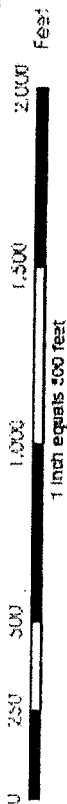
CRIMINAL PHOTOGRAPH

# Central Florence Strategic Plan Study Area 6 - Proposed Zoning

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Boone County GIS - Putting Northern Kentucky on the Map

# PROPOSAL FOR CONCEPT DEVELOPMENT PLAN

## **U.S. 42 and Ewing Blvd.**

Griffith Holdings, LLC, (hereinafter "Griffith") owner of the property known as Colonial Square Plaza at 7730 U.S. 42, Florence, Kentucky 41042 (hereinafter "Colonial Square") submits the following summary in support and as a part of the Concept Development Plan pursuant to Article 15 of the Boone County Zoning Regulations.

Specifically, Griffith requests that Colonial Square, currently designated as O-2 and UR-1 with a Planned Development overlay, be rezoned to allow a Pawn Shop as an additional use within the existing structure. As a part of this request, Griffith will agree to limit a single pawn shop within the Colonial Square existing development.

Acceptance of the proposed Concept Development Plan is compatible with Boone County Comprehensive Plan in the following manner:

- The proposed additional use – a Pawn Shop – provides a necessary and convenient resource within the Florence community, including its suburban neighborhoods and communities.
- The proposed site is centrally located site capable of serving the Florence population and surrounding communities. This site does not fit the scale, character, trade area and general objectives of its current zoning use. The current zone of UR-1 is incompatible with Colonial Square. This site has never been used or developed for the principally permitted uses under Section 951 of the Boone County Zoning Regulations. Many of the uses of the concurrent zone of O-2 are also incompatible with Colonial Square. For

instance, Griffith does not want to lease his property for use as a Sexually Oriented Business. (See Section 1121-9).

- The proposed site is appropriately supported and served by necessary infrastructure, including U.S. 42, Ewing Blvd., and Interstate 75 to serve this proposed use. In fact, Griffith believes that when he first acquired Colonial Plaza, it was zoned for a principally commercial use that would encompass most business activities similar to a pawn shop. It operates an eating and drinking establishment, Shakey's Pub and Grub, which is a principally permitted use under Section 1031. Another part of the Plaza formerly housed an eating establishment which closed and remains vacant.
- The exterior of the proposed site would not be altered to accommodate the requested use of a pawn shop. All changes would be cosmetic to the interior portions of the building. There would be no additional signage to the building/complex. The applicant requests would be limited to a "change of face" application/permit.
- The proposed site also preserves the existing open, green space. As submitted, neither the applicant nor the owner seeks a change or modification to any existing buildings. All current green space and "buffer areas" would remain undisturbed for the continued benefit of the Florence community and the surrounding neighborhood.
- The proposed use is consistent with the uses contemplated in the Central Florence Strategic Plan, including the update of June, 2008. The proposed use (1) creates employment and entertainment opportunities within the study area, (2) creates a mixed-use service and retail opportunity at the proposed site, (3) constitutes a redevelopment opportunity (within existing space) envisioned in Chapter 4 of the Strategic Plan; (4) entrenches and reinforces business opportunity at this location – as opposed to continued

vacant space with the threat of migration to the Houston/Turfway area; (5) enhances the continued diversity of small, non-franchised, mixed-use businesses in the part of Florence designated as Area 6 in the Strategic Plan; (6) establishes an intended long-term commercial use of the facility to reverse the existing trend of short-term occupancy and empty business space at the proposed site; and (7) is a proposed use consistent with the intermixed uses contemplated in Area 6 – U.S. 42 in the Strategic Plan;

# PROPOSAL FOR CONCEPT DEVELOPMENT PLAN

U.S. 42 and Ewing Blvd.

-- Supplement --

In addition to the narrative summary provided to the Boone County Planning and Zoning Offices, the Applicant and Property Owner submits the attached as its supplemental information in further support of the pending Concept Development Plan.

## Support in §1511

This section provides that "... any other uses not listed in the underlying zone are permitted if found to be compatible and of benefit to the community ..." The only limitation is that "[u]ses proposed for a Planned Development district shall not adversely affect adjacent property, and/or the public health, safety, and general welfare and/or the provisions of the adopted Comprehensive Plan."

The proposed use is a "pawn shop". Such use is a lawful one and without question, will not adversely affect the public health, safety or the general welfare of the Florence/Boone County community, including adjacent property owners. The proposed use, although not specifically designated in the current regulations, is consistent with the intended mixed-use concept contemplated in the Comprehensive Plan. Colonial Square development, while principally serving vehicular traffic customers, offers pedestrian traffic use as well for nearby residents.

## Support in §1514

Additionally, the proposed use will perpetuate the site's continued compatibility of the land uses of adjacent properties. The current buffer zones, common open space areas and landscape features will remain unchanged. In fact, allowing this use will enhance the probability

for this continuity as the Property Owner will continue with its ownership and maintain a status quo of the development, thereby preserving all existing site features and landscaping. As mentioned previously, there are no contemplated or requested signage changes with the proposed uses. The Applicant proposes to use the existing building monument signage (with a change of face application only) and the existing monumental signage that fronts U.S. 42 (also with a change of face application only).

## **SECTION 1514**

### **Planned Development Criteria**

Concept Development Plan proposals in a Planned Development shall be primarily evaluated against the criteria listed below. The Concept Development Plan shall fulfill the following criteria unless a portion of the criteria do not apply or relate, in whole or part, to a specific proposal. The examples listed in this section are for illustrative purposes. Specific solutions used to fulfill these criteria are contingent upon the size, scale, site conditions, design, uses and impacts of a proposed development.

1. **Mixed Use Development and Pedestrian Orientation:** Planned Developments shall generally have a mixed use orientation (combination of differing types of residential, commercial, and/or industrial uses) both within the development itself and relative to the relationship between the proposed planned development and adjacent sites. The additional intensity allowed in a Planned Development by Section 1500 shall only be permitted when a true mixed use and/or an amenity - oriented development with community and recreation facilities as described in this standard is provided.

