

**CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION**

R E C E I V E D
89310
OCT 02 2023
BOONE COUNTY
PLANNING COMMISSION

Seven (7) copies of submitted drawings are required

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

SECTION A: (To be completed by applicant)

1. Type of review (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)
 - 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)
 - Zoning Administrator Review (as stated in the Mall Road District Study)
 - Zoning Administrator Review (as stated in the I-275/Graves Road Interchange Study)

2. Name of Project: UNION PROMENADE - LOTS 2 + 3
3. Location of Project: US 42 & CHILDRENS WAY & UNION PROMENADE
4. Total Acreage of Project: LOT 2 - 1.378 + LOT 3 - 1.158
5. Current Zoning of Property: UC/UNO/UR-2/PD/CD
6. Date of previous zoning map amendment or Approved Concept Development Plan (if applicable):
NOVEMBER 3RD 2021 (CITY OF UNION ORDINANCE NO. 2021-18)
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission Yes No
If yes, indicate the name of the study: UNION TOWN PLAN
8. Proposed Use(s) (specify each use):
SECTION 2510 UNION COMMERCIAL (UC) PRINCIPALLY PERMITTED USES #5 GROCERY STORES
SUPERMARKETS
9. Proposed Building Intensities (specify for each building):
19,432 SQUARE FEET
10. Have you submitted a Concept Development Plan: Yes No
11. Are you applying for any of the following (check all that apply):
 Conditional Use Permit Variance
12. Current Owner: CITY OF UNION
Address: 1843 BRISTOW
UNION City KY State 41091 Zip Code
Phone Number: 859-384-1511 Fax Number: _____
Email: _____
13. Applicant: 9541 US 42, LLC

Address: 4010 NORTH BEND ROAD, SUITE 301

CINCINNATI OHIO 45211
City State Zip Code

Phone Number: 513-662-3111 Fax Number: _____

Email: TJA @ MEIERJOHAN BUILDING GROUP.COM

14. Are there any existing buildings on the site: Yes No
If yes, indicate how many: _____

15. CAS 6 1191/1210 458/787 STH 2047
~~PAGES 435-435~~
Deed Book Page Number Group Number

16. Have you had a pre-application meeting with the BCPC staff: Yes No

17. Have you met or discussed your proposed development with any of the following organizations/agencies (check all that apply):

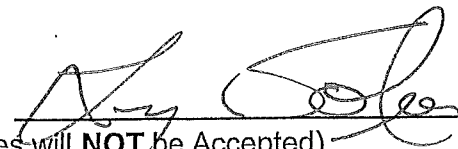
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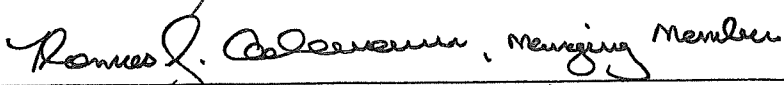
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- Cincinnati Bell
- Cincinnati/Northern Kentucky International Airport (Kentucky Airport Zoning Commission for height restrictions near the airport)
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- Florence Public Services Department
- Kentucky Division of Water
- Kentucky Transportation Cabinet
- Local Fire District
- Local School District
- Northern Kentucky Health Department
- Owen Cooperative Electric, Inc.
- Sanitation District No. 1
- USDA NRCS/Boone County Conservation District
- Other: _____

18. Concept Development Plan Jurisdiction/Location (check all that apply):
 Unincorporated Boone Florence Walton Union

19. Waiver of 60 Day Time Requirement by Originator for Final Planning Commission Action:

In accordance with the provisions of KRS 100.211, the applicant(s) and property owner(s) or originator(s) hereby waive the 60 day time limit for the Boone County Planning Commission to take final action on my (our) Zoning Map Amendment/Concept Development Plan application. This time limit waiver is considered effective immediately upon receipt by the Boone County Planning Commission and expires on 12/21/2023

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

ORIGINAL Applicant's Signature: 
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted) THOMAS J. ACKERMANN
9541 US 42, LLC

EXHIBIT

“A”

STAFF REPORT

#1

Request of **9541 US 42, LLC , per Thomas J. Ackerman (applicant)** for **the City of Union (owner)** for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.

November 1, 2023

REQUEST

- A. The submitted request is for a Change of Concept Development Plan to:
1. Allow the construction of a single approximate 19,500 square foot grocery building on lots 2 and 3 of Union Promenade in lieu of an approximate 12,100 square foot building on lot 2 and an approximate 6,800 square foot building on lot 3 of Union Promenade.
 2. Provide for an additional curb cut onto Union Promenade.

SITE HISTORY

- 2000 On August 28, 2000, the City of Union adopted the Union Town Plan.
- 2021 On November 3, 2021, the City of Union adopted Ordinance Number 2021-18, approving a zoning map amendment changing the site to the UC/UNO/UR-2/PD district to allow the development of Union Promenade, subject to several conditions including that the permitted uses in the retail and office areas will follow the permitted uses in the UC and UNO zones, building architecture within the development shall meet the requirements of the Union Town Plan, the submitted narrative and the various architectural style drawings submitted by the applicant and the Union Promenade Architectural Guidelines, and the site will have a maximum building setback of 100 feet for the retail portion of the development located along US 42 (R-21-026-A).
- 2022 On April 27, 2022, the Boone County Planning Commission approved a Preliminary Plat for Union Promenade.
- 2022 On August 25, 2022, the Boone County Planning Commission approved an Improvement Plan for Union Promenade.
- 2022 On December 12, 2022, the Boone County Planning Commission approved a Major Site Plan for United Dairy Farmers (Lot 1).

- 2023 On January 9, 2023, the Boone County Planning Commission approved a Final Plat for Union Promenade, Section 1.
- 2023 On March 17, 2023, the Boone County Planning Commission approved a Major Site Plan for Lot 6.
- 2023 On March 29, 2023, the Boone County Planning Commission approved a Major Site Plan for Union Club Apartments – Phase A.
- 2023 On May 1, 2023, the Boone County Planning Commission approved a Major Site Plan for Lot 7.
- 2023 On July 6, 2023, the Boone County Planning Commission approved a Major Site Plan for The Reserve at Union Promenade (Lots 19 and 20).
- 2023 On July 25, 2023, the Boone County Planning Commission approved a Major Site Plan for Union Club Apartments – Phase B.

APPLICABLE REGULATIONS

- A. Section 302 of the Boone County Zoning Regulations states that a Concept Development Plan is to be submitted as part of a zoning map amendment.
- B. Section 311 of the Boone County Zoning Regulations states that major amendments to the terms of an approved Zoning Map Amendment, including a Concept Development Plan, that involve substantial or significant changes in the development concept, uses, intensity, supplemental conditions of approval, or other plan elements of substantive effect must be submitted to the Planning Commission and shall conform to the procedure and as it was originally approved.
- C. Section 2502.1.5 of the Boone County Zoning Regulations identifies 'grocery stores and supermarkets' as a principally permitted use in the UC district.

SITE CHARACTERISTICS

- A. The site contains 2.531 acres and is comprised of two lots within Union Promenade. Lot 2 contains 1.373 acres and Lot 3 contains 1.158 acres. The site is located at the southwest corner of the intersection of US 42 with Childrens Way.
- B. The site has approximately 335.20 feet of frontage along US 42, 290.22 feet of frontage along Childrens Way, and 357.49 feet of frontage along Union Promenade.
- C. The site is currently vacant.
- D. Topographically, the site has been graded for development.

ADJACENT LAND USES AND ZONING

- North: Vacant land to be developed with retail/service uses (UC/UNO/UR-2/PD)
- South: United Dairy Farmers (under construction) (UC/UNO/UR-2/PD)
- East: US 42 and Harmony Condos (RSE/UTO)
- West: Children’s Hospital Medical Office Building (under review) (UC/UNO/UR-2/PD)

RELATIONSHIP TO COMPREHENSIVE PLAN

- A. Our Boone County – Plan 2040 “2040 Future Land Use Plan” designates the site for Rural Lands and High Suburban Density Residential uses which is described as follows:
 - 1. Rural Lands – Wooded, agricultural, recreational, or low density residential uses of up to one dwelling unit per two acres. Residential construction in Rural Lands does not occur in a formal subdivision.
 - 2. High Suburban Density Residential - Single-family and/or attached housing of up to 8 dwelling units per acre. This classification is typified by townhouse, condominium, and zero-lot line development, and also pertains to existing mobile home parks.
- B. US 42 is a state maintained arterial street providing for two way traffic within five driving lanes. Childrens Way is a city maintained subcollector street providing for two way traffic within two driving lanes. Union Promenade is a city maintained subcollector street providing for two way traffic within two driving lanes and a row of parallel parking along the west side of the street.

RELATIONSHIP TO UNION TOWN PLAN

- A. The Union Town Plan designates the site for Green Area and Town Homes at 6 dwelling units per acre. The Plan also designates a 100 foot setback from US 42.

EXISTING CONCEPT PLAN

- A. The existing approved Concept Plan includes the following:
 - 1. Construction of a 12,108 square foot retail/service building on lot 2.
 - 2. Construction of a 6,834 square foot retail/service building on lot 3.
 - 3. Provision for two (2) curb cuts onto Union Promenade, between Sweet Harmony Lane and Childrens Way.
 - 4. Provision for one (1) curb cut onto US 42, between Sweet Harmony Lane and Childrens Way.
 - 5. Vehicular drive aisle connections between Lots 1, 2, and 3.

PROPOSED CONCEPT PLAN

- A. The applicant is proposing the following:

1. Consolidation of Lots 2 and 3 into a single lot.
 2. Construction of a 19,432 square foot grocery store.
 3. Provision for eighty-nine (89) off-street parking spaces.
 4. Provision for two (2) curb cuts onto Union Promenade.
 5. Provision for one (1) curb cut onto Childrens Way
 6. Provision for driveway connections to the adjacent property to the south.
 7. Provision for landscaping and pedestrian connections.
- B. The applicant has provided colored building elevations which indicate the following:
1. The primary building materials are brick, fiber cement board, and aluminum.
 2. The primary building colors are brown, tan, and grey.
- C. The applicant has submitted a project narrative.

STAFF COMMENTS

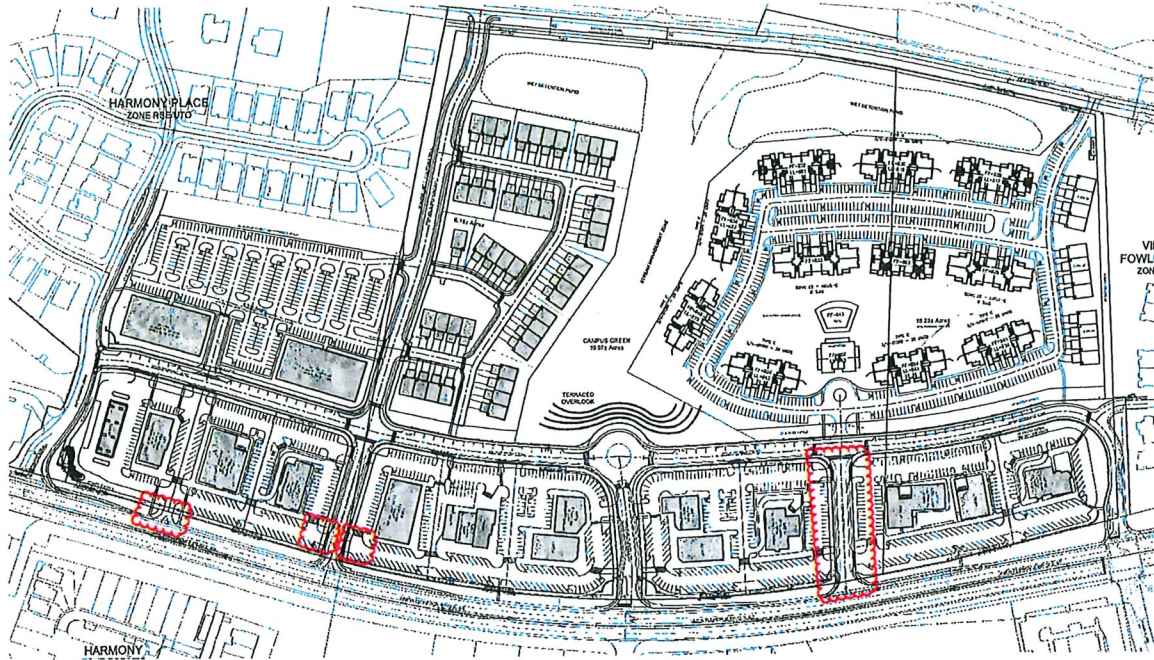
- A. The existing approved Concept Development Plan for Union Promenade was described in the following way:
1. A well planned live/work design.
 2. This mixed use community allows residents to enjoy all the amenities of urban living.
 3. Presents a walkable destination for residents within the site as well as residents from the various surrounding residential communities.
 4. A mixed use campus containing a broad variety of commercial, professional and residential uses intended to advance a live, work, and play setting for its internal population and the larger community surrounding it.
 5. A village quality, intimate scale, and an inviting character.
 6. Buildings are separated but located close to each other to encourage walkability.
 7. There is no massive parking area.

The Planning Commission and City of Union will need to analyze the proposed Concept Development Plan and determine if it is consistent with these descriptors.

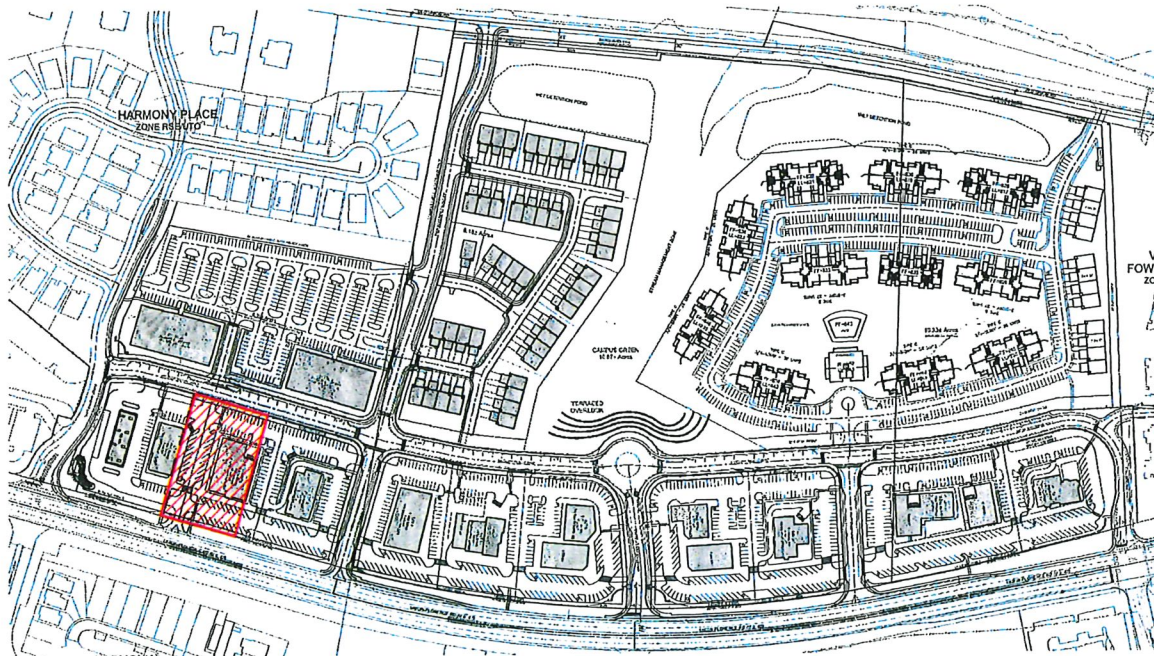
- B. The existing approved Concept Development Plan shows the following, relative to access points:
1. Five (5) curb cuts on US 42.
 2. Six curb cuts onto Union Promenade.
 3. Cross access between parking areas, parallel to US 42.

The Kentucky Transportation Cabinet (KYTC) eliminated two (2) curb cuts onto US 42 and eliminated some of the cross access points between parking areas, parallel to US 42.

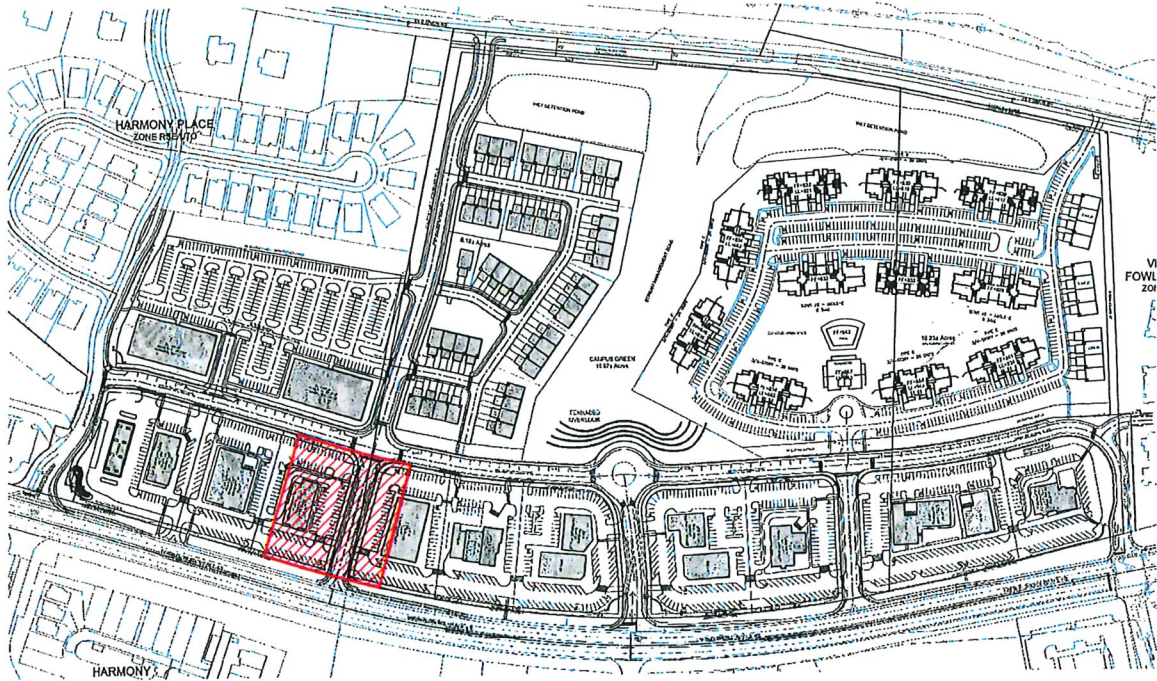
The following figure identifies the access points that have been eliminated by KYTC:



- C. After the Union Promenade Concept Development Plan was adopted by the City of Union, the applicant entered discussions with Children’s Hospital about developing the entire office lot. Those discussions led to the creation of a viewshed so that the Children’s Hospital Medical Office Building would be seen from US 42.



This viewshed was later modified by enlarging it and moving it to the north.



D. The following table provides a comparison between the existing approved Concept Development Plan and the Proposed Concept Development Plan:

	Existing Approved Concept Plan	Proposed Concept Plan
Number of Lots	2	1
Number of Buildings	2	1
Building Size (sq. ft.)	12,108 (Lot 2) 6,834 (Lot 3) 18,942 (Total)	19,432
Curb Cuts Between Sweet Harmony Lane and Childrens Way	2	3

E. Since this is a Concept Development Plan submittal, a complete site plan evaluation against the zoning regulations was not conducted.

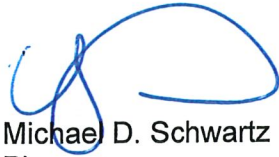
1. The submitted Concept Development Plan substantially meets the requirements of the zoning regulations.

F. The buildings within Union Promenade are meant to be articulated on all four sides. The applicant should address how the building elevations meet this intent, especially the elevation that faces UDF.

CONCLUSION

- A. The request for the proposed change of concept development plan needs to be evaluated by the Boone County Planning Commission and Union City Commission in terms of Articles 3 and 15 of the Boone County Zoning Regulations, the appropriate planning documents noted herein, and the potential impacts on existing and planned uses in the area.

Respectfully submitted,



Michael D. Schwartz
Planner

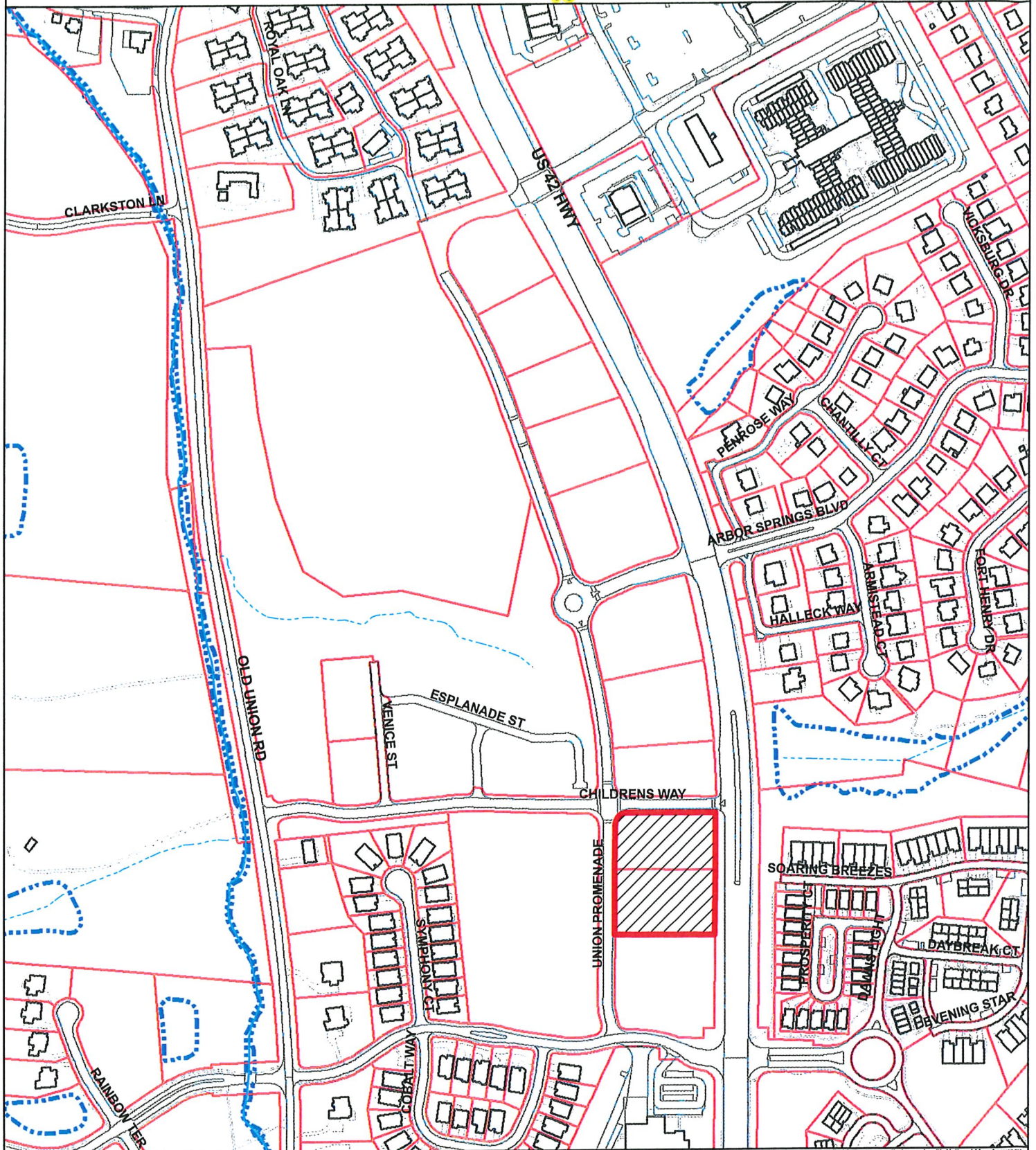
MDS/ss

Attachments:

- *Vicinity Map
- *Aerial Map
- *Zoning Map
- *2040 Future Land Use Map
- *Existing Approved Concept Development Plan
- *Approved Site Plans
- *Application
- *Project Narrative
- *Concept Development Plan

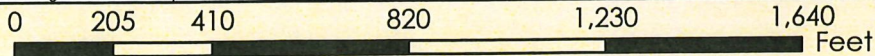
Vicinity Map

www.boonecountygis.com



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1 inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map



