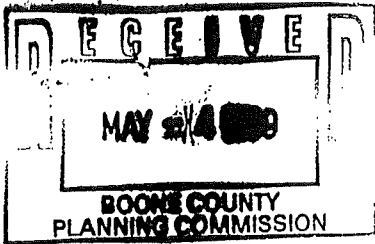


99-029-A

APPLICATION FORM



ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

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

- 1. Name of Project W. H. Harley Property - ST. RTE 237
- 2. Location of Project RTE 237 - NORTH BEND RD
- 3. Total Acreage of Site 1.264
- 4. Current Zoning of Site R
- 5. Proposed Zoning (Classification being requested) C-4
- 6. Proposed Uses (please specify each use) N

- 7. Names of Applicant(s) BRANDICORP
- Phone Number 513-232-2233 Fax No. 513-624-2634
- 8. Address of Applicant(s) 7346 BEECHMONT AVE
- LEWIS OH. 45230
- City State Zip

- 9. Name of Property Owner(s) THREE PARCELS - SEE ATTACHED.
- Phone Number _____ Fax No. _____
- 10. Address of Property Owner(s) _____

- 11. Proposed Building Intensities (please specify) _____
- PROPOSED IS 6,000 SQ. FT
- of Building.

- 12. Are there any existing buildings on the site? NO
- How many? 0

- 13. Deed Book SEE BELOW Page No. _____ Group No. 2006

- 14. Are you also applying for:
 - Conditional Use Permit W. H. Harley DB 90 PG 427
 - Dimensional Variance Whaley DB 90 PG 425
 - Aylor DB 90 PG 430

- 15. Have you submitted a Concept Development Plan? YES
- 16. Have you had a pre-application meeting with BCPC Staff? Discussed w/ Mitch via phone
- 17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- Boone County Water and Sewer District
- Florence Water and Sewer Commission
- Union Light Heat and Power
- Cincinnati Bell
- Owen County Rural Electric
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- City of Florence Public Services Department
- Boone County Building Department

(over)

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

Northern Kentucky Health District
 U.S. Soil Conservation Service
 Local School District
 Local Fire District
 Other: _____

*No meetings on this specific site
Have discussed development of this lot
in general terms in regard to Burger
King site which is contiguous.*

18. Project Jurisdiction/Location

Unincorporated Boone County Walton
 Florence Union

19. Applicant's Signature *[Signature]* for BRANDICORP.

Property Owner's Signature *see attached*

SECTION B (To be completed by BCPC Staff)

1. Date Received MAY 4 1999
2. Review Fee 1140.00 R# 20376 / 4.64 R# 20377
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of copies of plan received**
4. Is application complete? Yes No
5. Staff Reviewer MITCH LEAT
6. Committee Chairman MARK HICKS
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - Approval
 - Approval with Conditions
 - Denial
9. Other: See signed condition letter dated October 12, 1999.

** Five (5) Copies Are Required

Boone County Planning Commission
 2995 Washington Street
 Burlington, Kentucky 41005
 (606) 334-2196 Phone
 (606) 334-2264 Fax

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

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

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

1. Name of Project _____
2. Location of Project _____
3. Total Acreage of Site _____
4. Current Zoning of Site _____
5. Proposed Zoning (Classification being requested) _____
6. Proposed Uses (please specify each use) _____

7. Names of Applicant(s) _____
Phone Number _____ Fax No. _____
8. Address of Applicant(s) _____

9. Name of Property Owner(s) _____
Phone Number _____ Fax No. _____
10. Address of Property Owner(s) _____
City State Zip
KENNESAW GA. 30144
11. Proposed Building Intensities (please specify) _____

12. Are there any existing buildings on the site? _____
How many? _____
13. Deed Book _____ Page No. _____ Group No. _____
14. Are you also applying for:
_____ Conditional Use Permit
_____ Dimensional Variance
15. Have you submitted a Concept Development Plan? _____
16. Have you had a pre-application meeting with BCPC Staff? _____
17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- _____ Boone County Water and Sewer District
- _____ Florence Water and Sewer Commission
- _____ Union Light Heat and Power
- _____ Cincinnati Bell
- _____ Owen County Rural Electric
- _____ Boone County Public Works Department
- _____ Kentucky Transportation Cabinet
- _____ City of Florence Public Services Department
- _____ Boone County Building Department

(over)

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

- Northern Kentucky Health District
- U.S. Soil Conservation Service
- Local School District
- Local Fire District
- Other: _____

18. Project Jurisdiction/Location
- Unincorporated Boone County Walton
 - Florence Union

19. Applicant's Signature _____

Property Owner's Signature *Ruth E. Wohrley*

SECTION B (To be completed by BCPC Staff)