In general, planned developments shall have a pedestrian orientation, where it is possible to live, work, shop, and play in the same immediate vicinity without a required dependence on the automobile. This may be accomplished through the use of comprehensive pedestrian circulation networks including multi-purpose paths and walks along main routes and open spaces such as stream corridors, between major destinations within the development and adjoining areas, secondary walk connections to the multi-purpose paths, the creation of a designed pedestrian environment including street trees in addition to other required landscaping, decorative street lights and other street furniture, and seating areas, and the use of integral curb walks where appropriate along streets. Disruptions in major paths due to street and drive intersections shall be minimal. Additionally in commercial areas, pedestrian orientation can be accomplished by placing buildings in close proximity to the street with parking areas to the side and rear of buildings, mixing uses within the same multi-story buildings, building entrances directly facing streets with reduced setbacks, architectural design which employs display windows, projecting signs, and awnings at street level, and designed outdoor seating and gathering spaces at the street level. Each development proposal must demonstrate in detail how the project will be made walkable throughout.

2. **Compatibility of Uses:** Measures shall be taken to assure compatibility of land uses within a planned development itself and adjacent sites. Such measures may include the provisions of buffer zones, common open space areas and landscape features, transitional land uses, or a mixed-use development in which no specific type of land use is dominate. When applicable, the design methods recommended in the "Development Layout, Lot Sizes, and Setbacks" section of the Comprehensive Plan's Land Use Element shall be employed. Compatibility measures/mitigation measures shall exceed the usual minimum standards of this order when needed to address impacts of the proposed development.
3. **Open Space:** Useable open space(s), in an amount over and above setback and buffer yard areas and open areas required by the underlying zone, shall be provided. These spaces may be provided in the form of greenways, parks, plazas, arcades, commons, trails, sports courts or other athletic and recreational areas, outdoor areas for the display of sculptural elements, etc. Land reservations for community facilities may be considered in lieu of useable open space. The use of single loaded streets to provide greenways with multi-purpose paths, park areas, or to protect stream corridors, may be proposed for this purpose. Open Space areas are encouraged to have street frontage and visibility. Any site proposed to be publically dedicated or donated for park or open space purposes shall comply with the appropriate legislative body's requirements for acceptance of such dedications or donations.
4. **Multi-Modal Transportation System:** Planned developments shall incorporate multi-modal transportation elements through the development, depending on the foreseeable needs of future residents and users of the site, and the relationship of the project site to the community at large. Such multi-modal elements may include provisions for mass transit stops or stations, car pooling lots, pedestrian and bicycle paths and lanes, bicycle parking areas, etc. Multi-modal facilities are encouraged to be combined with the pedestrian systems and open spaces described in Sections 1 and 3.

5. Preservation of Existing Site Features: Existing topography, significant tree cover, tree lines along property lines, cemeteries, and water courses and water bodies shall be largely preserved and incorporated into the project design, where appropriate and consistent with the remainder of this article. The retention of such features may also fulfill portions of the requirements in Section 3 "Open Space" and Section 6 "Landscaping."
6. Landscaping: Substantial landscaping shall be provided in a planned development with emphasis given to street scape areas, buffer zones, and the provision of significant landscaping (in terms of size of landscape areas, and quantity and quality of landscape materials) within the developed portions of the site. The use of landscape design guidelines is required for multi-phased projects. The retention of existing healthy, substantial trees should occur wherever possible. Properly designed street tree plantings may be permitted to fulfill some landscaping requirements as part of an overall amenity package.
7. Architecture: Sites which are subject to architectural requirements through adopted overlay districts or land use studies shall follow said requirements. For all other sites, a consistent architectural theme shall be provided in planned developments. The theme shall largely use traditional, regionally influenced architectural forms and elements and shall allow variations within it. Traditional styles such as Georgian, Federal, I-House, Cape Cod, Craftsman, Tudor, Queen Anne, Italianate, early 20th century commercial structures, and local farm structures may be used as models. The architectural theme shall also relate to existing structures on the project site and adjacent sites, especially if such existing structures are historic.

For attached or multi-family residential developments and commercial or office developments, the predominant building materials shall have a solid appearance, such as could be achieved with brick, stone, and architectural grade cast concrete products designed to replicate natural materials. Roof designs shall have a finished appearance through the use of three dimensional pitched roof forms with architectural grade roofing and/or the use of defined parapets with cornice lines. Long building facades and roof planes shall be interrupted through the use of three dimensional jogs in the building footprint and secondary roof forms such as hips, dormers, and gables. Such buildings shall include architectural detailing for cosmetic enhancement, largely use natural colors, and use a consistent design treatment on all facades. The use of architectural guidelines or building prototypes is required for all multi-phased projects.

Developments should be mixed-use in character with multi-level buildings where commercial services are proposed. Walkability must be planned for when locating commercial and residential uses in proximity to each other. Office and residential uses are strongly advocated above commercial uses in business districts to decrease dependence on the automobile.

8. Historic and Prehistoric Features: Historic and prehistoric features on the project site shall be retained, utilized, and incorporated into the overall project design if physically and economically feasible.
9. Signage: A consistent signage theme shall be provided within a planned development. Building mounted signs shall be the predominate signage on the project site. Freestanding signs shall be monument style and of a limited size and height. Signage shall visually correlate to the planned architectural theme by the use of consistent design details, materials, and colors. The use of signage design guidelines is required for multi-phased projects.
10. Transportation Connections and Entry Points: The provision of transportation connections (street connections, pedestrian paths, multi-purpose trails, sidewalks, and bicycle facilities) shall be provided in all planned development unless physically unfeasible or unsafe. This shall include connections to adjoining properties and developments, and inter-connectivity within the development itself, and contain minimal use of cul-de-sacs or other dead-end types of streets only when necessary. Transportation connections shall account for the County's adopted Transportation Plan and any adopted greenway, trails, bikeway, and/or pedestrian plans. In addition, the various entry points (streets, paths, etc.) into a planned development shall be marked or otherwise defined through the use of landscaping, low-key signage on retaining walls, architectural or sculptural elements, archways, markers, etc. Any structures used to demarcate entry points shall visually correlate to the planned architectural theme by the use of consistent design details, materials, and colors.

11. **Conformance with Comprehensive Plan:** All planned developments shall conform to the provisions of the adopted Comprehensive Plan and take into account the limitations of existing or planned infrastructure.