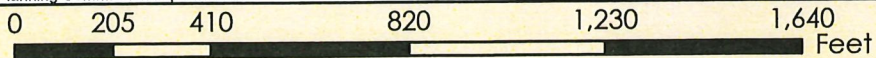
Aerial Map

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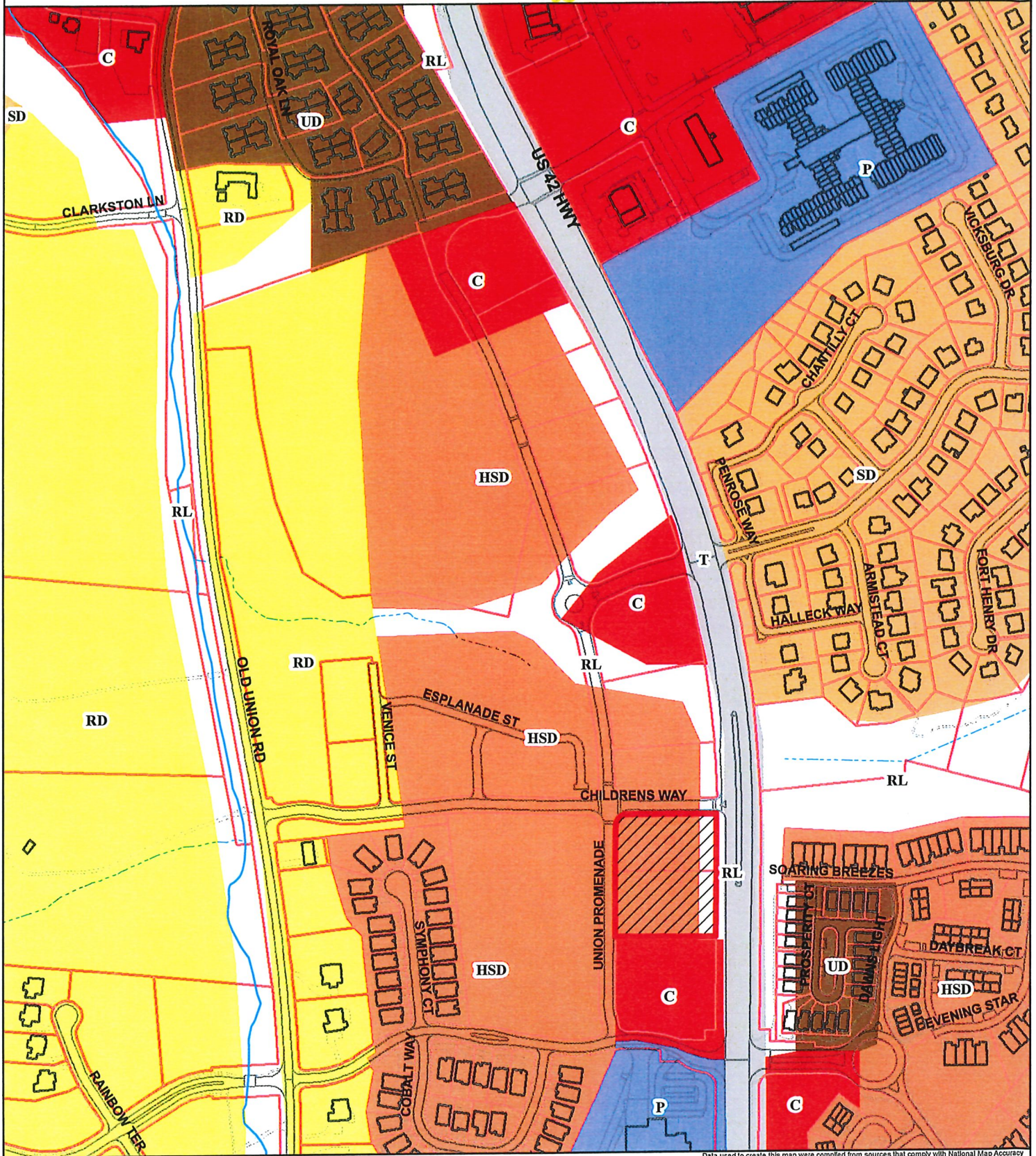
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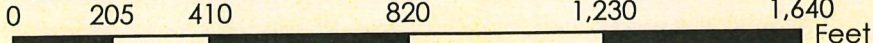
2040 Future Land Use Map

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Boone County GIS - Putting Northern Kentucky on the Map



Map Created: xx/xx/2022

File Path: C:\Users\j... ArcMap Document: *.mxd

UNION PROMENADE
OLD UNION RD / US 42
UNION, BOONE COUNTY, KENT

VIOX & VIOX
Civil Engineers, Surveyors and Landscape Architects
408 Frager Road • Frager, Kentucky 40318
602.884.9600 • Fax: 602.884.9100
www.vioxinc.com

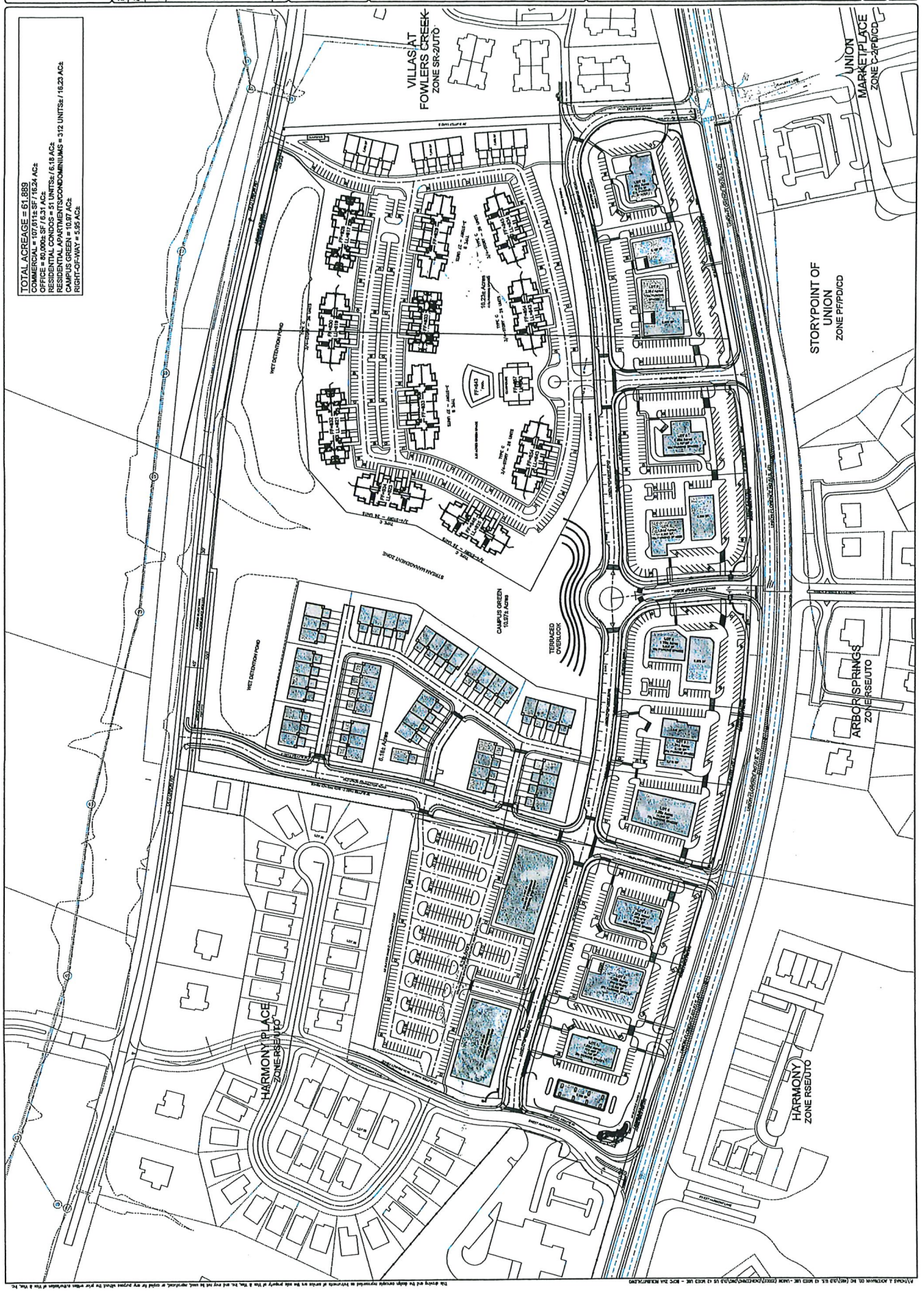


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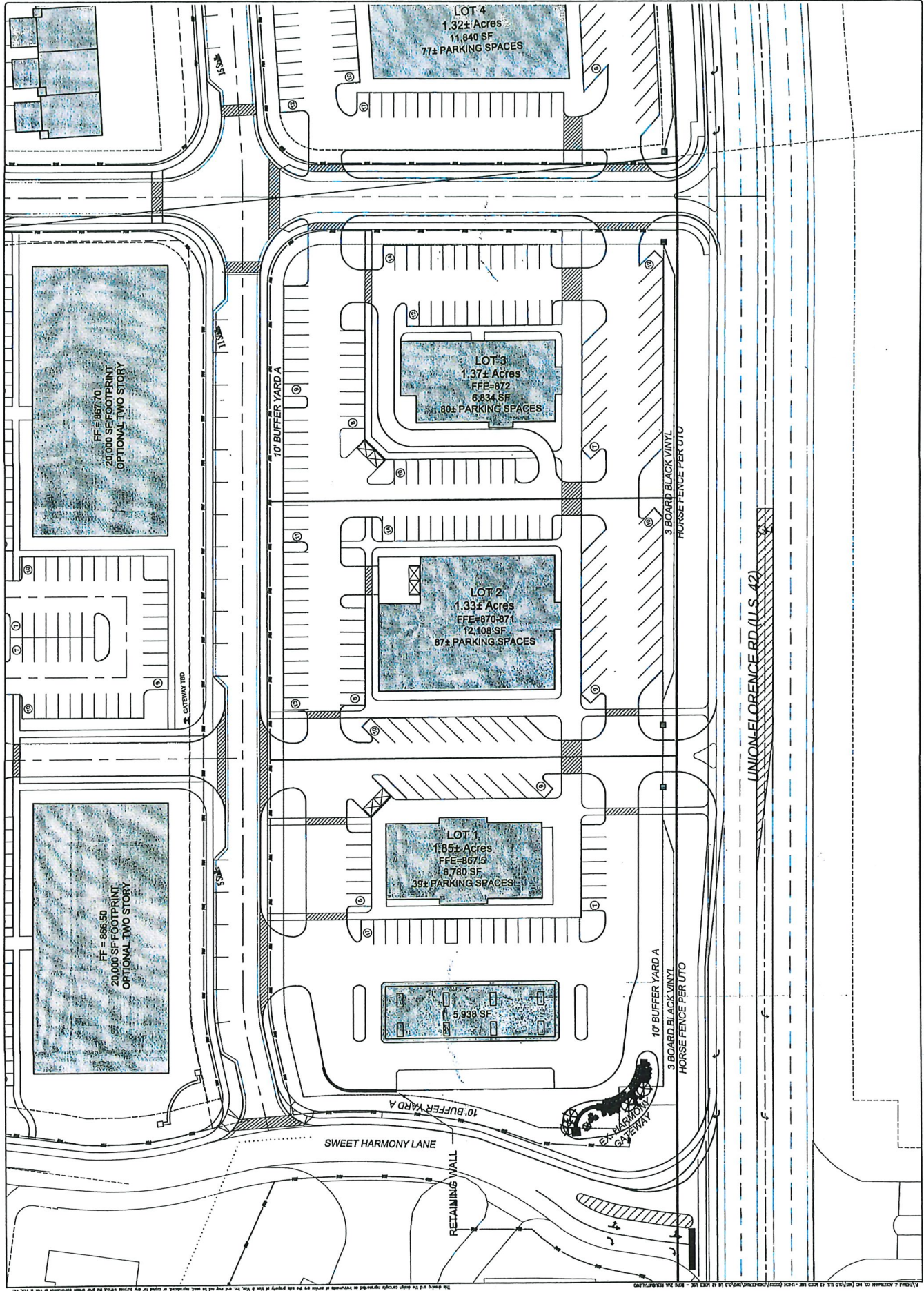
DATE	12/15/21	BY	CS
REVISION			
1	REVISED CHANGES AND COMMENTS		

TOTAL ACREAGE = 61.869
 COMMERCIAL = 107,911 SF / 1.624 AC
 OFFICE = 107,911 SF / 1.624 AC
 RESIDENTIAL CONDOS = 51 UNITS / 6.18 AC
 RESIDENTIAL APARTMENTS/COMBINUMS = 312 UNITS / 16.23 AC
 CAMPUS GREEN = 10.87 AC
 RIGHT-OF-WAY = 2.15 AC



THE PLAN AND ALL DIMENSIONS SHOWN ARE APPROVED BY THE BOARD OF ZONING AND PLANNING OF THE CITY OF UNION, BOONE COUNTY, KENTUCKY, ON 12/15/21. THE PLAN IS SUBJECT TO THE CITY OF UNION, BOONE COUNTY, KENTUCKY, ZONING AND PLANNING DEPARTMENT'S REVIEW AND APPROVAL. THE PLAN IS NOT TO BE USED FOR CONSTRUCTION WITHOUT THE CITY OF UNION, BOONE COUNTY, KENTUCKY, ZONING AND PLANNING DEPARTMENT'S REVIEW AND APPROVAL.

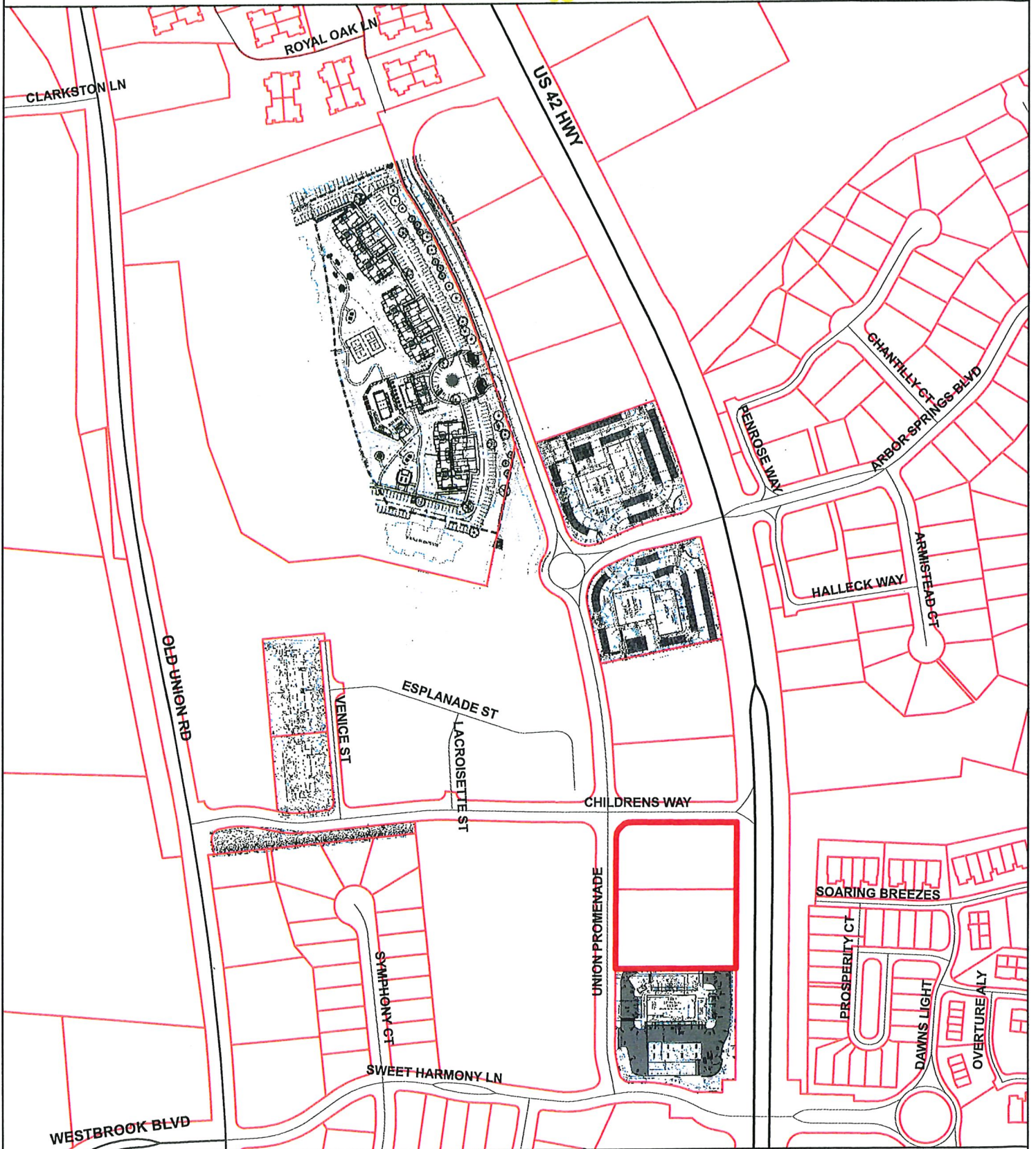
NO.	REVISION	DATE	BY	CHK.
1	ISSUE FOR PERMIT	10/15/21	MM	MM
2	REVISED PER COMMENTS	10/15/21	MM	MM
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4	REVISED PER COMMENTS	10/15/21	MM	MM
5	REVISED PER COMMENTS	10/15/21	MM	MM
6	REVISED PER COMMENTS	10/15/21	MM	MM
7	REVISED PER COMMENTS	10/15/21	MM	MM
8	REVISED PER COMMENTS	10/15/21	MM	MM
9	REVISED PER COMMENTS	10/15/21	MM	MM
10	REVISED PER COMMENTS	10/15/21	MM	MM



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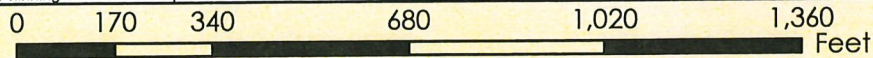
Approved Site Plans

www.boonecountygis.com



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ArcMap Document: *.mxd

**CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION**

R E C E I V E D
89310
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Address: 1843 BRISTON

UNION City KY State 41091 Zip Code

Phone Number: 859-384-1511 Fax Number: _____

Email: _____

13. Applicant: 9541 US 42, LLC

Address: 4010 NORTH BEND ROAD, SUITE 301

CINCINNATI OHIO 45211
City State Zip Code

Phone Number: 513-662-3111 Fax Number: _____

Email: TJA @ MEIERJOHAN BUILDINGGROUP.COM

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15. ~~6456~~ 1191/1210 458/787 ~~511~~ 2047
Pages 435-435
Deed Book Page Number Group Number

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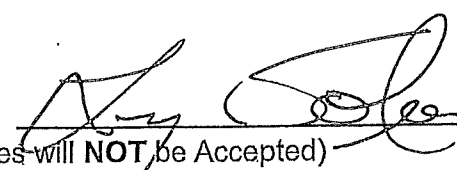
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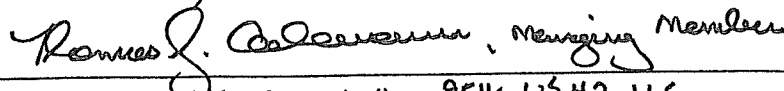
- | | |
|---|---|
| <input type="checkbox"/> Boone County Building Department | <input type="checkbox"/> Local Fire District |
| <input type="checkbox"/> Boone County Public Works Department | <input type="checkbox"/> Local School District |
| <input type="checkbox"/> Boone County Water District | <input type="checkbox"/> Northern Kentucky Health Department |
| <input type="checkbox"/> Cincinnati Bell | <input type="checkbox"/> Owen Cooperative Electric, Inc. |
| <input type="checkbox"/> Cincinnati/Northern Kentucky International Airport (Kentucky Airport Zoning Commission for height restrictions near the airport) | <input type="checkbox"/> Sanitation District No. 1 |
| <input type="checkbox"/> Duke Energy | <input type="checkbox"/> USDA NRCS/Boone County Conservation District |
| <input type="checkbox"/> Florence Public Services Department | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Kentucky Division of Water | |
| <input type="checkbox"/> Kentucky Transportation Cabinet | |

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19. Waiver of 60 Day Time Requirement by Originator for Final Planning Commission Action:

In accordance with the provisions of KRS 100.211, the applicant(s) and property owner(s) or originator(s) hereby waive the 60 day time limit for the Boone County Planning Commission to take final action on my (our) Zoning Map Amendment/Concept Development Plan application. This time limit waiver is considered effective immediately upon receipt by the Boone County Planning Commission and expires on 12/21/2023

ORIGINAL Property Owner's Signature: 
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted) MADE LACEY SOLOMON

ORIGINAL Applicant's Signature: 
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted) 9541 US 42, LLC
THOMAS J. ACHERMANN

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 10/2/23 Fee Received: \$2,366.64 Receipt #: 89310

2. Number of Copies Received: 7

3. Has the following been submitted (check all that apply):

- Completed Application
- Concept Development Plan
- Legal Description
- Names and Mailing Addresses of Adjacent Property Owners

4. Date the application is Administratively Complete (as defined in KRS 100.211): _____

5. Staff Reviewer: _____

6. Committee Chairperson: _____

7. Scheduled Public Hearing Date: _____

8. Boone County Planning Commission Action: _____ Date of Action: _____

_____ Approved

_____ Approved with Conditions

_____ Denial

_____ Other

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

UNION PROMENADE MAJOR CONCEPT CHANGE SUBMISSION NARRATIVE

The Union Promenade mixed use development's primary design focus is on walkability. This is accomplished through the inclusion of and interaction among a variety of uses that serve both those who live and work in the development as well as the residents of the City of Union. The development features Children's Hospital's northern Kentucky medical campus, single family and multifamily residential housing, entertainment venues for eating and drinking, and a variety of retail and service businesses.

The request for a Major Modification to the Concept Plan is addressing two issues the development needs for its overall enhancement and success: the consolidation of two independent buildings on lots 2 and 3 to one building exclusively on lot 2, and the addition of a curb cut onto Union Promenade, the internal north south connector road. Both requests are a result of changes that were enacted as a result of the Kentucky Transportation Cabinet's (KYTC) required modifications of the approved concept plan.

The development underwent a zone change process with Boone County Planning and Zoning Commission in 2021 and its conceptual plan received approval from the Commission and the City of Union in November 2021. The plan featured six access points off US 42 and each commercial lot included multiple access points to internal roadways.

KYTC modifications reduced the access points along US 42 and eliminated multiple internal access points. One of these was a connection from US 42 between commercial lots 1 and 2 and offered a direct connection to the 6.3-acre site approved for office use (*Exhibit 1*).

Children's Hospital engaged with the development team and the City of Union early on in the initial stages of the development. They expressed interest in purchasing the entire office pad site to develop a new northern Kentucky campus where they would provide a variety of specialized medical services. KYTC's removal of the access road eliminated a direct line of site to the office pads which caused the hospital's real estate team to require a viewshed easement over lots 1 and 2, encumbering 1.2 acres (*Exhibit 2*). This necessitated the relocation of the building on lot 2 to the northern edge of the lot. The buildings on lots 2 and 3 were subsequently grouped together and redesigned to "bookend" each other. Children's officials believed their clients would benefit from unobstructed site lines and views to their building, without being filtered by the buildings and landscaping on lot 2. The City of Union's Commission and Administration supported these modifications to secure Children's Hospital as the exclusive office tenant. This easement was ultimately agreed to and incorporated into the purchase and sale agreement for the office parcel with Children's.

With this view shed in place, the development team began immediately marketing lots 2 and 3 to retail, office and commercial users. After 2 years, interest was finally secured from a national grocer, a use that complies with Section 2502 Union Commercial (UC) under section 2502.1 Principally Permitted Uses #5 - Grocery Stores and Supermarkets.

Grocery is often considered the anchor to mixed-use developments, and its incorporation continues to grow. While live, work, play took hold as the initial calling card of mixed-use projects, the work component (primarily office buildings densely populated with employees) served as their foundation. Retail, restaurants, and the residential components were included, often in a supporting role. Today, more than ever, that definition has changed. Retail, restaurants, and residential have taken a much more primary position in mixed-use developments. These components complement each other, with retail and restaurants taking the lead. Not only do they benefit the residential component, but they also benefit the surrounding community. To attract retail and restaurants and to support their long-term viability, the focus to critical mass and diversity takes priority.

9541 US 42, LLC
4010 North Bend Road, Suite 301
Cincinnati, Ohio 45243

UNION PROMENADE
MAJOR CONCEPT CHANGE SUBMISSION NARRATIVE

Grocery has a huge impact on achieving critical mass by driving substantial consumer traffic into these projects, with an increased frequency of repeat visits. The shopper's intent is to spend money, which invites cross shopping. Retailers and restaurants recognize the grocer's impact on the project and how can help drive their own sales. Grocery stores are solid tenants for any development due to the longevity of the store, regular traffic, and customer loyalty. A grocer will ensure regular traffic flow to lots 2 and 3, seven days a week.

The grocery tenant requested that the viewshed be modified so that their building may be built on lot 2 (*Exhibit 3*). This would accommodate their prototype building of 19,432 square feet and an appropriate parking area to accommodate their patrons on lot 3. The approved concept plan had a 12,108 square foot building on lot 2 and a 6834 square foot building on lot 3, for a total of 18,942 square feet. With the modification, the viewshed would exist over a larger area (2.0 acres vs 1.2 acres) and would allow Children's clients to have direct line of site to the medical office campus from the entrance at US 42 and Children's Way. This is an important aspect in terms of emergency situations and services, which benefit from the best exposure possible.

Children's Hospital and its team support this change and have worked diligently with us to finalize this modification to ensure the exposure to their medical campus will be maximized with the revisions to the viewshed and site improvement locations.

An ancillary benefit of the grocery user and their approach to consolidating a building space on lot 2 is the parking area provided on lot 3. This parking area is immediately adjacent to lot 4 and will serve as additional parking for the other retail and restaurant tenants on the commercial lots. Normal peak hours of grocery shopping (Sat/Sun 9 AM – 2 PM; M-F 9 AM – 12 PM) do not overlap with peak hours of restaurants and bars (5 PM – 10 PM), so this benefit would enhance the appeal of the entertainment venues to new patrons by providing easily accessible free parking.

The second request is for the addition of a curb cut along Union Promenade on lot 3. The original plan for lots 1, 2 and 3 had a total of five access points to service traffic. Based on the modification by KYTC, the revised plan allows only three access points which equates to a 40% reduction of curb cuts.

The developer is requesting that a fourth point be allowed to be installed along Union Promenade. This curb cut will allow improved circulation and shall accommodate the truck turning radius required by semi-trucks making deliveries to lots 1, 2 and 3 (Please refer to truck turning scenarios label as "Site Improvement Plan 1, 2 and 3"). Auto Turn plan 1 shows a safe route for a truck to exit safely onto Union Promenade. Auto Turn plans 2 and 3 show why exiting either way onto Children's Way is not a viable nor safe alternative.

Any development of this scale and complexity will require modifications and changes over the course of time to remain relevant, viable, and appealing to the surrounding communities and the residents they serve. These changes are made in good faith as appropriate and necessary to simultaneously enhance the overall value of the development and position it as financially and operationally viable for all its tenants.

