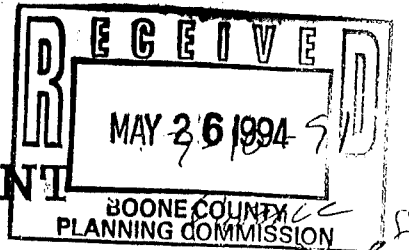


APPLICATION FORM
ZONING MAP AMENDMENT

BOONE COUNTY PLANNING COMMISSION
(See Boone County Zoning Regulations)



Serial previous 2MA

SECTION A (To be completed by applicant)

1. Name of Project Columbia Federal Savings and Loan Association
2. Location of Project U.S. 25, Florence, KY (100' N of Circle Drive)
3. Total Acreage of Site 1.6288 acres
4. Current Zoning of Site Suburban-Residential 2 (SR-2)
5. Proposed Zoning (Classification being requested) Commercial 1 (C1)
6. Proposed Uses (please specify each use) Retail banking facility with offices and drive-through windows and automated teller machine.
7. Names of Applicant(s) Columbia Federal Savings & Loan Assn., c/o T.B. Theissen
Phone Number (513) 768-9711 Fax No. (513) 629-9444
8. Address of Applicant(s) 50 East RiverCenter Boulevard, Suite 1400
Covington KY 41011
City State Zip
9. Name of Property Owner(s) Mark H. Berliant, Trustee
Phone Number (513) 621-2120 Fax No. (513) 621-2846
10. Address of Property Owner(s) 2100 PNC Center, 201 E. Fifth Street
Cincinnati OH 45202-4186
City State Zip
11. Proposed Building Intensities (please specify) One building: 3,000 square feet (est.)
12. Are there any existing buildings on the site? No
How many? N/A
13. Deed Book 182 Page No. 311 Group No. _____
14. Are you also applying for:
No Conditional Use Permit
No Dimensional Variance
15. Have you submitted a Concept Development Plan? Yes
16. Have you had a pre-application meeting with BCPC Staff? No
17. Please check the following organizations/agencies which you have discussed the proposed development with in the last several months:
No Boone County Water and Sewer District
No Florence Water and Sewer Commission
No Union Light Heat and Power
No Cincinnati Bell
No Owen County Rural Electric
No Boone County Public Works Department

(over)

EXHIBIT "A"

STAFF REPORT

Request of Columbia Federal Savings & Loan Association (applicant) for Mark H. Berliant, Trustee (owner) for a Zoning Map Amendment on a 1.63 acre site located on U.S. 25, just north of Circle Drive, Florence, Kentucky. The request is to change the zone from Suburban Residential Two (SR-2) to Commercial One (C-1) to allow a drive-thru bank.

June 29, 1994

Site History

1991: A request for a Zoning Map Amendment for a change to Commercial One (C-1) to allow a 19,200 square foot undetermined commercial building. The Planning Commission voted unanimously to approve the request with conditions (**see attached Committee Report dated March 20, 1991**).

In July of 1991 the City of Florence voted unanimously to deny the request on the grounds that the proposed commercial district would not be compatible with the surrounding residential dwelling units.

Surrounding Zoning and Land Uses (see Sheet #2)

North: Single family dwelling unit zoned Suburban Residential Two (SR-2).
South: Two story apartment building and three single family dwellings zoned Suburban Residential Two (SR-2).
East: Vacant land across U.S. 25 zoned Commercial Two (C-2).
West: 2 1/2 story apartment building zoned Urban Residential Two (UR-2) and single family dwellings zoned Suburban Residential Two (SR-2).

Site Characteristics

The site is generally level and undeveloped. A few trees exist on the site including a large oak tree towards the front along U.S. 25.

Relationship to the Comprehensive Plan (see Sheet #3)

The **Future Land Use** map of the Comprehensive Plan indicates the area to develop as Urban Density Residential (UD) with the Commercial (C) activity to remain on the east side of U.S. 25.

The **Business Activity** element of the Comprehensive Plan states that commercial development shall have adequate and maintained buffer spaces between the business and other land uses.

The **Commercial** element of the Comprehensive Plan calls for mixed use in older areas to consider the compatibility of surrounding land uses. Furthermore, the mixing of commercial with residential land uses shall be "located so as to enhance the neighborhood."

The buffering section of the **Land Use** element of the Comprehensive Plan stresses the importance of considering the impacts of mixing land uses. Specifically, landscaping, buffering, and building setbacks can be used to minimize the visual and sound impacts.

Also in the **Land Use** element is the note that "commercial development...should remain near the arterial roads..."

Concept Development Plan (see Sheet #4)

The submitted Concept Development Plan shows a 3,000 square foot bank set back approximately 70 feet from the U.S. 25 right-of-way. The rear portion of the lot is shown to remain undeveloped. One curb cut is proposed at the northern end of the road frontage.

The 17 parking spaces meet the minimum requirements of Article 33 of the Boone County Zoning Regulations. Screening is provided along the southern, northern, and western portions of the front of the lot.

A sign is indicated near the curbcut on U.S. 25. By the requirements of the Zoning Resolution, the site is entitled to a 103 square foot free standing sign no taller than 20 feet from grade to the top of the sign.

Staff Concerns

1. Staff is concerned that the Future Land Use map of the Comprehensive Plan indicates this stretch of U.S. 25 is to develop as Urban Density and High Suburban Density residential.
2. Staff feels that screening and landscaping is critical in order to ensure that the visual impact of the development on the surrounding residential is minimized.
3. Screening needs to be shown between the front yard parking stalls and U.S 25.
4. Staff is concerned that the rear portion of the lot, although showing no commercial activity in the Concept Plan, is being rezoned to Commercial One. This back area is directly adjoined by an apartment complex to the west and three single family dwellings to the south. Clarification is needed as to what is planned, if anything, for this portion of the lot.

5. Staff feels that the large oak tree toward the front of the lot should be preserved as shown on the applicant's Concept Development Plan.
6. Staff is concerned that the permitted signage for this lot may not be consistent with the residential land uses to the north and south along U.S. 25.

Conclusion

The Planning Commission must use the following criteria in granting approval of a zone change or map amendment:

1. The map amendment is in agreement with the 1990 Comprehensive Plan; or
2. The existing zoning is inappropriate and the proposed zoning is appropriate; or
3. There have been major changes of an economic, physical, or social nature not anticipated in the 1990 Comprehensive Plan that substantially alter the area's character.

Should the Planning Commission recommend, and the City of Florence approve, this request for a Zoning Map Amendment, the Boone County Comprehensive Plan Future Land Use Map will need to be updated.