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

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

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

## **SECTION 1515**

### **Procedure**

After review and recommendation by the Planning Commission and upon approval by the legislative body or Fiscal Court, a planned development zoning district or classification may be applied to any other existing district in this order. The zoning of property with a Planned Development overlay district and an underlying zone can occur without approval of a Concept Development Plan, however, a Concept Development Plan must be approved before a Planned Development overlay district can be utilized. Upon approval of a Concept Development Plan, the Official Zoning Map shall be annotated for the land area involved so that the district name includes the notation, "CD", which gives notice that a development for that property has been approved pursuant to this article. Planned Development districts shall be approved by the legislative body or Fiscal Court. Planned Development districts may originate from the Planning Commission, appropriate legislative unit or a private property owner. Applications for a Concept Development Plan review and approval shall originate from the property owner.

For development plans on sites within the Houston-Donaldson Study Area, the recommended Implementation procedure in that study shall be followed. This may result in a development not following the normal Planned Development process if those development plans are consistent with the recommendations of the Houston-Donaldson Study. This shall be determined through a Long Range/Comprehensive Planning Committee (or equivalent committee) recommendation to the full Planning Commission at the next regular Business Meeting. Decision as to the review process to be followed shall be by simple majority vote.

## **SECTION 1516**

### **Pre-Application Meeting**

If a property owner proposes a Planned Development district, he or she shall meet with an appropriate staff person of the Planning Commission prior to the submission of a Concept Development Plan. The purpose of the meeting will be to discuss early and informally the purpose and effect of this order and the criteria and standards which may apply, and to familiarize the developer with the detailed objectives of the Comprehensive Plan and its elements, this order and this article.

For development plans within the Houston-Donaldson Study Area, a pre-application meeting of the applicant with the Long Range/Comprehensive Planning Committee (or equivalent committee) of the Planning Commission shall also be held. The purpose of this meeting is to arrive at a recommendation to the full Planning Commission as to whether or not the developer's plans are consistent with the recommendations of the Houston-Donaldson Study. The Long Range/Comprehensive Planning Committee meeting may be held immediately prior to a Business Meeting, and recommendation of the committee may be verbal.



**COMMISSION MEMBERS PRESENT:**

Mr. Ben Brandstetter  
Mr. Greg Breetz  
Mr. Kim Bunger, Secretary/Treasurer  
Mr. Mike Ford, Vice Chairman  
Mrs. Janet Kegley  
Mr. Jim Longano  
Mr. Don McMillian  
Mrs. Susan Poston, Temporary Presiding Officer  
Ms. Lisa Reeves  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke

**COMMISSION MEMBERS NOT PRESENT:**

Mrs. Linda Herald  
Mr. Mark Hicks  
Mr. Charlie Reynolds  
Mr. Steve Turner

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Todd K. Morgan, AICP, Senior Planner  
Mr. Kevin T. Wall, AICP, Director, Zoning Services  
Mr. Mitchell A. Light, Asst. Zoning Administrator/Enf. Officer

Mr. Rolfsen, Chairman, called the meeting to order at 8:58 P.M. and introduced the third item on the Agenda:

**CONCEPT DEVELOPMENT PLAN - Mitch Light, Staff**

3. Request of KEH Enterprises c/o Gregory W. McDowell (applicant) for Griffith Holdings, LLC (owner) for a Concept Development Plan in a Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky. The request is for a Concept Development Plan approval to allow a pawn shop within an existing building.

Staff Member, Mitch Light, presented the Staff Report, which included a PowerPoint presentation. The applicant is requesting Concept Development Plan approval to allow a pawn shop use to locate within one of the existing buildings on the property. The current zoning on the property of Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD), which does not allow a pawn shop. The only zoning district within the City of Florence that principally permits a pawn shop is the Commercial Services (C-3) zone. The Central Florence Strategic Plan, which includes the subject site, was adopted in 2008. The adoption of the Planned development overlay zone for the area resulted from the Study. Mr. Light proceeded to show photographs and zoning of the site and adjoining properties. The Future Land Use Map of the Comprehensive Plan indicated "Commercial" for the site. "Commercial" is defined as retail, corporate and professional office, interchange commercial indoor commercial recreation, restaurants, services etc. Mr. Light referred to the appropriate Goals and Objectives of the Comprehensive Plan. The Land Use Element does not address the specific site, but refers to the Central Florence Strategic Plan the update for the Parkway Corridor Study.

The Central Florence Strategic Plan mentions the site in Area 6 and redevelopment potential for office, service and retail uses. It states that "The Vineyard Apartments site on Ewing Boulevard and the multi-tenant office/commercial development on the northeast corner of the Ewing Boulevard/U.S. 42 intersection are not anticipated to further develop or redevelop. If they do, these same types of uses are recommended with an emphasis on offices, local consumer services, and incidental retail for the northeast corner of the Ewing Boulevard/U.S. intersection." The Applicant is not redeveloping the site but rather asking for one use to be added. Mr. Light stated that in Area 6 of the Office, Commercial and Industrial Project Design Requirements, there is a reference to Streetscape/Street Frontage Landscaping. It states that "Clusters of a variety of large hardwood trees (such as red oak, pin oak, red maple, and lindens) and evergreen trees (such as blue spruce, hemlock, and austrian pine) shall be provided along all street frontages. The clusters shall be informal groupings spread throughout the street frontage area; formal axial or rectilinear planting arrangements are not permitted. Although the street frontage landscaping requirements in Article 36 must still be fulfilled, the clusters of trees required shall be credited towards the street frontage landscaping requirements." Mr. Light, noted architectural design requirements such as materials, colors, facade treatments and roof shapes if exterior improvements were being proposed.

In regard to Staff Concerns, the applicant has outlined in their application materials that, if approved, there would only be 1 pawn shop use permitted on the property. Second, the property currently has two (2) freestanding signs for advertising the businesses on the property. This is a pre-existing and non-conforming condition of the property. Only one (1) freestanding development sign is currently permitted. The application materials (attached) indicate no change to the free standing signage on the site. Consolidation of the two signs into one should be considered if this request is ultimately approved. Third, the Staff recognizes that the property owner is only asking for a pawn shop use, however Staff is concerned about the street frontage landscaping along U.S. 42 and Ewing Boulevard. The entire site should be brought up to the current standards set forth in Article 36 (Landscaping) of the Boone County Zoning Regulations.