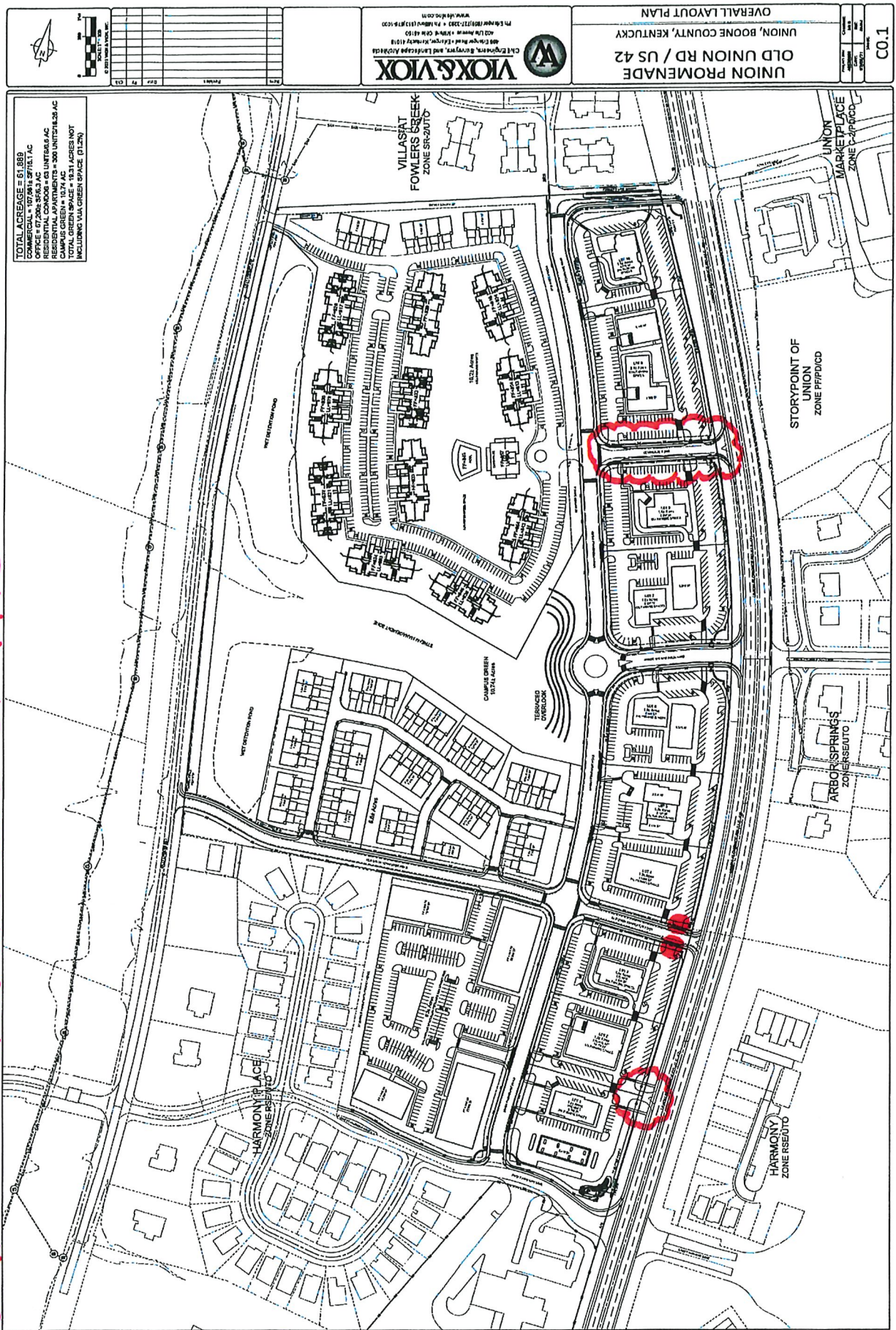
We formally request that two requests be approved.

Respectfully,

Thomas J. Ackermann, Managing Member

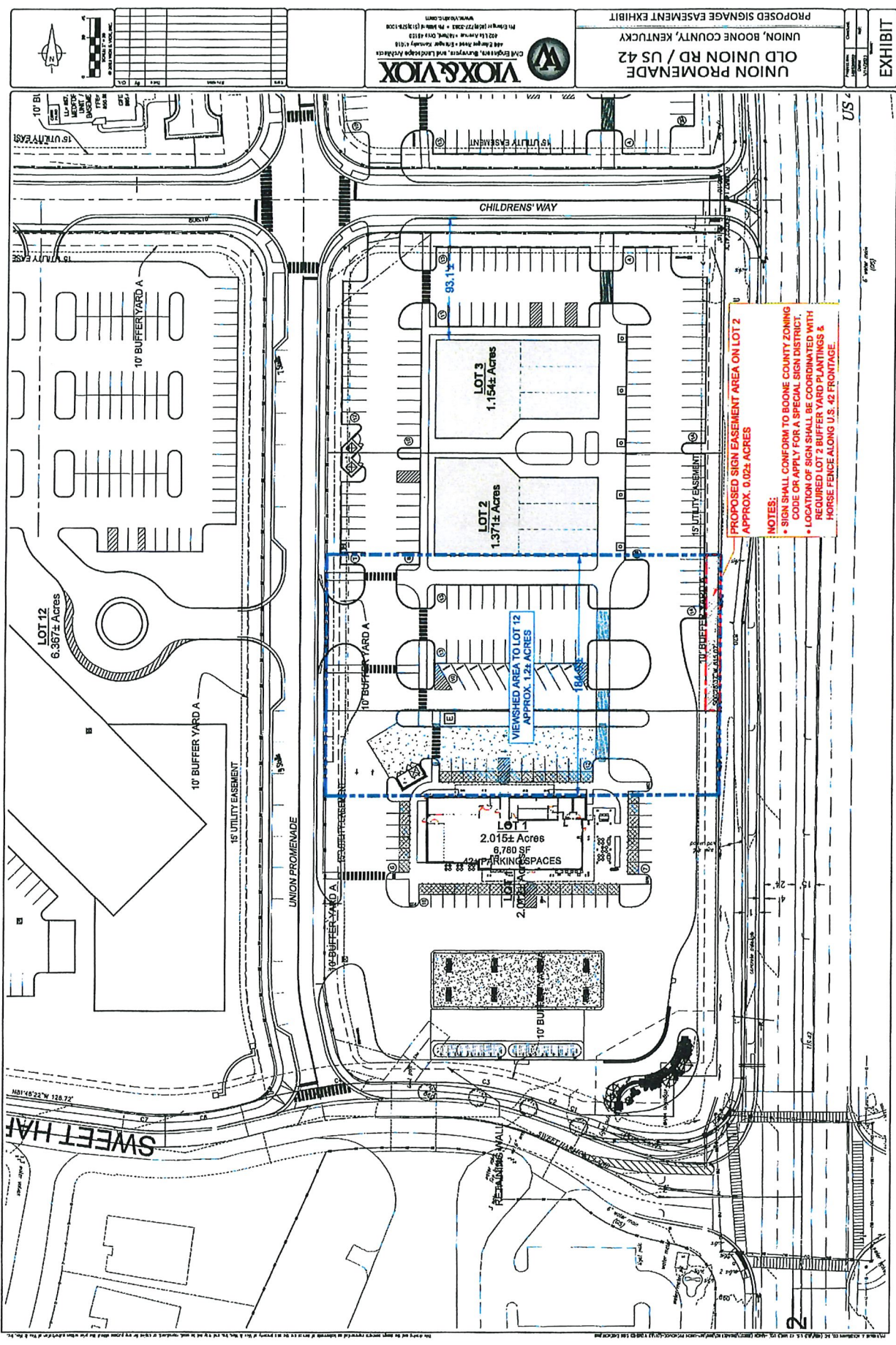
9541 US 42, LLC
4010 North Bend Road, Suite 301
Cincinnati, Ohio 45243

EXHIBIT 1
ACCESS POINTS DENIED BY KYTC



TOTAL ACRESAGE = 61.889
COMMERCIAL = 10.2814 AC
OFFICE = 67.2002 AC
RESIDENTIAL CONDOS = 62.1476 AC
CAMPUS GREEN = 10.74 AC
TOTAL GREEN SPACE = 19.31 ACRES NOT INCLUDING VIA GREEN SPACE (11.21)

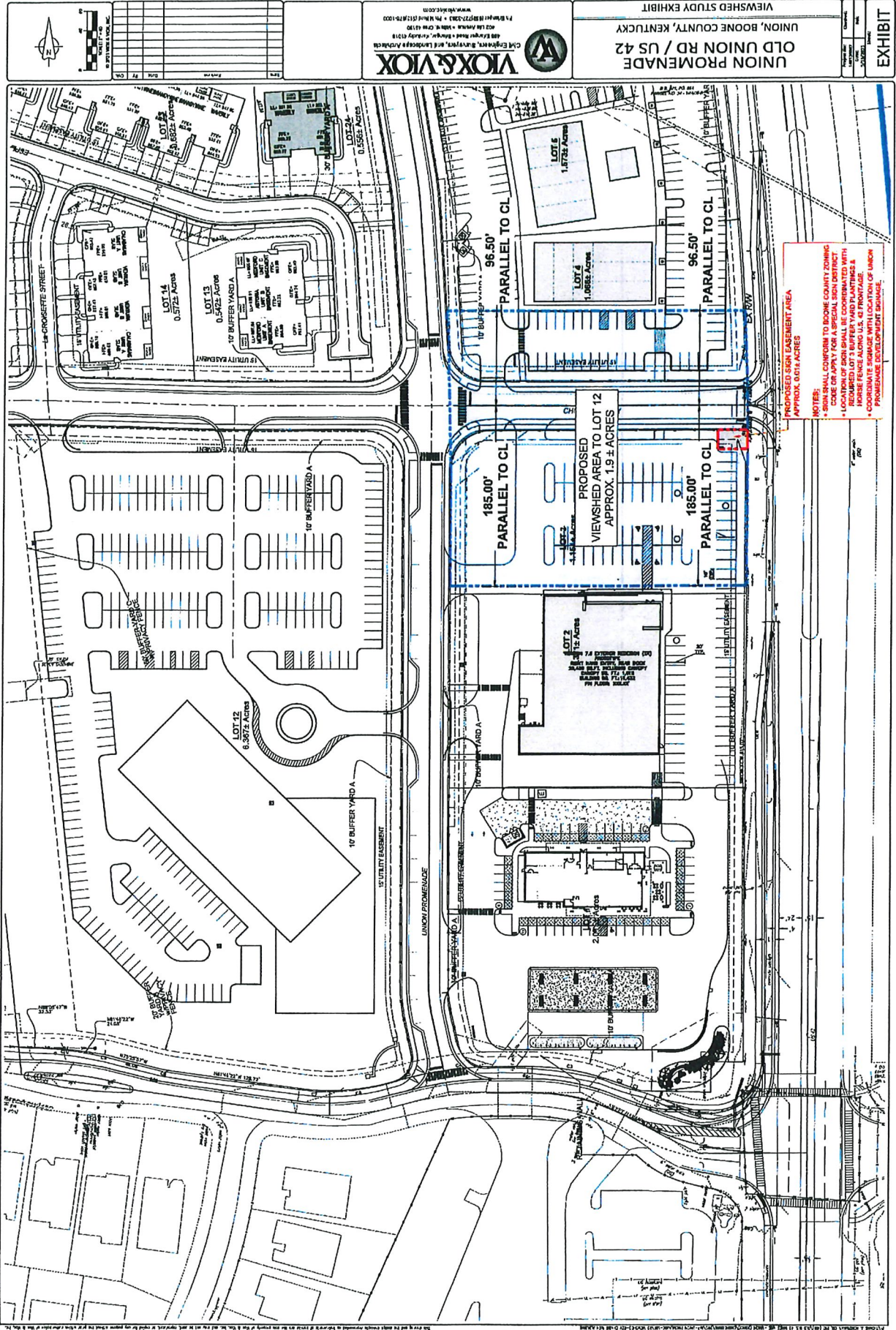
EXHIBIT 2. ORIGINAL VIEWSHED EASEMENT RELAINED BY CHILDREN'S HOSPITAL



NOTES:

- SIGN SHALL CONFORM TO BOONE COUNTY ZONING CODE OR APPLY FOR A SPECIAL SIGN DISTRICT.
- LOCATION OF SIGN SHALL BE COORDINATED WITH REQUIRED LOT 2 BUFFER YARD PLANTINGS & HORSE FENCE ALONG U.S. 42 FRONTAGE.

EXHIBIT 3. MODIFIED VIEWSHED EASEMENT



PROPOSED VIEWSHED EASEMENT AREA APPROX. 0.014 ACRES

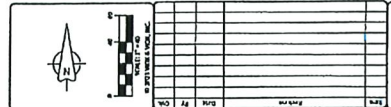
NOTES:

- SHOWN SHALL CONFORM TO BOONE COUNTY ZONING
- LOCATION OF SIGN SHALL BE COORDINATED WITH
- REQUIRED LOT 2 BUFFER YARD PLANTINGS & HORSE FENCE ALONG U.S. 42 FRONTAGE
- CONFORMANCE WITH BOONE COUNTY OF UNION PROMENADE DEVELOPMENT ORDINANCE

VIOLA & VIOX
 CIVIL ENGINEERS, SURVEYORS, AND LANDSCAPE ARCHITECTS
 405 EAST MARKET STREET, SUITE 400
 BOONE COUNTY, KENTUCKY 40303
 781-864-1234 • FAX 781-864-1235
 WWW.VIOLAANDVIOX.COM

UNION PROMENADE
 OLD UNION RD / US 42
 UNION, BOONE COUNTY, KENTUCKY
 VIEWSHED STUDY EXHIBIT

EXHIBIT



EXHIBIT

“B”

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Steve Harper, Chairman

DATE: December 6, 2023

RE: Request of 9541 US 42, LLC , per Thomas J. Ackerman (applicant) for the City of Union (owner) for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.

APPROVAL

REMARKS:

1. 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 finding of fact and conditions, if deemed necessary, to complete the Committee Report.
2. We, the Committee, recommend approval of the above referenced Zoning Map Amendment based on the following findings of fact:

FINDINGS OF FACT:

1. The Committee concluded that the proposed Change of Concept Development Plan is consistent with the original vision for the development and is therefore reasonable and appropriate.
 - a. The legislative action approving the Concept Development Plan included the principally permitted uses of the UC district and grocery store is listed as a principally permitted use within the UC district.
 - b. The proposed use and design continues to promote a live/work environment, a use that is an amenity to urban living, walkability, especially for the residents of the development, a mix of uses, and a village scale building.
 - c. The proposed design continues to provide for cross vehicular access between lots and cross pedestrian movements.
 - d. The proposed building size is comparable to the size of the two buildings shown on the existing approved Concept Development Plan.
2. The Committee concluded the attached condition is necessary to achieve consistency with the Our Boone County Plan 2040. The Committee also concluded that the attached

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

Aldi - Union Promenade, Lots 2 and 3

December 6, 2023

Page 2

condition is necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with the condition:

CONDITION:

1. Within the island immediately to the west of the loading/unloading dock, any required trees should be evergreen trees (Plant List D), with the final plantings and locations to be approved by Staff.

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 Development Plan Committee Vote.

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

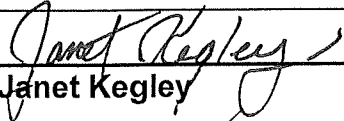
TO: Boone County Planning Commission
FROM: Steve Harper, Chairman
DATE: November 15, 2023

REMARKS:

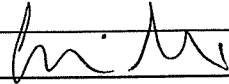
We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN, Steve Harper, Chairman, Michael Schwartz, Staff

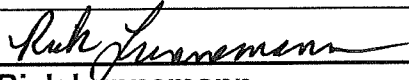
4. Request of **9541 US 42, LLC , per Thomas J. Ackerman (applicant)** for **the City of Union (owner)** for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.



Janet Kegley
For Project Absent
Against Project
Abstain Deferred




Corrin Gulick
For Project Absent
Against Project
Abstain Deferred



Rick Lunnemann
For Project Absent
Against Project
Abstain Deferred

Kathy Clark (Alternate)
For Project Absent
Against Project
Abstain Deferred



Steve Harper (Chairman)
For Project Absent
Against Project
Abstain Deferred

Steve Turner (Alternate)
For Project Absent
Against Project
Abstain Deferred

David Hincks
For Project Absent
Against Project
Abstain Deferred

Jackie Steele (Alternate)
For Project Absent
Against Project
Abstain

TOTAL: DEFERRED FOR PROJECT ABSENT
 AGAINST PROJECT ABSTAIN

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
NOVEMBER 1, 2023
7:30 P.M.**

Chairman Rolfsen opened the Public Hearing at 7:30 p.m. and welcomed the audience to the Planning Commission's November 1, 2023 Public Hearings.

COMMISSION MEMBERS PRESENT:

Mrs. Kathy Clark
Mrs. Pamela Goetting
Ms. Corrin Gulick, Vice Chairwoman
Mr. Steve Harper, Temporary Presiding Officer
Mr. David Hincks
Mr. Rick Lunnemann
Mr. Eric Richardson
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mrs. Jackie Steele, Secretary/Treasurer
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mr. Randy Bessler
Mrs. Janet Kegley
Mr. Tom Szurlinski
Mr. Steve Turner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Michael Schwartz, Director, Zoning Services
Mr. Todd K. Morgan, AICP, Senior Planner
Mr. Steve Lilly, GISP, Planner

Chairman Rolfsen introduced the first item on the Agenda:

**CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN, Michael Schwartz,
Staff**

1. Request of **9541 US 42, LLC , per Thomas J. Ackerman (applicant) for the City of Union (owner)** for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.

Staff Member, Michael Schwartz, referred to his PowerPoint presentation (See Staff Report). The request involves two lots in the Union Promenade project. In November, 2021, the City of Union adopted new zoning for the entire Union Promenade development. The permitted uses were retail and office and two housing types – multi-family and attached single family. The site is currently vacant. The site has 3 frontages – U.S. 42, Children’s Way and Union Promenade. The area located immediately to the south is being developed as a UDF store. A grocery store is a principally permitted use in a UC Zoning District. Any of the uses permitted in the UC Zone are therefore allowed in the retail portion of the development. Section 311 of the Zoning Code deals with major changes to original Zoning Map Amendments. As Zoning Administrator, Mr. Schwartz has already determined that the proposed grocery layout constitutes a major change in the approved Concept Development Plan. That is the reason why the application is before the Planning Commission. Mr. Schwartz showed the existing Concept Development Plan and the buildings that have been approved. Lot 2 contains 1.373 acres and Lot 3 contains 1.158 acres. The existing Concept Development Plan showed a 12,108 square foot building for retail/services uses on Lot 2 and a 6, 834 square foot retail services building on Lot 3. There is also a provision for 2 curb cuts onto Union Promenade between Sweet Harmony Lane and Children’s Way. The Union Promenade project was described in the following terms – a well planned live/work design. This mixed use community allows residents to enjoy all the amenities of urban living. It presents a walkable destination for its residents within the site as well as from residents of the surrounding residential communities. It is a mixed use campus containing a broad variety of commercial, professional and residential uses intended to advance a live/work place setting. It is a village quality with an intimate scale and an inviting character. Buildings are separate but located close to each other to encourage walkability. There is no massive parking area. That criteria is the basis for which Mr. Schwartz made his decision that what is being proposed is a major change. Mr. Schwartz showed photographs of the site and adjoining properties. He showed a drawing that reflected the approved access points. He then described the existing viewshed easement that benefits Children’s Hospital. No buildings can be constructed in the easement. It was shifted to the north. As a result, a proposed grocery was planned to be located just outside the viewshed easement. It is an Aldi grocery store. Mr. Schwartz felt that the massing of the proposed building and large parking field was too much of a change. The proposal would consolidate Lots 2 & 3 into 1 lot and construct a 19,432 square foot grocery store, provide 89 off-street parking spaces, add

a third access point on Union Promenade and keep one access point on Children's Way. This is another significant change. Connections are being planned to the UDF site from the proposed Aldi site. Mr. Schwartz showed a set of building elevations. The primary building materials are brick, fiber cement and aluminum. The primary colors are brown, tan and gray. The selected colors are consistent with the entire theme of the Union Promenade development. The proposed building has four sides. Mr. Schwartz expressed a concern for the side facing UDF. There should be more articulation on this side like inserting glass or windows. On Page 6 of the Staff Report, there is a table describing the differences in the previous Concept Development Plan and the proposed version. He also showed a graphic comparison between the 2 versions.

Chairman Rolfsen asked if the applicant was present and wanted to proceed with their presentation?

Mr. T.J. Ackerman, applicant, gave a PowerPoint presentation that included the history of the development. He mentioned Children's Hospital purchased Lot #12. He mentioned the important buffer yards and fencing for this lot to protect the nearby residents. Children's has applied for a building permit. Mr. Ackerman showed a drawing of the Children's building. There is only one building and not 4 buildings. What they are proposing on Lots 2 & 3 is the same as Children's – consolidating lots. Because the State would not allow a curb cut, Children's did a visual analysis of their new location of their building and the loss of the entrance between Lots 1 & 2. Thus, the reason for the viewshed easement for people traveling on U.S. 42. The grocery wanted to be located on the south end of the site for better view access. The easement shifted to Lot #3 and part of Lot #4. The actual size of the easement changed from 1.2 acres to 1.9 acres and as a result it enhances the view of Children's. Originally, 18,942 square feet of retail space was approved. The proposed Aldi building is 19,430 square feet – a difference of 488 square feet. The request is also to obtain an additional access point on Union Promenade to safely accommodate a delivery truck's turning requirements. It would replace one curb cut denied by the Kentucky Transportation Cabinet. Mr. Ackerman showed a building elevation of the proposed store that was built in Virginia. The design mimics the UDF store. Finally, the use of a grocery store is permitted in the Union Commercial (UC) Zoning District.

Mr. Parsons, attorney, stated that the development is comprehensive as it involved over 50 acres. It is the only change that is being proposed to continue to implement the plan. It is just combining two lots to permit an allowable use. It really isn't a substantial change. Children's Hospital has been critical to the success of the entire development. The City of Union is involved with bond funding and the County is involved with a TIF District on the project.

At this time, Chairman Rolfsen asked if anyone in the audience who was in favor or against the request or have questions?

Ms. Noreen Morgan, 9205 Royal Oak Lane, noted that she is President of the Villas of Fowler Creek HOA, and stated that there is so much growth in Ballyshannon Subdivision and other residential subdivisions – and there is a need for a grocery store because the area is growing. It would be good for the Promenade project. She sent out a survey to the residents in her HOA. Thirty-eight residents are not opposed to Aldi's. Fifteen residents are opposed and ten residents had no opinion at all.

Mr. Marvin Hensley, 9712 Colbalt Way, stated that the project has gone from a Live/Work/Play development with restaurants and entertainment venues to 30% of the road frontage property is a gas station or grocery store. Neither which fit with the original plan. Children's has purchased the property and has done nothing to it. There is no guarantee that it will be built. They could sit on the property just like the church.

Mr. Luciano Zilio, 9515 Symphony Court, questioned whether Children's is really coming to Union. Why not wait on the grocery store until Children's is built? He is worried that something else that is less desirable will go where Children's is supposed to be located.

Mr. Schwartz noted that the Major Site Plan for Children's has been approved by Staff late last week. The project is in the Building Department's hands for review and approval. Chairman Rolfsen wondered why there is a discussion about Children's when the application is for Aldi's grocery store. Mr. Schwartz explained that the viewshed easement affects the development of Lots #2 & #3. Staff will obtain a copy of the viewshed easement.

Mr. Brian Menshouse, 9523 Symphony Court, expressed a concern about a new cut through for trucks. Because the State turned down the curb cut on U.S. 42, there will be more truck traffic on Sweet Harmony Lane. It will become more of a commercial road. It is a change from restaurants and boutique stores to a grocery store – more high volume traffic. A sidewalk to be constructed in front of the firehouse for residents to get to U.S. 42. What about cutting off truck traffic on Sweet Harmony Lane?

Ms. Tabettha Bine, Arbor Springs Subdivision, is opposed to the proposed change. The proposal is changing what the development was originally planned for in Union. Where do the box stores end if the grocery store is approved? It is another grocery store in the area. We have a UDF, Aldi, Kroger, Publix and another Kroger store down the street. Everyone was excited about the development – small shops and walking trails. It was supposed to be walking traffic and not driving traffic.

Ms. Patrina Hensley, 9712 Colbalt Way, stated there is no planned traffic signal by the UDF. She doesn't understand how the development was allowed to occur without traffic lights? The right in and out do not have crosswalks. How is it walkable? Mr. Costello responded that 3 traffic signals were approved by the State on U.S. 42 at Sweet Harmony Lane, Brilliance Avenue and the main entrance for the development opposite of Arbor Springs.

At this time, Chairman Rolfsen asked if any Board members had any questions or comments.

Ms. Gulick asked if the developer updated the original Traffic Impact Study with the proposed grocery store use? Does it affect the cue at Sweet Harmony Lane at the fire station entrance? How will trucks be routed? When will the traffic signals be installed? It is a permitted traffic signal. Work will start in two weeks and it will be operational at the same time the turning lanes are completed. Mr. Ackerman responded that Aldi receives one truck a day for a 19,432 square foot store.

Mr. Clayton Schrey, Aldi, stated that the store is open from 9:00 a.m. to 8:00 p.m. seven days a week. Chairman Rolfsen inquired about the view of the building facing UDF. Mr. Schrey replied they added wood composite for articulation purposes. Mr. Lunnemann asked if Aldi would consider a modification like the elevation facing U.S. 42 or Children's Way? Perhaps fake windows or glass could be added? Mr. Schrey replied that they could certainly do it. It is a one story building and their newest prototype. Mr. Schwartz noted that proposed signage is for illustration purposes only. The development is in the process of creating a Special Sign District application and signage for the lot will be addressed later.

Mr. Hincks inquired about rooftop HVAC units. Will they be screened? Mr. Schrey replied that there will be 2 units and they will be screened and have a fencing system. Mr. Hincks asked the applicant to provide perspectives of it at a later date. Mr. Parsons stated that they may have updated elevations for the Committee Meeting.

Chairman Rolfsen asked when the one truck arrives and unloads on the site? Mr. Schrey responded during normal business hours.

Mr. Harper noted that he would like to look more closely at the flow of the truck traffic at the Committee Meeting. Mr. Parsons emphasized that the Children's project is definitely moving forward. Chairman Rolfsen questioned the need for a viewshed easement given modern technology (GPS). One will be able to see the Children's sign and building from U.S. 42. Mr. Ackerman announced that he groundbreaking for Children's is November 17th. The building will open in November, 2024.

Mr. Lunnemann inquired about uses on other lots in terms of walkable retail area. Mr. Ackerman replied that Lots 4-11 are the retail lots. Several buildings are under construction with multiple tenants. Mr. Lunnemann said it would be beneficial to tell the public at a public meeting what businesses are coming. Mr. Ackerman stated no other lots are being planned to be combined. He can't announce other tenants until leases are signed and permission is granted. A grocery use would benefit the multi-family and single-family residential uses under construction. It will include 340 residences and they will have a walkable grocery store.