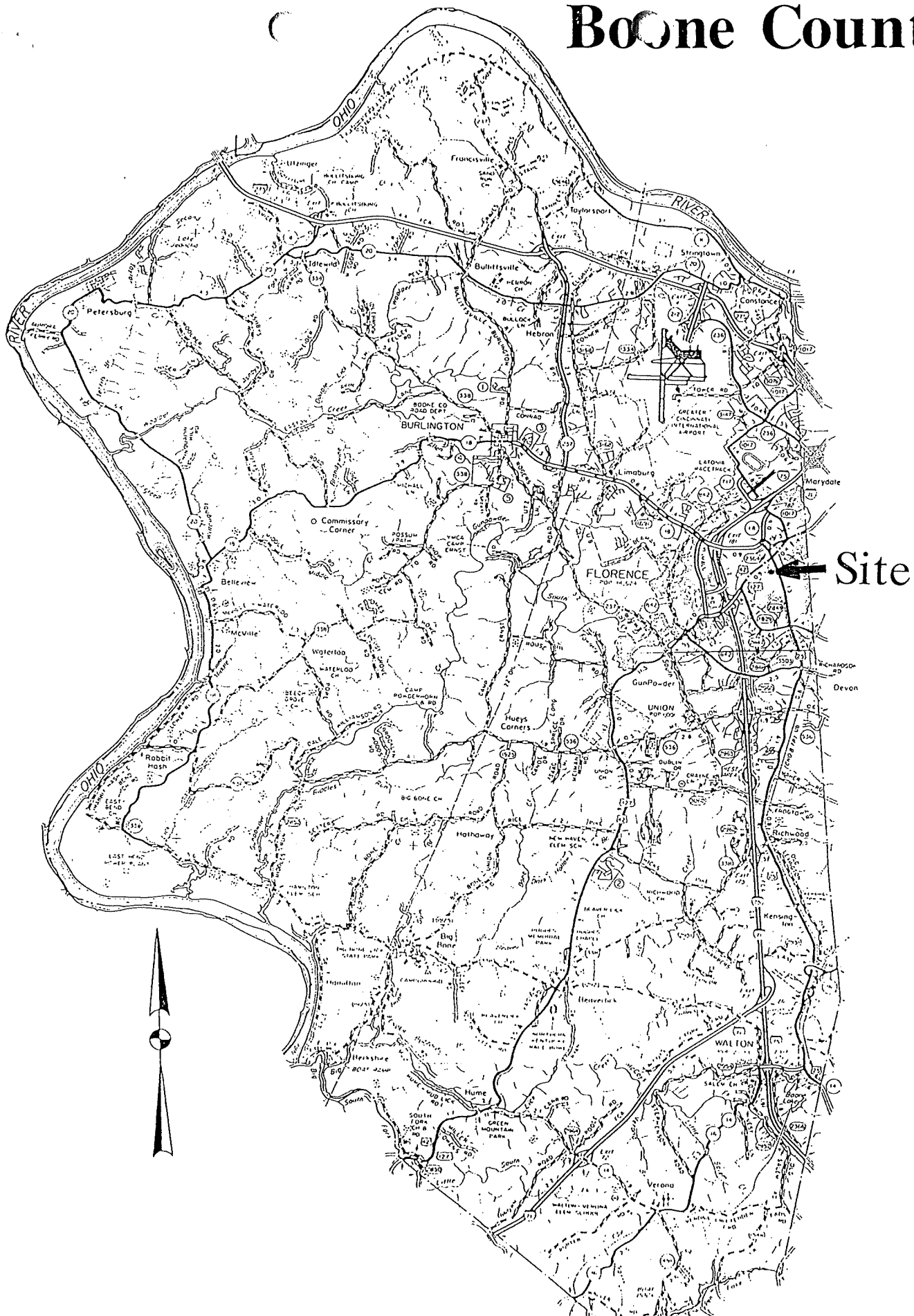
Respectfully submitted,



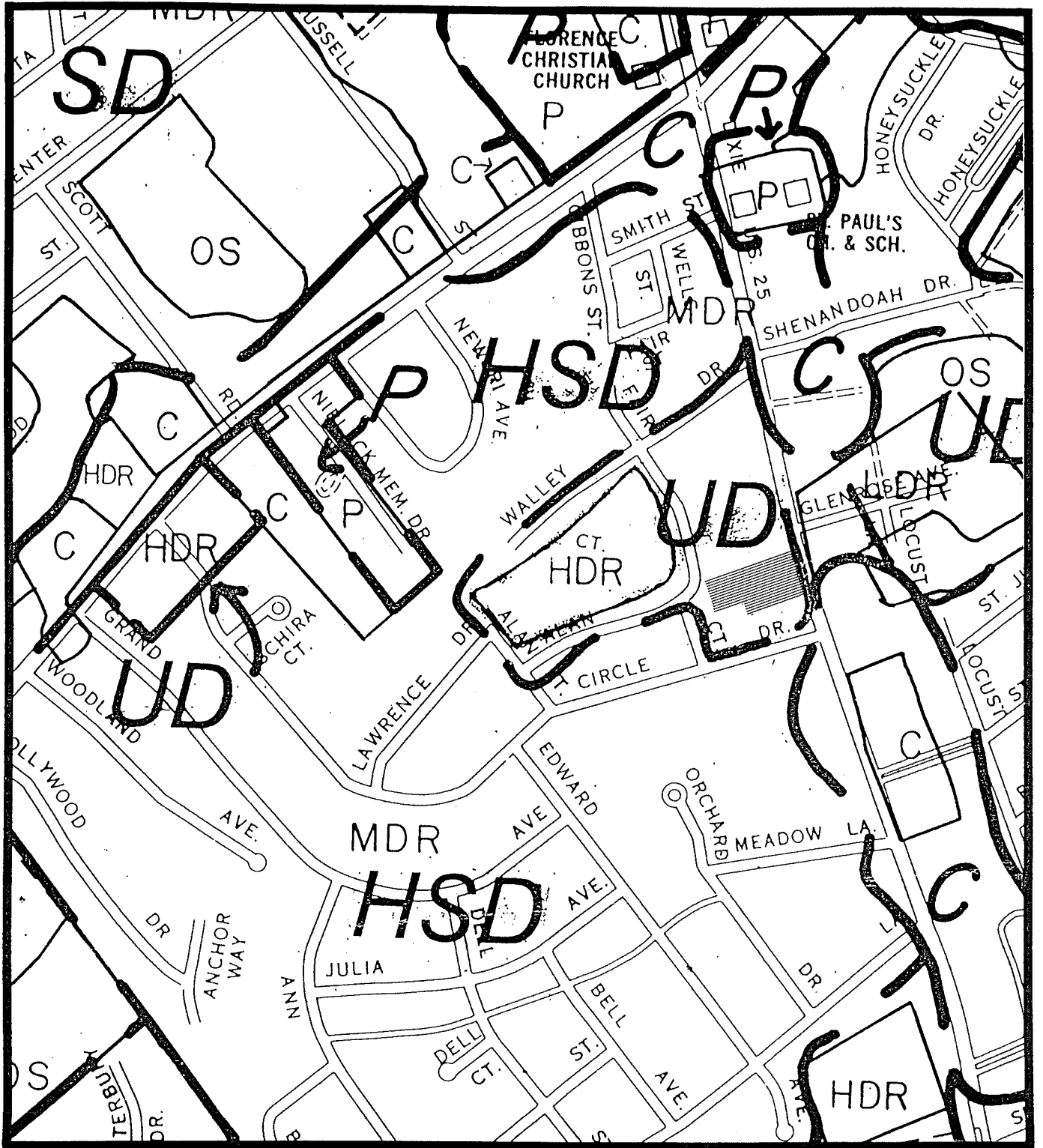
Robert A. Jonas
Planner I

RAJ\par

Boone County



SHEET # 1 - Location Map
Columbia Federal Savings & Loan

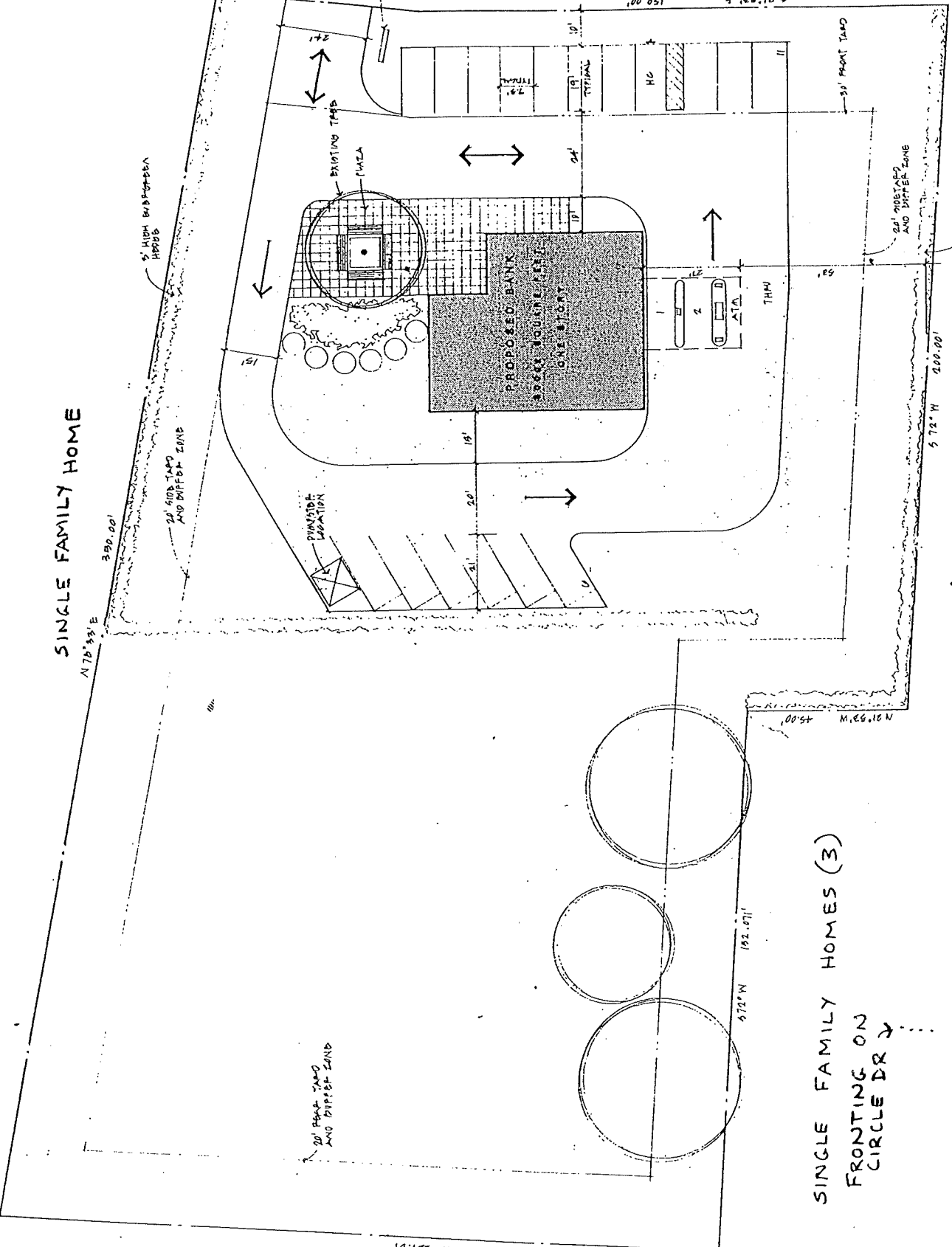


Sheet #3 – Future Land Use
 Columbia Federal Savings & Loan



DIXIE HIGHWAY
(U.S. 25)