Finally, attached to the Staff Report is a copy of the standards set forth in Section 1514 "Planned Development Standards" of the Boone County Zoning Regulations. Concept Development Plan proposals in Planned Developments are to be primarily evaluated against these criteria. In conclusion, Mr. Light stated that the request needs to be evaluated in terms of Article 3, Article 15 (Planned Development Requirements) of the Zoning Regulations, the appropriate planning document previously mentioned and the potential impacts on the existing and planned uses in the area. Finally, Mr. Light mentioned the list of attachments in the Staff Report.

At this time, Chairman Rolfsen asked if the applicant wanted to proceed with his presentation.

Mr. Greg McDowell, a Florence Attorney, representing Mr. & Mrs. Griffith, Griffith Holdings, Inc., Larry & Kara Hamilton & KEH Enterprises stated his clients want to add a single additional permitted use to the property. Mr. McDowell indicated the building location of the proposed use. There will only be one pawn shop in the existing building unit or complex. The building is presently vacant. It was previously leased to Gateway Potter Insurance. The site has a beauty salon, Shakey's Pub & Grub, a travel agency, a lock smith and Mr. Griffith's business office. Approximately 50% of the site is currently vacant. There will be no structural changes to the building. Mr. McDowell referenced page 2 from the Staff Report in which the Comprehensive Plan recommends retail for the site. The pawn shop is a retail use. The owner, Mr. Hamilton has operated pawn shops elsewhere - Lexington area. There are certain requirements with the use that deals with the police and stolen goods. It is a good fit for Boone County as it would create taxable revenue in space that is currently vacant. The surrounding businesses are compatible with the proposed use. In response to the Staff Concerns, Mr. McDowell stated that his client would welcome the opportunity to work with the Planning Commission regarding landscaping and bringing the site up to code if possible. He expressed a concern about signage on the property. He wasn't sure if it could be done because the existing tenants have executed lease agreements. There are covenants within the lease agreements, which allow tenants to use existing signage space. His client may not be able to change the terms of the lease by removing or relocating signs. If it can be done, he would encourage his client to look at the possibility short of involving a lawsuit.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request. Seeing no one in the audience, Chairman Rolfsen asked if the Board members had any comments or questions.

Mrs. Kegley stated she understood the request but she wondered what else could we open this site up for in the future? Mr. Light responded that the request is not a zone change. It will stay the same zone but the applicant is requesting the use to be added under the Planned Development zoning district. All of the other uses will remain the same and are permitted under the existing zoning. It will add one use to the list of uses allowed or that exist on the site. It won't open a Pandora's box.

Chairman Rolfsen inquired whether the operator of the pawn shop was connected to any other pawn shops in Boone County? Mr. McDowell replied no. Chairman Rolfsen asked about other pawn shops? Mr. McDowell stated that the operator formerly owned other pawn shops in the Fayette County area. Mr. McDowell informed the Board that Mr. Hamilton's daughter was going to operate the facility with assistance from her father.

Mr. Costello asked what was the square footage of the proposed pawn shop? Will it occupy one pod or suite? What will the exterior look like from Ewing Boulevard and U.S. 42? Mr. McDowell responded that the pawn shop will be located in one pod or one suite, which was previously occupied by Gateway Potter. Mr. Chris Land stated that he works with Mr. Hamilton and will help Kara Hamilton start the business. Mr. Land noted the previous tenant space included a reception area and individual offices on each side. Each office will have separate items like jewelry and electronics. The size of the pawn shop is approximately 2,000 square feet. Mr. Land stated they would not change the exterior of the building and will use the existing signage - building mounted and free-standing sign near U.S. 42. He noted that Mr. Hamilton owned three pawn shops - one in Georgetown, one in Winchester and one near Nicholasville. He stated that they have a great relationship with police officers. They take pictures and thumb prints. They do a lot of retail sales - more of a variety store and not just a pawn shop. The pawn business is a good business because there are not a lot of businesses where you can borrow \$50.00 to avoid getting your electric turned off. It is a bad time economically. It is not a shady business. There has never been an incident at Dan's Discount Jewelers in Lexington. They were not located in the really bad areas of Lexington. For safety purposes, it doesn't make sense to be located in a crime area. Proper identification is needed for the business such as a driver's license and a picture. He said he wasn't interested in doing business with people who can't tell him who they are.

Chairman Rolfsen inquired whether the applicant would be restricted from outside storage display? Mr. Light responded yes. All merchandise would be stored and sold inside.

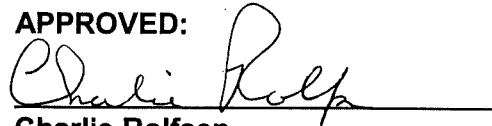
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Mr. Ford questioned if there were any special parking requirements when changing the use from an insurance agency to a retail establishment? Mr. Light explained that the whole center is reviewed based upon the size of the leased space and type of uses. Typically, tenant space and the amount of parking spaces is determined when they open the business. Usually, the parking requirement is 4 spaces per 1,000 square feet. Eight spaces would be required. It should be okay. Parking may limit future uses that occupy the vacant space. It may limit what goes in the other building space.

Mr. Breetz questioned whether there would be advertising in the windows sometimes using neon signs. Mr. McDowell replied there would be no signs in the windows just use the existing building mounted sign. A sign face change application would be submitted.

**There being no further comments, Chairman Rolfsen stated that the Committee Meeting for this item will be on January 19, 2011 at 5:00 P.M. in this room. This item will be on the Agenda for the Business Meeting on February 2, 2011 at 7:00 P.M. Chairman Rolfsen closed this Public Hearing at 9:25 P.M.**

**APPROVED:**



**Charlie Rolfsen**  
**Chairman**

**Attest:**



**Kevin P. Costello, AICP**  
**Executive Director**

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
BUSINESS MEETING  
FEBRUARY 2, 2011  
7:00 P.M.**

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Mr. Charlie Rolfsen, Chairman, called the meeting to order at 7:00 P.M.

**COMMISSION MEMBERS PRESENT:**

Mr. Ben Brandstetter  
Mr. Greg Breetz  
Mr. Kim Bungler, Secretary/Treasurer  
Mr. Mike Ford, Vice Chairman  
Mr. Mark Hicks  
Mr. Jim Longano  
Mr. Don McMillian  
Mrs. Susan Poston, Temporary Presiding Officer  
Ms. Lisa Reeves  
Mr. Charlie Reynolds  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mr. Steve Turner

**COMMISSION MEMBERS NOT PRESENT:**

Ms. Janet Kegley  
Ms. Susan Schultz

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Kevin T. Wall, AICP, Director of Zoning Services  
Mr. Mitchell A. Light, Assistant Zoning Administrator/Zoning Enf. Officer  
Mr. Todd K. Morgan, AICP, Senior Planner

**Approval of the Minutes:**

Chairman Rolfsen, stated that the Commissioners received copies of the Minutes of the January 5, 2011 Business Meeting. He asked if there were any comments or corrections. There being no changes to the Minutes, Mr. Reynolds moved that the Minutes be approved as written. Ms. Reeves seconded the motion and it carried unanimously. Mr. Hicks and Mr. McMillian were not yet present.