Ms. Gulick asked the developer to show the plan to get pedestrians to and from the proposed store. Does the applicant have enough parking? Mr. Schwartz responded that the overall

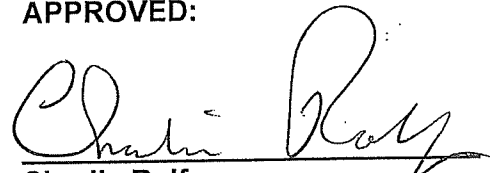
development has cross access and shared parking easements. Staff is tracking the required parking as each use is being approved and built.

Ms. Gulick asked if it was appropriate to have a grocery store next to a UDF? How many parking spaces are needed for the grocery store? Mr. Schwartz replied that the applicant is providing the required amount of parking for the proposed use on Lots #2 & #3. The Zoning Code has a formula for the minimum number of required parking spaces per square foot of the building. The applicant can also have up to 30% more than the minimum. Chairman Rolfsen asked Staff to provide those figures at the Committee meeting.


Mr. Harper asked if the applicant discussed the proposal with UDF? Mr. Ackerman responded yes because UDF would have to sign off on the modified viewshed easement. It is a complementary use. The other curb cut would benefit UDF. Mr. Harper asked if it was competition since UDF customers are buying gas or a charge and a few grocery items. Aldi is just more groceries. Mr. Harper stated that the convenient store customer has changed over time with single purchasers and multiple purchasers. There is competition but a convenience store is set up to operate in a different way.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on November 15, 2023 at 5:00 P.M. This item will be on the Agenda for the Business Meeting on December 6, 2023 at 7:00 p.m. in the Fiscal Courtroom. Chairman Rolfsen closed the Public Hearing at 8:32 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
PUBLIC HEARINGS
NOVEMBER 1, 2023
7:30 P.M.**

Chairman Rolfsen opened the Public Hearing at 7:30 p.m. and welcomed the audience to the Planning Commission's November 1, 2023 Public Hearings.

COMMISSION MEMBERS PRESENT:

Mrs. Kathy Clark
Mrs. Pamela Goetting
Ms. Corrin Gulick, Vice Chairwoman
Mr. Steve Harper, Temporary Presiding Officer
Mr. David Hincks
Mr. Rick Lunnemann
Mr. Eric Richardson
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mrs. Jackie Steele, Secretary/Treasurer
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mr. Randy Bessler
Mrs. Janet Kegley
Mr. Tom Szurlinski
Mr. Steve Turner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Michael Schwartz, Director, Zoning Services
Mr. Todd K. Morgan, AICP, Senior Planner
Mr. Steve Lilly, GISP, Planner

Chairman Rolfsen introduced the first item on the Agenda:

CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN, Michael Schwartz,
Staff

1. Request of **9541 US 42, LLC , per Thomas J. Ackerman (applicant)** for **the City of Union (owner)** for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.

Staff Member, Michael Schwartz, referred to his PowerPoint presentation (See Staff Report). The request involves two lots in the Union Promenade project. In November, 2021, the City of Union adopted new zoning for the entire Union Promenade development. The permitted uses were retail and office and two housing types – multi-family and attached single family. The site is currently vacant. The site has 3 frontages – U.S. 42, Children’s Way and Union Promenade. The area located immediately to the south is being developed as a UDF store. A grocery store is a principally permitted use in a UC Zoning District. Any of the uses permitted in the UC Zone are therefore allowed in the retail portion of the development. Section 311 of the Zoning Code deals with major changes to original Zoning Map Amendments. As Zoning Administrator, Mr. Schwartz has already determined that the proposed grocery layout constitutes a major change in the approved Concept Development Plan. That is the reason why the application is before the Planning Commission. Mr. Schwartz showed the existing Concept Development Plan and the buildings that have been approved. Lot 2 contains 1.373 acres and Lot 3 contains 1.158 acres. The existing Concept Development Plan showed a 12,108 square foot building for retail/services uses on Lot 2 and a 6, 834 square foot retail services building on Lot 3. There is also a provision for 2 curb cuts onto Union Promenade between Sweet Harmony Lane and Children’s Way. The Union Promenade project was described in the following terms – a well planned live/work design. This mixed use community allows residents to enjoy all the amenities of urban living. It presents a walkable destination for its residents within the site as well as from residents of the surrounding residential communities. It is a mixed use campus containing a broad variety of commercial, professional and residential uses intended to advance a live/work place setting. It is a village quality with an intimate scale and an inviting character. Buildings are separate but located close to each other to encourage walkability. There is no massive parking area. That criteria is the basis for which Mr. Schwartz made his decision that what is being proposed is a major change. Mr. Schwartz showed photographs of the site and adjoining properties. He showed a drawing that reflected the approved access points. He then described the existing viewshed easement that benefits Children’s Hospital. No buildings can be constructed in the easement. It was shifted to the north. As a result, a proposed grocery was planned to be located just outside the viewshed easement. It is an Aldi grocery store. Mr. Schwartz felt that the massing of the proposed building and large parking field was too much of a change. The proposal would consolidate Lots 2 & 3 into 1 lot and construct a 19,432 square foot grocery store, provide 89 off-street parking spaces, add

a third access point on Union Promenade and keep one access point on Children's Way. This is another significant change. Connections are being planned to the UDF site from the proposed Aldi site. Mr. Schwartz showed a set of building elevations. The primary building materials are brick, fiber cement and aluminum. The primary colors are brown, tan and gray. The selected colors are consistent with the entire theme of the Union Promenade development. The proposed building has four sides. Mr. Schwartz expressed a concern for the side facing UDF. There should be more articulation on this side like inserting glass or windows. On Page 6 of the Staff Report, there is a table describing the differences in the previous Concept Development Plan and the proposed version. He also showed a graphic comparison between the 2 versions.

Chairman Rolfsen asked if the applicant was present and wanted to proceed with their presentation?

Mr. T.J. Ackerman, applicant, gave a PowerPoint presentation that included the history of the development. He mentioned Children's Hospital purchased Lot #12. He mentioned the important buffer yards and fencing for this lot to protect the nearby residents. Children's has applied for a building permit. Mr. Ackerman showed a drawing of the Children's building. There is only one building and not 4 buildings. What they are proposing on Lots 2 & 3 is the same as Children's – consolidating lots. Because the State would not allow a curb cut, Children's did a visual analysis of their new location of their building and the loss of the entrance between Lots 1 & 2. Thus, the reason for the viewshed easement for people traveling on U.S. 42. The grocery wanted to be located on the south end of the site for better view access. The easement shifted to Lot #3 and part of Lot #4. The actual size of the easement changed from 1.2 acres to 1.9 acres and as a result it enhances the view of Children's. Originally, 18,942 square feet of retail space was approved. The proposed Aldi building is 19,430 square feet – a difference of 488 square feet. The request is also to obtain an additional access point on Union Promenade to safely accommodate a delivery truck's turning requirements. It would replace one curb cut denied by the Kentucky Transportation Cabinet. Mr. Ackerman showed a building elevation of the proposed store that was built in Virginia. The design mimics the UDF store. Finally, the use of a grocery store is permitted in the Union Commercial (UC) Zoning District.

Mr. Parsons, attorney, stated that the development is comprehensive as it involved over 50 acres. It is the only change that is being proposed to continue to implement the plan. It is just combining two lots to permit an allowable use. It really isn't a substantial change. Children's Hospital has been critical to the success of the entire development. The City of Union is involved with bond funding and the County is involved with a TIF District on the project.

At this time, Chairman Rolfsen asked if anyone in the audience who was in favor or against the request or have questions?

Ms. Noreen Morgan, 9205 Royal Oak Lane, noted that she is President of the Villas of Fowler Creek HOA, and stated that there is so much growth in Ballyshannon Subdivision and other residential subdivisions – and there is a need for a grocery store because the area is growing. It would be good for the Promenade project. She sent out a survey to the residents in her HOA. Thirty-eight residents are not opposed to Aldi's. Fifteen residents are opposed and ten residents had no opinion at all.

Mr. Marvin Hensley, 9712 Colbalt Way, stated that the project has gone from a Live/Work/Play development with restaurants and entertainment venues to 30% of the road frontage property is a gas station or grocery store. Neither which fit with the original plan. Children's has purchased the property and has done nothing to it. There is no guarantee that it will be built. They could sit on the property just like the church.

Mr. Luciano Zilio, 9515 Symphony Court, questioned whether Children's is really coming to Union. Why not wait on the grocery store until Children's is built? He is worried that something else that is less desirable will go where Children's is supposed to be located.

Mr. Schwartz noted that the Major Site Plan for Children's has been approved by Staff late last week. The project is in the Building Department's hands for review and approval. Chairman Rolfsen wondered why there is a discussion about Children's when the application is for Aldi's grocery store. Mr. Schwartz explained that the viewshed easement affects the development of Lots #2 & #3. Staff will obtain a copy of the viewshed easement.

Mr. Brian Menshouse, 9523 Symphony Court, expressed a concern about a new cut through for trucks. Because the State turned down the curb cut on U.S. 42, there will be more truck traffic on Sweet Harmony Lane. It will become more of a commercial road. It is a change from restaurants and boutique stores to a grocery store – more high volume traffic. A sidewalk to be constructed in front of the firehouse for residents to get to U.S. 42. What about cutting off truck traffic on Sweet Harmony Lane?

Ms. Tabetha Bine, Arbor Springs Subdivision, is opposed to the proposed change. The proposal is changing what the development was originally planned for in Union. Where do the box stores end if the grocery store is approved? It is another grocery store in the area. We have a UDF, Aldi, Kroger, Publix and another Kroger store down the street. Everyone was excited about the development – small shops and walking trails. It was supposed to be walking traffic and not driving traffic.

Ms. Patrina Hensley, 9712 Colbalt Way, stated there is no planned traffic signal by the UDF. She doesn't understand how the development was allowed to occur without traffic lights? The right in and out do not have crosswalks. How is it walkable? Mr. Costello responded that 3 traffic signals were approved by the State on U.S. 42 at Sweet Harmony Lane, Brilliance Avenue and the main entrance for the development opposite of Arbor Springs.

At this time, Chairman Rolfsen asked if any Board members had any questions or comments.

Ms. Gulick asked if the developer updated the original Traffic Impact Study with the proposed grocery store use? Does it affect the cue at Sweet Harmony Lane at the fire station entrance? How will trucks be routed? When will the traffic signals be installed? It is a permitted traffic signal. Work will start in two weeks and it will be operational at the same time the turning lanes are completed. Mr. Ackerman responded that Aldi receives one truck a day for a 19,432 square foot store.

Mr. Clayton Schrey, Aldi, stated that the store is open from 9:00 a.m. to 8:00 p.m. seven days a week. Chairman Rolfsen inquired about the view of the building facing UDF. Mr. Schrey replied they added wood composite for articulation purposes. Mr. Lunnemann asked if Aldi would consider a modification like the elevation facing U.S. 42 or Children's Way? Perhaps fake windows or glass could be added? Mr. Schrey replied that they could certainly do it. It is a one story building and their newest prototype. Mr. Schwartz noted that proposed signage is for illustration purposes only. The development is in the process of creating a Special Sign District application and signage for the lot will be addressed later.

Mr. Hincks inquired about rooftop HVAC units. Will they be screened? Mr. Schrey replied that there will be 2 units and they will be screened and have a fencing system. Mr. Hincks asked the applicant to provide perspectives of it at a later date. Mr. Parsons stated that they may have updated elevations for the Committee Meeting.

Chairman Rolfsen asked when the one truck arrives and unloads on the site? Mr. Schrey responded during normal business hours.

Mr. Harper noted that he would like to look more closely at the flow of the truck traffic at the Committee Meeting. Mr. Parsons emphasized that the Children's project is definitely moving forward. Chairman Rolfsen questioned the need for a viewshed easement given modern technology (GPS). One will be able to see the Children's sign and building from U.S. 42. Mr. Ackerman announced that he groundbreaking for Children's is November 17th. The building will open in November, 2024.

Mr. Lunnemann inquired about uses on other lots in terms of walkable retail area. Mr. Ackerman replied that Lots 4-11 are the retail lots. Several buildings are under construction with multiple tenants. Mr. Lunnemann said it would be beneficial to tell the public at a public meeting what businesses are coming. Mr. Ackerman stated no other lots are being planned to be combined. He can't announce other tenants until leases are signed and permission is granted. A grocery use would benefit the multi-family and single-family residential uses under construction. It will include 340 residences and they will have a walkable grocery store.

Ms. Gulick asked the developer to show the plan to get pedestrians to and from the proposed store. Does the applicant have enough parking? Mr. Schwartz responded that the overall

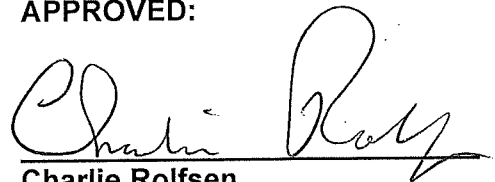
development has cross access and shared parking easements. Staff is tracking the required parking as each use is being approved and built.

Ms. Gulick asked if it was appropriate to have a grocery store next to a UDF? How many parking spaces are needed for the grocery store? Mr. Schwartz replied that the applicant is providing the required amount of parking for the proposed use on Lots #2 & #3. The Zoning Code has a formula for the minimum number of required parking spaces per square foot of the building. The applicant can also have up to 30% more than the minimum. Chairman Rolfsen asked Staff to provide those figures at the Committee meeting.

Mr. Harper asked if the applicant discussed the proposal with UDF? Mr. Ackerman responded yes because UDF would have to sign off on the modified viewshed easement. It is a complementary use. The other curb cut would benefit UDF. Mr. Harper asked if it was competition since UDF customers are buying gas or a charge and a few grocery items. Aldi is just more groceries. Mr. Harper stated that the convenient store customer has changed over time with single purchasers and multiple purchasers. There is competition but a convenience store is set up to operate in a different way.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on November 15, 2023 at 5:00 P.M. This item will be on the Agenda for the Business Meeting on December 6, 2023 at 7:00 p.m. in the Fiscal Courtroom. Chairman Rolfsen closed the Public Hearing at 8:32 p.m.

APPROVED:



Charlie Rolfsen
Chairman

Attest:



Kevin P. Costello, AICP
Executive Director

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY FISCAL COURTROOM
BURLINGTON, KENTUCKY
BUSINESS MEETING
DECEMBER 6, 2023
7:00 P.M.**

Chairman Rolfsen opened the Business Meeting at 7:02 p.m. and welcomed the audience to the Planning Commission's December 6, 2023 Business Meeting. Mr. Rolfsen then invited everyone to join him in reciting the Pledge of Allegiance led by Mr. Cooper Stewart, a future Eagle Scout.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mrs. Kathy Clark
Mrs. Pamela Goetting
Ms. Corrin Gulick, Vice Chairwoman
Mr. David Hincks
Mr. Rick Lunnemann
Mr. Eric Richardson
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mrs. Jackie Steele, Secretary/Treasurer
Mr. Tom Szurlinski
Mr. Steve Turner
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mr. Steve Harper, Temporary Presiding Officer
Mrs. Janet Kegley

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Michael Schwartz, Director, Zoning Services
Mr. Todd K. Morgan, AICP, Senior Planner
Mr. Steve Lilly, GISP, Planner

APPROVAL OF THE MINUTES:

Chairman Rolfsen stated that the Commissioners received copies of the Minutes from the November 15, 2023 Business Meeting and Public Hearings. He asked if there were any comments or corrections?

Mrs. Goetting moved to approve the Minutes as presented. Mr. Szurlinski seconded the motion and it carried unanimously.

BILLS:

Mr. Kevin P. Costello, AICP, Executive Director, advised the Commissioners of the **Bills to be Paid**, which included a list of **Expenses** and **Salaries and Benefits** for a time period between November 2, 2023 and December 6, 2023.

EXPENSES:

Accounting Fees	\$ 1,538.00
Attorney Fees	4,600.00
Auto Expense	251.92
Consultant/Professional Svcs Fees	871.25
Filing Fees (CLURS)	950.00
Legal Ads/Recruitment	783.86
Miscellaneous Expense	1,862.84
Office & Board Meeting Supplies	1,974.36
Office Equipment / Maintenance	692.40
Office Equipment / Expense	552.72
Postage Expense	500.00
Printing/Pub/Dues/Subscriptions	166.00
Professional Development	<u>150.00</u>

TOTAL: \$ 14,893.35

SALARIES AND BENEFITS:

FICA-BCPC Portion	\$ 8,236.85
Health/Dental/Life/LTD	17,016.22
Retirement – BCPC Portion	20,887.44
Salaries – Staff Expenses	112,601.44
Salaries – BCPC & BOA	<u>1,450.00</u>

TOTAL: \$ 160,191.95

GRAND TOTAL: \$ 175,085.30

Ms. Gulick moved that the bills (expenses and salaries and benefits) be approved and paid as presented and indicated approval of those items, which have been previously paid. Mr. Hincks seconded the motion and it carried unanimously.

ACTION ON PLAN REVIEWS:

ZONING MAP AMENDMENT AND CONCEPT DEVELOPMENT PLAN, Rick Lunnemann, Chairman, Todd Morgan, Staff

1. Requests of **Continental Fund 734 LLC, per Lexi Goetsch (applicant) for Gregory Ammon and Helen Ammon (owners)** for: (1) a Zoning Map Amendment from Commercial Four/Planned Development (C-4/PD) and Suburban Residential Two/Planned Development (SR-2/PD) to Urban Residential

Two/Planned Development (UR-2/PD) for a 14.25 acre area located at the southwest corner of Burlington Pike and Camp Ernst Road, at the terminus of Beil Road, and across from Patrick Drive, Boone County, KY. The site includes the properties at 2141 Burlington Pike and portions of 6089 and 6091 Camp Ernst Road. The request is for a zone change to allow 324 apartment units within nine (9) three-story buildings, a clubhouse/pool, and other accessory uses; (2) a Concept Development Plan in a Suburban Residential Two/Planned Development (SR-2/PD) zone for a 66.53 acre area located on portions of 6089 and 6091 Camp Ernst Road, Boone County, KY. The request is for a Concept Development Plan to allow Ammon Nursery to fully locate their business on a 66.53 acre remainder tract, relocate existing buildings and structures, and construct a new office/retail store, parking areas, gardens, and greenhouses.

Staff Member, Todd Morgan, read the Committee Report, which recommended approval based upon Findings of Facts and Conditions for the Zoning Map Amendment and Concept Development Plan. He showed revised building elevations per the Committee Report. It was recommended unanimously for approval with Mrs. Kegley, Mr. Lunnemann, Mr. Harper and Ms. Gullick voting in favor of the request. The applicant signed the Condition letter.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. Jay Bayer, Engineer, stated that he had nothing to add and was available for any questions.

Mr. Carl Smith, 2171 Biehl Road, asked that Beil Road be closed off prior to commencing construction on the site to avoid construction traffic? Mr. Lunnemann responded that the Committee discussed that access to Beil Road would only occur for emergency purposes with a secured gate. The Committee did not discuss closing the road during construction. Mr. Costello explained that it would be up to the County to make that decision as the road is owned by the County. Chairman Rolfsen advised Mr. Smith to let the Fiscal Court know his concern about construction traffic.

Seeing no further comment, **Mr. Lunnemann moved to approve the request by Resolution to the Boone County Fiscal Court based upon the Committee Report and subject to the Findings of Fact and Conditions. Ms. Gulick seconded the motion. Chairman Rolfsen asked about the change in building materials. He asked the location of the stone on the proposed buildings. Mr. Morgan showed the location of the stone based on the revised building elevations. Chairman Rolfsen asked for a vote on the original motion made by Mr. Lunnemann and seconded by Ms. Gulick. The motion passed unanimously.**

ZONING MAP AMENDMENT, Steve Harper, Chairman, Steve Lilly, Staff

2. Request of **Rose Powell, on behalf of Rose and Donald Powell (applicant/owner)** for a Zoning Map Amendment from Rural Suburban Estate (RSE) and Agriculture (A-1) to Recreation (R) for an approximate 2.0 acre area located along the east side of Ryle Road, approximately 0.9 miles southwest of Beaver Road, having a Parcel Identification Number (PIDN) of 031.00-04-017.00. The request is for a zone change to allow a campground with personal boat and recreational vehicle storage.

Staff Member, Steve Lilly, read the Committee Report, which recommended approval based upon Findings of Facts and Conditions for the Zoning Map Amendment. It was recommended unanimously for approval with Mrs. Kegley, Mr. Lunnemann, Mr. Harper and Ms. Gullick voting in favor of the request. The applicant has signed the Condition letter.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. Donald Powell (applicant) stated that he had nothing more to add.

Seeing no further comment, **Ms. Gulick moved to approve the request by Resolution to the Boone County Fiscal Court based upon the Committee Report and subject to the Findings of Fact and Conditions. Dr. Clark seconded the motion and it passed unanimously.**

CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN, Steve Harper, Chairman, Michael Schwartz, Staff

3. Request of **9541 US 42, LLC , per Thomas J. Ackerman (applicant) for the City of Union (owner)** for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.

Staff Member, Michael Schwartz, read the Committee Report, which recommended approval based upon Findings of Facts and a Condition for the Change in an Approved Concept Development Plan. It was recommended unanimously for approval with Mr. Harper, Mr. Lunnemann, Mrs. Kegley and Ms. Gulick and voting in favor of the request. The applicant has signed the Condition letter.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. James Parsons, attorney for the applicant, stated that he had no comments at this point. He asked the Board to support the Committee's recommendation.

Ms. Tabetra Bine, Arbor Springs Subdivision, stated that she was opposed to the change. The project was supposed to have small shops, small offices, residential and walking trails. It was supposed to be more of a neighborhood development where one could walk in the area to a local deli. Making this change sets it up to make it totally different. They are not trying to do something totally different than what you see along already U.S. 42. There is a grocery store with Kroger and a Publix. The proposed use has a better place somewhere else. We need to hold the developers accountable to the plan that was approved by the City.

Ms. Patricia Hensley, 9712 Colbalt Way, asked what has changed in the last 2.5 years that now means we need a grocery store? What work, live and play? Nobody said we want to walk to a grocery store. What changed physically, socially or economically in which we now need a grocery store? The development was supposed to have fine shops and restaurants.

Seeing no further comment, **Mr. Lunnemann moved to approve the request by Resolution to the City of Union based upon the Committee Report and subject to the Findings of Fact and Conditions. He mentioned that the Committee had a considerable discussion about a grocery. It is a small store that promotes the walkability of community living in the development. It is consistent with the overall Concept Development Plan. Mr. Hincks seconded the motion.**

Mr. Szurlinski added that he had some of the same concerns as the residents. He expressed a concern about future changes on other lots. Mr. Costello asked Staff to review the buildings that have been approved for construction. Mr. Schwartz showed the location of UDF, the proposed Aldi store, Children's Hospital, Drees single-family patio homes, two buildings that mirror each other located on the main entrance to the development (micro/brewery restaurant and medical spa), and half of the apartments. There are other restaurants in the pipeline.

Mr. Parsons noted that almost all of the lots have been sold and assured the Committee there would be no more changes to the original Concept Development Plan. Again, the reason for the change was the viewshed easement required by Children's Hospital. One lot had to be combined to protect the viewshed for Children's Hospital. It represents only one change to a 54 acre tract area project with construction occurring on multiple lots today.

Mrs. Steele asked if a grocery stores were ever restricted as a use for the site? Mr. Lunnemann replied that grocery stores were a principally permitted use within the zoning district. Their proposed use is the same square footage as what was allowed on the two lots. **Chairman Rolfsen asked for a vote on the original motion made by Mr. Lunnemann and seconded by Mr. Hincks. The motion passed unanimously.**

ZONING MAP AMENDMENTS, David Hincks, Chairman, Steve Lilly, Staff

4. Request of **Stephen K. Dallas (applicant/owner)** for a Zoning Map Amendment from Office One (O-1) to Commercial Services (C-3) for an approximate 1.4 acre area located at 1113 Boone Aire Road, Boone County, Kentucky. The request is for a Zoning Map Amendment to bring all land under common ownership into the same zoning district.

Staff Member, Steve Lilly, read the Committee Report, which recommended approval based upon Findings of Facts and Conditions for the Zoning Map Amendment and Concept Development Plan. It was recommended unanimously for approval with Mrs. Kegley, Mr. Lunnemann, Mr. Harper and Ms. Gulick voting in favor of the request. The applicant has signed the condition letter.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. Dallas (applicant) noted that he didn't have any further comments.

Seeing no further comment, **Ms. Gulick moved to approve the request by Resolution to the Boone County Fiscal Court based upon the Committee Report and subject to the Findings of Fact and Conditions. Mr. Lunnemann seconded the motion and it passed unanimously.**

WIRELESS COMMUNICATION FACILITY, Rick Lunnemann, Chairman, Todd Morgan, Staff

5. Request of **VB BTS II, LLC – Vertical Bridge (Fortune Wireless), per Jason Riggs (applicant) for James B. Walton (owner)** for a Wireless Communication Facility at 5001 Burlington Pike, Boone County, Kentucky. The request is for a 205 foot tall self-supporting lattice tower, with a 5 foot high lightning rod, and associated antennas and ground equipment.

Mrs. Steele left the meeting room.

Staff Member, Todd Morgan, reminded everyone that the Planning Commission takes final action and not the Fiscal Court based on State law. Mr. Morgan read the Committee Report, which recommended approval based upon Findings of Facts for the Wireless Communication Facility (see Committee Report). It was recommended unanimously for approval with Mr. Lunnemann, Mr. Hincks, Mrs. Goetting and Mr. Vaught voting in favor and Mrs. Steele abstaining.

Chairman Rolfsen asked if the applicant was in the audience and wanted to speak?

Mr. Jason Riggs, applicant, stated that the lighting rod was actually 10 feet and not 5 feet in length.

Seeing no further comment, **Mr. Lunnemann moved to approve the request based upon the Committee Report and subject to the Findings of Fact as presented. Mr. Vaught seconded the motion and it passed unanimously.**

Mrs. Steele returned to the meeting room.

CHANGE OF CONCEPT DEVELOPMENT PLAN, Rick Lunnemann, Chairman, Todd Morgan, Staff

6. Request of **Crosland Southeast, per Christopher W. Taft (applicant) for Farmview Commons LLC, per Hemakumar Soni (owner)** for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for an approximate 11.82 acre site located on the northeast corner of the US 42/Farmview Drive intersection and the southeast corner of the Old US 42/Farmview Drive intersection, Florence and Union, Kentucky. The request is for a Change in an Approved Concept Development Plan to permit an approximate 56,000 square foot grocery store with an attached liquor store and drive-through pharmacy, along with two outlots for retail, service, and/or eating and drinking establishment uses.