SINGLE FAMILY HOME



APARTMENTS

Sheet #4 - Concept Plan

Columbia Federal Savings & Loan

SINGLE FAMILY HOMES (3)

FRONTING ON
CIRCLE DR



APARTMENTS

Attachment

COMMITTEE REPORT

#2

TO: Boone County Planning Commission

FROM: Larry Collins, Chairman

DATE: March 20, 1991

RE: Request of John E. Shore (applicant) for Metro Properties Realty, Inc. (owner) for a Zoning Map Amendment on 1.62 acre site located north of Circle Drive and west of Dixie Highway, Florence, Kentucky. The request is to rezone the site from Suburban Residential Two (SR-2) to Commercial One (C-1).

REMARKS:

We, the Committee, based on the statements made and facts gathered at the February 27, 1991 Public Hearing, recommend approval of this request based on the following Findings of Fact and subject to the following Conditions:

Findings of Fact

1. The Committee believes that although the proposed Zoning Map Amendment is not in agreement with the 1990 Boone County Comprehensive Plan Future Land Use Map, the proposed zoning is appropriate for the site. The six conditions listed below shall be applied to the approval of the request to adequately buffer the adjoining residential land uses from the future commercial use.
2. The Committee believes that the current zoning of Suburban Residential-Two and Urban Residential-Two (SR-2/UR-2) is inappropriate given the size of this individual parcel and the proposed zoning of Commercial One (C-1) is appropriate. Other references to the Boone County Comprehensive Plan are made in the Staff Report.

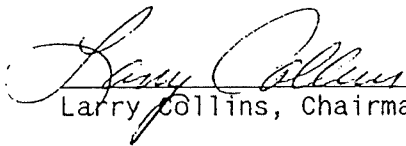
The applicant and property owner are being asked to include the following conditions as part of the Concept Development Plan in order to address concerns and clarify questions raised at the February 27, 1991 Public Hearing.

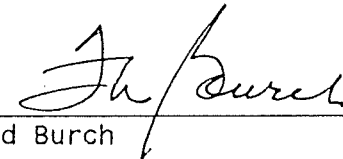
Conditions


1. A landscaping plan for the site will be approved by the Boone County Planning Commission in conjunction with Site Plan approval. This plan will include the planting of trees along the southern property line to buffer the proposed commercial use from the existing residents to the south of the 1.6288 acre site.
2. Any proposed building on the site will not be more than 15,000 square feet in size.

3. The property will have at least a 40 foot wide buffer along the southern property line. No parking will be located within the buffer zone. At least half of the 40 foot wide buffer and all of the 20 foot buffer will be landscaped.
4. The developer will retain as much of the existing vegetation on the site as is possible.
5. The site will have a shared access point from Dixie Highway (US 25) with the property immediately to the north if that property is developed in the future.
6. When the property is developed, the approved Site Plan will meet the stormwater requirements of the Boone County Zoning Regulations and the City of Florence that are current at the time of development. This will be done to prevent the stormwater created on the site from running off onto any adjoining property.

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.

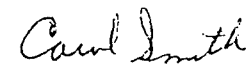

Larry Collins, Chairman


Fred Burch


Phil Damstrom

Rector Jones


Barry Nettner


Carol Smith


Floyd Sharp

LC:kat

BOONE COUNTY PLANNING COMMISSION

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

June 29, 1994

PUBLIC HEARINGS

Commission members present: Judy Arnett, William Bailey, Phil Damstrom, Robert Kirby, Jr., Don McMillian, Barry Neltner, Linda Schaffer, Chairman William Viox, and Earl White. Also present: Director Kevin P. Costello, Planners Dean E. Niemeyer and Robert A. Jonas, and Attorney Dale T. Wilson.

Chairman Viox introduced the second item on the Agenda, the time being 8:33 p.m.:

2. **Applicant:** Columbia Federal Savings & Loan Association for
Mark H. Berliant, Trustee (owner)
Request: Zoning Map Amendment

The request of Columbia Federal Savings & Loan Association (applicant) for Mark H. Berliant, Trustee (owner) for a Zoning Map Amendment on a 1.63 acre site located on U.S. 25, just north of Circle Drive, Florence, Kentucky. The request is to change the zone from Suburban Residential Two (SR-2) to Commercial One (C-1) to allow a drive-through bank.

Staff Member Robert Jonas presented the Staff Report which included a review of the attachments (see Staff Report) and a slide presentation.

Chairman Viox asked for the applicant's comments.

Mr. Robert Lynch introduced himself as President of Columbia Federal, a local, independent, mutually-owned association which has been in Northern Kentucky since 1884. He stated that they have five offices from Covington to Florence, that the Florence Office has been in existence for 18 years at St. Jude and U.S. 25, that they are very happy with this location, but have outgrown the rental quarters in the small shopping center. He continued, stating that that office has 1,300 savings accounts most of which are from local neighborhoods in the Florence area. He stated that they began looking for property to build a larger facility about six months ago, that they wanted to stay in same neighborhood, that they looked at six or seven properties on U.S. 25, most of which were 1/2 to 3/4 acre, and they felt they needed more than that.

Mr. Lynch stated that the subject property is 1.6 acres, a little large for them, but it will allow them to leave some space around the building, and the biggest advantage is that it is only block and half from their present location. He continued, stating that that

office now has four employees in 1,600 square feet, that they are planning on a free-standing office building of about 3,000 square feet, with probably five to six employees maximum, with perhaps a loan officer later on. He explained they definitely want a walk-in vault, and safety deposit boxes which they do not have now, and that they will move the *Jeanie* machine up there. He noted the Board of Directors is very interested in the project, and committed the funds to complete it, with the furniture and equipment, totalling about \$600,000 to \$700,000. He then introduced Attorney Tim Theissen and Architect Bill Hub.

Mr. Theissen advised he is with law firm of Strauss & Troy, practicing out of the Northern Kentucky office, is general counsel for Columbia Federal and has been for several years, and that he was present on their behalf with their zone change request. He stated he also has the unusual opportunity to represent the seller of the site, that he brought the previous application in 1991, and was at that time representing the seller and they had no buyer. Mr. Theissen indicated he would speak in four areas: history of the site, site from a planning standpoint, the proposal itself, the legal standard and staff comments.

Mr. Theissen stated that the subject property has been zoned residential for years having been changed when the apartments were built in the 1960s, that the current zone is SR-2 which would allow eight units per acre, single family homes, duplexes or townhouses, which for this 1.6 acres, would allow 12 units. He stated that the property has been marketed as residential for years, that several real estate companies have had the listing, with almost no interest, because of three reasons: (1) there is no demand for residential uses on an arterial street...the goal of residential development now is to get it away from the arterial streets and leave the arterials to be primarily commercial with residential development behind, with buffering of multi-family between commercial and single family; (2) there is substantial existing apartment-type residential in the area...Florence Apartments are directly behind the site, Shenandoah Apartments are a couple blocks away, and while both of those complexes are successful, he does not know that there is the demand for any more rental-type residential uses in the area. He referred to the Comprehensive Plan, pages 108 to 110, where he said there is a discussion about the supply of housing in Florence, indicating that Florence is the hotbed for multi-family type residential buildings and that in 1987, Florence had 66% of the multi-family units, with only about 34% of the population, thus his position that there is a large density of multi-family in the area already, and no more is needed in Florence, or certainly not along this area. He stated that a recognition of a low percentage of single family units in existence in Florence is also discussed in the Housing Type Section. Mr. Theissen continued, stating that (3) the Comprehensive Plan also discusses growth patterns on page 110, indicating the City is following a typical pattern of development in growth whereby older homes in the central area are being renovated or replaced for the expansion of business and office use, leading to the conclusion that perhaps a residential zone on this site is not appropriate any more.