Mr. McMillian asked how would the Planning Commission know if the stormwater problem has been solved? Mr. Costello responded that we do not hear anymore complaints from the neighbor and we would monitor it along with the City of Florence. Chairman Rolfsen said it would be up to the neighbor to provide information about the effectiveness of the work.

Mr. Bunger asked if it would be appropriate to amend Condition #1 to include written confirmation of the work to be completed. Mr. Costello replied it wasn't necessary.

Mr. McMillian agreed with Mr. Bunger that he would like to see something in writing before he votes on the matter.

**Mr. McMillian moved to amend Condition #1 to require that written confirmation be submitted to the Planning Commission records so that the provisions of Condition #1 have been met. Mr. Reynolds seconded the motion and it passed unanimously. Mr. Costello asked Mr. Raybourne whether he agreed to the amendment to Condition #1. Mr. Raybourne stated that he agreed to the amendment of Condition #1.**

**At this time, Chairman Rolfsen asked for a vote on the motion made by Mr. Bunger and seconded by Mrs. Poston as amended previously. The vote found Mr. Brandstetter, Mr. Bunger, Mr. Ford, Mr. Hicks, Mr. Longano, Mr. McMillian, Mrs. Poston, Mr. Reynolds, Chairman Rolfsen, Mr. Schwenke and Mr. Turner in favor of the request and Mr. Breetz and Ms. Reeves against the request. The motion passed by a vote of 11-2.**

#### **CONCEPT DEVELOPMENT PLAN**

4. **Request of KEH Enterprises c/o Gregory W. McDowell (applicant) for Griffith Holdings, LLC (owner) for a Concept Development Plan in an Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky. The request is for a Concept Development Plan approval to allow a pawn shop within an existing building.**

Staff Member, Mitch Light read the Committee Report, which recommended approval subject to conditions (see Committee Report). Mr. Light noted that the Committee voted unanimously for the project with Mrs. Kegley, Mr. Brandstetter, Mr. Bunger, Mr. Breetz and Mrs. Poston voting in favor of the request.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request for a 5 minute time limit.

Mr. Greg McDowell, representing Jim and Wanda Griffith and Griffith Holdings, stated that he agreed with the Committee Report and the conditions.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak against the request. **Seeing no one, Mr. Reynolds moved that the request be approved with conditions by Resolution to the City of Florence based upon the Committee Report. Mr. McMillian seconded the motion and the vote found Mr. Brandstetter, Mr. Breetz, Mr. Bunger, Mr. Ford, Mrs. Hicks, Mr. Longano, Mr. McMillian, Mrs. Poston, Mr. Reynolds, Chairman Rolfsen, Mr. Schwenke and Mr. Turner in favor of the request and Ms. Reeves against the request. The motion passed by a vote of 12-1.**

#### **TECHNICAL/DESIGN REVIEW**

**5. City Barbeque - 8026 Burlington Pike**

Staff Member, Todd Morgan, presented the request. The applicant is requesting approval to enclose a 366 square foot portion of their outside seating area. It will be the same building materials and building setback. It will allow for more customers to be inside during the winter months. The remaining outside seating area will be 277 square feet in size. Mr. Morgan showed elevations and photographs of the building and the proposal work in the area surrounding the four pillars. There will be a new door installed facing the K-Mart lot and fiber cement panels will be used. Mr. Morgan stated that the Committee met prior to the Business Meeting and voted 5-0 in favor of the request.

**There being no further comments or questions, Mr. Reynolds moved to approve the request based upon the Committee Report. Ms. Reeves seconded the motion and it passed unanimously.**

#### **NEW BUSINESS:**

#### **ZONING MAP AMENDMENT**

- 6. Request of Mark Kolb (applicant) for Our Lady of Good Counsel Church (owner) for a Zoning Map Amendment from Suburban Residential One (SR-1) to Public Facilities (PF) for a 13.7961 acre site located at 472 Beaver Road, Walton, Kentucky. The request is for a zone change to allow a K-12 school within the existing building in addition to the existing church function.**

**Mr. Ford moved to schedule the Public Hearing for this request for March 2, 2011 at 7:30 p.m. Mrs. Poston seconded the motion and it passed unanimously.**

#### **EXECUTIVE DIRECTOR'S REPORT:**

Mr. Kevin Costello, AICP, Executive Director reported that the new Committee assignments have been made by the Chairman effective today. Mr. Costello announced that immediately following the Business Meeting, there will be a Board training session of 3 topics. Finally, he mentioned that Pat Russ, Administrative Assistant for the Planning Commission announced her retirement effective February 28, 2011. Mrs. Russ is the first employee to retire in the history of the Planning Commission. As a result, the Executive

**EXHIBIT**

**“B”**

**ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT**

**TO:** Boone County Planning Commission

**FROM:** Janet Kegley, Chairwoman

**DATE:** February 2, 2011

**RE:** Request of KEH Enterprises c/o Gregory W. McDowell (applicant) for Griffith Holdings, LLC (owner) for a Concept Development Plan in an Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky. The request is for a Concept Development Plan approval to allow a pawn shop within an existing building.