Staff Member, Todd Morgan, read the Committee Report, which recommended approval based upon Findings of Facts and Conditions for the Change in Concept Development Plan. Mr. Morgan noted most of the changes that were based on comments are reflected on the revised Concept Development Plan and that is why they are not reflected as conditions. He showed the revised Concept Development Plan and building elevations. It was recommended unanimously for approval with Mrs. Kegley, Mr. Lunnemann, Mr. Harper and Ms. Gulick voting in favor of the request. The applicant has signed the Condition letter.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. Jay Bayer, Project Engineer, stated that the Committee got together three times and he had nothing to add at this time. The owner also doesn't have any comments.

Seeing no further comment, **Mr. Lunnemann moved to approve the request by Resolution to the City of Florence and City of Union based upon the Committee Report and subject to the Findings of Fact and Conditions.** Mr. Szurlinski seconded the motion. Chairman Rolfsen inquired about the two outlots. Mr. Lunnemann replied that they worked through the design of the loading areas and traffic circulations. They also limited the number and type of used on lots 1 & 2. Only small truck deliveries are allowed. There will also be one monument sign for both outlots. Ms. Gulick noted that the applicant added an additional lane between the two buildings. Mrs. Steele inquired about the screen the roof tip equipment. Mr. Bayer replied they are boxed in and will be painted to match the building. **Chairman Rolfsen asked for a vote on the original motion made by Mr. Lunnemann and seconded by Mr. Szurlinski. The motion passed unanimously.**

TECHNICAL/DESIGN REVIEW, Rick Lunnemann, Chairman, Todd Morgan, Staff

7. Gordon Food Service – 5885 Merchants Street

Staff Member, Todd Morgan, referred to a PowerPoint presentation.

The applicant is proposing a freezer addition in the rear of the existing building. It will be 619 square feet. It will be made of the same building materials. The applicant is proposing three new building mounted signs totaling 200 square feet. They will be a "push-through" style sign.

Mr. Lunnemann moved to approve the request as submitted and presented with the stated condition of a "push-through" sign. Mr. Hincks seconded the motion and it passed unanimously.

NEW BUSINESS

CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN, Steve Lilly, Staff

8. Request of **Jillian Hunt (applicant)** for **MACS Property, LLC (owner)** for a Change in an Approved Concept Development Plan in a Commercial Services (C-3) zone for an approximate 3.4 acre area located at 2804 Idlewild Bypass, Boone County, Kentucky. The request is for a Change of Concept Development Plan from a landscape business to construction sales and service uses.

ZONING MAP AMENDMENT/CHANGE OF CONCEPT DEVELOPMENT PLAN/VARIANCE, Michael Schwartz, Staff

9. Request of **The Myers Y. Cooper Company, per Christopher E. Breda (applicant)** for **Em-A-Non Acres, LLC, per Dennis G. Davis (owner)** for: (1) a Zoning Map Amendment from Public Facility (PF) to Commercial Services (C-3) for an approximate 3.2 acre area located along the west side of Grand National

Boulevard, between Davis Lane and Overland Ridge, approximately 250 feet north of Overland Ridge, and being the southern portion of the property located at 11001 Grand National Boulevard, Boone County, Kentucky; (2) a Change of Concept Development Plan for an approximate 7.2 acre area located at 11001 Grand National Boulevard, which is currently zoned Commercial Services (C-3) and Public Facilities (PF) (proposed to be rezoned to C-3), Boone County, Kentucky; and (3) a Variance reducing the Buffer Yard width along a portion of the west property line from sixty (60) feet with a thirty (30) foot option to fifteen (15) feet, for an approximate 7.2 acre area located at 11001 Grand National Boulevard, Boone County, Kentucky. The request is for the development of three (3) commercial building sites.

Mrs. Goetting moved to schedule the Public Hearings for Items #1 and #2 on January 3, 2024 at 7:30 p.m. in the Fiscal Courtroom. Mr. Schwenke seconded the motion and it passed unanimously.

H. EXECUTIVE DIRECTOR'S REPORT:

Mr. Kevin P. Costello, AICP asked the full Board to adopt the 2024 office Holiday Schedule, the 2024 Business Meeting and Public Hearing date schedule, the 2024 Committee Meeting schedule and the 2024 Board of Adjustment schedules outlined in Mr. Costello's December 1, 2023 memo and as presented. **Mr. Vaught moved to adopt the four schedules as presented by Mr. Costello. Dr. Clark seconded the motion and it passed unanimously.**

Mr. Costello reported that the Staff is recommending the hiring of Mr. Baline Hovel as a GIS Analyst based upon the information sent to the Board on December 6, 2023. **Mr. Schwanke moved to hire Mr. Blaine Hovel as a GIS Analyst effective December 22, 2023 and subject to the conditions outlined by Mr. Costello in his memorandum/email. Mr. Turner seconded the motion and it passed unanimously.**

Mr. Costello added that Mr. Randy Bessler would like to continue being the Planning Commission's representative to the OKI Board of Trustees for 2024. **Ms. Gulick moved to appoint Mr. Bessler to serve as the Planning Commission's representative to the OKI Board of Trustees. Mr. Schwenke seconded the motion and it passed unanimously.**

Finally, Mr. Costello noted that there will be no Business Meeting on December 20, 2023. However, the Zone Change Committee will meet at 5:00 pm that day.

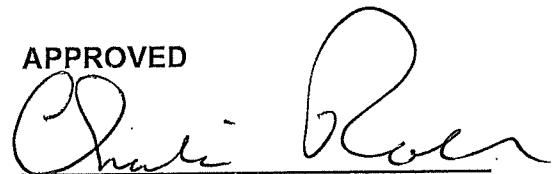
I. COMMITTEE REPORTS:

- Airport (Randy Bessler)
No Report
- Administrative/Personnel (Tom Szurlinski)
No Report

- Enforcement (Tom Szurlinski)
No Report
 - Long-Range Planning/Comprehensive Plan (Bob Schwenke)
No Report
 - Technical/Design Review (Rick Lunnemann)
No Report
 - Executive (Charlie Rolfsen)
No Report
- J. **CHAIRMAN'S REPORT:** (Charlie Rolfsen)
No Report
- K. **OKI REPORT:** (Randy Bessler)
No Report
- L. **OTHER**
Chairman Rolfsen announced that Mr. Schwenke and Mrs. Kegley will serve on the Nomination Committee. If anyone is interested in serving as an officer of the Planning Commission, contact either Mr. Schwenke or Mrs. Kegley. The 2024 Election of Officers will occur on January 3, 2024.
- M. **ADJOURNMENT:**

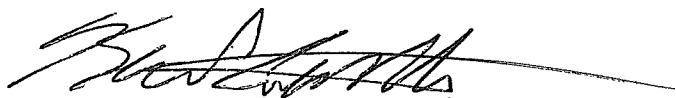
There being no further business to come before the Planning Commission, **Mr. Bessler moved to adjourn the meeting. Mrs. Goetting seconded the motion and it passed unanimously. The meeting was adjourned at 8:02 P.M.**

APPROVED



Charlie Rolfsen
Chairman

Attest:



Kevin P. Costello, AICP
Executive Director

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

November 16, 2023

Thomas J. Ackerman
9541 US 42 LLC
4010 North Bend Road, Suite 301
Cincinnati, Ohio 45211

RE: Request of **9541 US 42, LLC**, per **Thomas J. Ackerman (applicant)** for the **City of Union (owner)** for a Change in an Approved Concept Development Plan in a Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD) zone for lots 2 and 3 of Union Promenade Subdivision. The overall 2.531 acre site is located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY. The request is for a Change in an Approved Concept Development Plan to permit a grocery store.

Mr. Ackerman:

The following represents the recommended condition of approval for the above referenced application as discussed by the Planning Commission at their November 15, 2023 meeting. As you verbally agreed to this condition at that meeting, please so indicate by signing in the space provided at the end of this letter and return the original letter to the Planning Commission's office no later than Friday, December 1, 2023.

CONDITION

1. Within the island immediately to the west of the loading/unloading dock, any required trees should be evergreen trees (Plant List D), with the final plantings and locations to be approved by Staff.

Sincerely,

Michael D. Schwartz
Director, Zoning Services

MDS/ss

AGREEMENT

I, the property owner/developer of the approximate 2.531 acre area located at the southwest corner of US 42 and Childrens Way and the southeast corner of Childrens Way and Union Promenade, Union, KY, agree to the condition listed herein for the above referenced Change of Concept Development Plan.

Thomas J. Ackerman MANAGING MEMBER

9541 US 42 LLC (Developer)

THOMAS J. ACKERMAN

11/16/2023

Date

(ABOVE LINE FOR RECORDER'S USE ONLY)

SIGNAGE AND VIEWSHED EASEMENT AGREEMENT

THIS SIGNAGE AND VIEWSHED EASEMENT AGREEMENT ("Agreement") is made as of the 17th day of March, 2023 by and among **UNITED DAIRY FARMERS, INC.**, an Ohio corporation, whose address is 3955 Montgomery Road, Cincinnati, Ohio 45212 ("UDF") and **9541 US 42 LLC**, an Ohio limited liability company, whose address is 4010 North Bend Road, Suite 301, Cincinnati, Ohio 45211 ("9541"), together with UDF collectively defined as "Grantor") and **CHILDREN'S HOSPITAL MEDICAL CENTER**, an Ohio non-profit corporation, whose address is 333 Burnet Avenue, Cincinnati, Ohio 45229 ("Grantee"), under the following circumstances:

A. UDF is the fee owner of certain real estate consisting of approximately 2.014 acres of land, located on Florence Road (US 42) Union, Boone County, Kentucky and as more particularly described on Exhibit A attached hereto and made a part hereof ("Parcel A");

B. 9541 is the fee owner of certain real estate located adjacent to Parcel A consisting of approximately 1.371 acres of land, located on Florence Road (US 42) Union, Boone County, Kentucky and as more particularly described on Exhibit B attached hereto and made a part hereof ("Parcel B");

C. Grantee is the fee owner of certain real estate situated behind Parcel A and Parcel B, consisting of approximately 6.367 acres of land, located on Sweet Harmony Lane, Union, Boone County, Kentucky and more particularly described on Exhibit C attached hereto and made a part hereof ("Parcel C"); and

C. Grantor is willing to grant to Grantee certain easements on, over and across a portion of Grantor's Property, as further provided for herein.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

RETURN TO: 119 E COMPT ST. STE 414
CINCINNATI, OH 45202

- 2 -

1. DEFINITIONS. As used in this Agreement, unless the context otherwise requires, the following words shall mean respectively:

(a) "Agreement" means this Signage and Viewshed Easement Agreement, as the same may from time to time be amended.

(b) "Beneficiaries" means the Owner(s) (as hereinafter defined) of the Property or any part thereof; their heirs, successors and assigns, their tenants, their business invitees, guests, agents, and mortgagees of record, however, specifically excepting employees, contractors, and vendors of the respective Owner.

(c) "Owner" means with respect to any Parcel, the Owner(s) of record from time to time, whether one or more persons or entities, of an interest in fee simple, reversion, remainder or leasehold estate of 99 years or more. Such term shall include land contract vendees except for those having an interest merely as security for the performance of an obligation.

(d) "Parcel" means either Parcel A, Parcel B or Parcel C.

(e) "Property" means Parcel A, Parcel B and Parcel C.

(f) "Sign" means as defined in Section 3 below.

(g) "Signage Easement" means as defined in Section 3 below.

(h) "Signage Easement Area" means as defined in Section 3 below.

(i) "Viewshed Easement" means as defined in Section 2 below.

(j) "Viewshed Easement Area" means as defined in Section 2 below.

2. GRANT OF VIEWSHED EASEMENT. Grantor grants to Grantee, the Beneficiaries of Parcel C, their successor-in-interest and assigns, a perpetual, non-exclusive viewshed easement (the "Viewshed Easement") on, over and across a portion of Parcel A and Parcel B, in such area as depicted on the Site Plan attached hereto as Exhibit D and made a part hereof (the "Viewshed Easement Area"). The Viewshed Easement is for the purpose of preserving the view from Parcel C to Florence Road (US 42). Grantor shall not construct or permit the construction of any buildings or structures on the View Shed Easement Area unless such construction or, as the case may be, height increase has first been approved in writing by each Grantee, which approval may only be withheld if such proposed additional buildings or structures or, as the case may be, height increase will or are reasonably likely to impair the view from Parcel C to Florence Road (US 42), as determined in Grantee's reasonable discretion. Grantor shall be permitted to install driveways and parking spaces in the Viewshed Easement

- 3 -

Area, without having to obtain the prior consent of Grantee. Grantor shall also be permitted to install low growing landscaping in the Viewshed Easement Area, subject to the prior approval of Grantee, which approval shall not be unreasonably withheld, which means that if the City of Union, Kentucky requires certain landscaping and/or trees to be installed in the Viewshed Easement Area, then Grantee may not withhold its consent.

3. GRANT OF SIGNAGE EASEMENT. 9541 hereby grants to Grantee, the Beneficiaries of Parcel C, their successor-in-interest and assigns, a perpetual, exclusive signage easement ("Signage Easement") on, over and across a portion of Parcel B as more particularly depicted on the Site Plan attached hereto as Exhibit D and made a part hereof (the "Signage Easement Area"), for the purpose of installing, maintaining, repairing and replacing a ground monument sign identifying the business to be conducted on Parcel C (the "Sign"). Grantee agrees that no alterations will be made to the Sign which would have a material adverse impact on the Beneficiaries of Parcel B without obtaining the prior written consent of the Owner of Parcel B, provided the Owner of Parcel B's rights shall be subject to Grantee's right to replace the Sign with a sign of the same size (or smaller), materials and quality of the initial Sign to be installed.

4. REPAIR AND MAINTENANCE. Grantee shall be responsible for one hundred percent (100%) of the costs to maintain, repair and replace the Sign in the Signage Easement Area. Grantee shall continuously maintain the Sign in an attractive and good condition, reasonable wear and tear excepted. Notwithstanding the foregoing, if any damage to the Sign is caused by the negligence or willful misconduct of 9541, then 9541 shall be responsible for such damage and shall promptly restore, at its sole cost and expense, any disturbed areas as nearly as possible to the condition existing prior to the occurrence of the damage.

5. USE OF EASEMENT AREA. 9541 shall not impede or obstruct Grantee's access to the Signage Easement Area for the exercise by Grantee of the rights, duties and obligations and the performance by Grantee of the duties set forth herein.

6. PUBLIC LIABILITY INSURANCE. The Owner of Parcel C or its tenant(s) shall insure itself against liability for bodily injury, disease, illness or death and for injury to or destruction of property arising from the maintenance, repair and replacement of the Sign. Such insurance shall afford protection to a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) in respect to any one occurrence, and to the limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) in respect to damage to or destruction of property arising out of any one accident.

7. LIABILITY; INDEMNIFICATION. 9541 and Grantee shall indemnify and hold each other harmless from and against any damages, liability, actions, claims, and expenses

- 4 -

(including reasonable attorneys' fees) in connection with the loss of life, personal injury and/or damage to property related to the Signage Easement arising from or occasioned wholly or in part by any negligent or willful act or omission of said party.

8. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

9. BINDING EFFECT; COVENANT RUNNING WITH LAND. The easement created in this Agreement shall exist by virtue of this Agreement without the necessity of confirmation by any other document, and shall be perpetual, exclusive and irrevocable and shall inure to the benefit of and be binding upon, the parties hereto and their respective heirs, executors, successors and assigns in interest to their respective properties. The Owners of the Property, by acceptance of a deed conveying title thereto, shall accept said deed subject to all provisions of this Agreement.

10. COUNTERPART. This Agreement may be executed by both parties in counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same Agreement.

11. MODIFICATIONS. No agreement shall be effective to add to, change, modify, waive or discharge this Agreement in whole or in part, unless such agreement is in writing and signed by (a) all the Owners of the Property in the case of a modification related to the Viewshed Easement or (b) the Owners of Parcel B and Parcel C in the case of a modification related to the Signage Easement. Such modification must be recorded and approved by all mortgagees of the applicable Parcels.

12. HEADINGS. The headings herein are for convenience and reference only and in no way define and limit the scope and content of this Agreement or in any way affect its provisions.

13. SEVERABILITY. In case anyone or more of the provisions set forth in the Agreement shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such provision had never been contained herein.

14. NO WAIVER. The failure of Grantor and/or Grantee in any one or more instances, to insist upon compliance with any provision or covenant herein or to exercise any right or privilege herein shall not constitute or be construed as a waiver of such or any similar provision or covenant, including the right to cure a breach or default, but the same shall continue and remain in full force and affect, as if no such forbearance has occurred.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

GRANTOR:

UDF:

UNITED DAIRY FARMERS, INC., an Ohio corporation

By: [Signature]

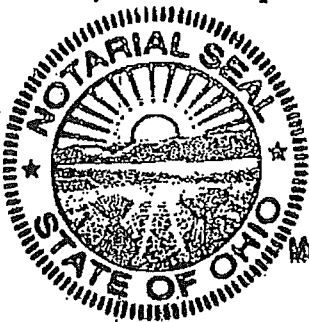
Name: Robert B Lindner Jr.

Title: Chairman of the Board

STATE OF OHIO)
) ss
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 17 day of March, 2023, by Robert B Lindner Jr., as Chairman of the Board of UNITED DAIRY FARMERS, INC., an Ohio corporation, on behalf of the corporation.

[Signature]
Notary Public



STEFFANIE HARRISON
Notary Public, State of Ohio
My Commission Expires 07-23-2024

9541:

9541 US 42 LLC, an Ohio limited liability company

By: ACKME Development I LLC,
an Ohio limited liability company
Its Managing Member

By: *Thomas J. Ackermann*
Thomas J. Ackermann, Managing
Member

STATE OF OHIO)
) ss
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 16th day of March, 2023, by Thomas J. Ackermann, Managing Member of ACKME Development I LLC, an Ohio limited liability company, as Managing Member of 9541 US 42 LLC, an Ohio limited liability company, on behalf of the limited liability companies.

Brittany Otto
Notary Public



BRITTANY N. OTTO
Notary Public, State of Ohio
My Commission Expires
July 19, 2025

EXHIBIT A

Legal Description of Parcel A

PIDN NUMBER: 063.00-31-001.00

GROUP NUMBER: 5741

Situated in the City of Union, Boone County, Kentucky, and being all of Lot 1 Union Promenade Section 1 as recorded in Plat Cabinet 6, Page 435 in the Office of the Boone County Clerk at Burlington, Kentucky,

EXHIBIT B

Legal Description of Parcel B

PIDN NUMBER: 063.00-31-002.00
GROUP NUMBER: 5741

Situated in the City of Union, Boone County, Kentucky, and being all of Lot 2 Union Promenade Section 1 as recorded in Plat Cabinet 6, Page 435 in the Office of the Boone County Clerk at Burlington, Kentucky.

EXHIBIT C

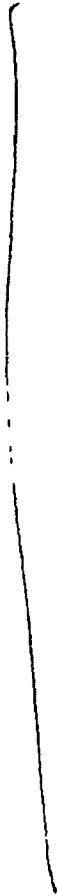
Legal Description of Parcel C

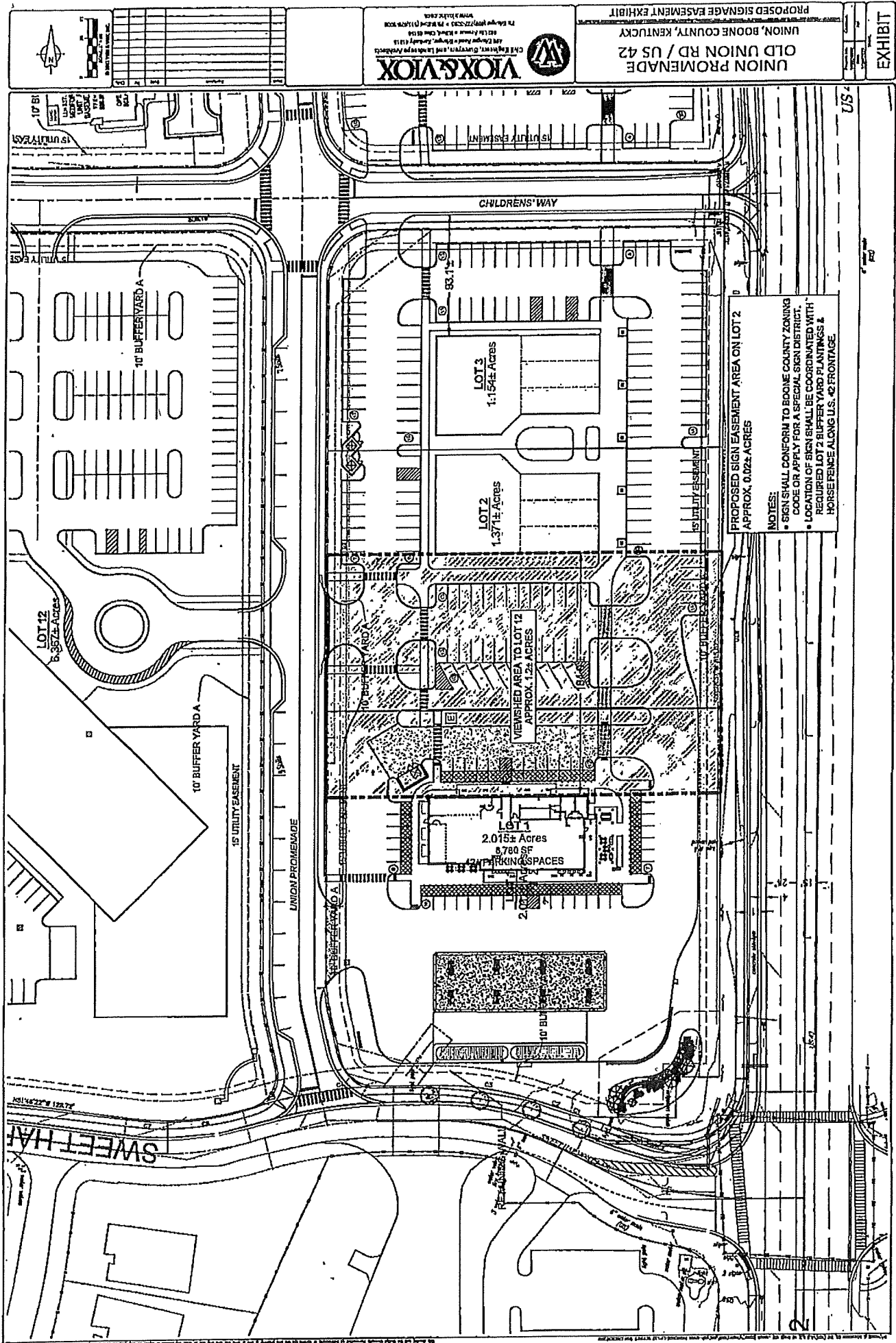
PIDN NUMBER: 063.00-31-012.00
GROUP NUMBER: 5741

Situated in the City of Union, Boone County, Kentucky, and being all of Lot 12 Union Promenade Section 1 as recorded in Plat Cabinet 6, Page 435 in the Office of the Boone County Clerk at Burlington, Kentucky.

EXHIBIT D

Site Plan of Viewshed Easement Area and Signage Easement Area



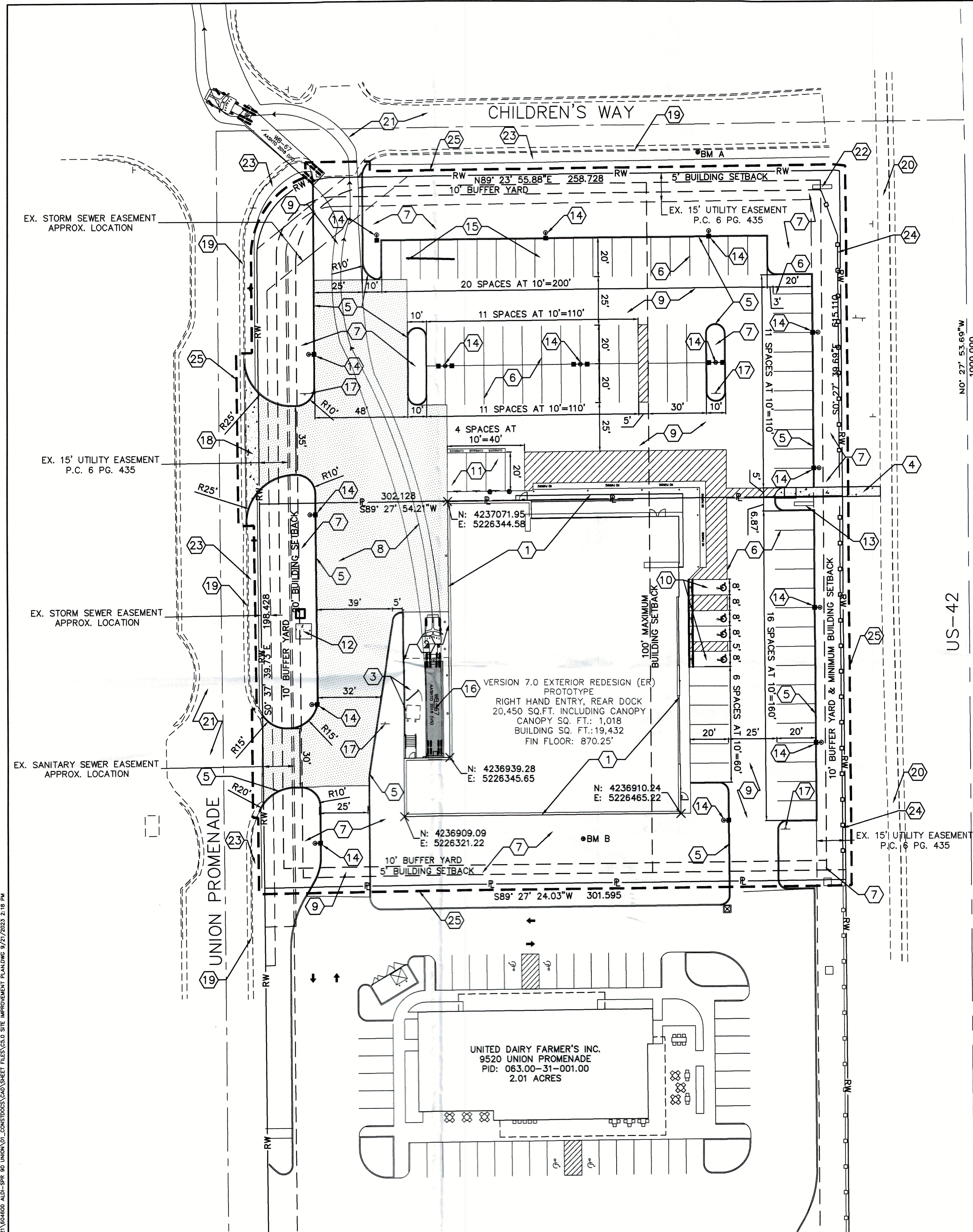


VIOS&VIOX
Civil Engineers, Surveyors, and Landscape Architects
485 Chicago Road • Boone, Kentucky 40306
502.338.8888
Fax: 502.338.8889
www.viosandviox.com

UNION, BOONE COUNTY, KENTUCKY
OLD UNION RD / US 42
UNION PROMENADE
PROPOSED SIGNAGE EASEMENT EXHIBIT

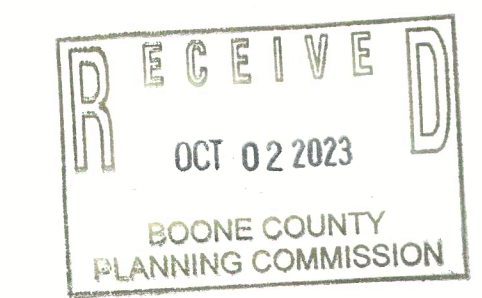
EXHIBIT

NOTES:
• SIGN SHALL CONFORM TO BOONE COUNTY ZONING CODE OR APPLY FOR A SPECIAL SIGN DISTRICT.
• LOCATION OF SIGN SHALL BE COORDINATED WITH REQUIRED LOT 2 BUFFER YARD PLANTINGS & HORSE FENCE ALONG U.S. 42 FRONTAGE.



