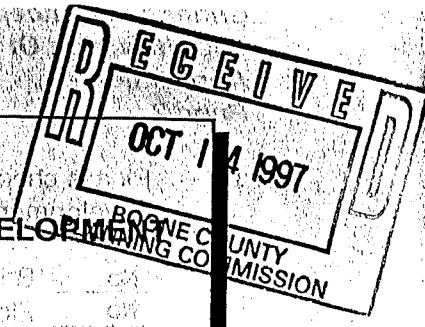


APPLICATION FORM



CHANGE IN CONCEPT DEVELOPMENT PLAN OR UTILIZATION OF AN UNDERLYING ZONE IN PLANNED DEVELOPMENT (CONCEPT DEVELOPMENT PLAN) BOONE COUNTY PLANNING COMMISSION

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check One:

- X Change in Concept Development Plan
Utilization of An Underlying Zone in Planned Development
a) Public Hearing Submittal (Concept Dev. Plan)
b) Long Range Planning Committee Review
(As stated in the Houston-Donaldson Study)

- 2. Name of Project Turfway Park Lot 9 Commercial Park Lot 9
3. Location of Project Cavalier Blvd.
4. Total Acreage of Site 11.1599
5. Current Zoning 02-PD
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) May, 1990
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) Turfway Interchange Land Use Study
8. Proposed Uses (please specify each use) Four little league baseball fields, or alternate of an office complex; an office/hotel, and an outdoor and an indoor
9. Proposed Building Intensities (please specify) 12,220 s.f. office/hotel soccer building; 20,000 s.f. indoor soccer field; possible additional 55,482 field.
10. Have you submitted a Concept Development Plan? Yes s.f. of office
11. Are you also applying for: No Conditional Use Permit space. No Dimensional Variance
12. Name of Applicant(s) Espey, Huston & Associates, Inc.
Phone Number (606) 371-9051 Fax No. (606) 371-5980
13. Address of Applicant(s) 1895 Airport Exchange Blvd., Suite 234
Erlanger, KY 41018
City State Zip
14. Name of Property Owner(s) Daniels Investments
Phone Number (606) 431-5900 Fax No. (606) 655-2422
15. Address of Property Owner(s) 2020 Madison Avenue
Covington, KY 41014
City State Zip
16. Are there any existing buildings on the site? No
How many? 646
17. Deed Book Plat Bk. 406A Page No. 289 Group No. 3677
18. Have you had a pre-application meeting with BCPC Staff? Yes

(over)

**EXHIBIT "A"**

## STAFF REPORT

Request of Espey, Huston & Associates (applicant) for Daniels Investments (owners) for a Change in Concept Development Plan in an Office Two/Planned Development (O-2/PD) zone for an 11.16 acre site known as Lot 9, Turfway Commercial Park located on Cavalier Boulevard, Florence, Kentucky (see sheet #1). The request is for a Change in Concept Development Plan to allow office, hotel, and indoor and outdoor athletic field uses.

November 19, 1997

### Proposal

This request is for a Change in the Approved Concept Development Plan for Lot 9, Turfway Commercial Park (see sheet #5) to allow an indoor and outdoor soccer field and an Office/Hotel use (12,220 s.f.) with either four (4) baseball fields or three (3) office buildings (55,482 s.f.). The Office/Hotel lot and the indoor and outdoor soccer fields are a constant with the four (4) baseball fields or three (3) office buildings being alternatives. Access into the site will be from the existing Sports of all Sorts, with a curb cut in front of the Office/Hotel use and a shared access between the alternatives and the Office/Hotel use. The Office alternative has an additional individual access point shown, however, the baseball field alternative does not. The applicant has expressed an interest in allowing a mixture of the alternatives.

### Site History

- 1984            The Land Use Study, I-75/Turfway Road Interchange was adopted, which includes the entire Turfway Commercial Park Subdivision.
- 1986            The original Concept Development Plan for the entire subdivision showed Professional Office uses approved for Lot 9 (see sheet #3).
- 1990            A Change in the approved Concept Development Plan was granted allowing Office-Flex uses for Lot 9 (see sheet #4).

### Surrounding Zoning and Land Uses (see sheet #2)

- North:            Hotel uses (Marriott Courtyard, Fairfield Inn) and Professional Office uses (Jim Huff) all zoned O-2/PD
- East:             Medical Office use (Pediatric and Adolescent Medicine) zoned C-3/PD, and Recreation (Sports of all Sorts) zoned O-2/PD

South: Boone County High School zoned PF, and Brynwood Apartments zoned O-2/PD

West: Office uses (Turfway Corporate Center) zoned SR-2/PD, currently under construction

### **Comparison with Prior Concept Plan Approvals**

The original concept plan for Lot 9, approved March 5, 1986, was approved for Professional Office uses and included 175,000 square feet on the 11-acre site. The plan indicated four office buildings, four stories each (see sheet #3).

On May 16, 1990, approval was granted for a change in the approved concept plan. It consisted of two buildings, 122,200 square feet total, for Office-Flex uses (see sheet #4).

### **Relationship to Turfway Study and Comprehensive Plan**

The Land Use Study, I-75/Turfway Road Interchange, is the appropriate guide for development of this site as well as the entire Turfway Commercial Park. The purpose of the Study was to analyze a specific area surrounding the interchange and recommend land uses. In essence, this Study became the Comprehensive Plan (including land uses and zoning) for the Turfway Road Interchange when it was approved by the City of Florence on May 8, 1984. The 1986 Boone County Comprehensive Plan incorporated the recommendations of the Turfway Study. This was reiterated in the 1990 and 1995 Boone County Comprehensive Plan updates.

The 1995 Boone County Comprehensive Plan refers to this site generally stating:

"Major development has occurred on both sides of the Turfway Road interchange with the development of Winn Dixie supermarket on the east side and Houston Lakes and Turfway Business Park on the west side."

The Land Use Element of the Comprehensive Plan for the Florence area states:

"Commercial developments in this section should remain near the arterial roads or close to the interstate. These consumer services and traffic-oriented developments must be contained to specific areas adjacent to the arterial roads and interstate.. Undeveloped tracts of commercial land should connect to and coordinate with any adjoining commercial, office or industrial developments in existence," (page 227).

The Recreation section, Goals and Objectives, of the Comprehensive Plan states:

"Extra-regional or interstate tourist oriented-commercial facilities shall be allowed in appropriate areas when the final mitigated impact is minimal on other land uses." (page 9)

"Recreation areas shall be centrally located in their service areas and easily and safely accessible to the population groups they are designed to serve." (page 10)

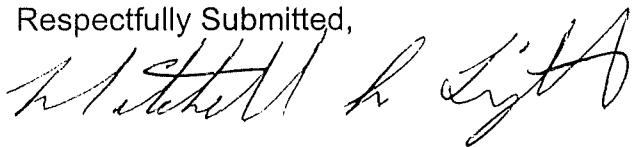
### **Staff Comments and Concerns**

1. This site is part of a Planned Development, which encourages innovative physical design proposals through flexibility in dimensional standards that are normally applied to conventional districts as outlined in Section 1514 of the Boone County Zoning Regulations Planned Development Standards.
2. The site is subject to the Turfway Commercial Park Special Sign District that permits monument style and building mounted signs only for the lots that do not abut I-75. The monument style signs are to be located within the landscaped mound area, as nearly as possible, that borders Cavalier Blvd. The size shall not exceed thirty-six (36) square feet, not including the base. The building mounted signage is limited to two signs per building at a ratio of 2:1 (two square feet of sign area per lineal foot of building dimension upon which it is mounted).
3. The proposed concept plan shows vehicular and pedestrian connections from the existing Sports of all Sorts, office/hotel and soccer fields and the alternatives.
4. All proposed buildings should be similar or the same in design, materials, and colors so that the proposed development conveys continuity.
5. The project must follow Article 36, Landscaping, of the Boone County Zoning Regulations regarding the bufferyard requirement and the internal landscaping of the proposed vehicular use area (VUA). This will be reviewed through the site plan review procedure.

**Conclusion**

This request needs to be evaluated by the Boone County Planning Commission and Florence City Council in terms of the criteria necessary for approving a Change in Concept Development Plan as stated in Article 3, "Amendment," of the Boone County Zoning Regulations, the intent of Article 15, Planned Development District of the Boone County Zoning Regulations and the intent of the Land Use Study, I-75/Turfway Road Interchange.