**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 Concept Development Plan is in agreement with the Comprehensive Plan due to the following reasons.
  - A. The Future Land Use Map designates this site as "Commercial." This designation is described as "Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc." The proposal is to allow a pawn shop use within an existing building.
2. The Committee has concluded that the provisions stated in the proposed Concept Development Plan, coupled with the agreed conditions, fulfill the applicable requirements of Article 15 "Planned Development District" of the Boone County Zoning Regulations as well as the Plan Concepts chapter of the Central Florence Strategic Plan.
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 Article 15 "Planned Development District" of the Boone County Zoning Regulations. 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 property owner agrees that the single pawn shop use shall only occupy one of the four existing buildings.
2. The property owner agrees that there will be no outside storage associated with the pawn shop use.
3. The property owner agrees that there will be no changes in the exterior appearance of the pawn shop building (i.e. no bars on the windows, no signs or banners in the windows, etc.). However, the property owner will be allowed to change the sign face of the existing building mounted sign.
4. The property owner agrees to remove the additional sign support post of the existing freestanding sign located at the corner of U.S. 42 and Ewing Boulevard.
5. The property owner will submit a landscape plan to be reviewed by the Planning Commission Staff through a Minor Site Plan for the street frontage landscaping along U.S. 42 from Ewing Boulevard to the access point (approximately 325 l.f.). Staff may allow alternative plantings to be selected or plantings to be relocated if warranted by existing site features. This Minor Site Plan must be reviewed and approved prior to the pawn shop use obtaining their tenant finish permits or occupational license.

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.

**COMMISSION MEMBERS PRESENT:**

Mr. Ben Brandstetter  
Mr. Greg Breetz  
Mr. Kim Bunger, Secretary/Treasurer  
Mr. Mike Ford, Vice Chairman  
Mrs. Janet Kegley  
Mr. Jim Longano  
Mr. Don McMillian  
Mrs. Susan Poston, Temporary Presiding Officer  
Ms. Lisa Reeves  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke

**COMMISSION MEMBERS NOT PRESENT:**

Mrs. Linda Herald  
Mr. Mark Hicks  
Mr. Charlie Reynolds  
Mr. Steve Turner

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Todd K. Morgan, AICP, Senior Planner  
Mr. Kevin T. Wall, AICP, Director, Zoning Services  
Mr. Mitchell A. Light, Asst. Zoning Administrator/Enf. Officer

Mr. Rolfsen, Chairman, called the meeting to order at 8:58 P.M. and introduced the third item on the Agenda:

**CONCEPT DEVELOPMENT PLAN - Mitch Light, Staff**

3. Request of KEH Enterprises c/o Gregory W. McDowell (applicant) for Griffith Holdings, LLC (owner) for a Concept Development Plan in a Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky. The request is for a Concept Development Plan approval to allow a pawn shop within an existing building.

Staff Member, Mitch Light, presented the Staff Report, which included a PowerPoint presentation. The applicant is requesting Concept Development Plan approval to allow a pawn shop use to locate within one of the existing buildings on the property. The current zoning on the property of Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD), which does not allow a pawn shop. The only zoning district within the City of Florence that principally permits a pawn shop is the Commercial Services (C-3) zone. The Central Florence Strategic Plan, which includes the subject site, was adopted in 2008. The adoption of the Planned development overlay zone for the area resulted from the Study. Mr. Light proceeded to show photographs and zoning of the site and adjoining properties. The Future Land Use Map of the Comprehensive Plan indicated "Commercial" for the site. "Commercial" is defined as retail, corporate and professional office, interchange commercial indoor commercial recreation, restaurants, services etc. Mr. Light referred to the appropriate Goals and Objectives of the Comprehensive Plan. The Land Use Element does not address the specific site, but refers to the Central Florence Strategic Plan the update for the Parkway Corridor Study.

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At this time, Chairman Rolfsen asked if the applicant wanted to proceed with his presentation.

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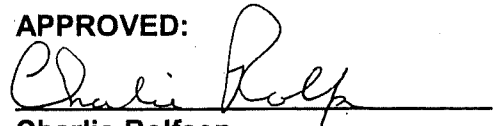
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**There being no further comments, Chairman Rolfsen stated that the Committee Meeting for this item will be on January 19, 2011 at 5:00 P.M. in this room. This item will be on the Agenda for the Business Meeting on February 2, 2011 at 7:00 P.M. Chairman Rolfsen closed this Public Hearing at 9:25 P.M.**

**APPROVED:**



**Charlie Rolfsen**  
**Chairman**

**Attest:**



**Kevin P. Costello, AICP**  
**Executive Director**

## **ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE**

TO: Boone County Planning Commission

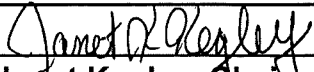
FROM: Janet Kegley, Chairwoman

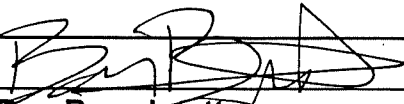
DATE: January 19, 2011

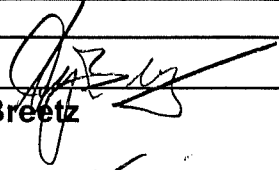
RE: Request of **KEH Enterprises c/o Gregory W. McDowell (applicant)** for **Griffith Holdings, LLC (owner)** for a Concept Development Plan in a Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky. The request is for a Concept Development Plan approval to allow a pawn shop within an existing building.

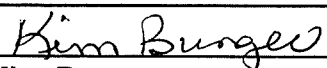
### **REMARKS:**

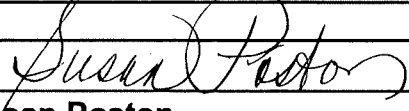
We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

  
\_\_\_\_\_  
**Janet Kegley, Chairwoman**  
For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Ben Brandstetter**  
For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Greg Breetz**  
For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Kim Bunger**  
For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
\_\_\_\_\_  
**Susan Poston**  
For Project  Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

\_\_\_\_\_  
**Linda Herald (Alternate)**  
For Project \_\_\_\_\_ Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

\_\_\_\_\_  
**Charlie Reynolds (Alternate)**  
For Project \_\_\_\_\_ Absent \_\_\_\_\_  
Against Project \_\_\_\_\_  
Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

**TOTAL:** \_\_\_\_\_ DEFERRED 5 FOR PROJECT \_\_\_\_\_ ABSENT  
\_\_\_\_\_ AGAINST PROJECT \_\_\_\_\_ ABSTAIN

# **SUPPORTING INFORMATION**



# BOONE COUNTY PLANNING COMMISSION

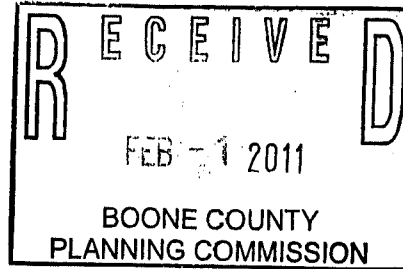
[www.boonecountyky.org/pc](http://www.boonecountyky.org/pc)  
[www.boonecountygis.com](http://www.boonecountygis.com)

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](mailto:plancom@boonecountyky.org)

January 25, 2011

Mr. Gregory W. McDowell  
7415 Burlington Pike  
Suite B  
Florence, KY 41042



RE: Request of **KEH Enterprises c/o Gregory W. McDowell (applicant)** for **Griffith Holdings, LLC (owner)** for a Concept Development Plan in an Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky. The request is for a Concept Development Plan approval to allow a pawn shop within an existing building.