CHANGE OF CONCEPT
DEVELOPMENT PLAN
APPROVED with Condition
Staff M. Schwartz
Date 12/16/2023
Boone County
Planning Commission

- KEYED NOTES (X)**
1. PROPOSED BUILDING FOOTPRINT. SEE ARCHITECTURAL DRAWINGS FOR BUILDING, CONCRETE TRUCK DOCK, AND EXTERIOR SIDEWALKS.
 2. RECESSED TRUCK DOCK. SEE ARCHITECTURAL DRAWINGS.
 3. DUMPSTER AND GATE. SEE ARCHITECTURAL DRAWINGS.
 4. KYTC SPEC 505 CONCRETE WALK.
 5. KYTC SPEC 506 STANDARD HEADER CURB. KYTC STANDARD DRAWING RPM-100-11.
 6. KYTC SPEC 713 PAVEMENT STRIPING. STRIPING TO BE 4" WIDE AND YELLOW IN COLOR (TYPICAL).
 7. LANDSCAPE AREA. SEE LANDSCAPE PLAN.
 8. HEAVY DUTY ASPHALT PAVING. SEE SITE DETAILS SHEET.
 9. STANDARD DUTY ASPHALT PAVING. SEE SITE DETAILS SHEET.
 10. ACCESSIBLE PARKING. SEE SITE DETAILS SHEET.
 11. CURBSIDE PICKUP PARKING STALL (TYP OF 3). SEE SITE DETAILS SHEET.
 12. TRANSFORMER PAD.
 13. PROPOSED MONUMENT SIGN. SEE SEPARATE SIGN DRAWINGS.
 14. SITE LIGHT. SEE PHOTOMETRIC PLAN AND SITE DETAILS SHEET.
 15. FUTURE ELECTRIC VEHICLE CHARGING SPACE. (TYP OF 8). SEE SITE LIGHTING ELECTRICAL PLAN.
 16. 10 FT x 50 FT LOADING SPACE.
 17. CURBSIDE PICKUP PARKING DIRECTIONAL SIGNAGE. SEE SITE DETAILS SHEET.
 18. PROPOSED CONCRETE DRIVEWAY PER KYTC STANDARD DRAWING RPM-150-08.
 19. EXISTING CURB AND GUTTER TO REMAIN.
 20. EXISTING CONCRETE WALK TO REMAIN.
 21. EXISTING ASPHALT PAVEMENT TO REMAIN.
 22. FUTURE DEVELOPMENT MONUMENT SIGN BY OTHERS.
 23. 5' CONCRETE WALK TO BE INSTALLED BY DEVELOPER.
 24. PROPOSED THREE RAIL PVC HORSE FENCE.
 25. LIMITS OF CONSTRUCTION.



- STAKING NOTES**
- A. DIMENSIONS SHOWN ARE TO EXTERIOR FACE OF BUILDING WALL OR FACE OF CURB.
 - B. COORDINATES SHOWN ARE TO CORNER OF FOUNDATION WALL. BUILDING LAYOUT SHALL BE PROVIDED AS SHOWN ON ARCHITECTURAL PLANS.
 - C. ALL CURB RADII ARE 5' UNLESS OTHERWISE NOTED.
 - D. BUILDING AND PARKING SPACES ARE PARALLEL AND PERPENDICULAR TO PROPERTY LINE LABELED, S0°27'39.69"E, AS TAKEN FROM SURVEY.
 - E. ALL EXISTING CONDITIONS, TOPOGRAPHY, UTILITIES AND PROPERTY INFORMATION ARE TAKEN FROM SURVEY OF LAND SITUATED IN CITY OF UNION, COUNTY OF BOONE, STATE OF KENTUCKY, BY SURVEYOR: DLZ

ZONING INFORMATION:
ADDRESS: XXXX UNION PROMENADE
PARCEL AREA: 110,294 SF (2.53 AC)
EX ZONING DISTRICT: (UC) UNION COMMERCIAL

BUILDING SETBACK: 10' MIN - 100' MAX FROM US-42 R/W
20' FROM UNION PROMENADE R/W
5' FROM CHILDREN'S WAY R/W
5' FROM SOUTH P/L

PARKING SETBACK: 10' FROM US-42 R/W
10' FROM UNION PROMENADE R/W
10' FROM CHILDREN'S WAY R/W
10' FROM SOUTH P/L

ADJACENT ZONING DISTRICT:
NORTH: UC - UNION COMMERCIAL
SOUTH: UC - UNION COMMERCIAL
EAST: RSE - RESIDENTIAL SUBURBAN ESTATES
WEST: UNO - NEIGHBORHOOD OFFICE ZONE

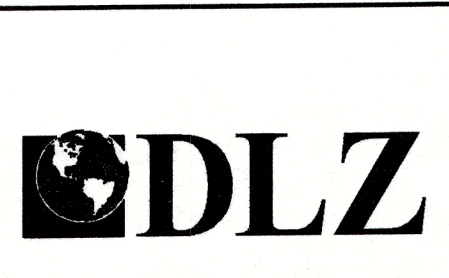
ADJACENT USE:
NORTH: COMMERCIAL
SOUTH: CONVENIENCE STORE/GAS STATION
EAST: RESIDENTIAL
WEST: HOSPITAL

PARKING:
REQUIRED: MINIMUM 1 SPACE PER 300 SF OF GROSS FLOOR AREA
MAXIMUM 1 SPACE PER 200 SF OF GROSS FLOOR AREA
19,432 SF REQUIRES 65-98 SPACES
PROVIDED: (4) ADA ACCESSIBLE SPACES + (85) 10'X20' SPACES = 89 SPACES PROVIDED

BUILDING:
PROPOSED USE: GROCERY STORE
OF FLOORS: 1
TOTAL FLOOR AREA: 19,432 SF
HEIGHT: 28'-10"

LEGEND:
[Pattern] HEAVY DUTY ASPHALT PAVEMENT.

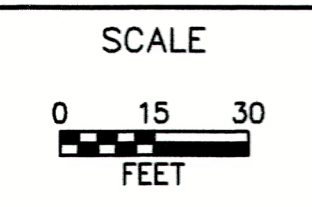
- NOTES**
1. CONTRACTOR SHALL CLEAN AND SEAL EDGE OF EXISTING PAVEMENT PRIOR TO CONSTRUCTING PROPOSED PAVEMENT.
 2. CONTRACTOR IS RESPONSIBLE FOR LOCATING AND VERIFYING ALL EXISTING UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION, AND IS RESPONSIBLE FOR ANY DAMAGE TO THEM DURING CONSTRUCTION.
 3. UTILITY LOCATIONS ARE APPROXIMATE, BASED ON LOCATION OF ABOVE GROUND APPURTENANCES, AND AS TAKEN FROM THE SURVEY. UNDERGROUND UTILITIES NOT SHOWN HEREIN MAY EXIST.
 4. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR AND TAKE ALL PRECAUTIONS NECESSARY TO AVOID DAMAGE TO ADJACENT PROPERTIES DURING THE CONSTRUCTION PHASES OF THIS PROJECT.



No.	BY Int.	DATE Mo./Dy./Yr.	REVISIONS Remarks	PROJ. PERSONNEL Initials	DATE Mo./Dy./Yr.
				DES.	
				DWN.	
				CKD.	



ALDI STORE #90
XXXX UNION PROMENADE
UNION, KY 41091
BOONE COUNTY

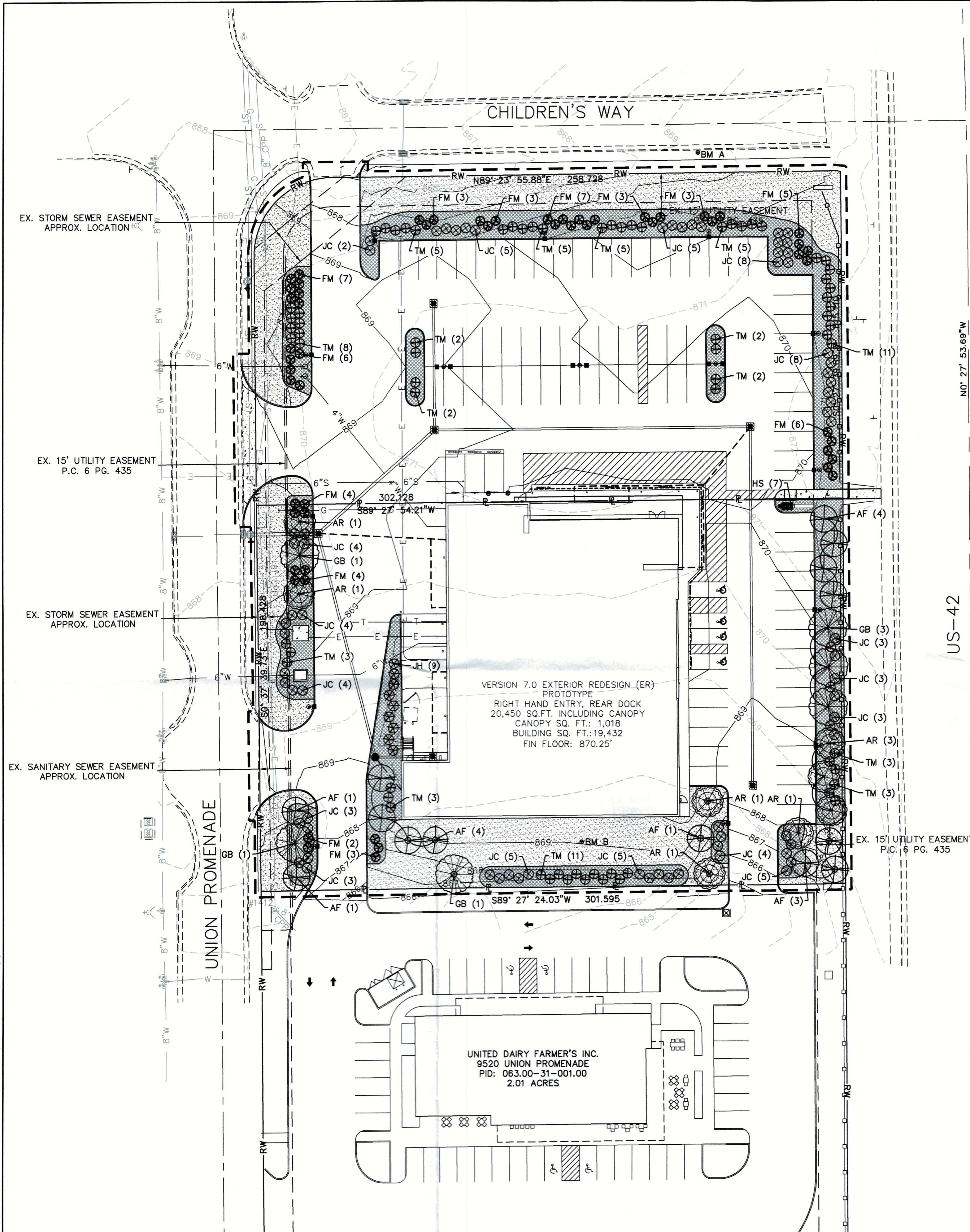


SITE IMPROVEMENT PLAN



ISSUED STATUS: XXX
SHEET **C5.0**
DATE ISSUED: 09/21/2023
Mo./Dy./Yr.

KORINA PIERO X:\PROJECTS\2023\2321\04400 ALDI-SPE 90 UNION\1_DWG\0100 LANDSCAPE PLAN.DWG 9/2/2023 3:43 PM



LEGEND
 TURF SEED - [Symbol]
 MULCH - [Symbol]

GENERAL NOTES

- A. CONTRACTOR TO FIELD LOCATE (STAKE AND MARK) PLANT LOCATIONS FOR REVIEW BY ENGINEER PRIOR TO INSTALLATION. THE ENGINEER RESERVES THE RIGHT TO FIELD ADJUST ALL PLANT LOCATIONS AS MAY BE NECESSARY.
- B. SEED ALL AREAS WHICH ARE DISTURBED BY CONSTRUCTION/ INSTALLATION ACTIVITIES IN ACCORDANCE WITH SPECIFICATIONS. ALL DISTURBED AREAS NOT COVERED BY BUILDINGS OR PAVING SHALL BE SEEDED AND WATERED UNTIL A HEALTHY STAND OF GRASS IS OBTAINED.
- C. CLEAR AND GRUB ALL AREAS DESIGNATED FOR PROPOSED PLANTING/IMPROVEMENTS AS NECESSARY TO INSTALL PROPOSED LAWN AND/OR PLANTINGS.
- D. UTILITIES SHOWN ARE APPROXIMATE, FIELD VERIFY LOCATIONS PRIOR TO COMMENCEMENT OF LANDSCAPING ACTIVITIES.
- E. DECIDUOUS SHADE TREES WILL HAVE UNIFORM CROWN AND FORM AND BE EVENLY LIMBED TO A MINIMUM HEIGHT ABOVE GRADE OF 5'-0", UNLESS OTHERWISE SPECIFIED. ALL TREES AND SHRUBS SHALL BE LOCATED A MINIMUM OF 2'-6" FROM THE FACE OF THE CURB WHERE POSSIBLE.
- F. ALL PLANTING BEDS TO RECEIVE 3" SHREDDED HARDWOOD MULCH. TREES IN LAWN AREA SHALL HAVE A 3' DIA. MULCH RING.
- G. PROVIDE MIN. 4" TOPSOIL AT ALL AREAS TO BE SEEDED. PROVIDE MIN. 12" TOPSOIL AT ALL PLANTING BEDS.
- H. ALL PLANT MATERIALS SHALL COMPLY WITH THE LATEST EDITION OF A.N.A. STANDARDS FOR NURSERY STOCK.
- I. ALL LANDSCAPING SHALL BE GUARANTEED FOR ONE (1) YEAR AFTER FINAL ACCEPTANCE. ANY PLANTINGS NEEDING REPLACEMENT WILL BE GUARANTEED FROM THE TIME OF REPLACEMENT IF AFTER FINAL ACCEPTANCE.
- J. LAWNS SHALL BE SEEDED WITH A LOCALLY ADAPTIVE TURF SEED MIX UTILIZING THE HYDROSEEDING METHOD. APPLICATION FERTILIZER SHALL BE PLACED AT A MINIMUM OF 80 POUNDS PER ACRE, HYDROMULCH AT 1,200 POUNDS PER ACRE, WATER AT 500 GALLONS PER ACRE, AND SEED AT A MINIMUM OF 220 POUNDS PER ACRE.
- K. TWO LAYERS OF ULTRA-VIOLET LIGHT RESISTANT WEED BARRIER MADE FROM FIBERGLASS SHALL BE PLACED UNDER ALL PLANTING BEDS, INCLUDING EXISTING, PRIOR TO MULCHING.
- L. ALL PLANTING BEDS SHALL BE GRADED SMOOTH AND FREE OF SOIL CLOUDS AND STONES. LAWN AREAS SHALL BE FREE OF STONES GREATER THAN 2".
- M. ALL PLANTS ARE TO BE REMOVED FROM CONTAINERS, CAGES AND OTHER NON-BIODEGRADABLE MATERIALS.
- N. PLANT QUANTITIES HAVE BEEN PROVIDED FOR CONVENIENCE ONLY. THE CONTRACTOR IS RESPONSIBLE FOR HIS OWN "TAKE-OFFS". DRAWING PREVAILS OVER WRITTEN QUANTITIES.
- O. NURSERY STOCK IDENTIFICATION TAGS SHALL NOT BE REMOVED FROM ANY PLANTING PRIOR TO INSPECTION AND APPROVAL OF FINAL INSTALLATION BY THE CITY.
- P. SEE LANDSCAPE DETAILS SHEET FOR ALL PLANTING DETAILS.

PLANT SCHEDULE

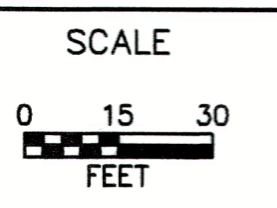
DECIDUOUS TREES	BOTANICAL NAME	COMMON NAME	CONT.	QTY.	SPACING	REMARKS
AF	ACER x FREEMANII 'ARMSTRONG'	ARMSTRONG MAPLE	B&B	14		2.5" CALIPER
AR	ACER RUBRUM 'COLUMNARE'	COLUMNAR RED MAPLE	B&B	8		2.5" CALIPER
GB	GINKGO BILOBA 'FASTIGIATA'	FASTIGIATE GINKGO	B&B	6		2.5" CALIPER
SHRUBS	BOTANICAL NAME	COMMON NAME	CONT.	QTY.	SPACING	REMARKS
FM	FOTHERGILLA MAJOR 'MT AIRY'	MT AIRY FOTHERGILLA	B&B	57	5' O.C.	24" HT.
JC	JUNIPERUS CHINENSIS 'SEA GREEN'	SEA GREEN JUNIPER	B&B	74	5' O.C.	24" HT.
JH	JUNIPERUS CHINENSIS 'HETZLI COLUMNARIS'	GREEN COLUMNAR JUNIPER	B&B	9	6' O.C.	6' HT.
TM	TAXUS X MEDIA 'DENSIFORMIS'	DENSE YEW	B&B	70	5' O.C.	24" HT.
PERENNIALS	BOTANICAL NAME	COMMON NAME	CONT.	QTY.	SPACING	REMARKS
HS	HEMEROCALLIS X 'STELLA DE ORO'	STELLA DE ORO DAYLILY	#1	7	2' O.C.	



No.	BY	DATE	REVISIONS	PROJ. PERSONNEL	DATE
	Int.	Mo./Dy./Yr.	Remarks	Initials	Mo./Dy./Yr.
				DES.	
				DWN.	
				CKD.	



ALDI STORE #90
 XXXX UNION PROMENADE
 UNION, KY 41091
 BOONE COUNTY



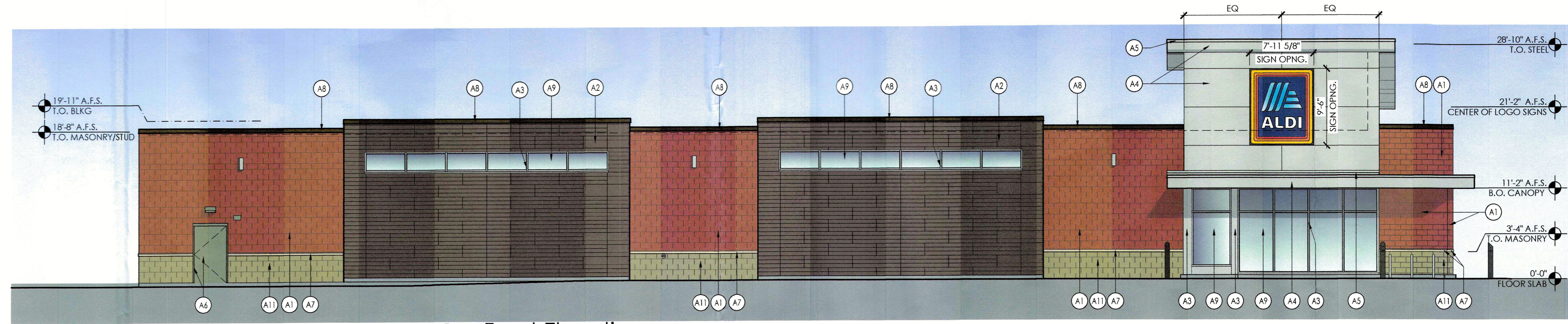
LANDSCAPE PLAN



ISSUED STATUS: XXX
 SHEET **C10.0**
 DATE ISSUED: 09/05/2023
 Mo./Dy./Yr.

V7.0 ER PROTOTYPE - NOT FOR CONSTRUCTION

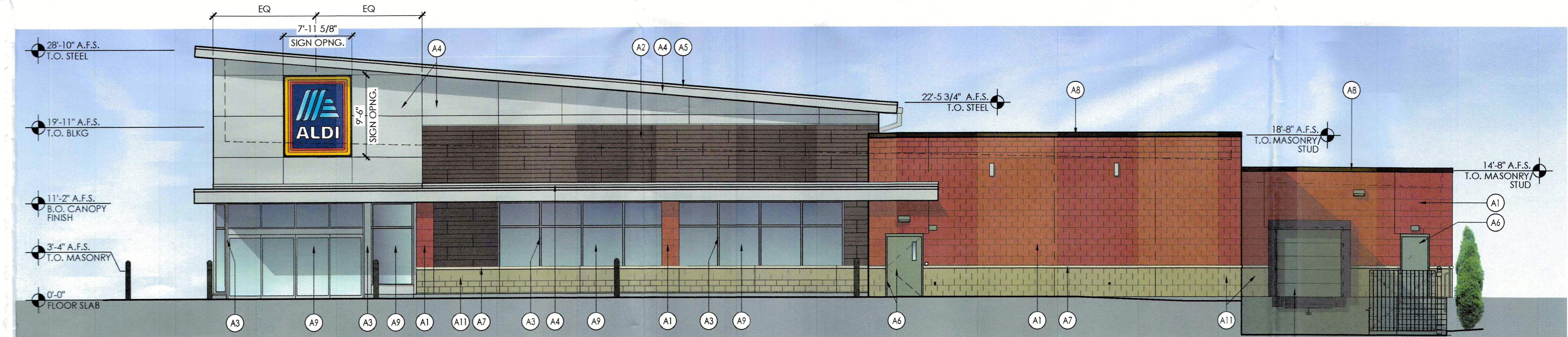
Signage for Illustrative Purposes Only.



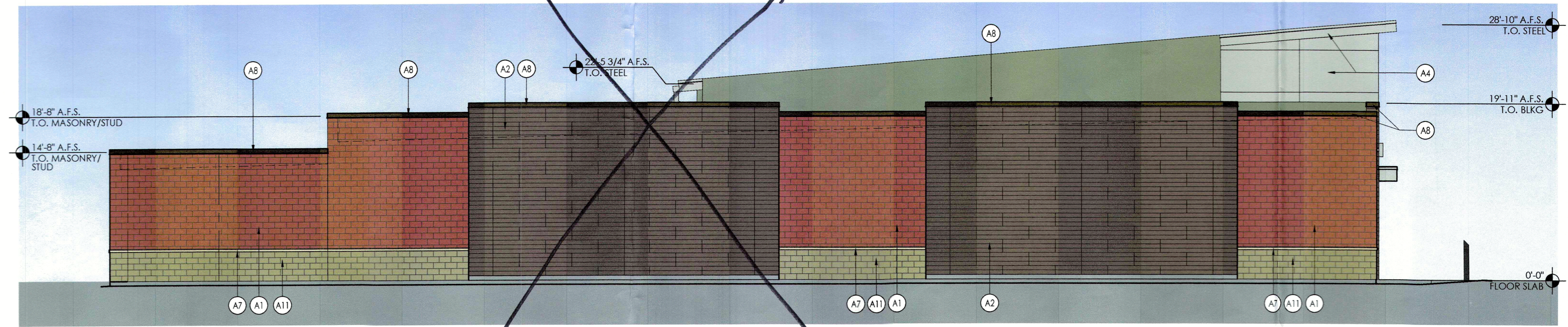
4 Front Elevation
SCALE: 1/8" = 1'-0"



3 Rear Elevation
SCALE: 1/8" = 1'-0"



2 Side Elevation
SCALE: 1/8" = 1'-0"



1 Side Elevation
SCALE: 1/8" = 1'-0"

DESCRIPTION	QUANTITY	SQ. FT. PER SIGN	TOTALS
TOWER SIGN	2	74.9	149.8
TOTAL SIGNAGE			149.8

TOTAL SIGNAGE IS SHOWN FOR REFERENCE ONLY AND SHALL BE UNDER SEPARATE PERMIT SUBMITTAL

MATERIAL LEGEND

A1 SPEC BRIK STANTON BLEND SMOOTH	A2 FIBER CEMENT BOARD - NICHHA BARK (VINTAGE WOOD)	A3 ALUMINUM STOREFRONT - CLEAR ANODIZED ALUMINUM
A4 ALUMINUM COMPOSITE PANEL - BRIGHT SILVER	A5 FIRESTONE - SILVER METALLIC	A6 EXTERIOR PAINT SHERWIN WILLIAMS - #7504 KEYSTONE GRAY
A7 CAST STONE CAP TANNERSTONE AG-1	A8 EDGE METAL - AGED BRONZE	A9 CLEAR GLASS
A10 SPANDEL GLASS	A11 WATER TABLE - JARED TAN SPLIT-FACE	

Issued:	Date:
Concept No 1	09/29/23
Revisions:	Date:

DO NOT SCALE PLANS
Copying, Printing, Software and other processes required to produce these prints can stretch or shrink the actual paper or layout. Therefore, scaling of this drawing may be inaccurate. Contact ms consultants with any need for additional dimensions or clarifications.

ms consultants, inc.
engineers, architects, planners
2221 Schrock Road
Columbus, Ohio 43229-1547
phone 614.898.7100
fax 614.898.7570

DRAWN BY: NAW

REVIEWED BY: TJG

Seal

ALDI Inc.
4400 S. Charleston Pike
Springfield, OH 45502
(937) 325-5500
(937) 325-0223 fax

ALDI Inc. Store #: XX
Union, KY
US 42 & Sweet Harmony LN
Union, KY 41091
Boone County
Project Name & Location:

Exterior Elevations Drawing Name:	
Prototype Rls. 02/01/23	Project No. 40507-13
Type: RHRDV7ER	XXX A-201
Scale: As Noted	Drawing No.