Respectfully Submitted,



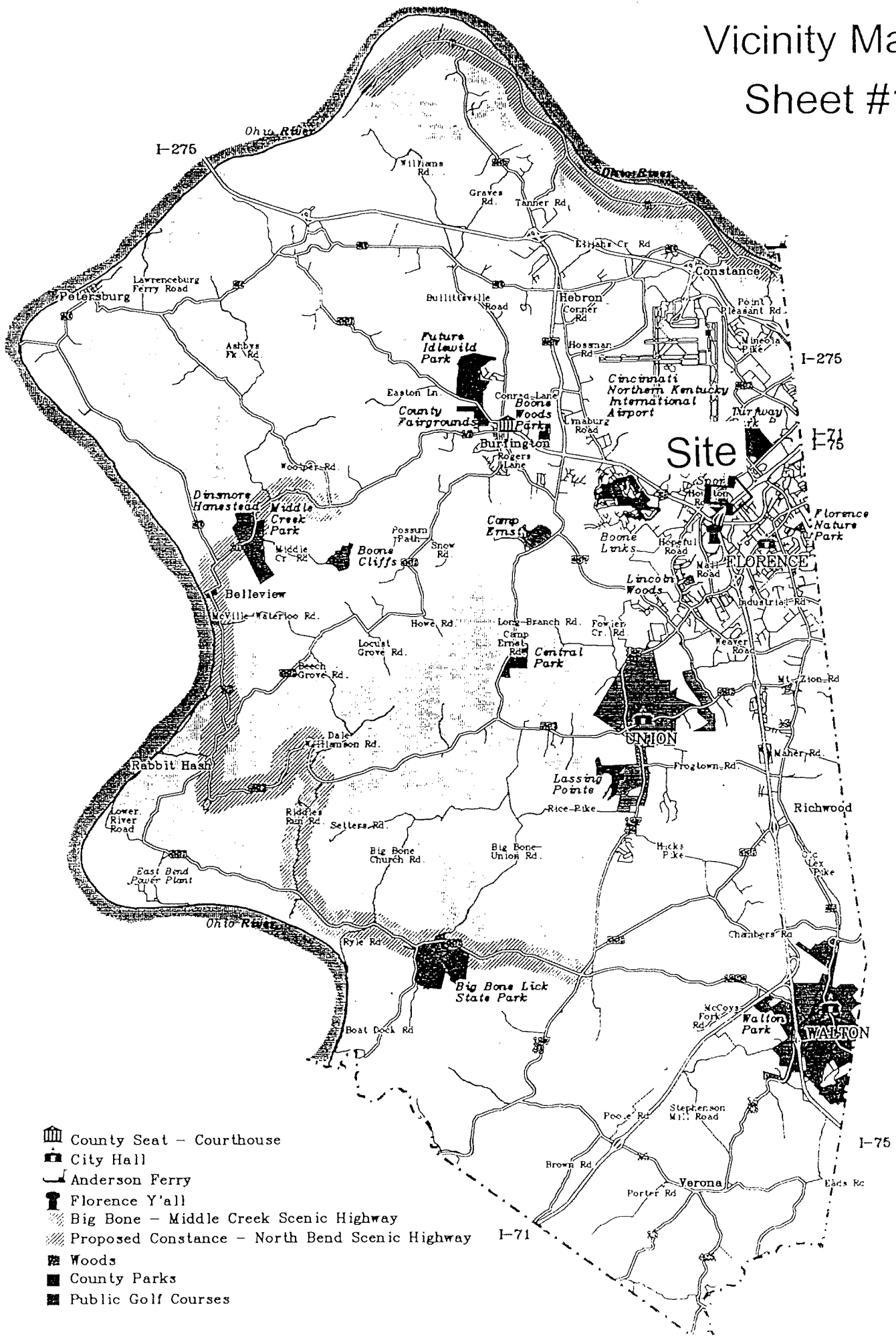
Mitchell A. Light  
Asst. Zoning Administrator/Enforcement Officer










MAL/par

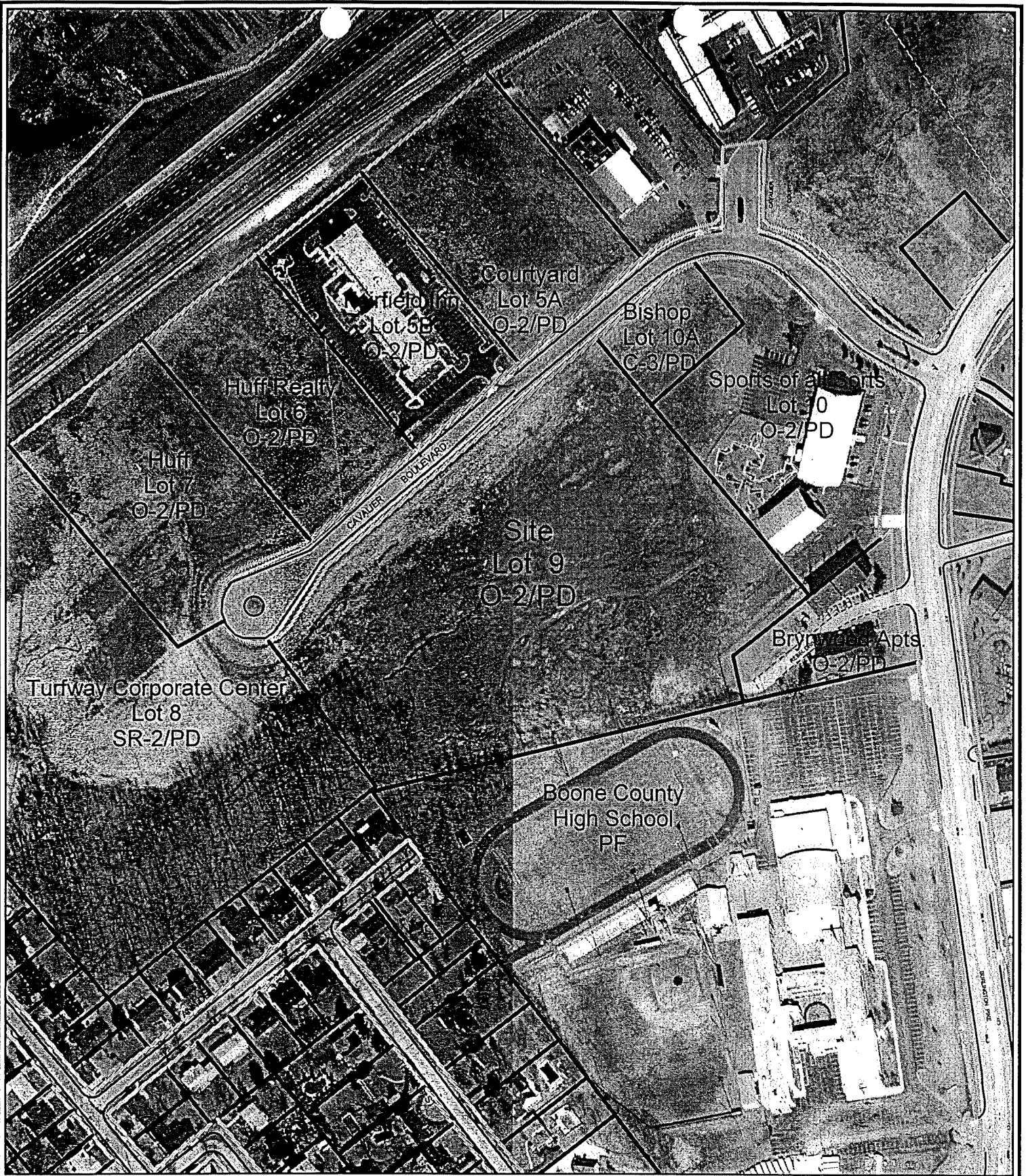
Attachments

- Vicinity Map
- Surrounding Zoning and Land Uses
- Original Concept Plan (1986)
- Existing Concept Plan (1990)
- Proposed Concept Development Plan
- Application

# Vicinity Map Sheet #1

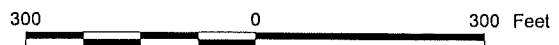


-  County Seat - Courthouse
-  City Hall
-  Anderson Ferry
-  Florence Y'all
-  Big Bone - Middle Creek Scenic Highway
-  Proposed Constance - North Bend Scenic Highway
-  Woods
-  County Parks
-  Public Golf Courses