Mr. Theissen stated that in 1991, John Shore applied for a change to the site to C-1 zoning, and this Planning Commission recommended approval of that request with the finding that while C-1 was not in agreement with the Comprehensive Plan, the Land Use Element calls for it to be Urban Density Residential. He stated that approval at that time was conditioned on six specific details imposed on the developer, each of which have been complied with in the current plan: landscaping, reduced intensity, greater buffer to the apartment building, trying to maintain trees on the site, an access point as far north as possible to be shared with the property next door if it ever develops (said property being a large single family residential lot with the old farm house), and to meet Florence's storm water requirements. He continued, that the property had been zoned Residential for a long time, marketing was not working, so they were trying to get the zone changed so that they could market it as a commercial site, and they had no specific user at the time. He recalled that Mayor Kalb was then on Council, and she was especially concerned about not knowing who the user was, which was understandable inasmuch as the C-1 zone has 31 types of permitted uses, some of which (such as dry cleaners, liquor stores, bars, 24-hour stores, pet shops) were considered problematic, so City Council rejected the Commission's recommendation to change the zone at least until such time as a user was found. Mr. Theissen stated that he felt Council probably would have approved it except for the concern about the potential use, and that he felt there was fairly positive reaction from the City at that time even though they turned it down.

Mr. Theissen then discussed the site and the appropriateness of this site for proposed use, stating that while the Land Use Element of the Comprehensive Plan, page D-4, designates the property as Urban Density Residential, substantial adjacent land along U.S. 25 has been identified as commercial, and that in fact the approximately one-acre wooded area directly across the highway is actually designated C-2. He stated that the Zoning Map also has commercial zoning districts both north and south on both sides of the street. Mr. Theissen reviewed the uses along the Highway in the vicinity of the subject property: Reynolds' single family home next to site, which is good-sized lot that could go commercial in future; Les Jacobs' 12-unit apartment building; Carter Insurance, Mardis Catering, and State Farm; Woodcock Insurance; Emerson Bakery; Santini's Restaurant; Kelly's Antiques; Quast Orthodontist building; Kenco Industries, Cincinnati Bell, Domino's, Cooper Tire, AmeriStop, and Clark gasoline station, all of the foregoing on the same side of the street as site; on the other side, U-Save Auto rentals in a converted residential structure, St. Paul's, Bressler's CPA firm, Jack & Jill, General Rental, four residences, Mark's Gun Shop, a vacant lot zoned C-2, the house with wood decks, three residences which have an elevation drop of approximately 10' from road, Florence Medical Arts Center, Auto Glass, Columbia Federal's current branch in the shopping center where they share rental space with Florence Karate and Watson's; Remke's and Super-X. He stated that commercial is appropriate inasmuch as these businesses are successful and most have existed there since before 1991.

Mr. Theissen stated that while the map shows the subject property as Urban Density Residential, the Land Use Text of the Comprehensive Plan indicates that commercial development in this area should remain near the arterial roads or close to the Interstate (noting that U.S. 25 is an arterial), that the coordination of curbcuts and parking lot connections in the already developed areas must occur in order to maintain reasonable ease of travel along these roads, that undeveloped tracts of commercial land should connect to and coordinate with any adjoining commercial office or industrial development in existence, that where no development has yet occurred, provision for access management must be made for future development, including the use of frontage roads as well as parking lot connections and shared curb cuts. He noted the property is adjacent to the Reynolds tract and that Columbia Federal is more than willing to provide a joint curb cut or a common driveway or access from their parking lot to Reynolds' lot if that ever goes commercial.

Mr. Theissen stated that the Business Activity Element of the Comprehensive Plan, page 95, talks about areas of future commercial activity in the Florence area and how the various small communities should continue to serve the commercial needs of their surrounding areas, that new businesses as they are constructed, or as existing structures are remodeled, should be developed with sensitivity to the historical character as well as the current character of the area, however this redevelopment should be done with attention paid to existing traffic, parking and pedestrian patterns. He stated that there is a sidewalk in front of this site, and that can be maintained after the development. He continued referring to the Plan, noting that in general, large residential developments may need to provide for neighborhood scale commercial activities. He noted that the U.S. 25 strip is obviously going commercial, that there are at least three instances within a block or two of this site where an existing residential structure has been converted to business, that the traffic is well resolved with direct access off of U.S. 25 and no local streets necessary, and that this bank will serve the neighbors and the persons already traveling U.S. 25. He added that this is not a regional draw, and that there are no other banks on this strip servicing this neighborhood.

Mr. Theissen stated that there is very good sight distance both directions from the proposed curb cut, that one can see both directions 500 feet which is more than enough in an 35 mph zone to get out. He noted a left turn storage lane on U.S. 25 is in existence, and that they can get the curb cut almost 300 feet from Circle Drive, and 12 cars theoretically could stack in there. He continued, stating that the site is perfect for the proposed use, minimum grading of the site is necessary, and they can keep the existing trees. He stated that the rear portion of the lot will not need to be used, that the site is bigger than Columbia Federal needs, that the rear portion will be undisturbed, that they do not even need to take anything underground, so no dig is anticipated there. He noted that one of the Staff's concerns was what will go on back there, and he emphasized that nothing is going to go on back there, that there is no "phase two" to this project, that the site is merely bigger than needed.

With regard to buffering to the apartments, Mr. Theissen stated that the code requires at least 20 feet of landscaped buffering when a commercial zone is adjacent to a residential zone, that they are proposing 40, as they did in 1991. He stated that the intensity of the site is minimum, that C-1 allows 8,000 square feet of finished space for every acre, that 1.6 acres would allow 12,800, but that they are proposing only 3,000.

With regard to the type of use, Mr. Theissen advised that this is not just a drive-through, that the facility will have pedestrian access as well, and a parking lot, that there will be no after-hours use of the site since banks operate generally from 9 to 6, that no trucks will be going in there which was a concern last time. He noted that the proposed use produces no noise or smells that could be offensive to adjacent users, also that minimal traffic comes into a branch bank facility as compared to other more intense uses such as convenience store.

With regard to landscaping, Mr. Theissen stated they have provided beyond requirements of the code, that they have not provided for landscaping between the parking lot and 25 for security reasons, that the police do not want banks to build things that prevent them from being able to see the building itself, that they want to not only see the building, but also be able to see into the building if they can, so they do not even want such things as mini blinds used. He indicated they can put a grass strip or even low landscaping.

With regard to signage, Mr. Theissen stated that the code allows one sign with maximum of 100 square feet out front, and that they are prepared to meet the requirements.

Mr. Theissen then discussed the legal standard required for granting a zone change, stating that the Land Use Element of the Comprehensive Plan calls for residential, the proposal is for commercial, but that from at least one standpoint, this proposal can be thought of as being at least partially in compliance with the Comprehensive Plan based on supporting text he previously referenced in the Housing Section, the Business Activity Section, the Land Use Section and the Future Commercial Activity Section.

Mr. Theissen stated that even if it is not in agreement, the proposal is still viable within two provisions of the statute: if the existing zone is inappropriate and the proposed zone is appropriate, or if there have been major changes of an economical, physical or social nature. He stated that there have not been any major changes in the area, that the area has been zoned residential a long time, but he thought that since the last time the site was given any detailed review by this Commission, U.S. 25 has been widened, and that there is continued development of commercial industry along the entire strip.

Mr. Theissen stated that obviously the strongest argument the applicant has is the fact that the SR-2 zoning is inappropriate and the C-1 zoning is appropriate, which is the basis the Commission used in 1991 when they recommended approval of the change. He continued, stating that it is his position that construction of 6 duplexes or 12 townhouses

on the site is not appropriate because there is adequate residential in the area, rather the rest of this strip of 25 is going commercial and Columbia Federal's plan offers an optimal plan to allow the change now of both the Comprehensive Plan and of the zoning of this site so that it can go C-1 now rather than having to wait until the next time the Planning Commission updates the five year plan.

Addressing the six Staff comments in order, Mr. Theissen recalled the first, that the proposal is not in compliance with the current Land Use Element of the Plan, stating that this does not prevent the Commission from supporting the request; the second regarding landscaping, stating that they have gone beyond the requirements; the third regarding screening along the front, stating that this is a police issue; the fourth regarding the rear portion of the lot, stating that there is no intended use; the fifth regarding the large oak tree in the front of the lot, stating that their goal is to maintain the tree with hope to make it the focal point of the site; and the sixth regarding signage which was previously discussed.