1. Date Received _____
2. Review Fee _____
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Discription
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of copies of plan received**
4. Is application complete? _____ Yes _____ No
5. Staff Reviewer _____
6. Committee Chairman _____
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - Approval
 - Approval with Conditions
 - Denial
9. Other: _____

**** Five (5) Copies Are Required**

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 2995 Washington Street
 Burlington, Kentucky 41005
 (606) 334-2196 Phone
 (606) 334-2264 Fax

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

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

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

1. Name of Project _____
2. Location of Project _____
3. Total Acreage of Site _____
4. Current Zoning of Site _____
5. Proposed Zoning (Classification being requested) _____
6. Proposed Uses (please specify each use) _____

7. Names of Applicant(s) _____
Phone Number _____ Fax No. _____
8. Address of Applicant(s) _____

9. Name of Property Owner(s) _____
Phone Number _____ Fax No. _____
10. Address of Property Owner(s) _____
_____ City _____ State _____ Zip _____
_____ City _____ State _____ Zip _____
11. Proposed Building Intensities (please specify) _____

12. Are there any existing buildings on the site? _____
How many? _____
13. Deed Book _____ Page No. _____ Group No. _____
14. Are you also applying for:
_____ Conditional Use Permit
_____ Dimensional Variance
15. Have you submitted a Concept Development Plan? _____
16. Have you had a pre-application meeting with BCPC Staff? _____
17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- _____ Boone County Water and Sewer District
- _____ Florence Water and Sewer Commission
- _____ Union Light Heat and Power
- _____ Cincinnati Bell
- _____ Owen County Rural Electric
- _____ Boone County Public Works Department
- _____ Kentucky Transportation Cabinet
- _____ City of Florence Public Services Department
- _____ Boone County Building Department

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

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

1. Name of Project _____
2. Location of Project _____
3. Total Acreage of Site _____
4. Current Zoning of Site _____
5. Proposed Zoning (Classification being requested) _____
6. Proposed Uses (please specify each use) _____

7. Names of Applicant(s) _____ Fax No. _____
Phone Number _____
8. Address of Applicant(s) _____

9. Name of Property Owner(s) JOSEPH B. AYLOR State _____ Zip _____
Phone Number 606-689-7150 Fax No. _____
10. Address of Property Owner(s) 1820 N. BEND Rd.
HERRON KY 41048
City State Zip
11. Proposed Building Intensities (please specify) _____

12. Are there any existing buildings on the site? _____
How many? _____
13. Deed Book _____ Page No. _____ Group No. _____
14. Are you also applying for:
_____ Conditional Use Permit
_____ Dimensional Variance
15. Have you submitted a Concept Development Plan? _____
16. Have you had a pre-application meeting with BCPC Staff? _____
17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- _____ Boone County Water and Sewer District
- _____ Florence Water and Sewer Commission
- _____ Union Light Heat and Power
- _____ Cincinnati Bell
- _____ Owen County Rural Electric
- _____ Boone County Public Works Department
- _____ Kentucky Transportation Cabinet
- _____ City of Florence Public Services Department
- _____ Boone County Building Department

(over)

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

- Northern Kentucky Health District
- U.S. Soil Conservation Service
- Local School District
- Local Fire District
- Other: _____

18. Project Jurisdiction/Location
- Unincorporated Boone County Walton
 - Florence Union

19. Applicant's Signature _____
- Property Owner's Signature *X Joseph B. Ayles* _____

SECTION B (To be completed by BCPC Staff)

1. Date Received _____
2. Review Fee _____
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Discription
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of copies of plan received**
4. Is application complete? _____ Yes _____ No
5. Staff Reviewer _____
6. Committee Chairman _____
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - Approval
 - Approval with Conditions
 - Denial
9. Other: _____

**** Five (5) Copies Are Required**

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

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

EXHIBIT

“A”

STAFF REPORT

Request of **Brandicorp (applicant)** for **Joseph B. Aylor, Laura A. Wohrley, and Ruth E. Wohrley (owners)** to consider a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.264 acre site located on the northwest corner of the KY 237/Coral Drive intersection, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the C-4 zone.

June 2, 1999

Request

The applicant is proposing to develop the 1.264 acre site to allow uses in the Commercial Four (C-4) zone (the C-4 regulations have been attached for your convenience). The proposed concept development plan shows a shared access with the adjacent Burger King to the north and access to the signal at Litton Lane through a private drive being constructed by Brandicorp in conjunction with the Burger King development. Median improvements to KY 237 were required by KDOT for the Burger King project and have been constructed. There is no proposed connection to Coral Drive. The proposed Concept Development Plan meets the landscaping requirements as defined in Article 37 of the Boone County Zoning Regulations with regard to buffer yard standards. If approved, the landscaping will be reviewed as part of the Site Plan review process. No building elevations were submitted with this application in order for staff to review the design of the proposed 6,000 square foot structure.