# Sheet #2

## Zoning & Land Uses

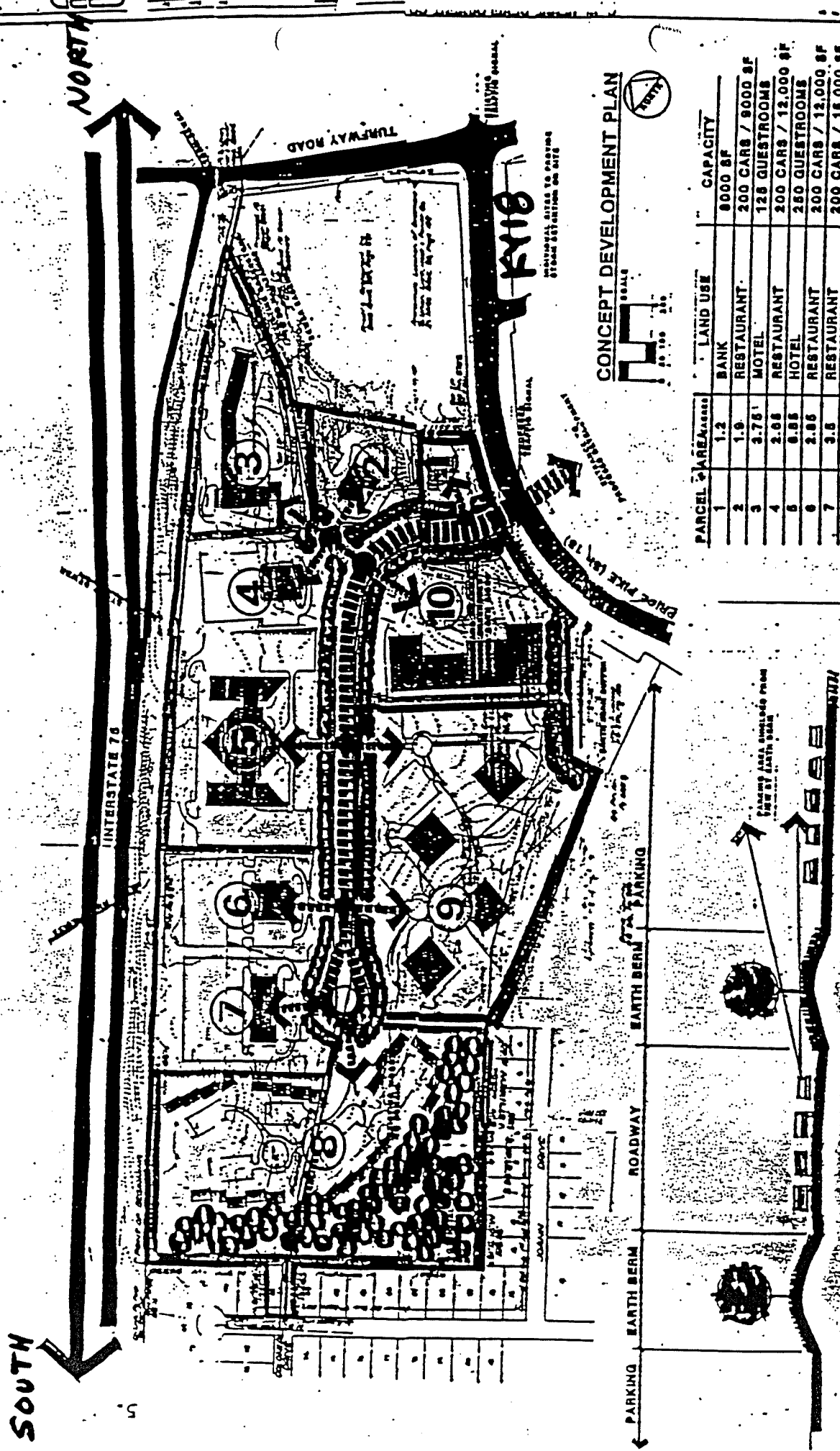


1 inch equals 250 feet

Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 November 18, 1997



C.W. HENNE CONCEPT PLAN  
 APPROVED 3/5/86



CONCEPT DEVELOPMENT PLAN

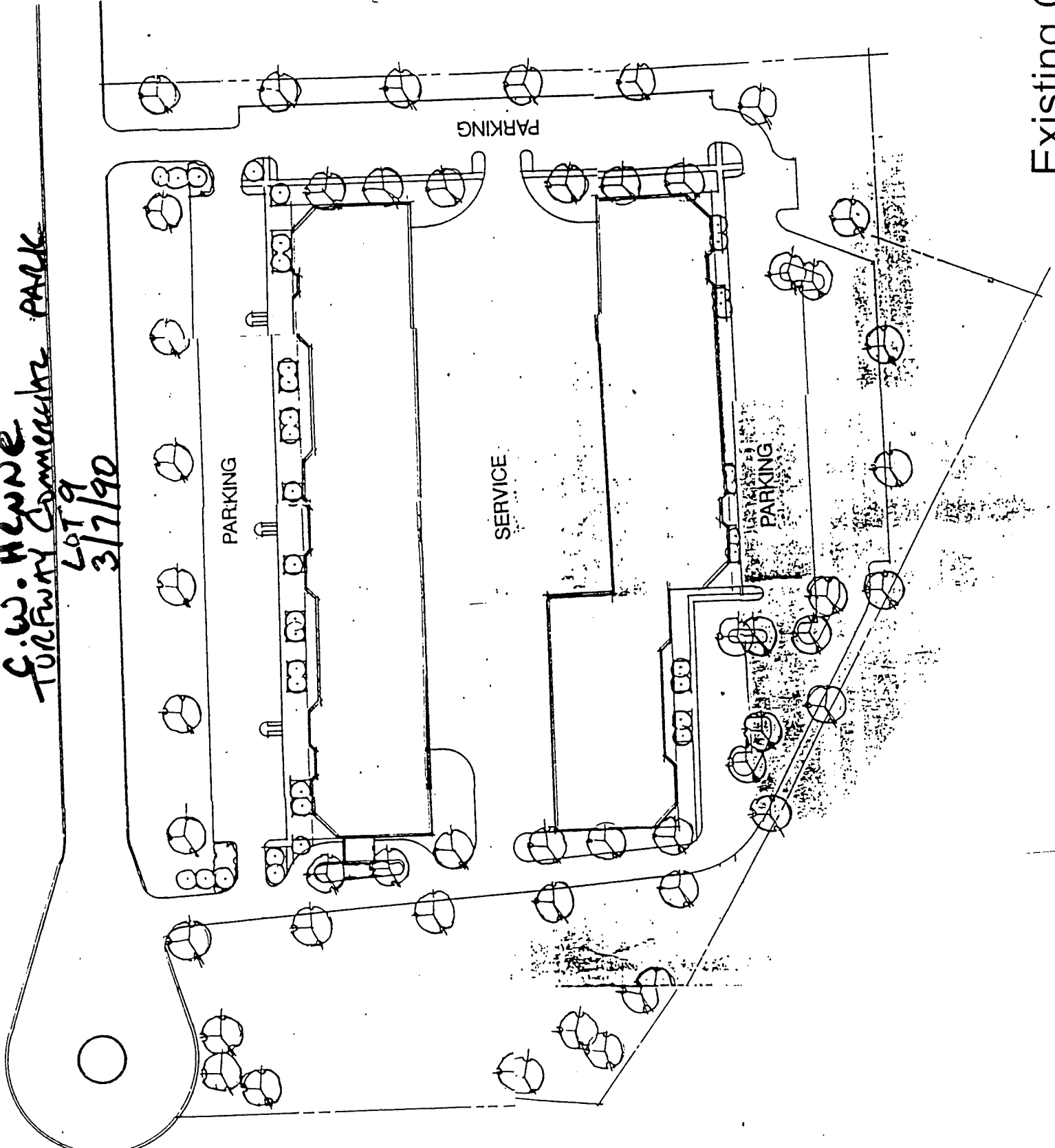


PARCEL #	AREA (ACRES)	LAND USE	CAPACITY
1	1.2	BANK	8000 SF
2	1.9	RESTAURANT	200 CARS / 8000 SF
3	2.75	MOTEL	128 GUESTROOMS
4	2.68	RESTAURANT	200 CARS / 12,000 SF
5	0.85	HOTEL	250 GUESTROOMS
6	2.86	RESTAURANT	200 CARS / 12,000 SF
7	3.5	RESTAURANT	200 CARS / 15,000 SF
8	12.5	EXECUTIVE APT.'S	98 D.U., 7.8/ACRE
9	11.0	PROFESSIONAL OFF.	175,000 SF
10	8.2	RETAIL	55,000 SF

SCHEMATIC SECTION THRU BOULEVARD ROADWAY

Sheet #3  
 Original Concept Plan

C.W. HENNE  
TURNPIKE COMMERCIAL PARK  
LOT 9  
3/7/90







**CHANGE IN CONCEPT DEVELOPMENT PLAN  
OR  
UTILIZATION OF AN UNDERLYING ZONE IN PLANNED DEVELOPMENT  
(CONCEPT DEVELOPMENT PLAN)  
BOONE COUNTY PLANNING COMMISSION**

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

1. Check One:

- Change in Concept Development Plan
- Utilization of An Underlying Zone in Planned Development
  - a) Public Hearing Submittal (Concept Dev. Plan) \_\_\_\_\_
  - b) Long Range Planning Committee Review \_\_\_\_\_
 (As stated in the Houston-Donaldson Study)

2. Name of Project Turfway ~~Park Lot 9~~ Commercial Park Lot 9  
 3. Location of Project Cavalier Blvd.  
 4. Total Acreage of Site 11.1599  
 5. Current Zoning 02-PD  
 6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) May, 1990

7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) Turfway Interchange Land Use Study

8. Proposed Uses (please specify each use) Four little league baseball fields, or alternate of an office complex; an office/hotel, and an outdoor and an indoor

9. Proposed Building Intensities (please specify) 12,220 s.f. office/hotel building; 20,000 s.f. indoor soccer field; possible additional 55,482 soccer field.

10. Have you submitted a Concept Development Plan? Yes s.f. of office space.  
 11. Are you also applying for:

- No Conditional Use Permit
- No Dimensional Variance

12. Name of Applicant(s) Espey, Huston & Associates, Inc.  
 Phone Number (606) 371-9051 Fax No. (606) 371-5980

13. Address of Applicant(s) 1895 Airport Exchange Blvd., Suite 234  
Erlanger, KY 41018  
 City State Zip

14. Name of Property Owner(s) Daniels Investments  
 Phone Number (606) 431-5900 Fax No. (606) 655-2422

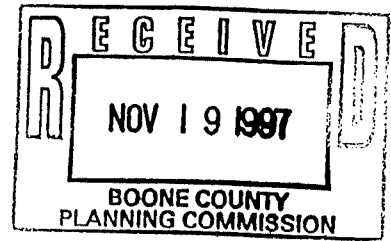
15. Address of Property Owner(s) 2020 Madison Avenue  
Covington, KY 41014  
 City State Zip

16. Are there any existing buildings on the site? No  
 How many? 646

17. Deed Book Plat Bk. 406A Page No. 289 Group No. 3677

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

(over)



18 November, 1997

Mr. Mitchell A. Light  
BOONE COUNTY PLANNING COMMISSION  
2995 Washington Street  
Burlington, KY  
41006

via Fax # 606 / 334-2264  
Page 1 of 1

RE: Request for a Change in Concept Development Plan in Turfway Commercial Park  
By **Espey, Huston & Associates (applicant)** for **Danels Investments (owners)**  
Lot 9, 11.16 acres in an Office Two / Planned Development (O-2/PD)

Dear Mr. Light:

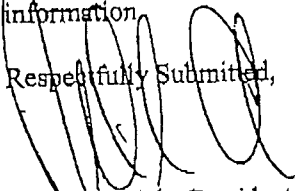
As the owner of the Courtyard by Marriott at 46 Cavalier Blvd in Turfway Commercial Park, the purpose of this letter is to file our formal objection to this proposed change in Concept Development Plan to allow specifically the **hotel** usage. Such a use is in direct violation of the protective restrictive covenant that was placed on the land limiting the number of hotels allowed in the park.