Dear Mr. McDowell:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their January 19, 2011 meeting. If you, as the applicant, agree with these conditions, please indicate by providing the signature of the property owner, in the spaces provided at the end of this letter, and return the original letter to the Planning Commission office by Friday, January 28, 2011.

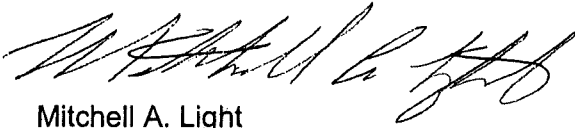
## CONDITIONS

1. The property owner agrees that the single pawn shop use shall only occupy one of the four existing buildings.
2. The property owner agrees that there will be no outside storage associated with the pawn shop use.
3. The property owner agrees that there will be no changes in the exterior appearance of the pawn shop building (i.e. no bars on the windows, no signs or banners in the windows, etc.). However, the property owner will be allowed to change the sign face of the existing building mounted sign.
4. The property owner agrees to remove the additional sign support post of the existing freestanding sign located at the corner of U.S. 42 and Ewing Boulevard.

Mr. Gregory W. McDowell  
January 25, 2011  
Page 2

5. The property owner will submit a landscape plan to be reviewed by the Planning Commission Staff through a Minor Site Plan for the street frontage landscaping along U.S. 42 from Ewing Boulevard to the access point (approximately 325 l.f.). Staff may allow alternative plantings to be selected or plantings to be relocated if warranted by existing site features. This Minor Site Plan must be reviewed and approved prior to the pawn shop use obtaining their tenant finish permits or occupational license.

Sincerely,

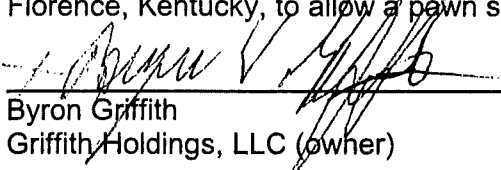


Mitchell A. Light  
Assistant Zoning Admin/Enforcement Officer

MAL/pr

AGREEMENT

I, Byron Griffith, do hereby agree to the recommended conditions of approval stated above for a Concept Development Plan in an Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) zone for an approximate 2 acre site located at 7718, 7724, 7730, and 7736 US 42, Florence, Kentucky, to allow a pawn shop within an existing building.

  
Byron Griffith  
Griffith Holdings, LLC (owner)

1-30-11  
Date

## Legal Description

Group No. 1142

Plat: 11/19

### Tract A

Lying and being in the Commonwealth of Kentucky, County of Boone, City of Florence and being all of Tract No. Three (3) described on the subdivision plat of the Market Place, which is recorded in Plat Book 11, Page 19 of the office of the County Court Clerk of Boone County, Kentucky at Burlington, Kentucky.

Subject to that conveyance to the Commonwealth of Kentucky for the use and benefit of the Department of Highways by Deed dated April 24, 1978 and recorded in Highway Deed Book 10, page 30.

There is excepted from the aforescribed property that 137.09 square feet conveyed to the City of Florence, Kentucky, by deed recorded in Deed Book 585, page 102 of the Boone County Clerk's records at Burlington, Kentucky.

### Tract B

Being all of Tract No. 3A of the Market Place as shown on the plat for said subdivision which is recorded in Plat Book 11, page 19 of the Boone County Court Clerk's records at Burlington, Kentucky.

This property is conveyed subject to all restrictions, conditions and easements contained in prior deeds or on public record.

### Tract C

A permanent nonexclusive easement over all of Tract No. 2 of the Market Place as shown on the plat for said subdivision which is recorded in Plat Book 11, page 19 of the Boone County Clerk's records at Burlington, Kentucky.

MUNICIPAL ORDER NO. MO-6-11

**A MUNICIPAL ORDER RELATING TO THE REQUEST OF KEH ENTERPRISES C/O GREGORY W. MCDOWELL (APPLICANT) FOR GRIFFITH HOLDINGS, LLC (OWNER) FOR A CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 2 ACRE SITE LOCATED AT 7718, 7724, 7730 AND 7736 U.S. 42, FLORENCE, KENTUCKY, TO ALLOW A PAWN SHOP WITHIN AN EXISTING BUILDING; AND OVERRIDING THE RECOMMENDATION OF APPROVAL FROM THE BOONE COUNTY PLANNING COMMISSION AND DENYING THE REQUEST.**

WHEREAS, the City received Resolution No. R-11-005-A from the Boone County Planning Commission recommending (the "Recommendation") approval of the request of KEH Enterprises c/o Gregory W. McDowell (Applicant) for Griffith Holdings, LLC (Owner) for a concept development plan for an approximate 2 acre site located at 7718, 7724, 7730 and 7736 U.S. 42, Florence, Kentucky, to allow a pawn shop within an existing building, together with the record of proceedings relating thereto before the Boone County Planning Commission (the "Report"); and

WHEREAS, the Planning and Zoning Committee of this Council reviewed the Request and Recommendation at a special meeting on Wednesday, March 30, 2011, and issued its Report to this Council recommending that the Request be denied, a copy of which Report is attached hereto and incorporated herein as Exhibit "1"; and

WHEREAS, this Council reviewed the Request, the record of proceedings before the Boone County Planning Commission, and Planning and Zoning Committee recommendation and determined that said recommendation should be followed.

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

**SECTION I**

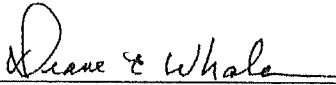
That the Report and recommendation of the City of Florence Planning and Zoning Committee, Exhibit "1" hereto, is hereby approved and adopted.

**SECTION II**

The Recommendation of the Boone County Planning Commission is hereby overridden and the Request is hereby denied.

PASSED AND APPROVED THIS THE 12<sup>th</sup> DAY OF April, 2011.