Mr. William Hub, architect whose office is located in Covington, stated that his firm has been doing work for a lot of banks, eight or ten of which are in Boone County. He discussed the design process noting that a project like this designs itself, that the site is really a lot bigger than needed, that typically a branch in the 3,000 square foot range takes 6/10 to 8/10 of an acre, but this site is more than twice that big. He explained how he had suggested moving the facility to one side, allowing a little more opportunity for frontage and further development to the rear of the site, but that Mr. Lynch had instructed him that they did not wish to develop the rear, thus they placed the building in the middle of the site.

Mr. Hub stated that there are four large trees on the site now, that they intend all of them to remain, that the tree in the front has lost a lot of leaves in the upper portion which is a concern, but that they will try to use that as a focal point. He stated that a big part of the design of a branch bank involves the drive-through lanes, that if there will be night deposit and ATM machine available after-hours, it is absolutely mandatory that this be visible from the street. He continued, stating that they have to consider back-up for cars waiting in line at the drive-through lane which eliminates using the right side, because the stack up would block the site; the back of the building could not be used because there is no visibility for the ATM machine and night deposit and people would be afraid to use it because of the possibility of robberies; the front of the building would not be considered, thus the branch designs itself in terms of location of the ATM and drive-through facility. He advised that the lack of shrubbery in front results from a critical design issue for banks with the concern of people hiding there so that police driving by cannot see them. Regarding signage, Mr. Hub indicated that they would abide by the code, with a sign sized similarly to the competition's. He noted that the line of shrubbery shown across the back was at the Planning Commission's suggestion that

it not be at the perimeter screening this parking lot, but rather that it be closer to the facility with the idea that lights would be screened by these 3-foot high shrubs.

Mr. Theissen stated that Columbia Federal intends to begin construction promptly after the zone change approval, and he asked for a timely review of this request.

Chairman Viox called for questions and comments from the audience, then recognized Les Jacobs, owner of the 12-unit apartment building next to the subject property. Mr. Jacobs expressed concern about the closeness of the branch to his building, the residents of which are mostly senior citizens, and about the noise from the drive-throughs. Mr. Hub responded that it is 53 feet from the boundary to the edge of the canopy, which is just a roof-edge, not a wall or barrier, so it will not appear to be even that close; that there is another 27 feet to the face of the building, for a total of almost 80 feet from the property line to the actual building. Mr. Hub added that Mr. Jacobs' building is not on the property line either, so he thought it would be at least 100 feet between buildings.

Mr. Jacobs commented that of all the things that have been proposed over the years, he felt this happens to be the best one, certainly better than an all-night operation. Mr. Jacobs expressed concern regarding night time lighting, stating that he hoped it would not shine in the apartment windows. Mr. Hub responded, stating that they did not intend to illuminate the whole lot, that there will be low-level lighting for security in the parking area, probably some accent lighting on the building itself, and probably on the focal point, but it will be a lot more architectural in character, not like shopping center type lighting.

Mr. Jacobs indicated there is a bit of a problem there now about storm water runoff from the subject property which drains towards his building. At question from Mr. Jacobs, Mr. Hub indicated there would be no fence.

Mr. Jacobs advised that some people are concerned about traffic at U.S. 25 & Circle, as well as the back of the property on which neighborhood youngsters frequently play. Mr. Hub responded that the curb cut was situated 300 feet from Circle, and that the bank has said it is their intention to use the rear of the property the way it is intended right now. He stated that if they wanted to use this rear part of the property for an office building or some other use, they would have instructed his firm to design it differently, but they have made the commitment to place the building right in the middle of the lot which makes all the rest of it virtually useless.

Chairman Viox recognized Lucretia Henderson, resident of Circle Drive, who expressed concern that traffic will be much worse, and she asked if Columbia Federal has bought or will buy all of the two or three parcels that belong to Shore. Mr. Theissen responded that there are no other vacant parcels that Mr. Shore owns, that Columbia Federal is buying 1.6 acres which is the entire lot, that the Reynolds-owned lot is on one side of

the subject property, that on the other side is Les Jacobs's apartment complex and several residences on Circle, and that behind the subject property is the parking lot that is part of the Florence Apartments.

Chairman Viox recognized Gary Maines, resident of Circle Drive, who stated that when he bought his house, he was told that the green area was set aside for kids to play ball, and he indicated that Fair Court was located behind the lot. Mr. Theissen responded that the subject property goes back to 10 or 15 feet short of what is paved as parking lot, that Fair Court is beyond that, that Columbia Federal does not own all the way back to Fair Court, and that the parking lot is not part of zone change.

Chairman Viox recognized Frances Mahan, resident of Circle Drive, who stated that she gets drainage from the apartments, as well as their discarded TVs and air conditioners out in the back. She asked why the applicant wanted to rezone the back part of the property if they are not going to use it. She asked what would prevent a subsequent owner of the property from building in the rear portion. Mr. Wilson responded, advising that if the applicant indicates they are willing to agree, in writing, to a condition in exchange for the zone change to put the bank on the front and not build on the back part, then they could not do that until and unless the zoning was changed again. Mr. Theissen advised that he was prepared to accept a condition that prevents them from using that back portion without some other zone change or approval of the Commission and/or City Council, because they have no intention of developing back there.

Ms. Mahan asked if Mr. Theissen represented John Shore as the seller; Mr. Theissen responded affirmatively. Ms. Mahan asked who comprised East Construction Company; Mr. Theissen responded that he did not know. Ms. Mahan stated that three sections of property were sold to the apartment complex, East Construction Company, and that she thought John Shore was part of that organization which is now dissolved, and she asked how he could sell property that has already been sold.

Chairman Viox recognized Alberta Maines, resident of Circle Drive, who stated she was told when she moved there a few years ago that that rear portion of the subject property was a green area set aside by Florence, that someone had even called her wanting to plant a tree in her yard, and that they were given the impression that that property was for the youngsters to play. She expressed concern that there would be no buffering around her home, that there would be an unsightly dumpster, and that traffic would become worse, especially in winter weather.

Chairman Viox recognized Jo Anne Henry of 4 Circle Drive, who recalled that Mr. Theissen said that this lot is not appropriate for residential area. She stated that this lot comes all the way back past her house and on past the third house, and she asked if that means that her property is no longer appropriate for residential. Ms. Henry commented that if this business is supposed to only be open from 9 to 6, why do they have to worry

about lights from the cars, and she asked if the ATM only operates from 9 to 6. She referenced a letter she had written, copies of which were distributed to the Commissioners. She expressed concern about the encroachment of commercial property into residential property, that residents will move out of Florence because they do not want to be left after 6 o'clock with no neighbors, no place to walk, and afraid to go out of their locked houses. She expressed concern regarding the traffic situation, noting that she has difficulty pulling out of Circle Drive to turn right on Dixie Highway. She expressed concern regarding the ability of visitors to the Reynolds' property to get back on Dixie Highway when they have to share an entrance and exit with a bank. She requested the Commission not to recommend approval of this request.

Chairman Viox recognized Charles Newberry, owner of property across the Highway from site, who expressed a complaint regarding drainage from the Medical Arts Building onto his property. He asked how much variation there could be between the plan and the actual building. Mr. Wilson responded, advising that there is no standard that says something has to be so precise in the Concept Development Plan and that if one deviates a little bit, it is a violation. Mr. Wilson advised that the purpose of the public hearing is not to address some other situation that Mr. Newberry feels is some kind of violation, but rather the zone change request. Mr. Wilson suggested the applicant address Mr. Newberry's question about where the water from the subject property is going to go. Mr. Hub responded that it is currently barren land, that wherever nature takes the water is where it takes it, that when they put paving in there, they will have to retain that somehow, but it will continue to go where it goes now, and that they are not going to send it somewhere else. Mr. Hub continued, stating that whatever provisions there are in the street for sewers, that is what they will tie into, and that if there are none, obviously they are not going to build some.

Chairman Viox called for questions or comments from the members of the Commission. He then recognized Commissioner Schaffer who advised she would not be participating in the proceedings because she has done work for Columbia Federal.

Commissioner Damstrom asked if any pole lights were going to be installed or whether it would all be low level lighting; Mr. Hub responded that there will be pole lights, that these are needed for security, that they can be directed towards the facility's parking area, but that low level lights do not provide adequate security.

Commissioner Damstrom commented regarding the front buffering, stating that he had seen other banks in Boone County with buffering in the front to break the traffic lights up from hitting oncoming traffic, and did not understand why this could not be done.