We purchased the land and developed our hotel under these restrictive covenants, and it is critical to our operations that the hotel restriction remain in full force and effect. We therefore request that their request be denied.

Please review this letter with the Planning Commission Staff and include it in their Staff Report so that it is considered at the Public Hearing on Wednesday, November 19, 1997 at 6:30pm.

Thank you for your assistance. Please call if you have questions, comments, or require further information.

Respectfully Submitted,

  
Robert S. Cole, President  
Impac Hotel Group

MT/c

cc: David Robinson, Esq  
Jeffrey C. Arnzen, Esq.

Two Live Oak Center • 3445 Peachtree Road, NE • Suite 700 • Atlanta, Georgia 30326  
404 364-9400 • Facsimile 404 364-0088

November 19, 1997



Mr. Mitchell A. Light  
Boone County Planning Commission  
2995 Washington Street  
Burlington, KY 41005

via Fax #606/334-2264  
Page 1 of 3

Re: Request for a Change in Concept Development Plan in Turfway Commercial Park  
By Espey, Huston & Associates (applicant) for Daniels Investments (owners)  
Lot 9, 11.16 acres in an Office Two/Planned Development (O-2/PD)

Dear Mr. Light,

We are the owner of the Signature Inn at 30 Cavalier Court in the Turfway Commercial Park and the purpose of this letter is to file our formal objection to this proposed change in Concept Development Plan to allow specifically the hotel usage. Such a use is in direct violation of the protective restrictive covenant dated October 29, 1986, Book 195, Page 226 that was placed on the land limiting the number of hotels allowed in the park. (A copy of this restriction is enclosed for your convenience).

I had direct conversations with Mr. Daniels who had constructive notice of the deed restriction and went forward with his land purchase on April 21, 1997. We purchased the land and developed our hotel under these restrictive covenants, and it is critical to our operations that the hotel restriction remain in full force and effect. We therefore request that their request be denied as the entire matter is subject to litigation currently in the Circuit Court of Boone County, Kentucky.

Please review this letter with the Planning Commission Staff and include it in their Staff Report so that it is considered at the Public Hearing on Wednesday, November 19, 1997 at 6:30 pm.

Thank you for your assistance in this matter and please do not hesitate to call if you have any questions.

Sincerely,

SIGNATURE INNS, INC.

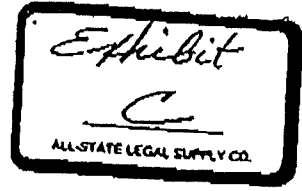
A handwritten signature in black ink, appearing to read "Patrick Taylor", written over a horizontal line.

Patrick Taylor, CCIM  
Executive Director  
Real Estate and Franchising

Cc: Thomas N. Eckerle, ESQ  
John Badger

Enclosure

BOOK 195 PAGE 226  
TURFWAY COMMERCIAL PARK



COVENANT RESTRICTING

ADDITIONAL MOTELS OR HOTELES

WHEREAS, Turfway Commercial Park is a planned commercial development owned by Turfway Development Co. ("Turfway") located on a tract of land ("Land") in the City of Florence, Kentucky, which is more specifically described on "Exhibit A" attached hereto; and

WHEREAS, Signature X Ltd. ("Signature") is an Indiana limited partnership which concurrently with this Covenant Agreement is purchasing a parcel of real property from Turfway which is located in the Turfway Commercial Park and is more particularly described on "Exhibit B" attached hereto; and

WHEREAS, Signature is not willing to purchase the parcel of land unless Turfway enters into this Covenant Agreement; and

WHEREAS, Turfway will derive a benefit from the consumation of the sale described above, and, in consideration of the purchase of said parcel by Signature, Turfway is willing to enter into this Covenant Agreement.

NOW, THEREFORE, to induce Signature to purchase the parcel of land described on "Exhibit B", Turfway hereby agrees as follows:

1. Recitals. The Recitals set forth above are true and correct and are by this reference incorporated herein.
2. Number of Hotels or Motels. No more than a total of three (3) hotels or motels, including the motel of Signature or its successor, shall be allowed to operate in Turfway Commercial Park.
3. Binding Effect. This Covenant Agreement shall run with the Land and shall be binding upon all parties having or acquiring any

, title or interest in the Land, and shall be for the benefit of each owner of any portion of the Land, or any interest therein, and shall inure to the benefit of and be binding on each and every successor in interest.

IN WITNESS WHEREOF, Turfway Development Co., by and through Charles W. Henne, hereby duly executes this Covenant Agreement as of the 29 day of October, 1986.

[Signature]  
Witness  
Kenneth D. Jameson  
Witness

TURFWAY DEVELOPMENT COMPANY  
By [Signature]  
Charles W. Henne  
General and Managing Partner

STATE OF OHIO )  
COUNTY OF HAMILTON ) SS:

Before me, a Notary Public in and for said County and State, personally appeared, Charles W. Henne, General and Managing Partner of Turfway Development Co., an Ohio partnership, who acknowledged that he did sign the foregoing instrument for and on behalf of said partnership and that the same is the free act and deed of said partnership and of himself individually and as a General and Managing Partner.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this 29 day of October, 1986.

[Signature]  
Notary Public  
STATE OF OHIO

MARY ANN SCHENK, Attorney at Law  
NOTARY PUBLIC - STATE OF OHIO  
My Commission No. 48 expires 03/31/88  
date, Section 147.03 O.R.C.

This instrument prepared by: Kenneth D. Jameson, Attorney at Law.

Kenneth D. Jameson

PUBLIC HEARING ITEM NO. 2:

Commission members present: Mrs. Arnett, Secretary/Treasurer, Mr. Brown, Mr. Burch, Mr. Caddell, Mr. Damstrom, Mr. McKinney - Chairman, Mr. McMillian, Mr. Millay, Mr. Neltner, Mr. Ries - Vice Chairman, Mr. Rush, Mrs. Schaffer, Mrs. Smith, Mr. Viox, and Mr. White.

Mr. McKinney introduced the second item on the Agenda:

2. Applicant: Espey, Huston & Associates for Daniels Investments (owner)

Request: Change in Concept Development Plan

The request of Espey, Huston & Associates (applicant) for Daniels Investments (owner) for a Change in Concept Development Plan in an Office Two/Planned Development (O-2/PD) Zone for an 11.16 acre site known as Lot 9, Turfway Commercial Park, located on Cavalier Boulevard, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow office, hotel, and indoor and outdoor athletic field uses.

Staff Member Mitch Light presented the Staff Report which included a slide presentation (see Staff Report).

Mr. McKinney asked for the applicant's presentation.

Mr. Dwight Clayton, a civil engineer with Espey, Huston & Associates, stated that the developer also owns the Sports of All Sorts complex and is expanding the complex. The ballfields are for little leagues, rather than having the little ones use the softball fields. The fourth field is larger and is for the teenagers. He stated that they want to remain with both alternatives -- indoor/outdoor soccer and office/hotel complex. Parcels A, B, and C would be phased. The developer will build the ballfields and, if offers come in, he would build any of the three parcels (A, B or C), and not necessarily in series, and try to salvage the ballfields around them. They are asking to continue what was previously approved and the office complex on Lot 8, and to be granted the alternative for the soccer fields, hotel, and soccer arena.

Mr. McKinney asked if there was anyone else present who wished to speak in favor of the request.

Mr. Clayton advised that the owners are here. He added that they do not have any particular developers or builders at this time and this is a concept.

Mr. Gene Daniels, developer and owner of Sports of All Sorts, stated that the fields in the community are in short demand and there are not enough of them. There is not a top-notch little league complex in Northern Kentucky. There is not an indoor soccer arena in Boone County and it would be natural with their development.

Mr. Les Jacobs, owner of the adjoining apartment complex, stated that he is in favor of the request. His only concern would be that the road along the apartments, which was designed for deliveries or emergencies, not be a main entrance in and out of the complex.

Mr. McKinney asked if there was anyone else present who wished to speak in favor of the request. There being no response, he asked if there was anyone present who wished to speak in opposition or to ask questions.

Attorney Paul Alley with Dinsmore & Shohl, representing Signature Inn, stated that they are opposed to the request because it allows for an additional hotel in the Turfway Commercial Park area. The property holders have entered into a restrictive covenant that limits the number of hotels that may be built on the land and that covenant induced Signature Inn and others to purchase there. The covenant was registered in the Boone County records over ten years ago and any purchaser should have been aware of it. He submitted a copy of the covenant for the record (see Exhibit 1). He stated that the covenant and the land is currently the subject of litigation in Circuit Court and that lawsuit was filed in August, 1997. If the Commission approves this request, it will undercut the covenant and complicate the litigation.

Lesley Reynolds, General Manager of Fairfield Inn, stated that she is opposed to the request due to the existing covenant.

Mr. Jeff Egner, Assistant General Manager at the Courtyard, representing IMPAC Hotel Group, stated that they are against the hotel portion of the request due to the covenant.

Mr. John Badger, General Manager of Signature Inn, stated that he is opposed to the request. He is not opposed to the softball fields. He is opposed to breaking the covenant and to another hotel in the area.

Mr. McKinney advised that there are letters on record from Signature Inn (see Exhibit 2) and from IMPAC (see Exhibit 3).