- KEYED NOTES (X)**
1. PROPOSED BUILDING FOOTPRINT. SEE ARCHITECTURAL DRAWINGS FOR BUILDING, CONCRETE TRUCK DOCK, AND EXTERIOR SIDEWALKS.
 2. RECESSED TRUCK DOCK. SEE ARCHITECTURAL DRAWINGS.
 3. DUMPSTER AND GATE. SEE ARCHITECTURAL DRAWINGS.
 4. KYTC SPEC 505 CONCRETE WALK.
 5. KYTC SPEC 506 STANDARD HEADER CURB. KYTC STANDARD DRAWING RPM-100-11.
 6. KYTC SPEC 713 PAVEMENT STRIPING. STRIPING TO BE 4" WIDE AND YELLOW IN COLOR (TYPICAL).
 7. LANDSCAPE AREA. SEE LANDSCAPE PLAN.
 8. HEAVY DUTY ASPHALT PAVING. SEE SITE DETAILS SHEET.
 9. STANDARD DUTY ASPHALT PAVING. SEE SITE DETAILS SHEET.
 10. ACCESSIBLE PARKING. SEE SITE DETAILS SHEET.
 11. CURBSIDE PICKUP PARKING STALL (TYP OF 3). SEE SITE DETAILS SHEET.
 12. TRANSFORMER PAD.
 13. PROPOSED MONUMENT SIGN. SEE SEPARATE SIGN DRAWINGS.
 14. SITE LIGHT. SEE PHOTOMETRIC PLAN AND SITE DETAILS SHEET.
 15. FUTURE ELECTRIC VEHICLE CHARGING SPACE. (TYP OF 8). SEE SITE LIGHTING ELECTRICAL PLAN.
 16. 10 FT x 50 FT LOADING SPACE.
 17. CURBSIDE PICKUP PARKING DIRECTIONAL SIGNAGE. SEE SITE DETAILS SHEET.
 18. PROPOSED CONCRETE DRIVEWAY PER KYTC STANDARD DRAWING RPM-150-08.
 19. EXISTING CURB AND GUTTER TO REMAIN.
 20. EXISTING CONCRETE WALK TO REMAIN.
 21. EXISTING ASPHALT PAVEMENT TO REMAIN.
 22. FUTURE DEVELOPMENT MONUMENT SIGN BY OTHERS.
 23. 5' CONCRETE WALK TO BE INSTALLED BY DEVELOPER.
 24. PROPOSED THREE RAIL PVC HORSE FENCE.
 25. LIMITS OF CONSTRUCTION.

- STAKING NOTES**
- A. DIMENSIONS SHOWN ARE TO EXTERIOR FACE OF BUILDING WALL OR FACE OF CURB.
 - B. COORDINATES SHOWN ARE TO CORNER OF FOUNDATION WALL. BUILDING LAYOUT SHALL BE PROVIDED AS SHOWN ON ARCHITECTURAL PLANS.
 - C. ALL CURB RADII ARE 5' UNLESS OTHERWISE NOTED.
 - D. BUILDING AND PARKING SPACES ARE PARALLEL AND PERPENDICULAR TO PROPERTY LINE LABELED, S0°27'39.69"E, AS TAKEN FROM SURVEY.
 - E. ALL EXISTING CONDITIONS, TOPOGRAPHY, UTILITIES AND PROPERTY INFORMATION ARE TAKEN FROM SURVEY OF LAND SITUATED IN CITY OF UNION, COUNTY OF BOONE, STATE OF KENTUCKY, BY SURVEYOR: DLZ

ZONING INFORMATION:
 ADDRESS: XXXX UNION PROMENADE
 PARCEL AREA: 110,294 SF (2.53 AC)
 EX ZONING DISTRICT: (UC) UNION COMMERCIAL

BUILDING SETBACK: 10' MIN - 100' MAX FROM US-42 R/W
 20' FROM UNION PROMENADE R/W
 5' FROM CHILDREN'S WAY R/W
 5' FROM SOUTH P/L

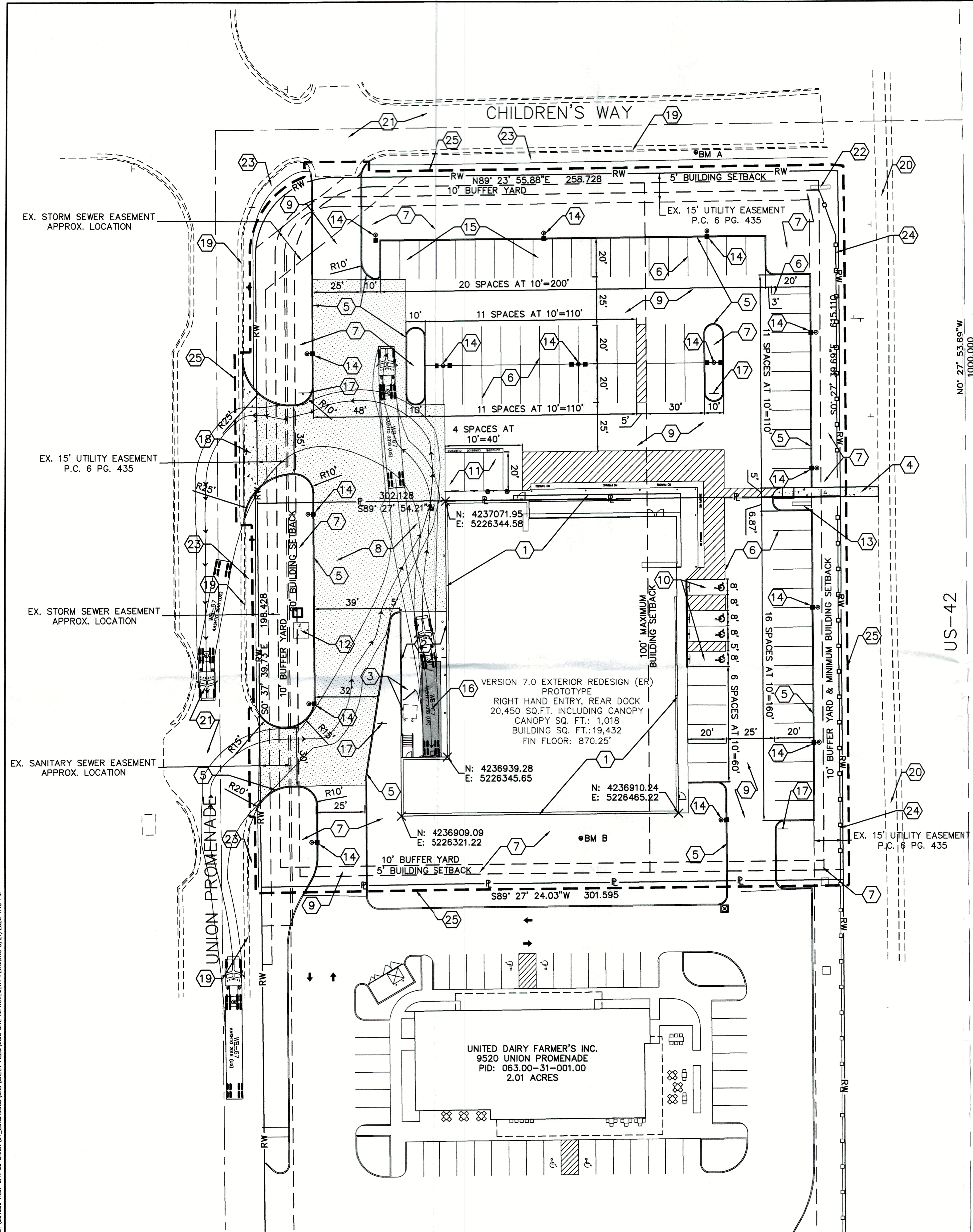
PARKING SETBACK: 10' FROM US-42 R/W
 10' FROM UNION PROMENADE R/W
 10' FROM CHILDREN'S WAY R/W
 10' FROM SOUTH P/L

ADJACENT ZONING DISTRICT:
 NORTH: UC - UNION COMMERCIAL
 SOUTH: UC - UNION COMMERCIAL
 EAST: RSE - RESIDENTIAL SUBURBAN ESTATES
 WEST: UNO - NEIGHBORHOOD OFFICE ZONE

ADJACENT USE:
 NORTH: COMMERCIAL
 SOUTH: CONVENIENCE STORE/GAS STATION
 EAST: RESIDENTIAL
 WEST: HOSPITAL

PARKING:
 REQUIRED: MINIMUM 1 SPACE PER 300 SF OF GROSS FLOOR AREA
 MAXIMUM 1 SPACE PER 200 SF OF GROSS FLOOR AREA
 19,432 SF REQUIRES 65-98 SPACES
 PROVIDED: (4) ADA ACCESSIBLE SPACES + (85) 10'x20' SPACES = 89 SPACES PROVIDED

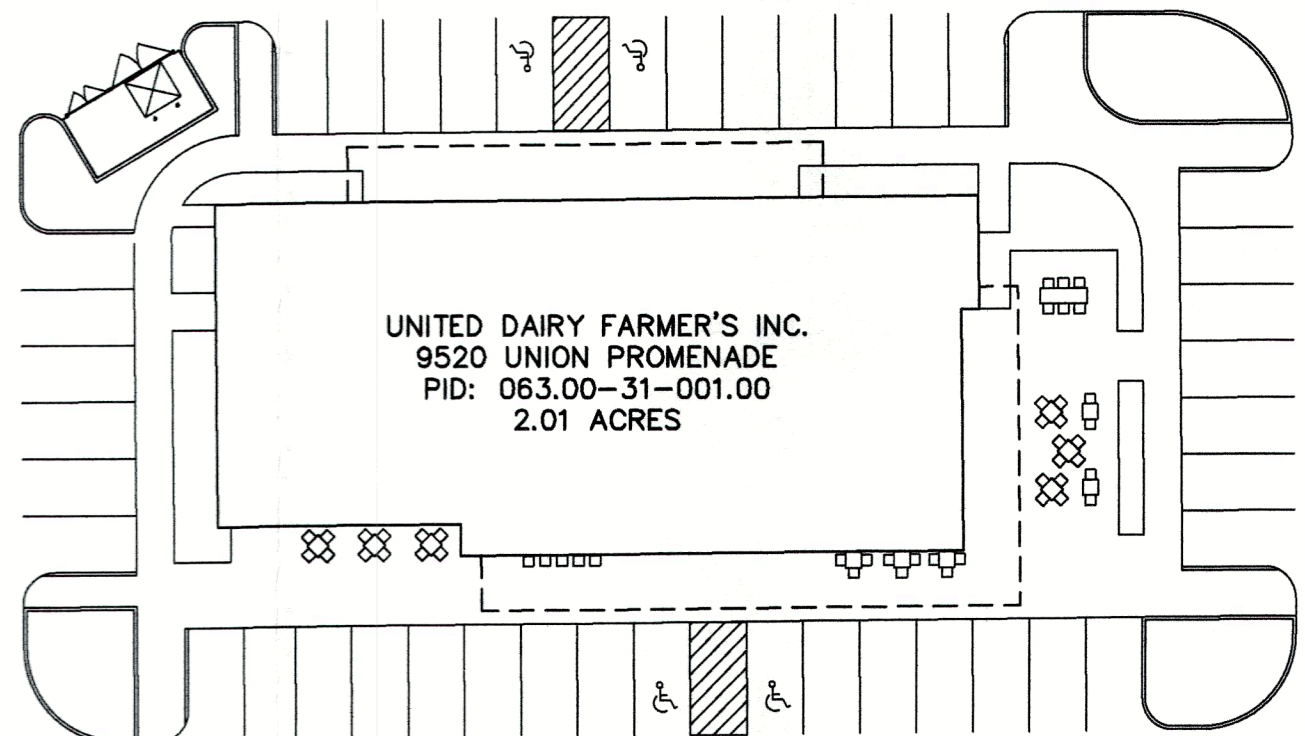
BUILDING:
 PROPOSED USE: GROCERY STORE
 # OF FLOORS: 1
 TOTAL FLOOR AREA: 19,432 SF
 HEIGHT: 28'-10"



LEGEND:

HEAVY DUTY ASPHALT PAVEMENT.

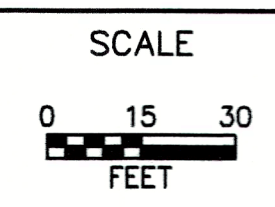
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				DES.	
				DWN.	
				CKD.	



ALDI STORE #90
 XXXX UNION PROMENADE
 UNION, KY 41091
 BOONE COUNTY



SITE IMPROVEMENT PLAN

ISSUED STATUS: XXX

SHEET **C5.0**

DATE ISSUED: 09/21/2023
 Mo./Dy./Yr.

DLZ PROJECTS\2023\2321\046400_Aldi-Spr_90_Union\01_CDR\2023\09\21\2023_119_Plan



- KEYED NOTES (X)**
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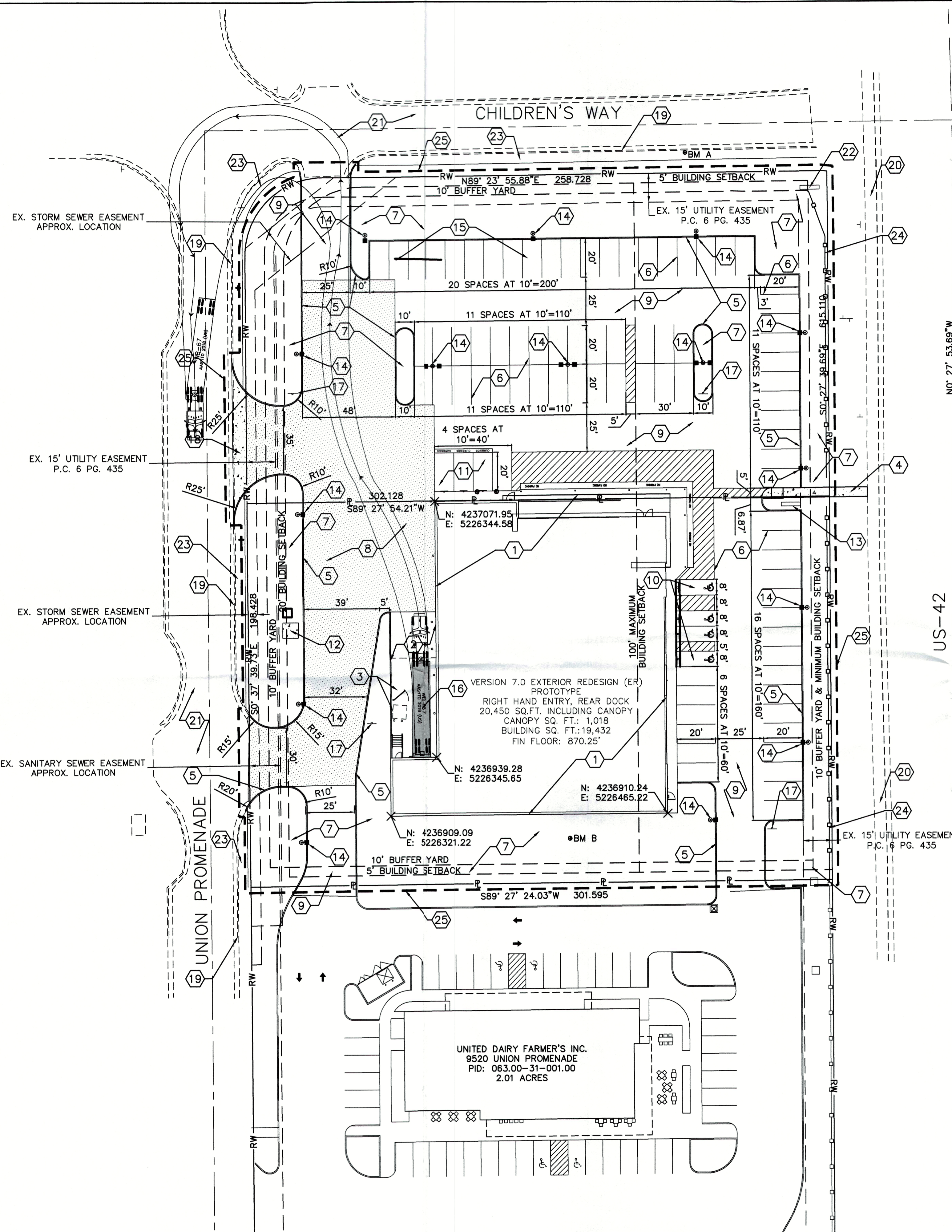
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- PARKING:**
- REQUIRED: MINIMUM 1 SPACE PER 300 SF OF GROSS FLOOR AREA
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 TOTAL FLOOR AREA: 19,432 SF
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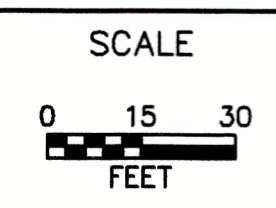
- LEGEND:**
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- NOTES**
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				DWN.	
				CKD.	



ALDI STORE #90
 XXXX UNION PROMENADE
 UNION, KY 41091
 BOONE COUNTY



SITE IMPROVEMENT PLAN

ISSUED STATUS: XXX

SHEET **C5.0**

DATE ISSUED: 09/21/2023
 Mo./Dy./Yr.

KEN WHITE, P.E., X:\PROJECTS\2023\2321\UNION\01_DRAWINGS\CAD\ASSET FILES\CAD SITE IMPROVEMENT PLAN.DWG 9/21/2023 2:17 PM

UNION PROMENADE
MAJOR CONCEPT CHANGE SUBMISSION NARRATIVE

The Union Promenade mixed use development's primary design focus is on walkability. This is accomplished through the inclusion of and interaction among a variety of uses that serve both those who live and work in the development as well as the residents of the City of Union. The development features Children's Hospital's northern Kentucky medical campus, single family and multifamily residential housing, entertainment venues for eating and drinking, and a variety of retail and service businesses.

The request for a Major Modification to the Concept Plan is addressing two issues the development needs for its overall enhancement and success: the consolidation of two independent buildings on lots 2 and 3 to one building exclusively on lot 2, and the addition of a curb cut onto Union Promenade, the internal north south connector road. Both requests are a result of changes that were enacted as a result of the Kentucky Transportation Cabinet's (KYTC) required modifications of the approved concept plan.

The development underwent a zone change process with Boone County Planning and Zoning Commission in 2021 and its conceptual plan received approval from the Commission and the City of Union in November 2021. The plan featured six access points off US 42 and each commercial lot included multiple access points to internal roadways.

KYTC modifications reduced the access points along US 42 and eliminated multiple internal access points. One of these was a connection from US 42 between commercial lots 1 and 2 and offered a direct connection to the 6.3-acre site approved for office use (*Exhibit 1*).

Children's Hospital engaged with the development team and the City of Union early on in the initial stages of the development. They expressed interest in purchasing the entire office pad site to develop a new northern Kentucky campus where they would provide a variety of specialized medical services. KYTC's removal of the access road eliminated a direct line of site to the office pads which caused the hospital's real estate team to require a viewshed easement over lots 1 and 2, encumbering 1.2 acres (*Exhibit 2*). This necessitated the relocation of the building on lot 2 to the northern edge of the lot. The buildings on lots 2 and 3 were subsequently grouped together and redesigned to "bookend" each other. Children's officials believed their clients would benefit from unobstructed site lines and views to their building, without being filtered by the buildings and landscaping on lot 2. The City of Union's Commission and Administration supported these modifications to secure Children's Hospital as the exclusive office tenant. This easement was ultimately agreed to and incorporated into the purchase and sale agreement for the office parcel with Children's.

With this view shed in place, the development team began immediately marketing lots 2 and 3 to retail, office and commercial users. After 2 years, interest was finally secured from a national grocer, a use that complies with Section 2502 Union Commercial (UC) under section 2502.1 Principally Permitted Uses #5 - Grocery Stores and Supermarkets.

Grocery is often considered the anchor to mixed-use developments, and its incorporation continues to grow. While live, work, play took hold as the initial calling card of mixed-use projects, the work component (primarily office buildings densely populated with employees) served as their foundation. Retail, restaurants, and the residential components were included, often in a supporting role. Today, more than ever, that definition has changed. Retail, restaurants, and residential have taken a much more primary position in mixed-use developments. These components complement each other, with retail and restaurants taking the lead. Not only do they benefit the residential component, but they also benefit the surrounding community. To attract retail and restaurants and to support their long-term viability, the focus to critical mass and diversity takes priority.

UNION PROMENADE
MAJOR CONCEPT CHANGE SUBMISSION NARRATIVE

Grocery has a huge impact on achieving critical mass by driving substantial consumer traffic into these projects, with an increased frequency of repeat visits. The shopper's intent is to spend money, which invites cross shopping. Retailers and restaurants recognize the grocer's impact on the project and how can help drive their own sales. Grocery stores are solid tenants for any development due to the longevity of the store, regular traffic, and customer loyalty. A grocer will ensure regular traffic flow to lots 2 and 3, seven days a week.

The grocery tenant requested that the viewshed be modified so that their building may be built on lot 2 (*Exhibit 3*). This would accommodate their prototype building of 19,432 square feet and an appropriate parking area to accommodate their patrons on lot 3. The approved concept plan had a 12,108 square foot building on lot 2 and a 6834 square foot building on lot 3, for a total of 18,942 square feet. With the modification, the viewshed would exist over a larger area (2.0 acres vs 1.2 acres) and would allow Children's clients to have direct line of site to the medical office campus from the entrance at US 42 and Children's Way. This is an important aspect in terms of emergency situations and services, which benefit from the best exposure possible.

Children's Hospital and its team support this change and have worked diligently with us to finalize this modification to ensure the exposure to their medical campus will be maximized with the revisions to the viewshed and site improvement locations.

An ancillary benefit of the grocery user and their approach to consolidating a building space on lot 2 is the parking area provided on lot 3. This parking area is immediately adjacent to lot 4 and will serve as additional parking for the other retail and restaurant tenants on the commercial lots. Normal peak hours of grocery shopping (Sat/Sun 9 AM – 2 PM; M-F 9 AM – 12 PM) do not overlap with peak hours of restaurants and bars (5 PM – 10 PM), so this benefit would enhance the appeal of the entertainment venues to new patrons by providing easily accessible free parking.

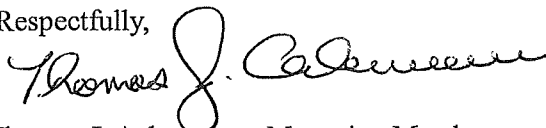
The second request is for the addition of a curb cut along Union Promenade on lot 3. The original plan for lots 1, 2 and 3 had a total of five access points to service traffic. Based on the modification by KYTC, the revised plan allows only three access points which equates to a 40% reduction of curb cuts.

The developer is requesting that a fourth point be allowed to be installed along Union Promenade. This curb cut will allow improved circulation and shall accommodate the truck turning radius required by semi-trucks making deliveries to lots 1, 2 and 3 (Please refer to truck turning scenarios label as "Site Improvement Plan 1, 2 and 3"). Auto Turn plan 1 shows a safe route for a truck to exit safely onto Union Promenade. Auto Turn plans 2 and 3 show why exiting either way onto Children's Way is not a viable nor safe alternative.

Any development of this scale and complexity will require modifications and changes over the course of time to remain relevant, viable, and appealing to the surrounding communities and the residents they serve. These changes are made in good faith as appropriate and necessary to simultaneously enhance the overall value of the development and position it as financially and operationally viable for all its tenants.

We formally request that two requests be approved.