Commissioner White asked how the back part of the property would be maintained; Mr. Theissen responded that it would be maintained in the same manner as it is currently, which is that it gets mowed fairly regularly, in a yard-like manner.

Commissioner McMillian asked if the neighborhood kids could use the rear portion for a play lot; Mr. Theissen responded that although there are a couple of volleyball poles up there, he had checked the title to this site and there is no recreational restriction on it, that as far as he knew, nobody has ever obtained permission to use it for recreational purposes. He stated he was not prepared at this point to make a commitment on that issue. Commissioner McMillian then asked where the shared access with the property to the north would be placed; Mr. Theissen responded that there would be numerous options to consider at the point in time when the Reynolds lot is developed.

Commissioner Bailey commented that one of his concerns as well as one of the concerns of Council in 1991 was the 375 foot depth of this lot, that it is deeper than some of the other businesses such as Emerson's which is around 200. He stated that even if they develop in the front and do not develop the back, it would seem that the Reynolds property which is a deep lot will at some time go commercial, and, if the subject property is zoned commercial all the way back, the owner of the Reynolds property at that time would have some legitimate reason then to ask for that kind of zone change. He recalled that Council opposed it in 1991 because there was no specific plan, and that he could see from the tone of questions at this hearing that there is still concern and the residents still do not know for sure exactly what is going to take place back there.

Chairman Viox called on Mr. Theissen to respond to concerns and questions. Mr. Theissen indicated he did not know how many trips per hour a small branch bank produces, but that he knew from experience that it is not a high traffic type use. Chairman Viox asked if he thought there would be more, less or the same traffic out of this site with the bank than would result on this site under the current zoning with the 12 units; Mr. Theissen responded that he thought the 12 residential units would probably produce more than a 3,000 square foot branch bank. Mr. Costello advised he would provide that information to the Committee.

Mr. Theissen stated that the curb cut is as far from Circle as they can get it and still meet the buffering requirement on the side of the site, that it is almost 300 feet or about ten car lengths from Circle Drive to the access point. Regarding storm water retention, Mr. Theissen stated that the zoning code requires them to have proper storm water facilities in place, but that since this is a concept plan, they have not gotten that far. He stated that all of the water that is increased because of this development must go into a City sewer system, that they are not allowed to pour it off onto adjacent land owners.

Mr. Theissen stated they will have an ATM which is obviously open 24 hours, so there will be a few cars going in there after hours for the minute or so it takes to drive through the parking lot and use it. He continued, stating that a dumpster is included in the plan this time since it was not the last time, and its absence was raised as a concern. He added that there are two possible locations for the dumpster, if one is indeed required, that it would be screened by a wall constructed with material similar to that which is

ultimately selected for the building. He noted that Mr. Lynch indicated that not all the other branches had dumpsters, and that if it is not required, they will not have one.

Mr. Gary Maines expressed concern that the bank's business would grow and they would enlarge their building, and install more drive-throughs to the rear of the property, which might cause additional water runoff into his yard.

Ms. Frances Mahan reiterated her complaint of getting the water runoff from the parking lot from Florence East apartments, and she commented that Commissioner Bailey had accurately expressed her concerns. She complained that the businesses at the corner have parking lots which obstruct the view of vehicles trying to get out of Circle Drive.

Ms. Alberta Maines asked whether the bank could turn around and sell the back portion, or whether they could extend the facility to the rear of the lot without permission. Mr. Wilson responded, advising that the applicants have indicated their willingness to agree to a condition that says they would not put anything on the back part, that if they would want to change that and put something back there, they would have to come back through the public hearing process to remove that condition or change it, that they can sell it to anybody they want, but that person would have to adhere to the conditions that they agreed to, because that is part of the zoning. Mr. Wilson advised that he was not saying that cannot happen, because someone can buy it and come back through this process to try to change that condition, but they would have to have that condition changed. Mr. Costello added that conditions are recorded in the County Clerk's Office.

At question from Mr. Newberry, Mr. Theissen advised that they would not be sharing the Reynolds' driveway until such time as that property is developed commercially.

Ms. Mahan asked whether there would be one curb cut or two; Chairman Viox indicated the drawing depicted only one.

Commissioner White asked whether Columbia Federal would consider leaving the back part of that property zoned as it is now just from the hedges back; Mr. Theissen responded that he thought they were addressing that already with the conditions, that he did not know that it is a significant difference, and that the Reynolds lot has the same depth, is adjacent to the road behind, and the next business down, the U-Save Auto Rentals, also goes back the full depth of over 300 feet. Mr. Theissen suggested that rather than putting the zone line across the lot, to leave it there with the condition.

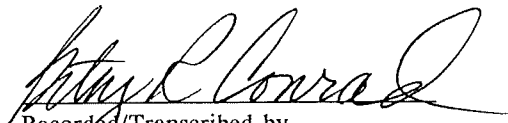
Commissioner White reiterated the City's concern about just how deep commercial is going to go into residential. Mr. Theissen responded that he had two concerns about that, (1) if the commercial zoning is cut off mid-way back, it leaves a totally unusable lot which could not be developed for residential or commercial, that this would be landlocking or killing a piece of land which probably is not appropriate; and (2),

throughout the Comprehensive Plan, it talks about having commercial buffered by multi-family or densely populated residential, then having single family behind that, and that this guide would not be followed if the commercial zoning were cut off. Mr. Theissen continued, that if they do that, they would end up with 100 feet of totally worthless land that will never be used. He noted that buffering is required between commercial and residential, so there is built-in protection in the code already.


Commissioner White advised that the property next door to the subject property would have a different problem in that the subject property adjoins residentials on Circle, and he reiterated the City's concerns. Mr. Theissen responded that there is commercial development in front of residential on Dixie Highway from Covington out, that most of the lots probably do not go much deeper than about 200 or 250 feet, and that the subject property is 350 feet. He added that there are some places where it is appropriate and he suggested this was one place, because there is a road and then apartments behind it, and the way that this concern might best be addressed is by doubling the amount of buffering required, as this plan shows. He suggested that at the time of development of the Reynolds lot, the Commission could grant a condition that a wider buffering than required by code be required before any use could be made of the north side of that back lot. Commissioner White asked, "But you said you were willing to commit you would never build back there, so why would you not be willing to leave that as a residential?"

Mr. Les Jacobs commented that he felt that this proposal might be a good buffer zone for the people on Circle Drive if the Reynolds property is developed into a strip center, bar, or restaurant.

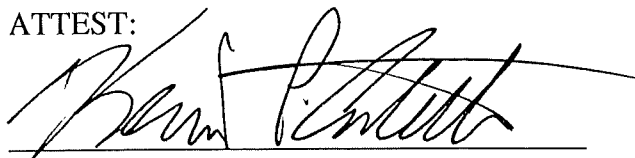
There being no further comments, Chairman Viox advised the Committee meeting for this application will be July 11 at 1 p.m. in the Extension Office at the corner of Camp Ernst Road and KY 18; then back on Planning Commission agenda July 20 at 8:00 p.m. in the County Administration Building. Chairman Viox then declared this public hearing closed, the time being 10:06 p.m.


Recorded/Transcribed by
Betsy R. Conrad, Recording Secretary

APPROVED:


William R. Viox, Chairman

ATTEST:


Kevin P. Costello, Director

BOONE COUNTY PLANNING COMMISSION
BUSINESS MEETING
July 20, 1994
8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 9:00 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett
Mr. William Bailey
Mr. Fred Burch, Vice Chairman
Mr. Phil Damstrom
Mr. Gayle McElroy
Mr. Don McMillian
Mr. Barry Neltner
Mr. Thurman Owens
Mr. Robert Ries
Mr. Ralph Rush
Mrs. Linda Schaffer
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

Mr. Robert Kirby, Jr.
Mrs. Carol Smith, Secretary/Treasurer
Mr. Earl White

LEGAL COUNSEL PRESENT:

Mr. Larry Dillon

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Director
Mr. Dave Geohegan, AICP
Ms. Jan Hancock, Secretary
Mr. Robert Jonas
Mr. Dean Niemeyer

Staff Member Dave Geohegan read the Committee Report which recommended approval of the request based on the findings of fact but subject to 13 conditions (see Committee Report). He advised that the applicant and the property owner by contract have signed the letter agreeing to all the conditions.

Mr. Owens moved by resolution to the Fiscal Court that the request be approved based on the Staff and Committee Reports. Mr. Damstrom seconded the motion.