Mr. Clayton stated that the owner would like to proceed with the request. If the litigation proves that another hotel is not permitted on the site, they would make it an office. It is now an office/hotel. He stated that they are not withdrawing the request for the office/hotel, but are acknowledging the litigation.

Mr. Kevin Angoly, who is part of the management team at Fairfield Inn, stated that he is opposed to the hotel. He is against the building and development of another hotel in that area.

Mr. McKinney asked if there was anyone else present who wished to speak in regard to this request. There being no response, he asked if there were any comments from the Planning Commission.

In response to a request from Mrs. Smith, Counselor Wilson explained that a covenant is like a deed restriction -- it is not a zoning regulation. It is a restriction that a developer or prior owner has put on the property and, even if the zone change is granted for a hotel, the property would still be subject to the deed restrictions. A zoning decision does not undo the private restrictions and they can still be legally enforced. The Planning Commission does not enforce private deed restrictions and only applies the public laws (zoning regulations). Deed restrictions are private restrictions.

Mr. McKinney noted that there are time limitations in regard to the Planning Commission's review of the request and asked how the litigation impacts the Planning Commission's review of the project. Counselor Wilson stated that he does not know the nature of the pending litigation. Mr. McKinney asked if it is litigation to have the restrictive covenant lifted. Mr. Daniels responded "yes". Counselor Wilson advised that the Planning Commission can proceed with looking at the request from a zoning standpoint and let the private parties work out the deed restriction issue. Mr. Daniels stated that that is what they are requesting. The issue in regard to the lawsuit is a private matter to allow a hotel there. They are asking for an office or a hotel on the site.

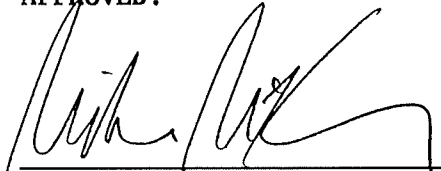
Mr. McKinney stated that the Planning Commission considers the land as we find it -- and we find it encumbered with the restriction.

Mr. Ries questioned having the alternatives since one is Recreation and the other is Office Two. Mr. Light advised that it is a PD and there is already the miniature golf course with outdoor and indoor activities. It is an extension of Sports of All Sorts. Mr. Ries questioned if two Public Hearings are needed since it would be going from Recreation to Office. Mr. Light responded "No" and noted that it is an alternative. He stated that they want the alternative and to phase it -- they will do ballfields first and, if someone come in and says they want to put a building there, then they have three buildings -- and they can possibly leave one or two ballfields there. Mr. Ries asked if they would have to come back for a Change in Concept Development Plan. Mr. Light responded "No" because they would have the alternative and could phase it in. Mr. Costello advised that the Planning Commission would have to agree to that. He added that ballfields are an Accessory Use in the O-2 Zone and the property is zoned O-2/PD. There was a plan to provide office and retail uses some years ago -- but it has changed quite a bit.

There being no further comments, Mr. McKinney stated that the Committee Meeting for this item will be on December 8, 1997 at 4 P.M. in the second floor conference room of the Administration Building. This item will be on the Agenda for the Business Meeting on December 17, 1997 at 7:30 PM.

The Chairman closed this Public Hearing and called for a short recess prior to the Business Meeting.

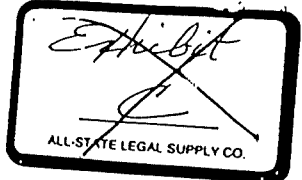
APPROVED:

  
\_\_\_\_\_  
Michael McKinney, Chairman

Attest:

  
\_\_\_\_\_  
Jan Hancock, Recording Secretary

PH 2  
11/19/97



COVENANT RESTRICTING

ADDITIONAL MOTELS OR HOTELS

EXHIBIT 1 #2  
PUBLIC HEARING 11/19/97

WHEREAS, Turfway Commercial Park is a planned commercial development owned by Turfway Development Co. ("Turfway") located on a tract of land ("Land") in the City of Florence, Kentucky, which is more specifically described on "Exhibit A" attached hereto; and

WHEREAS, Signature X Ltd. ("Signature") is an Indiana limited partnership which concurrently with this Covenant Agreement is purchasing a parcel of real property from Turfway which is located in the Turfway Commercial Park and is more particularly described on "Exhibit B" attached hereto; and

WHEREAS, Signature is not willing to purchase the parcel of land unless Turfway enters into this Covenant Agreement; and

WHEREAS, Turfway will derive a benefit from the consumation of the sale described above, and, in consideration of the purchase of said parcel by Signature, Turfway is willing to enter into this Covenant Agreement.

NOW, THEREFORE, to induce Signature to purchase the parcel of land described on "Exhibit B", Turfway hereby agrees as follows:

1. Recitals. The Recitals set forth above are true and correct and are by this reference incorporated herein.
2. Number of Hotels or Motels. No more than a total of three (3) hotels or motels, including the motel of Signature or its successor, shall be allowed to operate in Turfway Commercial Park.
3. Binding Effect. This Covenant Agreement shall run with the Land and shall be binding upon all parties having or acquiring any

right, title or interest in the Land, and shall be for the benefit of each owner of any portion of the Land, or any interest therein, and shall inure to the benefit of and be binding on each and every successor in interest.

IN WITNESS WHEREOF, Turfway Development Co., by and through Charles W. Henne, hereby duly executes this Covenant Agreement as of the 29 day of October, 1986.

*[Signature]*  
Witness  
Kenneth D. Jameson  
Witness


TURFWAY DEVELOPMENT COMPANY  
*[Signature]*  
Charles W. Henne  
General and Managing Partner

STATE OF OHIO )  
                          )  
COUNTY OF HAMILTON)

SS:

Before me, a Notary Public in and for said County and State, personally appeared, Charles W. Henne, General and Managing Partner of Turfway Development Co., an Ohio partnership, who acknowledged that he did sign the foregoing instrument for and on behalf of said partnership and that the same is the free act and deed of said partnership and of himself individually and as a General and Managing Partner.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this 29 day of October, 1986.

*[Signature]*  
Notary Public  


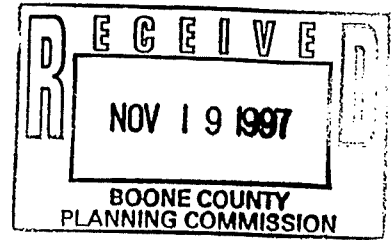
MARY ANN SCHENK, Attorney at Law  
NOTARY PUBLIC - STATE OF OHIO  
My Commission has no expiration date, Section 147.03 O.R.C.

This instrument prepared by: Kenneth D. Jameson, Attorney at Law.

*[Signature]*  
Kenneth D. Jameson

2)

EXHIBIT 2  
PUBLIC HEARING #2  
11/19/97



18 November, 1997

Mr. Mitchell A. Light  
BOONE COUNTY PLANNING COMMISSION  
2995 Washington Street  
Burlington, KY  
41006

via Fax # 606 / 334-2264  
Page 1 of 1

RE: Request for a Change in Concept Development Plan in Turfway Commercial Park  
By Espey, Huston & Associates (applicant) for Daniels Investments (owners)  
Lot 9, 11.16 acres in an Office Two / Planned Development (O-2/PD)

Dear Mr. Light:

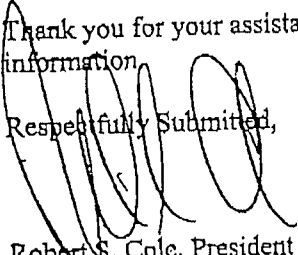
As the owner of the Courtyard by Marriott at 46 Cavalier Blvd in Turfway Commercial Park, the purpose of this letter is to file our formal objection to this proposed change in Concept Development Plan to allow specifically the hotel usage. Such a use is in direct violation of the protective restrictive covenant that was placed on the land limiting the number of hotels allowed in the park.

We purchased the land and developed our hotel under these restrictive covenants, and it is critical to our operations that the hotel restriction remain in full force and effect. We therefore request that their request be denied.

Please review this letter with the Planning Commission Staff and include it in their Staff Report so that it is considered at the Public Hearing on Wednesday, November 19, 1997 at 6:30pm.

Thank you for your assistance. Please call if you have questions, comments, or require further information.

Respectfully Submitted,

  
Robert S. Cole, President  
Impac Hotel Group

MT/c

cc: David Robinson, Esq.  
Jeffrey C. Arnzen, Esq.

Two Live Oak Center • 3445 Peachtree Road, NE • Suite 700 • Atlanta, Georgia 30326  
404 364-9400 • Facsimile 404 364-0088

November 19, 1997

Signature  
Inns.  
Inc.

(EXHIBIT 3)  
PUBLIC HEARING #2  
11/19/97

Mr. Mitchell A. Light  
Boone County Planning Commission  
2995 Washington Street  
Burlington, KY 41005

via Fax #606/334-2264  
Page 1 of 3

Re: Request for a Change in Concept Development Plan in Turfway Commercial Park  
By Espey, Huston & Associates (applicant) for Daniels Investments (owners)  
Lot 9, 11.16 acres in an Office Two/Planned Development (O-2/PD)

Dear Mr. Light,

We are the owner of the Signature Inn at 30 Cavalier Court in the Turfway Commercial Park and the purpose of this letter is to file our formal objection to this proposed change in Concept Development Plan to allow specifically the hotel usage. Such a use is in direct violation of the protective restrictive covenant dated October 29, 1986, Book 195, Page 226 that was placed on the land limiting the number of hotels allowed in the park. (A copy of this restriction is enclosed for your convenience).