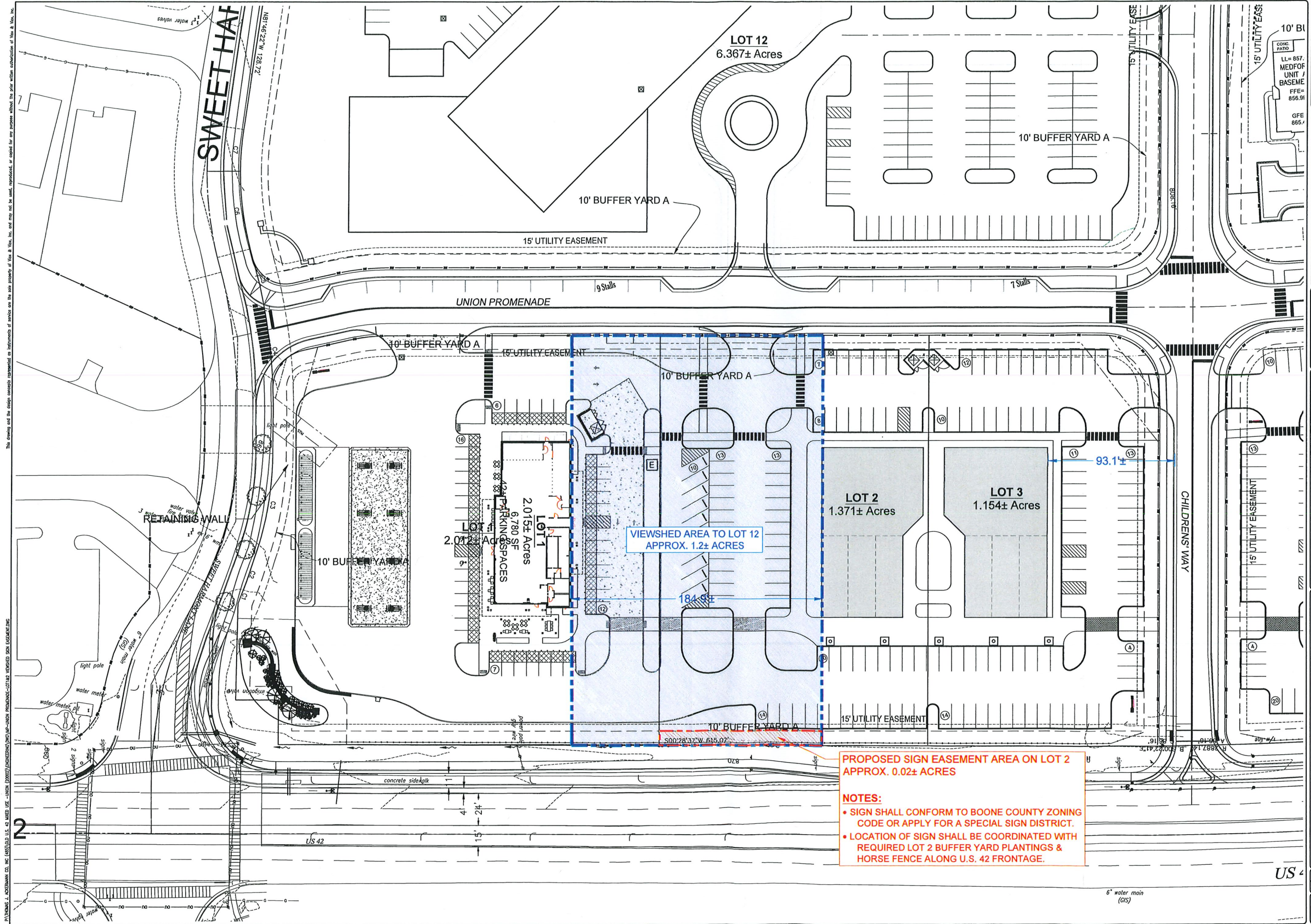
Respectfully,



Thomas J. Ackermann, Managing Member

9541 US 42, LLC
4010 North Bend Road, Suite 301
Cincinnati, Ohio 45243

EXHIBIT 2. ORIGINAL VIEWSHED EASEMENT REQUIRED BY CHILDREN'S HOSPITAL



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Item	Revision	Date	By

VIOX & VIOX
 Civil Engineers, Surveyors, and Landscape Architects
 406 Erlanger Road • Erlanger, Kentucky 41018
 402 Lila Avenue • Millard, Ohio 45150
 Ph: Erlanger (859) 727-3293 • Ph: Millard (513) 576-1000
 www.vioxinc.com

**UNION PROMENADE
 OLD UNION RD / US 42
 UNION, BOONE COUNTY, KENTUCKY**

PROPOSED SIGNAGE EASEMENT EXHIBIT

Project No: 148520002	Checked:
Date: 3/14/2023	Ref:
Sheet:	

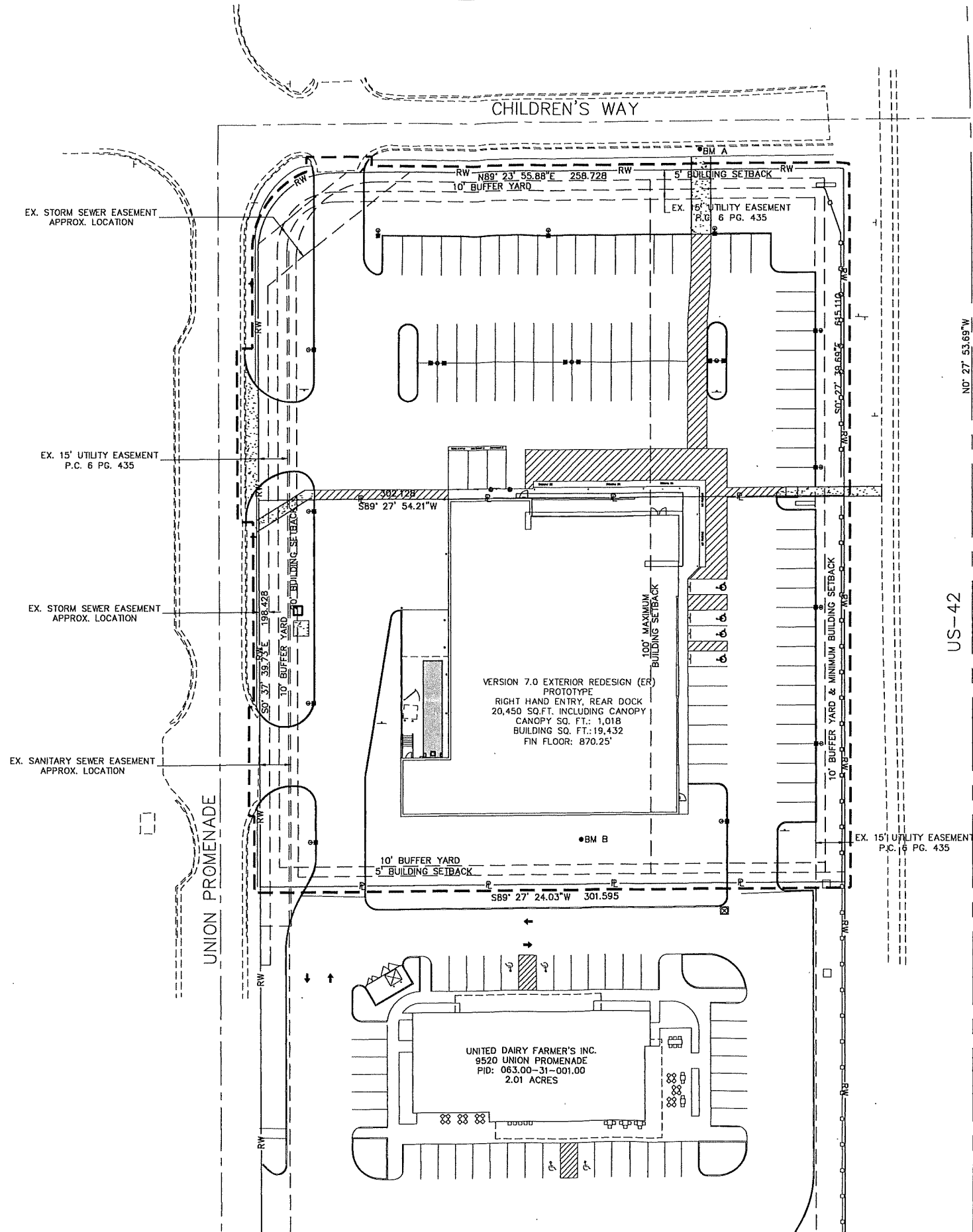
EXHIBIT

**PROPOSED SIGN EASEMENT AREA ON LOT 2
 APPROX. 0.02± ACRES**

NOTES:

- SIGN SHALL CONFORM TO BOONE COUNTY ZONING CODE OR APPLY FOR A SPECIAL SIGN DISTRICT.
- LOCATION OF SIGN SHALL BE COORDINATED WITH REQUIRED LOT 2 BUFFER YARD PLANTINGS & HORSE FENCE ALONG U.S. 42 FRONTAGE.

KEN WHITE, P.E., 11/15/2023 9:43 AM

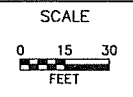


No.	BY Int.	DATE Mo./Dy./Yr.	REVISIONS Remarks	PROJ. PERSONNEL		DATE	
				Initials	Mo./Dy./Yr.	Initials	Mo./Dy./Yr.
				DES.			
				DWN.			
				CKD.			



ALDI Inc.
 4400 S. Charleston Pike
 Springfield, OH 45502
 (937) 323-5500
 (937) 923-0023 Fax

ALDI STORE #90
 XXXX UNION PROMENADE
 UNION, KY 41091
 BOONE COUNTY



SITE IMPROVEMENT PLAN

Kentucky811
 Know what's below.
 811 before you dig.
 1-800-752-6007

ISSUED STATUS: XXX

C5.0

SHEET

DATE ISSUED: 09/21/2023
 Mo./Dy./Yr.

**CITY OF UNION, KENTUCKY
MUNICIPAL ORDER NO. 2024-04**

A MUNICIPAL ORDER OF THE CITY OF UNION, KENTUCKY, DENYING THE REQUEST FOR APPROVAL OF 9541 US 42, LLC , PER THOMAS J. ACKERMANN (APPLICANT) FOR THE CITY OF UNION (OWNER) FOR A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN IN A UNION COMMERCIAL / UNION NEIGHBORHOOD OFFICE / URBAN RESIDENTIAL TWO / PLANNED DEVELOPMENT (UC/UNO/UR-2/PD) ZONE FOR AN APPROXIMATE 2.531 ACRE SITE LOCATED ON LOTS 2 AND 3 OF THE UNION PROMENADE SUBDIVISION, AT THE SOUTHWEST CORNER OF US 42 AND CHILDRENS WAY AND THE SOUTHEAST CORNER OF CHILDRENS WAY AND UNION PROMENADE, UNION, KENTUCKY.

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RECITALS

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

WHEREAS, the Boone County Planning Commission received a request for a Change in an Approved Concept Development Plan for a Concept Development Plan approved by the City of Union on November 3, 2021, in Ordinance No. 2021-18, such Change in an Approved Concept Development Plan to permit a grocery store an approximate 2.531 acre site located at Lots 2 and 3 of the Union Promenade Subdivision, Union, Kentucky, and providing a recommendation to be forwarded to the City of Union, Kentucky, and;

WHEREAS, the Boone County Planning Commission, as the planning unit for the City of Union, Kentucky was requested to, and did, conduct a Public Hearing serving as a due process trial-type hearing on November 1, 2023, and made findings recommending approval of the requested Change in an Approved Concept Development Plan; and

WHEREAS, the Boone County Planning Commission, by its Resolution R-23-035-A,

recommended approval of the Change in an Approved Concept Development Plan by vote taken on December 6, 2023; and

WHEREAS, the recommendation of the Boone County Planning Commission is based upon certain findings included in its Resolution R-23-035-A, which has been provided to and reviewed by the City Commission for the City of Union, Kentucky; and

WHEREAS, the entire record of Planning Commission proceedings on the subject application has been provided to and reviewed by the City Commission for the City of Union, Kentucky; and

WHEREAS, after due and proper notice, the Union City Commission held a public hearing on February 1, 2024, allowing the Applicant, its professionals, City of Union residents, and others to present their respective evidence and opinions regarding the proposed Change in an Approved Concept Development Plan; and

WHEREAS, the entire record of Planning Commission proceedings on the subject application was incorporated by reference by the City Commission for the City of Union, Kentucky at its Public Hearing on February 1, 2024; and

WHEREAS, a majority of the entire Union City Commission desires to override the recommendation of the Boone County Planning Commission pursuant to KRS 100.211 within ninety (90) days of the Planning Commission's final action, and to deny the application for a Change in an Approved Concept Development Plan.

NOW THEREFORE, BE IT ORDERED BY THE CITY COMMISSION OF UNION, KENTUCKY as follows:

SECTION I

That the request for a Change in an Approved Concept Development Plan For An

Approximate 2.531 Acre Area Located At Lots 2 and 3 of the Union Promenade Subdivision, Union, Kentucky, shall be ***DENIED***.

SECTION II

That as the basis for overriding the recommendation of the Boone County Planning Commission, and denying the request for a Change in an Approved Concept Development Plan, the Union City Commission sets forth and adopts the following findings of fact and conclusions of law:

- A. The foregoing Recitals are true and correct and are hereby incorporated into this Municipal Order by this reference
- B. On June 6, 2021, an application was filed to change the zoning classification for the Union Promenade Subdivision, including the subject properties, to UC/UNO/UR-2/PD. The application materials included a Concept Development Plan and a project narrative, which contained the following descriptions of the Union Promenade development:
 - 1. “This development presents a walkable destination for residents from within the site, as well as residents from the various surrounding residential communities.”
 - 2. “In addition, this development will provide the surrounding Union residents with an alternative destination to Mall Road and/or Houston Road which both provide similar amenities, but are located a few miles away.”
 - 3. “The conceptual plan for Union Promenade is based on ‘traditional neighborhood design’ patterns. The development’s scale and image will blend cohesively with the surrounding community.”
 - 4. “The varied [architectural] designs will foster a village look and will be adaptable to a wide variety of restaurant and retail establishments.”
- C. On August 18, 2021, at a Public Hearing conducted by the Boone County Planning Commission, the developer of the Union Promenade described the project in this manner:
 - 1. “The Design Objective. . . respects Union’s values - scale and image.”
 - 2. “They [the developer] would like higher end shops and not like Kroger and a ribbon of shops tied to a big box development.”

3. “It should have a village quality to it, as [*sic*] intimate scale to it and an inviting character to it.”
4. “It is a set of incremental shops that you would find in a village.”
5. “One has to drive to it but once you get there, it is pedestrian centric.”
6. “There are very few areas where 2 rows of parking are side by side. There is no massive parking area.”
7. “There is no big retailer needed to attract business for others.”
8. “The development has neighboring scale sensitivity.”
9. “The buildings are separated but located close to each other to encourage walkability.”
10. “The architecture will look like a collection of shops.”
11. “The proposed layout is different than you would see in traditional commercial.”

D. On October 6, 2021, the Boone County Planning Commission approved the requested zoning map amendment, and approved the developer’s Concept Development Plan. The approved Concept Development Plan included these features:

1. The overall lot layout indicating a uniform pattern of development for the commercial area along U.S. 42.
2. Lots 2 and 3 of Union Promenade each with a separate building and single rows of parking aisles.
3. Approved building sizes for the commercial lots fronting on U.S. 42 ranging in size from 6,000 square feet to 12,108 square feet.
4. For Lot 2, a 12,108 square foot building.
5. For Lot 3, a 6,834 square foot building.
 - a. The total combined approved building footprint on Lots 2 and 3 was 18,942 square feet in two (2) separate buildings.
6. Specific uses for Lots 2 and 3 were not indicated on the Concept Development Plan. However, the approval of this zoning map amendment included a condition that any of the permitted uses in the UC and UNO zoning districts would be allowed as permitted uses on Lots 2 and 3. Grocery stores and supermarkets were (and are) Principally Permitted Uses in the UC zoning district.

- E. On October 25, 2021, the developer appeared before the Union City Commission in order to seek final approval of its zoning map amendment and Concept Development Plan. At that meeting, the developer made the following representations to the City Commission through a PowerPoint Presentation:
1. “Present a pedestrian-friendly destination for residents living within the development, as well as residents from the various surrounding single-family communities.”
 2. “Promote a development identity appropriate to Union values, scale and image.”
 3. “Respect ‘traditional neighborhood design patterns’ as seen from the public face of the development, with an enhanced emphasis on ‘walkability.’”
 4. “Provide for higher end boutique shopping, personal services, restaurant and entertainment venues in demand by area providers.”
 5. “Neighboring scale sensitivity.”
 6. This PowerPoint Presentation included a Master Plan map designating a potential future use of Lot 2 as “Medical” and a potential future use of Lot 3 as “Medspa” by Luxe Lounge, each within its own separate building. This Master Plan map contained a note that proposed uses are subject to change, but there was no note that lot and building configurations or building sizes would be subject to change.
- F. On November 3, 2021, by Ordinance No. 2021-18, a Concept Development Plan for the Union Promenade Subdivision was approved by the City Commission of the City of Union.
- G. At some point subsequent to the City’s approval by Ordinance of the Union Promenade zoning map amendment and Concept Development Plan, the developer published a website for purposes of marketing the development – www.theunionpromenade.com. This website included the following information about the development:
1. A graphic depiction of an Overall Layout Plan, which was very similar to the approved Concept Development Plan, including:
 - a. One building on Lot 2, and one building on Lot 3; and
 - b. No mass of parking on either lot.
 2. A description of Lot 2 reading:

- a. “This lot contains 1.371 acres. This site will hold a single office building with up to 11,000 square feet of professional / medical office space. This space will appeal directly to professionals who work closely with the owner / tenant on Lot #12, Children’s Hospital, and provide ancillary services.”
3. A description of Lot #3, reading:
 - a. “This lot contains 1.154 acres. This site is similar to Lot #2 and will also hold a single office building up to 11,000 square feet of professional / medical office space. This space will appeal to professionals who work closely with Lot #12’s tenant, Children’s Hospital. In addition to medical-focused users, a regional bank is requesting a lease for a minimum of 3000 and a maximum of 6000 square feet of space in this building.”
 4. A “Master Plan” graphic, designating both buildings on Lots 2 and 3 for “medical,” and showing no mass of parking areas on these lots.
- H. On March 16, 2023, the developer (9541 US 42, LLC) executed a “Signage and Viewshed Easement Agreement.” This agreement was recorded on March 20, 2023, in Book MC1441, Page 643 of the Records of the Boone County Clerk. The easement purportedly created by this agreement burdens part of Lot 2 of the Union Promenade Subdivision. Although the City of Union was (and is) the title owner of Lot 2, the City of Union is not a signatory of this easement agreement.
1. The Site Plan that is attached to this easement agreement depicts one building on each of Lots 2 and 3. However, this Site Plan depicts a different building configuration on Lots 2 and 3 and a mass of parking on Lots 1 and 2, neither of which was never approved by the City of Union.
- I. On October 2, 2023, the developer (9541 US 42, LLC) applied to the Boone County Planning Commission for a Change in an Approved Concept Development Plan that is the subject of this Order. In a project narrative attached to its application, the developer explained the reasons for the changes;
1. A “national grocer” is seeking a modification to the viewshed easement in a way that would accommodate its prototype building of 19,432 square feet on Lots 2 and 3.
 2. The requested change in the viewshed easement would also give a direct line of site to the Children’s Hospital campus, and would benefit emergency situations and services.
 3. The change would also result in additional parking closer to Lot 4 and the other commercial lots.

- J. On November 1, 2023, the Boone County Planning Commission conducted a Public Hearing on the subject application for a Change in an Approved Concept Development Plan. At this hearing, a staff member of the Planning Commission presented a written report that explained:
- “A. “The existing approved Concept Development Plan for Union Promenade was described in the following way:
1. A well planned live/work design.
 2. This mixed use community allows residents to enjoy all the amenities of urban living.
 3. Presents a walkable destination for residents within the site as well as residents from the various surrounding residential communities.
 4. A mixed use campus containing a broad variety of commercial, professional and residential uses intended to advance a live, work, and play setting for its internal population and the larger community surrounding it.
 5. A village quality, intimate scale, and an inviting character.
 6. Buildings are separated but located close to each other to encourage walkability.
 7. There is no massive parking area.
- The Planning Commission and City of Union will need to analyze the proposed Concept Development Plan and determine if it is consistent with these descriptors.”
- K. On December 6, 2023, the Boone County Planning Commission voted to recommend approval of the subject application for a Change in an Approved Concept Development Plan.
- L. The entire record of the Boone County Planning Commission’s recommendation is included within the Planning Commission’s Resolution R-23-035-A, which contains the minutes of its meetings of November 1, 2023, December 6, 2023 and December 20, 2023, the application form and all application materials, Committee Reports, Staff Report and all exhibits, condition letter, and the Signage and Viewshed Easement Agreement. Resolution R-23-035-A is incorporated herein by this reference.
- M. On February 1, 2024, after due and proper notice, the Union City Commission conducted its own Public Hearing, and heard from the Applicant, its architect / planner, its attorney, a representative of the subject national grocer, City of Union residents, and others, all of whom presented their respective evidence and

testimony regarding the proposed request for a Change in an Approved Concept Development Plan.

- N. All who testified before the City Commission swore an oath or affirmed to the truthfulness of their testimony.
- O. The City Commission provided the Applicant the opportunity to cross exam all who testified, and the opportunity to provide rebuttal evidence and testimony.
- P. Section 1506 of the *Boone County Zoning Regulations* (entitled “Planned Development Criteria”) sets forth an extensive list of criteria that must be used to evaluate a Concept Development Plan (and any major amendments). Such plans and amendments “shall fulfill” the criteria listed in this section, unless a portion of the criteria is inapplicable to a specific proposal.
- Q. The Applicant did not inform the City Commission (or the Planning Commission) with information regarding how the requested Change in an Approved Concept Development Plan satisfied the required criteria from Section 1506.
- R. Based on the foregoing, the City Commission finds and concludes, as a matter of law, the following:
 - 1. The requested Change in an Approved Concept Development Plan fails to satisfy the required review criteria from Section 1506 for the following reasons:
 - a. The mixed-use orientation of the Union Promenade subdivision is threatened with the changes sought by the subject application, because the requested lot consolidation would result in the loss of one of the planned commercial buildings – and thus a potential commercial user. The precedent that would be established by the requested lot consolidation could further diminish the commercial section of the project and further erode the mixed-use orientation.
 - b. The pedestrian orientation and walkability of the Union Promenade will be diminished by the requested (1) consolidation of lots, (2) combination of two buildings into one lot of larger size to accommodate a grocery store, (3) re-orientation of this building on Lots 2 and 3, (4) additional massing of parking areas, and (5) addition of a curb cut onto Union Promenade.
 - c. Physical changes sought with the subject application would not assure compatibility of land uses within and without the development. In particular, construction of a commercial building with 19,432 square feet would be grossly out of proportion to other approved range of building sizes (6,000 square feet to 12,108 square feet) in the commercial section of the Union Promenade development.

- d. The City Commission is not convinced that the proposed architecture of the larger grocery building satisfies the architectural criteria for this Planned Development, as set forth in the Architectural Guidelines approved in 2021.
- e. City Commission concludes that the requested change to allow an additional curb cut onto Union Promenade does not satisfy the criteria for transportation connections and entry points, because the addition of this curb cut for use by delivery trucks to the grocery store (and to the neighboring UDF) would threaten the safe walkability of the project, and walkability has long been touted as a key feature of this development.
- f. The City Commission concludes that the proposed amendment is not in conformance with the current Comprehensive Plan.
 - (i) The *Future Land Use Map* in “Our Boone County – Plan 2040,” the current Comprehensive Plan, designates the subject property for future development as Rural Lands and High Suburban Density Residential.
 - (ii) The text of the Plan states:
 - (a) “The U.S. 42 corridor should experience commercial growth on a smaller scale to mitigate any adverse impacts and to be compatible with surrounding land uses and densities. As defined by the 2000 Union Town Plan, commercial development should occur in neighborhood business district form in specified locations instead of strip style commercial.” (p. 137)
- g. The City Commission also concludes that the project does not conform to the current Union Town Plan.
 - (i) The Union Town Plan states “[i]n order to promote the Union Town Center area, a conscious effort has been made through the Union Town Plan to concentrate future commercial activity into a viable town center and to avoid typical strip-style commercial uses along the realigned U.S. 42 arterial route.”
 - (ii) This preference was translated into the intent statement for the Union Commercial (UC) zoning district:
 - (a) “The purpose of the Union Commercial (UC) zone district [which includes grocery stores as a principally permitted use] is to allow for the

protection of existing commercial uses, but also to bring them into conformance with the Union Town Plan over time. The location of the UC zone district allows limited additional commercial uses or limited expansion of existing commercial uses in areas that have historically supported them, but does not promote a continuous or extensive strip of commercial development. The permitted uses are designed to serve the immediate area and accommodate the demands of an expanding Union area population. The type and scale of commercial uses is not intended to be of a highway commercial nature or bring significant numbers of patrons into the Study Area that would not otherwise be in the area.” (§ 2502, *Boone County Zoning Regulations*)

2. The City Commission concludes that the proposed amendments to the approved Concept Development Plan are not consistent with the descriptors used by the Applicant to gain approval of the current plan. In particular:
 - a. A 19,432 square foot grocery store constructed within a sea of paved parking does not present an image as a walkable destination for either residents in the Union Promenade project or residents from surrounding communities. It would not be a pedestrian centric addition to the Union Promenade development.
 - b. A 19,432 square foot grocery store does not present an alternative destination to Mall Road and/or Houston Road, but instead would create a commercial project that tends to mimic the Mall Road and Houston Road shopping experience.
 - c. A 19,432 square foot grocery store is not consistent with “traditional neighborhood design” patterns. The scale and image of such a store will not blend cohesively with the surrounding Union community.
 - d. A 19,432 square foot grocery store will not foster a village look, and will not have an intimate scale and an inviting character.
 - e. A 19,432 square foot grocery store on this site does not respect Union’s values with respect to scale and image.
 - f. The 19,432 square foot grocery store, as described by the applicant, is not a higher end shop, but is more akin to a Kroger or a ribbon of shops tied to a big box development.

- g. The proposed design for these consolidated lots would result in two (2) or more rows of parking side by side, resulting in a massive parking area.
 - h. As described by the applicant at the Public Hearing of February 1, 2024, the 19,432 square foot grocery store would be a big retailer used to attract business for other commercial enterprises in the development, whereas the project was touted as one in which no big retailer would be needed to attract business for others.
 - i. The 19,432 square foot grocery store is not consistent with a development that has neighboring scale sensitivity.
 - j. The 19,432 square foot grocery store, surrounded by rows of parking, is contrary to the image of separate buildings that are located close to each other to encourage walkability. Instead, the separation of the proposed building from the rest of the development by a sea of parking areas will only encourage vehicular trips to the development.
 - k. The 19,432 square foot grocery store does not give the look of a collection of shops.
 - l. The proposed amended layout is no different than what can be seen in traditional commercial developments.
- S. Based on the findings expressed herein, and based on the record of testimony and evidence before it, the City Commission concludes, in the exercise of its discretion, that the requested Change in an Approved Concept Development Plan is not in the best interests of the City of Union.

SECTION III

Based on the Findings of Fact and Conclusions of Law set forth above, and on the evidence and testimony provided at the February 1, 2024, Public Hearing, the Union City Commission ***DENIES*** the Request for a Change in an Approved Concept Development Plan.

SECTION IV

If this Municipal Order shall be held invalid, in part, by any court of competent jurisdiction, such invalidity shall not affect the validity of any other part of this Municipal Order, as all parts of this Municipal Order are severable and they are intended to have effect regardless

of any invalidity of other parts of this Municipal Order.

SECTION V

This Municipal Order shall be effective immediately.

PASSED AND APPROVED BY 4 MEMBERS OF THE UNION CITY COMMISSION, UNION, KENTUCKY, REPRESENTING A MAJORITY OF THE ENTIRE CITY COMMISSION, on this the 5th DAY OF FEBRUARY, 2024.

APPROVED:



HON. LARRY SOLOMON, MAYOR

ATTEST:



TAMMY WILHOITE, CITY CLERK