Mrs. Schaffer referred to Condition #2 and asked if the left turn lane would be paid for by the developer. Mr. Geohegan advised that that was the Committee's intent. Mrs. Schaffer referred to Condition #7 and questioned the panhandle area. Using the plan, Mr. Geohegan indicated the panhandle area shown in orange. He explained that that area does not have any access at this time, but is anticipated to be developed through adjacent properties on Utz Lane onto the ridge tops. The Committee is saying is that when that property develops and the developer realizes that he cannot utilize the steep hillsides, he may then want to consider offering that property also -- but until that area develops, the developer would retain ownership and there would not be any conservation easements on it.

Mrs. Schaffer referred to Condition #10 and asked if the size of the parking area was discussed. Mr. Geohegan advised that that discussion would be premature at this time as it is not known what will occupy the 110 acres or what it will be used for, and the size of the parking would be addressed when the property is actually dedicated or at Preliminary Plat or Improvement Plan Review, whichever comes first.

Mr. Owens stated that if you drive out there, right before you go over the hill, there is a level area and over to the left the old road dips down and there is a natural parking area there. He did not know how many cars could be parked there.

Mrs. Schaffer stated that she was concerned that they might put in just one parking space.

Mr. Breidenstein stated that they have a vested interest in making sure the property is used properly because it benefits the people who would be buying their homes. He stated that the parking will be appropriate for the use once the property is dedicated.

There being no further discussion, Chairman Viox asked for a vote on the motion made by Mr. Owens and it carried unanimously.

2. Zoning Map Amendment

The request of Columbia Federal Savings & Loan Association (applicant) for Mark H. Berliant, Trustee (owner) for a Zoning Map Amendment on a 1.63-acre site located on U.S. 25, just north of Circle Drive Florence, Kentucky. The request is to change the zone from Suburban Residential Two (SR-2) to Commercial One (C-1) to allow a drive-thru bank.

Staff Member Bob Jonas presented the Committee Report which recommended approval of the request based on the findings of fact but subject to conditions (see Committee Report). He advised that the applicant has signed the letter agreeing to the conditions.

Mr. Burch moved by resolution to the City of Florence that request be approved. Mr. Neltner seconded the motion.

Mr. Ries referred to Condition #1 and noted that the rear portion of the lot would remain undeveloped. He asked if that portion of the lot would still be part of the change to C-1 zoning. Mr. Jonas advised that it is still part of the zone change, but any activity proposed for the rear portion of the site would have to go through the Public Hearing process for a change in Concept Development Plan.

Mrs. Schaffer stated that she would abstain from voting in regard to this request as she does work for Columbia.

Chairman Viox asked for a roll call vote on the motion made by Mr. Burch which found Mr. Burch, Mr. Damstrom, Mr. McElroy, Mr. McMillian, Mr. Neltner, Mr. Owens, Mr. Rush, and Chairman Viox in favor. Mrs. Arnett, Mr. Bailey, and Mr. Ries were opposed. The motion carried by a vote of 8 to 3.

3. Zoning Map Amendment

The request of Raymond Erpenbeck Consulting Engineers (applicant) for Burlington Realty & Development (owner) for a Zoning Map Amendment, Conditional Use Permit, and Variance on a 1.8-acre site at Hebron Park and Barbara Drive, Boone County, Kentucky. The request is to change the zone from Urban Residential One/Planned Development (UR-1/PD) to Commercial Two (C-2) and for a Conditional Use Permit to construct an automobile repair shop, tire store, car wash and used car sales. The applicant is also requesting a dimensional variance in the required buffer yard adjoining a residential zone.

Staff Member Dean Niemeyer presented the Committee Report which recommended approval of the request based on the findings of fact but subject to conditions (see Committee Report). He advised that the applicant and owner have signed the condition letter.

Mr. Ries moved by resolution to the Boone County Fiscal Court that the request be approved based on the Staff and Committee Reports. Mr. Bailey seconded the motion and it carried unanimously.

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: William Bailey, Chairman

DATE: July 20, 1994

RE: Request of Columbia Federal Savings & Loan Association (applicant) for Mark H. Berliant, Trustee (owner) for a Zoning Map Amendment on a 1.63 acre site located on U.S. 25, just north of Circle Drive, Florence, Kentucky. The request is to change the zone from Suburban Residential Two (SR-2) to Commercial One (C-1) to allow a drive-thru bank.

Remarks:

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

Findings of Fact

1. Although this request is not in conformance with the 1990 Boone County Comprehensive Plan, the Committee feels that the proposed Commercial One (C-1) zoning is appropriate and the existing Suburban Residential Two (SR-2) zoning is not appropriate.
2. The Committee believes that the conditions contained in this report satisfy the **Business Activity** element of the Comprehensive Plan which states that commercial development shall have adequate and maintained buffer spaces between the business and other land uses.
3. The Committee also believes that the conditions appropriately address the **Land Use** element of the Comprehensive Plan which calls for the use of landscaping, buffering, and building setbacks to minimize the visual and sound impacts of a business on adjacent mixed land uses.

Conditions

These items are being included to help clarify the submitted Concept Development Plan and address concerns heard at the June 29, 1994 Public Hearing.

1. The rear portion of the lot shall remain undeveloped as shown on the applicant's Concept Development Plan. This area shall be maintained in an orderly manner by the property owner.
2. The development design will accommodate a shared curb cut or interconnecting parking lot and provide easements with the property to the north on U.S. 25 when (or if) that lot develops commercially.

3. Low level screening is to be provided in the 10' landscaping strip between the parking lot and U.S. 25 so as to screen internal vehicle headlights from the roadway and adjacent properties.
4. The existing trees on the lot are to remain as shown on the submitted Concept Development Plan. If it is determined by the applicant and Planning Commission that any of the trees are in an unhealthy condition and unable to be saved, appropriate replacement tree planting shall be installed in its place.
5. The development must maintain the 40' buffer yard along the southern property boundary as shown on the submitted Concept Development Plan.
6. Lighting must be directed internally and must not produce glare on adjacent properties.
7. A detailed landscaping plan must be submitted at Site Plan Review and must address visual appearance from Dixie Highway and buffering along adjacent properties. Buffering shall be designed to the satisfaction of the Planning Commission.
8. Stormwater and sanitary sewer issues must be addressed at Site Plan Review.

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.

William Bailey, Chairman

Phil Damstrom
Phil Damstrom

Barry Neltner
Barry Neltner

Fred Burch
Fred Burch

Thurman Owens
Thurman Owens

Gayle McElroy
Gayle McElroy

RAJ\par

SUPPORTING INFORMATION

17:45

FROM STRAUSS TROY CIN 2100 TO S/T

PAGE.002

DEED

KNOW ALL MEN BY THESE PRESENTS:

That

CONSTRUCTION COMPANY, an Ohio corporation, 7107 Shona Drive, Cincinnati 45237, acting by and through Harmond C. Cohen, its President and Louis B. Green, its Secretary, and pursuant to a Resolution adopted by its Board of Directors, for and in consideration of

Property Transfer Tax Paid \$10.00
JERRY W. ROUSE, Clerk *JWR* D. G.

The passing of the property herein is \$10,000.00.

the receipt whereof is hereby acknowledged, do es hereby bargain, sell and convey to ~~MARK H. BERLIANT~~

MARK H. BERLIANT, Trustee 360 Brockdorf Drive, Wyoming, Ohio 45215

successors

his ~~MARK H. BERLIANT~~ and assigns forever, the following described real estate, lying and being in Boone County, Kentucky to wit: Lying and being in the City of Florence, Kentucky and on Dixie Highway in said City and being more particularly bounded and described as to-wit:

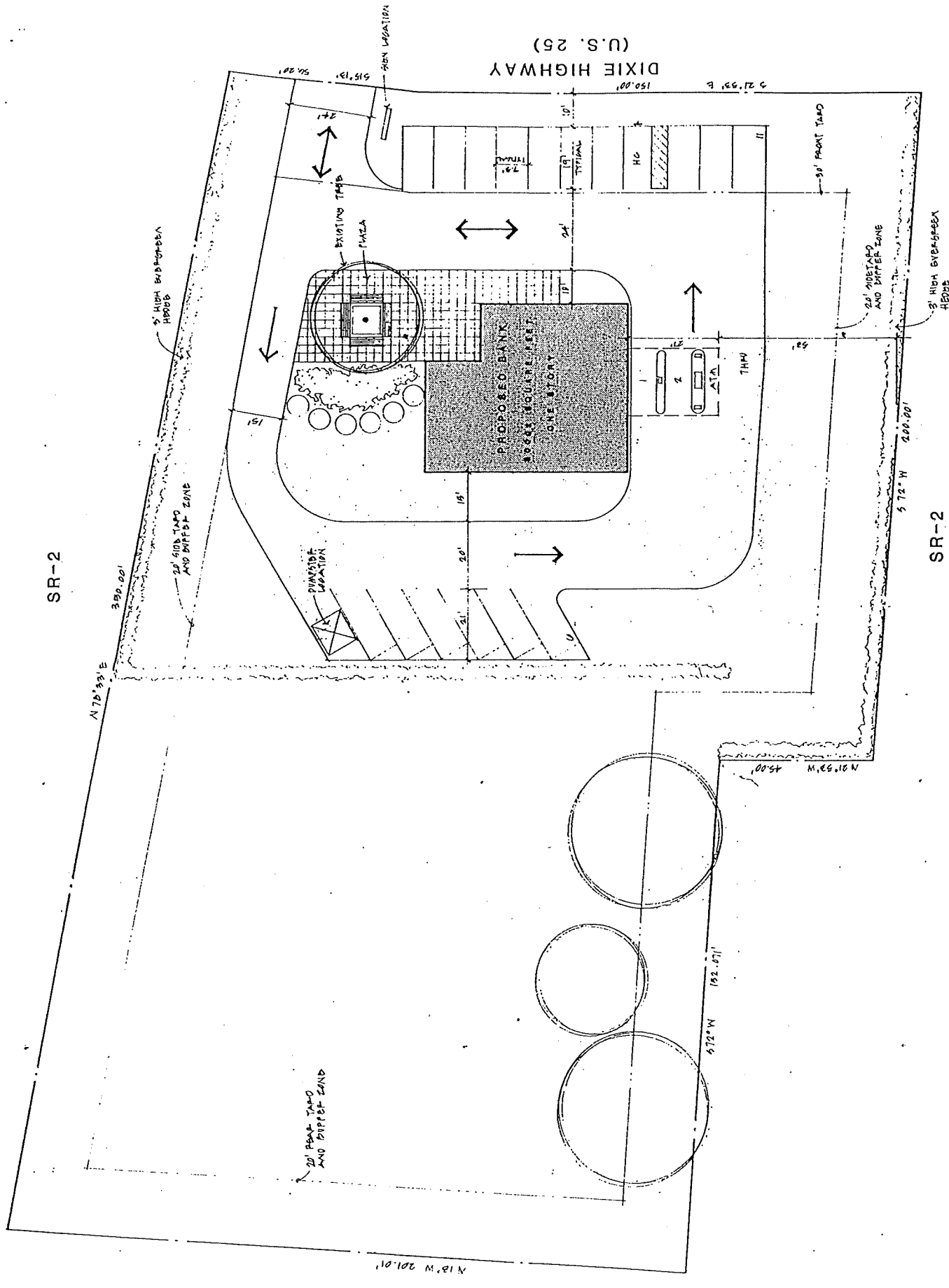
BEGINNING at a point in the West line of Dixie Highway, N 21° 53' W 100 feet from the Northwest corner of Circle Drive and Dixie Highway; thence S 72° W 200 feet; thence N 21° 53' W 45 feet; thence, S 72° W 152.07 feet; thence N 18° W 201.01 feet; thence S 78° 55' W 350 feet to the West line of Dixie Highway, thence N 15° 13' W 56.20 feet, thence N 21° 53' W 150 feet to the place of beginning, being 1.628 acres or 70,900 square feet

Being a part of the same property conveyed to the Grantor by Eva Rigney, a widow by deed dated 23rd day of August 19 68 and recorded in deed book 182 page 311, in the

office of the Clerk of the Boone County Court, Burlington, Kentucky. Together with all the privileges and appurtenances to the same belonging. To have and to hold the same to the said ~~MARK H. BERLIANT~~
MARK H. BERLIANT, Trustee

BOOK 185 PAGE 67

185/67



PARKING	12.
REQUIRED	17
PROPOSED	

WILLIAM HUB, P.S.C.
Architects
Senior Design
WA

SR-2

SR-2

SR-2

ORDINANCE NO. 0-24-94

BC - Planning Com

AN ORDINANCE ADOPTING AND APPROVING A REZONING OF CERTAIN REAL ESTATE LOCATED IN THE CITY OF FLORENCE, KENTUCKY, FOR AN APPROXIMATE 1.2 ACRE SITE LOCATED ON U.S. 25, JUST NORTH OF CIRCLE DRIVE, THIS REZONING BEING FROM ITS PRESENT ZONE OF SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL ONE (C-1), SUBJECT TO AGREED CONDITIONS OF DEVELOPMENT PLAN, AND BY AGREEMENT OVERRIDING COMMISSION RECOMMENDATION FOR REZONING REMAINING PORTION OF 1.6 ACRE PARCEL. (COLUMBIA FEDERAL PROPERTY)

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

WHEREAS, the Boone County Planning Commission has recommended that a requested zone change be approved for an approximate 1.63 acre parcel located on U.S. 25, just north of Circle Drive in the City of Florence, Kentucky, from current zoning of Suburban Residential Two (SR-2) to Commercial One (C-1), and

WHEREAS, the recommendation from the Boone County Planning Commission is based upon certain findings which have been reviewed by the City Council of Florence, Kentucky, and the owner/applicant has agreed to conditions as part of its development plan for this zone change, and

WHEREAS, the City Council of Florence, Kentucky, and the owner/applicant have agreed to modify conditions of the development plan so that only approximately 1.2 acres of the 1.63 acre parcel is rezoned, the remaining balance to remain zoned Suburban Residential Two (SR-2).

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

SECTION I

That the requested zone change for the real estate which is more particularly described below shall be and is hereby approved to rezone an approximate 1.2 acre parcel from Suburban Residential Two (SR-2) to Commercial One (C-1) zoning classification, subject to a development plan and its conditions. The subject real estate is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference as if fully set out.

SECTION II

That the zoning map of Boone County, Kentucky, as it

applies to the City of Florence, Kentucky,. shall be amended or changed to reflect the rezoning of the property, subject to the agreed development plan.

SECTION III

That the recommendation of the Boone County Planning Commission regarding this zone change shall be and is hereby adopted and approved by the City Council of Florence, Kentucky, which accepts the findings of the Boone County Planning Commission, including those conditions recommended by the Commission and made a part of the development plan, except as otherwise provided herein.

SECTION IV

This rezoning is specifically subject to and conditioned upon the agreement of owner/applicant for only approximately 1.2 acres of the 1.63 acre parcel being rezoned to Commercial One (C-1), subject to the terms and provisions of the development plan, and that the remainder of the 1.63 acre parcel as shown on the attached Exhibit "B" is not rezoned by virtue of this Ordinance, and retains its current zoning of Suburban Residential Two (SR-2), without the previously agreed conditions as part of the Boone County Planning Commission recommendation applying to that portion remaining zoned Suburban Residential Two (SR-2).

By agreement with owner/applicant, this Ordinance overrides the Boone County Planning Commission recommendation to the extent that the recommendation was to rezone the entire 1.63 acre parcel. Owner/applicant agrees as part of its development plan that the portion as shown and identified on Exhibit "B" is to retain its current zoning of Suburban Residential Two (SR-2) and further agrees to the City Council of Florence overriding the Commission recommendation as it applies to this particular portion of the 1.63 acre parcel.

SECTION V

In the event that the rezoning of this property should be held invalid by any court of proper jurisdiction, such invalidity shall not affect the validity of any of the other zoning

regulations, zoning map and comprehensive plan provisions as they are severable from this rezoning on this particular piece of property, and are intended to continue to have effect regardless of any invalidity relating to this particular rezoning.

SECTION VI

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

PASSED AND APPROVED ON FIRST READING THIS 23rd DAY OF August, 1994.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 6th DAY OF September, 1994.

APPROVED:

Evelyn McKelb
MAYOR

ATTEST:

Steph Coural
CITY CLERK

EXHIBIT "A"

Being in the City of Florence, County of Boone, Commonwealth of Kentucky, and

Beginning at a point in the west line of Dixie Highway (U.S. Route 25), N 21° 53' W 100 feet from the northwest corner of Circle Drive and Dixie Highway (the point of beginning); thence S 72° W 200 feet; thence N 21° 53' W 45 feet; thence S 72° W 50 feet to a point; thence N 18° W 201.01 feet more or less to the north boundary line of the property described in Deed Book 185, page 67, Boone County Clerk's records; thence S 78° 55' W 250 feet more or less to the west line of Dixie Highway; thence N 15° 13' W 56.20 feet; thence N 21° 53' W 150 feet to the point of beginning.

It is the intent of the parties that the above describes the first 250 feet of the subject property starting at Dixie Highway, specifically excluding the owner's property to the rear of said 250 feet.