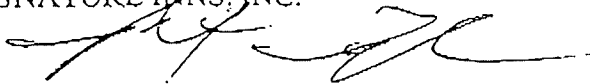
I had direct conversations with Mr. Daniels who had constructive notice of the deed restriction and went forward with his land purchase on April 21, 1997. We purchased the land and developed our hotel under these restrictive covenants, and it is critical to our operations that the hotel restriction remain in full force and effect. We therefore request that their request be denied as the entire matter is subject to litigation currently in the Circuit Court of Boone County, Kentucky.

Please review this letter with the Planning Commission Staff and include it in their Staff Report so that it is considered at the Public Hearing on Wednesday, November 19, 1997 at 6:30 pm.

Thank you for your assistance in this matter and please do not hesitate to call if you have any questions.

Sincerely,

SIGNATURE INNS, INC.



Patrick Taylor, CCIM  
Executive Director  
Real Estate and Franchising

Cc: Thomas N. Eckerle, ESQ  
John Badger

Enclosure

BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
COURTROOM 3A  
BUSINESS MEETING  
January 21, 1998  
7:30 P.M.

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Mr. Michael McKinney, Chairman, called the meeting to order at 7:40 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett, Secretary/Treasurer  
Mr. Arnold Caddell  
Mr. Phil Damstrom  
Mr. Mike McKinney, Chairman  
Mr. Bob Millay  
Mr. Robert Ries, Vice Chairman  
Mr. Ralph Rush  
Mrs. Linda Schaffer  
Mrs. Carol Smith  
Mr. William Viox  
Mr. Earl White, Temporary Presiding Officer

COMMISSION MEMBERS NOT PRESENT:

Mr. Barry Neltner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director  
Ms. Susan Cabot, Historic Preservation  
Ms. Jan Hancock, Secretary  
Mr. John Huth  
Mr. Mitch Light  
Mr. Greg Sketch  
Mr. Kevin Wall, AICP

3. Zoning Map Amendment

The request of the Colonial Heights Retirement Community (applicant) for Bluegrass RHF Housing, Inc. (owner) for a Zoning Map Amendment from Urban Residential One/Planned Development (UR-1/PD) to Public Facilities (PF) for an approximate five acre site at 6900 Hopeful Road, Florence, Kentucky. The request is for a zone change to allow an approximate 51,000 square foot long-term nursing care facility.

Mr. Viox stated that he has a potential conflict of interest in regard to this request and left the room at this time.

Staff Member Mitch Light presented the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report).

There being no discussion, Mrs. Schaffer moved by resolution to the City of Florence that the request be approved based on the Committee Report. Mr. Ries seconded the motion. A vote on the motion found all ten voting members in favor. Mr. Viox was not present and did not vote. The motion carried.

4. Change in Concept Development Plan

The request of Espey, Huston & Associates (applicant) for Daniels Investments (owner) for a Change in Concept Development Plan in an Office Two/Planned Development (O-2/PD) Zone for an 11.16 acre site known as Lot 9, Turfway Commercial Park, located on Cavalier Boulevard, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow office, hotel, and indoor and outdoor athletic field uses.

Staff Member Mitch Light presented the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). The applicant has signed the letter agreeing to the three conditions in the Committee Report. Mr. Light reviewed the Amended Concept Plan with the Commissioners and stated that two additional Conditions were added at the Committee Meeting prior to the Business Meeting this evening: Condition #4 - The Amended Concept Plan is incorporated herein to add 5,000 square feet to the indoor soccer and delete 5,000 square feet from the office, and Condition #5 - The extended drive along the Brynwood apartments will not be developed as the main access driveway for the Sports of All Sorts. He stated that Mr. Daniels was present and could address the conditions. Mr. Light stated that the condition letter can be amended and signed by the applicant.

Mr. Daniels stated that the additional conditions are not a problem and can be added to the final agreement.

Mrs. Schaffer moved by resolution to the City of Florence to approve the request based on the Committee Report. Mr. Millay seconded the motion.

Mrs. Schaffer asked for clarification regarding the Amended Concept Plan. Mr. Light passed around reduced copies of the Amended Concept Plan. Mrs. Schaffer noted that the word "hotel" has been deleted. Mr. Light agreed.

Mr. Dwight Clayton with Espey, Huston & Associates stated that previously there was 20,000 square feet for the indoor soccer and they have added 5,000 square feet, which they took away from the office complex. He stated that previously it was an office/hotel and they have deleted the hotel.

Mrs. Schaffer questioned the square footage of the office. Mr. Light advised that it is 62,700 square feet.

Mr. Clayton noted the secondary access for fire protection. He stated that Cavalier Boulevard has signals at its intersection with KY 18 and that would be the main access.

Mr. Caddell noted that an item on the upcoming Agenda for new business. He stated that there appears to be a request for Change in Concept Development Plan for this parcel. Mr. Light agreed.

Mr. Daniels stated that it was discussed in Committee that this was the best way to get more square footage for the office complex, which will still be less than the original plan called for. In order to get their soccer development going this year, they asked in Committee for 80,000 square feet of total space for office. It is now approved for 120,000 square feet (from May 1990 Concept Plan Approval). With the 80,000 square feet and the 25,000 square feet for the soccer, they will have 105,000 square feet of space if they ever develop the office. In order to build the soccer this year, they asked that the soccer be approved and then they could come back for the office.

Mr. Light explained that at they Committee Meeting they came in with a plan that had changed too much from the Public Hearing. They did not know that this is what they wanted at the time of the original Public Hearing. They want to get the 25,000 square feet for the soccer facility to get it started this Spring and then the changes to the site have to be presented at the next Public Hearing. Mr. Caddell stated that he understood what they were doing. He did not realize they would be coming back for the Public Hearing so quickly.

Mr. McKinney asked if there were any further comments or questions. There being none, he asked for a vote on the motion made by Mrs. Schaffer and it carried unanimously.

5. Boone County Subdivision Regulations

The request of the Technical/Design Review Committee to hear presentations and comments regarding possible text amendments to the Boone County Subdivision Regulations. The proposed amendments also include changes to the Boone County Street, Storm and Sidewalk Specifications.

# EXHIBIT "B"

PUBLIC HEARING ITEM NO. 2:

Commission members present: Mrs. Arnett, Secretary/Treasurer, Mr. Brown, Mr. Burch, Mr. Caddell, Mr. Damstrom, Mr. McKinney - Chairman, Mr. McMillian, Mr. Millay, Mr. Neltner, Mr. Ries - Vice Chairman, Mr. Rush, Mrs. Schaffer, Mrs. Smith, Mr. Viox, and Mr. White.

Mr. McKinney introduced the second item on the Agenda:

2. Applicant: Espey, Huston & Associates for Daniels Investments (owner)

Request: Change in Concept Development Plan

The request of Espey, Huston & Associates (applicant) for Daniels Investments (owner) for a Change in Concept Development Plan in an Office Two/Planned Development (O-2/PD) Zone for an 11.16 acre site known as Lot 9, Turfway Commercial Park, located on Cavalier Boulevard, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow office, hotel, and indoor and outdoor athletic field uses.

Staff Member Mitch Light presented the Staff Report which included a slide presentation (see Staff Report).

Mr. McKinney asked for the applicant's presentation.

Mr. Dwight Clayton, a civil engineer with Espey, Huston & Associates, stated that the developer also owns the Sports of All Sorts complex and is expanding the complex. The ballfields are for little leagues, rather than having the little ones use the softball fields. The fourth field is larger and is for the teenagers. He stated that they want to remain with both alternatives -- indoor/outdoor soccer and office/hotel complex. Parcels A, B, and C would be phased. The developer will build the ballfields and, if offers come in, he would build any of the three parcels (A, B or C), and not necessarily in series, and try to salvage the ballfields around them. They are asking to continue what was previously approved and the office complex on Lot 8, and to be granted the alternative for the soccer fields, hotel, and soccer arena.

Mr. McKinney asked if there was anyone else present who wished to speak in favor of the request.

Mr. Clayton advised that the owners are here. He added that they do not have any particular developers or builders at this time and this is a concept.

Mr. Gene Daniels, developer and owner of Sports of All Sorts, stated that the fields in the community are in short demand and there are not enough of them. There is not a top-notch little league complex in Northern Kentucky. There is not an indoor soccer arena in Boone County and it would be natural with their development.

Mr. Les Jacobs, owner of the adjoining apartment complex, stated that he is in favor of the request. His only concern would be that the road along the apartments, which was designed for deliveries or emergencies, not be a main entrance in and out of the complex.

Mr. McKinney asked if there was anyone else present who wished to speak in favor of the request. There being no response, he asked if there was anyone present who wished to speak in opposition or to ask questions.

Attorney Paul Alley with Dinsmore & Shohl, representing Signature Inn, stated that they are opposed to the request because it allows for an additional hotel in the Turfway Commercial Park area. The property holders have entered into a restrictive covenant that limits the number of hotels that may be built on the land and that covenant induced Signature Inn and others to purchase there. The covenant was registered in the Boone County records over ten years ago and any purchaser should have been aware of it. He submitted a copy of the covenant for the record (see Exhibit 1). He stated that the covenant and the land is currently the subject of litigation in Circuit Court and that lawsuit was filed in August, 1997. If the Commission approves this request, it will undercut the covenant and complicate the litigation.

Lesley Reynolds, General Manager of Fairfield Inn, stated that she is opposed to the request due to the existing covenant.

Mr. Jeff Egner, Assistant General Manager at the Courtyard, representing IMPAC Hotel Group, stated that they are against the hotel portion of the request due to the covenant.