APPROVED:

  
MAYOR

ATTEST:

  
CITY CLERK

**EXHIBIT "1"**

**CITY OF FLORENCE, KENTUCKY**  
**PLANNING AND ZONING COMMITTEE**

**IN RE: REPORT AND RECOMMENDATION - REQUEST OF KEH ENTERPRISES C/O GREGORY W. MCDOWELL (APPLICANT) FOR GRIFFITH HOLDINGS, LLC (OWNER) FOR A CONCEPT DEVELOPMENT PLAN FOR AN APPROXIMATE 2 ACRE SITE LOCATED AT 7718, 7724, 7730 AND 7736 U.S. 42, FLORENCE, KENTUCKY, TO ALLOW A PAWN SHOP WITHIN AN EXISTING BUILDING.**

The Committee met in a special meeting on Wednesday, March 30, 2011, at the Florence Government Center Building to consider Resolution No. R-11-005-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.

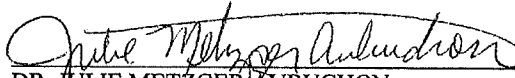
The Committee determined that the record from the Boone County Planning Commission contains adequate information for consideration of the recommendation and that no need exists for an additional hearing before the City Council.

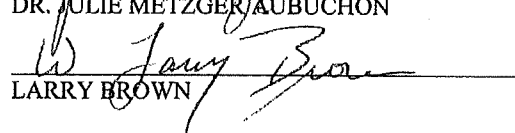
Further, the Committee determined that the recommendation for approval should be overridden and the request should be denied based upon the findings contained in the Memorandum containing City Staff comments, dated March 23, 2011, attached hereto as Exhibit "A".

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 denied.

MEMBERS OF THE COMMITTEE:

  
DR. JULIE METZGER AUBUCHON

  
LARRY BROWN

## MEMORANDUM

**To:** Florence Planning & Zoning Committee  
**From:** Joshua R. Wice   
Business/Community Development Director  
**Date:** March 23, 2011  
**Subject:** KEH Enterprises Application

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A Planning & Zoning Committee meeting is scheduled for Wednesday, March 30, 2011 at 9:00 a.m. at the Florence Government Center. One of the agenda items will be a recommendation from the Boone County Planning Commission for approval of an application for a change in Concept Development Plan.

**Project Description:**

KEH Enterprises c/o Gregory W. McDowell (applicant) for Griffith Holdings, LLC (owner) made application to the Boone County Planning Commission for a Concept Development Plan for an approximate two acre site located at 7718, 7724, 7730, and 7736 U.S. 42, Florence, Kentucky. The property is currently zoned Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) and the request would allow a pawn shop within an existing building.

**Staff Comments:**

The current zoning on the property of Office Two/Urban Residential One/Planned Development (O-2/UR-1/PD) does not allow a pawn shop. The only zoning district within the City of Florence that principally permits a pawn shop is the Commercial Three (C-3) zone.

The findings of the Planning Commission approving this Concept Development Plan are based on a faulty premise. The Zone Change Committee found that the proposal agrees with the Boone County Comprehensive Plan because the future land use map designates this site for retail uses. The apparent belief by the Committee that a pawn shop is a retail use forms the foundation for the finding of compatibility with the Comprehensive Plan. However, reference to the definitions section of the Boone County Zoning Regulations makes it readily apparent that a pawn shop is not a retail use within the context of Boone County zoning.

EXHIBIT     " A "

The definition of retail is found on page 40.16 of the regulations and states as follows:

Retail

A use engaged in the sale of merchandise, and services incidental and directly related to such sales of merchandise, directly to the end purchaser or end user, and where sales to the general public are not restricted or prohibited as may occur in a wholesaling use. A retail use is generally not conducted in conjunction with warehousing or distribution functions, with the exception of factory outlet stores where the retail use is accessory to the warehousing or distribution use.

The definition of pawn shop is included on page 40.14 of the regulations and states as follows:

Pawn Shop

A business establishment that provides loans, usually short-term, using personal property as collateral and that retains the personal property, or legal title thereof, until the loan is repaid; if the loan is not repaid, such personal property provided as collateral is offered for sale to the public, primarily in an on-premise retail environment. A business establishment that primarily buys personal property for resale to the general public in a retail environment, without the provision of a loan, is also considered to be a pawn shop pursuant to this definition unless it is of a consignment nature. A pawn shop differs from a bank, savings and loan, credit union, or similar establishment in that a pawn shop does not offer routine banking services such as checking, savings, escrow, or similar accounts, nor the sale of certificate of deposits or similar investment instruments, nor credit services other than loans where personal property is used for collateral in accordance with the pawn provisions of the Kentucky Revised Statutes.

Statements by the applicant contained in the public hearing transcript further demonstrate the difference between a pawn shop and a retail establishment within the meaning of Boone County zoning. Applicant stated for instance that "there are certain requirements with the use that deals with the police and stolen goods"; "he stated that they have a great relationship with police officers. They take pictures and thumb prints"; and "proper identification is needed for the business such as a driver's license and a picture".

The request does not meet the compatibility of uses criteria of Section 1514(2) of the Boone County Zoning Regulations. The "attached conditions" to the Zone Change Committee report dealing with outside storage, signage, and landscaping do not address the necessity to mitigate foreseeable impacts to adjacent sites from adding a use which, by its own admission, involves police and stolen goods and necessitates that patrons be thumb-printed, have their pictures taken, and present identification.

In addition to the fact that the request does not agree with the Comprehensive Plan, there is nothing in the public hearing or other materials from the Planning Commission which

would lead to the conclusion that any of the other criteria for a change in Concept Development Plan, such as a change in the nature of neighborhood, etc., exist. The testimony simply demonstrates that, as pawn shops go, other similar businesses owned by applicant have not presented major law enforcement problems.

Furthermore, the property is within Area 6 of the Central Florence Strategic Plan, which was adopted in 2008. As a result of the Central Florence Strategic Plan, the planned development overlay zone for the area was established. The zoning process for Area 6 of the Central Florence Strategic Plan recommends an intermixed combination of office and multi-family residential uses as described in the plan concepts for this area.

We believe the approval of a currently non-permitted use such as a pawn shop at this location would produce unforeseeable community impacts, which would negatively impact residential and professional office sections within Area 6 of the Central Florence Strategic Plan.

As a result, the City staff believes that the Florence Planning & Zoning Committee should recommend to City Council that the City disapprove the recommendation from the Boone County Planning Commission and deny the request, adopting the factors stated above as supporting Findings of Fact.