Mr. John Badger, General Manager of Signature Inn, stated that he is opposed to the request. He is not opposed to the softball fields. He is opposed to breaking the covenant and to another hotel in the area.

Mr. McKinney advised that there are letters on record from Signature Inn (see Exhibit 2) and from IMPAC (see Exhibit 3).

Mr. Clayton stated that the owner would like to proceed with the request. If the litigation proves that another hotel is not permitted on the site, they would make it an office. It is now an office/hotel. He stated that they are not withdrawing the request for the office/hotel, but are acknowledging the litigation.

Mr. Kevin Angoly, who is part of the management team at Fairfield Inn, stated that he is opposed to the hotel. He is against the building and development of another hotel in that area.

Mr. McKinney asked if there was anyone else present who wished to speak in regard to this request. There being no response, he asked if there were any comments from the Planning Commission.

In response to a request from Mrs. Smith, Counselor Wilson explained that a covenant is like a deed restriction -- it is not a zoning regulation. It is a restriction that a developer or prior owner has put on the property and, even if the zone change is granted for a hotel, the property would still be subject to the deed restrictions. A zoning decision does not undo the private restrictions and they can still be legally enforced. The Planning Commission does not enforce private deed restrictions and only applies the public laws (zoning regulations). Deed restrictions are private restrictions.

Mr. McKinney noted that there are time limitations in regard to the Planning Commission's review of the request and asked how the litigation impacts the Planning Commission's review of the project. Counselor Wilson stated that he does not know the nature of the pending litigation. Mr. McKinney asked if it is litigation to have the restrictive covenant lifted. Mr. Daniels responded "yes". Counselor Wilson advised that the Planning Commission can proceed with looking at the request from a zoning standpoint and let the private parties work out the deed restriction issue. Mr. Daniels stated that that is what they are requesting. The issue in regard to the lawsuit is a private matter to allow a hotel there. They are asking for an office or a hotel on the site.

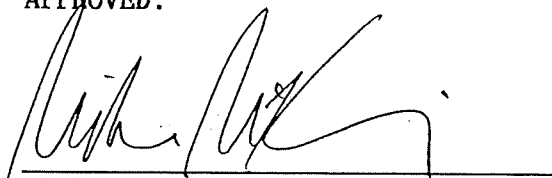
Mr. McKinney stated that the Planning Commission considers the land as we find it -- and we find it encumbered with the restriction.

Mr. Ries questioned having the alternatives since one is Recreation and the other is Office Two. Mr. Light advised that it is a PD and there is already the miniature golf course with outdoor and indoor activities. It is an extension of Sports of All Sorts. Mr. Ries questioned if two Public Hearings are needed since it would be going from Recreation to Office. Mr. Light responded "No" and noted that it is an alternative. He stated that they want the alternative and to phase it -- they will do ballfields first and, if someone come in and says they want to put a building there, then they have three buildings -- and they can possibly leave one or two ballfields there. Mr. Ries asked if they would have to come back for a Change in Concept Development Plan. Mr. Light responded "No" because they would have the alternative and could phase it in. Mr. Costello advised that the Planning Commission would have to agree to that. He added that ballfields are an Accessory Use in the O-2 Zone and the property is zoned O-2/PD. There was a plan to provide office and retail uses some years ago -- but it has changed quite a bit.

There being no further comments, Mr. McKinney stated that the Committee Meeting for this item will be on December 8, 1997 at 4 P.M. in the second floor conference room of the Administration Building. This item will be on the Agenda for the Business Meeting on December 17, 1997 at 7:30 PM.


The Chairman closed this Public Hearing and called for a short recess prior to the Business Meeting.

APPROVED:



Michael McKinney, Chairman

Attest:



Jan Hancock, Recording Secretary

## COMMITTEE REPORT

**TO:** Boone County Planning Commission

**FROM:** Linda Schaffer, Chairperson

**DATE:** January 21, 1998

**RE:** Request of **Espey, Huston & Associates (applicant)** for **Daniels Investments (owners)** for a Change in Concept Development Plan in an Office Two/Planned Development (O-2/PD) zone for a 11.16 acre site known as Lot 9, Turfway Commercial Park located on Cavalier Boulevard, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow office, hotel, and indoor and outdoor athletic field uses.

### REMARKS:

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

#### Findings of Fact

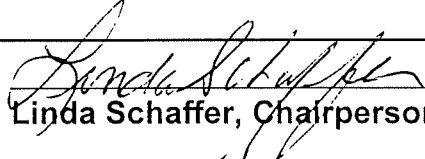
1. The Committee has concluded that the proposed Change in Concept Development Plan to allow an outdoor athletic field, a 25,000 square foot indoor soccer/athletic fields, and four (4) office buildings totaling approximately 62,700 square feet is appropriate and conforms with the intent of the 1995 Boone County Comprehensive Plan.
2. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives and policies of the 1995 Boone County Comprehensive Plan. The committee has also concluded that the attached conditions are necessary to mitigate any foreseeable impacts that may be created by the development. The applicant has signed a letter demonstrating agreement with these conditions.

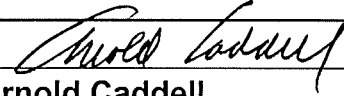
#### Conditions

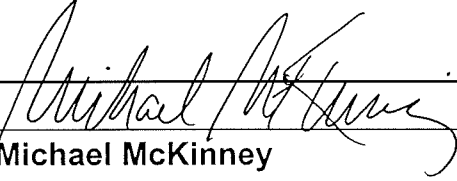
1. The architectural design of any and all structures on the subject property will be reviewed by the Planning Commissions' Staff through the Site Plan Review process.

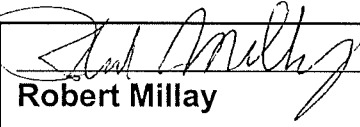
- 2. As shown on the proposed concept plan, field #1 will be the only "athletic" field with lights.
- 3. No audio system will be used in conjunction with the uses proposed in this Change in Concept Development Plan.

4. Amended concept plan is incorporated herein  
*to add 5,000 sq. ft to indoor soccer and delete 5,000 sq. ft from office. M*  
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.

 Linda Schaffer, Chairperson			
For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

 Arnold Caddell			
For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

 Michael McKinney			
For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

 Robert Millay			
For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

TOTAL:	<u>4</u>	FOR	<u>    </u>	AGAINST	<u>    </u>	ABSTAIN	<u>    </u>	ABSENT
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5. The extended drive along Brynwood Apts. will not be developed as the main access driveway for Sports of all sorts. M

PH 2  
11/19/97

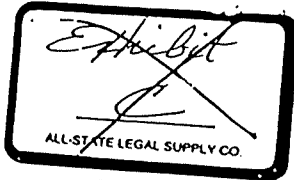


EXHIBIT 1 #2  
PUBLIC HEARING 11/19/97

COVENANT RESTRICTING  
ADDITIONAL MOTELS OR HOTELS

WHEREAS, Turfway Commercial Park is a planned commercial development owned by Turfway Development Co. ("Turfway") located on a tract of land ("Land") in the City of Florence, Kentucky, which is more specifically described on "Exhibit A" attached hereto; and

WHEREAS, Signature X Ltd. ("Signature") is an Indiana limited partnership which concurrently with this Covenant Agreement is purchasing a parcel of real property from Turfway which is located in the Turfway Commercial Park and is more particularly described on "Exhibit B" attached hereto; and

WHEREAS, Signature is not willing to purchase the parcel of land unless Turfway enters into this Covenant Agreement; and

WHEREAS, Turfway will derive a benefit from the consumation of the sale described above, and, in consideration of the purchase of said parcel by Signature, Turfway is willing to enter into this Covenant Agreement.

NOW, THEREFORE, to induce Signature to purchase the parcel of land described on "Exhibit B", Turfway hereby agrees as follows:

1. Recitals. The Recitals set forth above are true and correct and are by this reference incorporated herein.
2. Number of Hotels or Motels. No more than a total of three (3) hotels or motels, including the motel of Signature or its successor, shall be allowed to operate in Turfway Commercial Park.
3. Binding Effect. This Covenant Agreement shall run with the Land and shall be binding upon all parties having or acquiring any

right, title or interest in the Land, and shall be for the benefit of each owner of any portion of the Land, or any interest therein, and shall inure to the benefit of and be binding on each and every successor in interest.

IN WITNESS WHEREOF, Turfway Development Co., by and through Charles W. Henne, hereby duly executes this Covenant Agreement as of the 29 day of October, 1986.

[Signature]  
Witness  
Kenneth D. Jameson  
Witness

TURFWAY DEVELOPMENT COMPANY  
By [Signature]  
Charles W. Henne  
General and Managing Partner

STATE OF OHIO )  
                          )  
COUNTY OF HAMILTON)

SS:

Before me, a Notary Public in and for said County and State, personally appeared, Charles W. Henne, General and Managing Partner of Turfway Development Co., an Ohio partnership, who acknowledged that he did sign the foregoing instrument for and on behalf of said partnership and that the same is the free act and deed of said partnership and of himself individually and as a General and Managing Partner.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this 29 day of October, 1986.

[Signature]  
Notary Public  
STATE OF OHIO

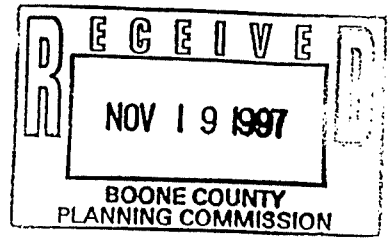
MARY ANN SCHENK, Attorney at Law  
NOTARY PUBLIC - STATE OF OHIO  
My Commission has no expiration  
date, Section 147.03 O.R.C.

This instrument prepared by: Kenneth D. Jameson, Attorney at Law.

[Signature]

2)

EXHIBIT 2  
PUBLIC HEARING #2  
11/19/97



18 November, 1997

Mr. Mitchell A. Light  
BOONE COUNTY PLANNING COMMISSION  
2995 Washington Street  
Burlington, KY  
41006

via Fax # 606 / 334-2264  
Page 1 of 1

RE: Request for a Change in Concept Development Plan in Turfway Commercial Park  
By Espey, Huston & Associates (applicant) for Danels Investments (owners)  
Lot 9, 11.16 acres in an Office Two / Planned Development (O-2/PD)

Dear Mr. Light:

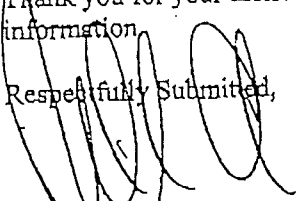
As the owner of the Courtyard by Marriott at 46 Cavalier Blvd in Turfway Commercial Park, the purpose of this letter is to file our formal objection to this proposed change in Concept Development Plan to allow specifically the hotel usage. Such a use is in direct violation of the protective restrictive covenant that was placed on the land limiting the number of hotels allowed in the park.

We purchased the land and developed our hotel under these restrictive covenants, and it is critical to our operations that the hotel restriction remain in full force and effect. We therefore request that their request be denied.

Please review this letter with the Planning Commission Staff and include it in their Staff Report so that it is considered at the Public Hearing on Wednesday, November 19, 1997 at 6:30pm.

Thank you for your assistance. Please call if you have questions, comments, or require further information.

Respectfully Submitted,

  
Robert S. Cole, President  
Impac Hotel Group

MT/c

cc: David Robinson, Esq  
Jeffrey C. Arnzen, Esq.

Two Live Oak Center • 3445 Peachtree Road, NE • Suite 700 • Atlanta, Georgia 30326  
404 364-9400 • Facsimile 404 364-0088

November 19, 1997

Signature  
Inns.  
Inc.

(EXHIBIT 3  
PUBLIC HEARING #2  
11/19/97.

Mr. Mitchell A. Light  
Boone County Planning Commission  
2995 Washington Street  
Burlington, KY 41005

via Fax #606/334-2264  
Page 1 of 3

Re: Request for a Change in Concept Development Plan in Turfway Commercial Park  
By Espey, Huston & Associates (applicant) for Daniels Investments (owners)  
Lot 9, 11.16 acres in an Office Two/Planned Development (O-2/PD)

Dear Mr. Light,

We are the owner of the Signature Inn at 30 Cavalier Court in the Turfway Commercial Park and the purpose of this letter is to file our formal objection to this proposed change in Concept Development Plan to allow specifically the hotel usage. Such a use is in direct violation of the protective restrictive covenant dated October 29, 1986, Book 195, Page 226 that was placed on the land limiting the number of hotels allowed in the park. (A copy of this restriction is enclosed for your convenience).

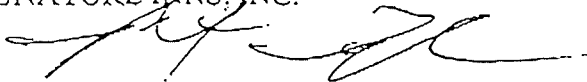
I had direct conversations with Mr. Daniels who had constructive notice of the deed restriction and went forward with his land purchase on April 21, 1997. We purchased the land and developed our hotel under these restrictive covenants, and it is critical to our operations that the hotel restriction remain in full force and effect. We therefore request that their request be denied as the entire matter is subject to litigation currently in the Circuit Court of Boone County, Kentucky.

Please review this letter with the Planning Commission Staff and include it in their Staff Report so that it is considered at the Public Hearing on Wednesday, November 19, 1997 at 6:30 pm.

Thank you for your assistance in this matter and please do not hesitate to call if you have any questions.

Sincerely,

SIGNATURE INNS, INC.



Patrick Taylor, CCIM  
Executive Director  
Real Estate and Franchising

Cc: Thomas N. Eckerle, ESQ  
John Badger

Enclosure

CORPORATE OFFICE

One Parkwood Crossing • 250 East 96th Street, Suite 450 • Indianapolis, Indiana 46240 • (317) 581-1111 • FAX: (317) 574-7396  
FOR RESERVATIONS CALL 1-800-822-5252

# SUPPORTING INFORMATION

# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005

606-334-2196

FAX 606-334-2264

E-Mail [plancom@one.net](mailto:plancom@one.net)

January 14, 1998

Mr. James A. Dressman, III  
Thomas More Park  
2701 Turkeyfoot Road  
Covington, KY 41017

RE: Conditions of Approval for the Change in Concept Development Plan for Daniels Investments (owners) to allow office and indoor and outdoor athletic field uses on an approximate 11.16 acre site known as Lot 9, Turfway Commercial Park located on Cavalier Boulevard, Florence, Kentucky

Dear Mr. Dressman:

The following represents the conditions of approval for the above referenced application as agreed by the Boone County Planning Commission's Zone Change Committee. If you as the applicant agree to these conditions please indicate so by providing your signature on the agreement stated at the end of this letter.

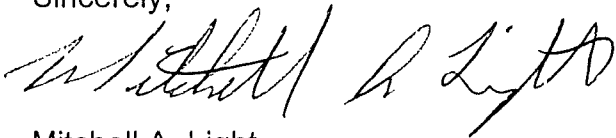
## Conditions

1. The architectural design of any and all structures on the subject property will be reviewed by the Planning Commissions' Staff through the Site Plan Review process.
2. As shown on the proposed Concept Plan, field #1 will be the only "athletic" field with lights.
3. No audio system will be used in conjunction with the uses proposed in this Change in Concept Development Plan.
4. Amended concept plan is incorporated herein to add 5,000 square feet to the indoor soccer field and delete 5,000 square feet from the office use.

Mr. James A. Dressman, III  
January 14, 1998  
Page 2

5. The extended drive along Brynwood Apts. will not be developed as the main access driveway for Sports of all Sorts.

Sincerely,

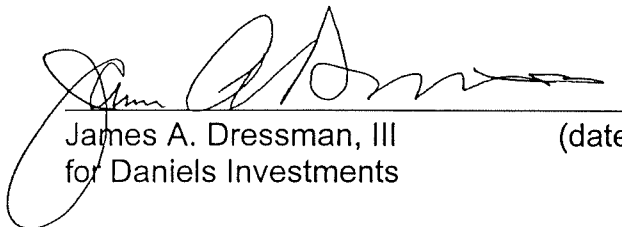


Mitchell A. Light  
Asst. Zoning Administrator/Enf. Officer

MAL\pr

Agreement

I, James A. Dressman, III, am duly authorized to act on behalf of the owners, Daniels Investments, do hereby agree to the conditions of approval stated above for the Change in Concept Development Plan for the approximate 11.16 acre site known as Lot 9, Turfway Commercial Park located on Cavalier Boulevard, Florence, Kentucky.

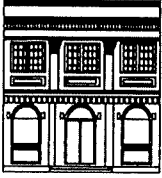


1/27/98  
James A. Dressman, III (date)  
for Daniels Investments

**EXHIBIT A**  
**Legal Description**  
**For**  
**Lot 9 - Turfway Commercial Park**  
**Florence – Boone County, Kentucky**

Beginning at a point on the southeast right-of-way line of Cavalier Boulevard, said point being the west corner of Lot No. 10-A of Section No. 4 of Turfway Commercial Park; thence along the southwest line of said Lot No. 10-A, S 40° 00' 00" E a distance of 619.41' to a set iron pin; thence S 50° 13' 07" W a distance of 183.92' to an existing iron pin; thence S 14° 13' 22" E a distance of 95.15' to an existing iron pin; thence S 75° 26' 17" W a distance of 711.40' to an existing iron pin; thence N 36° 43' 03" W a distance of 360.95' to a point on the southeast right-of-way line of Cavalier Boulevard; thence with said right-of-way line and a curve to the left a radius of 75.00', a chord of 53.96', a chord bearing of N 53° 01' 58" E and an arc length of 55.20' to a point; thence N 31° 57' 01" E a distance of 133.32' to a point; thence N 50° 00' 00" E a distance of 666.41' to the point of beginning, containing 11.1599 acres of land.

# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005

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E-Mail [plancom@one.net](mailto:plancom@one.net)

February 18, 1998

The Honorable Evelyn Kalb  
Mayor, City of Florence  
7431 U.S. 42  
Florence, KY 41042

Dear Mayor Kalb:

This letter is written to advise you of the action by the Boone County Planning Commission in regard to the request of **Espey, Huston & Associates (applicant)** for **Daniels Investments (owner)** for a Change in Concept Development Plan, with conditions, for an 11.16 acre site known as Lot 9, Turfway Commercial Park generally located on Cavalier Boulevard, Florence, Kentucky. The site is currently zoned Office Two/Planned Development (O-2/PD) and the request would allow an office and indoor/outdoor athletic field uses.

At their meeting of January 21, 1998, the Boone County Planning Commission voted unanimously to recommend approval by **Resolution R-98-003-A**. This action was taken upon hearing the recommendations of the Committee and based on the findings of fact and conditions attached to the enclosed Resolution. The deadline for action to be taken by the City of Florence is **Tuesday, April 21, 1998**.

The approved minutes of the November 19, 1997 Public Hearing, along with the pertinent information regarding this request are enclosed.

If you need any further information, please do not hesitate to call the Planning Commission office.

With Kindest Regards,

Robert Millay  
Chairman

RM/vlm

Enclosures