Site Characteristics

The site is somewhat triangular in nature with the most usable portion to the north nearest the Burger King. This allows for the proposed 6,000 square foot building to be constructed in close proximity to the existing commercial developments. The land is relatively flat draining toward KY 237 and Coral Drive. Drainage from KY 237 flows between this site and the highway. The three parcels that comprise this request are remainders from the new KY 237 construction. When the new KY 237 was constructed, the Kentucky Department of Transportation installed an apron to be shared by the Pelleys' and the Wohrleys'. Ms. Pelley resided on the property until Brandicorp purchased the property within the last few months for the Burger King currently under construction. The Wohrley and Aylor properties never developed, so the apron was never used in a shared manner.

Surrounding Zoning and Land Uses (see sheet #2)

North: Burger King and Shell zoned Commercial Four (C-4) and the McGlasson property and HK Systems (formerly Litton/Western Atlas) zoned Industrial One (I-1).

- East: Across KY 237 the Medical Arts Subdivision and McGlasson property zoned Commercial Four (C-4). There are three (3) residences facing KY 237 on the McGlasson property within the C-4 zone.
- South: Residences on Coral Drive within the Suburban Residential Two (SR-2) zone.
- West: Residences within the Horizon West Subdivision zoned Suburban Residential Two (SR-2).

Relationship to the Boone County Comprehensive Plan

The Future Land Use Map shows the subject property as mostly Business Park (BP) with a small portion of Suburban Residential (SR). These classifications are defined in the adopted Comprehensive Plan as:

- Business Park: "A mix of office warehouse, research, office, and light industrial uses in a park like setting with large building setbacks, low floor area ratio, integrated pedestrian and recreation facilities, constant architectural and signage theme, extensive landscaped areas, and attractive entrance treatment."
- Suburban Residential: "Single family housing of up to four units per acre. This classification also includes any low density or estate residential developed as a formal subdivision."

The Land Use Element within the 1995 Boone County Comprehensive Plan refers to this area generally by stating:

"On the south side of the interchange, additional industrial development should occur around the Western Atlas site. The existing and planned residential areas located on the east and west side of KY 237, north of KY 20, should remain, with an area of commercial uses around the KY 20 and KY 237 intersection to serve area development."

Staff Concerns/Comments

1. There are thirty-eight (38) Principally Permitted Uses in the Commercial Four (C-4) zone. Staff is concerned with the proximity of the well established residential base to certain obnoxious uses and uses that allow outdoor storage or accessory structures as an integral part of their business. Uses such as:

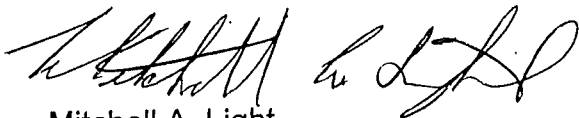
2. Convenience stores;
 6. Gasoline filling stations, automobile repair facilities, and wash facilities;
 7. Eating and drinking establishments including alcoholic beverages and with drive-thru facilities;
 16. Shoe repair and dry cleaning services;
 23. Garden and landscaping sales and supplies including florist greenhouse;
 25. Laundromats and self-service washing and drying;
 33. Video stores;
 36. Liquor, beverage, drug and proprietary stores;
 37. Auto parts and accessory stores;
2. Since no building elevations were submitted with the Concept Development Plan, staff is concerned about the type of building and materials that may be used given its proximity to the established residential neighborhood. Examples of uses such as fast food with a playland, gas station with convenience store, retail auto parts store, or a commercial strip center, could determine the architectural design as many of these uses have a corporate identity. However, the applicant may be able to eliminate numerous uses and provide an architectural rendering for the Committee and staff to review.
 3. With regard to the proximity of this project to the established residential neighborhood, staff is concerned about issues such as site lighting and public address/speaker systems that many C-4 businesses use as part of their normal operations. Again, this may be easily resolved by eliminating numerous C-4 uses.
 4. The applicant did not provide a traffic study with this request. Staff is concerned about the possible traffic impacts that a number of the thirty-eight (38) Principally Permitted Uses could generate.
 5. If approved, the Future Land Use Map would only require a slight modification as the property is shown mostly as Business Park (BP).

Conclusion

The Boone County Planning Commission and the Boone County Fiscal Court must review this request on the basis of its relationship to the Comprehensive Plan and in terms of the three (3) criteria necessary for a Zoning Map Amendment.

1. The map amendment request is in agreement with the adopted Comprehensive Plan and any specific study designed to further detail the Boone County Comprehensive Plan for the location in question; or,
2. The existing zoning classification is inappropriate; or,
3. There have been major changes of an economic, physical, or social nature not anticipated in the adopted Comprehensive Plan that substantially alter the areas character.

Respectfully Submitted,



Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

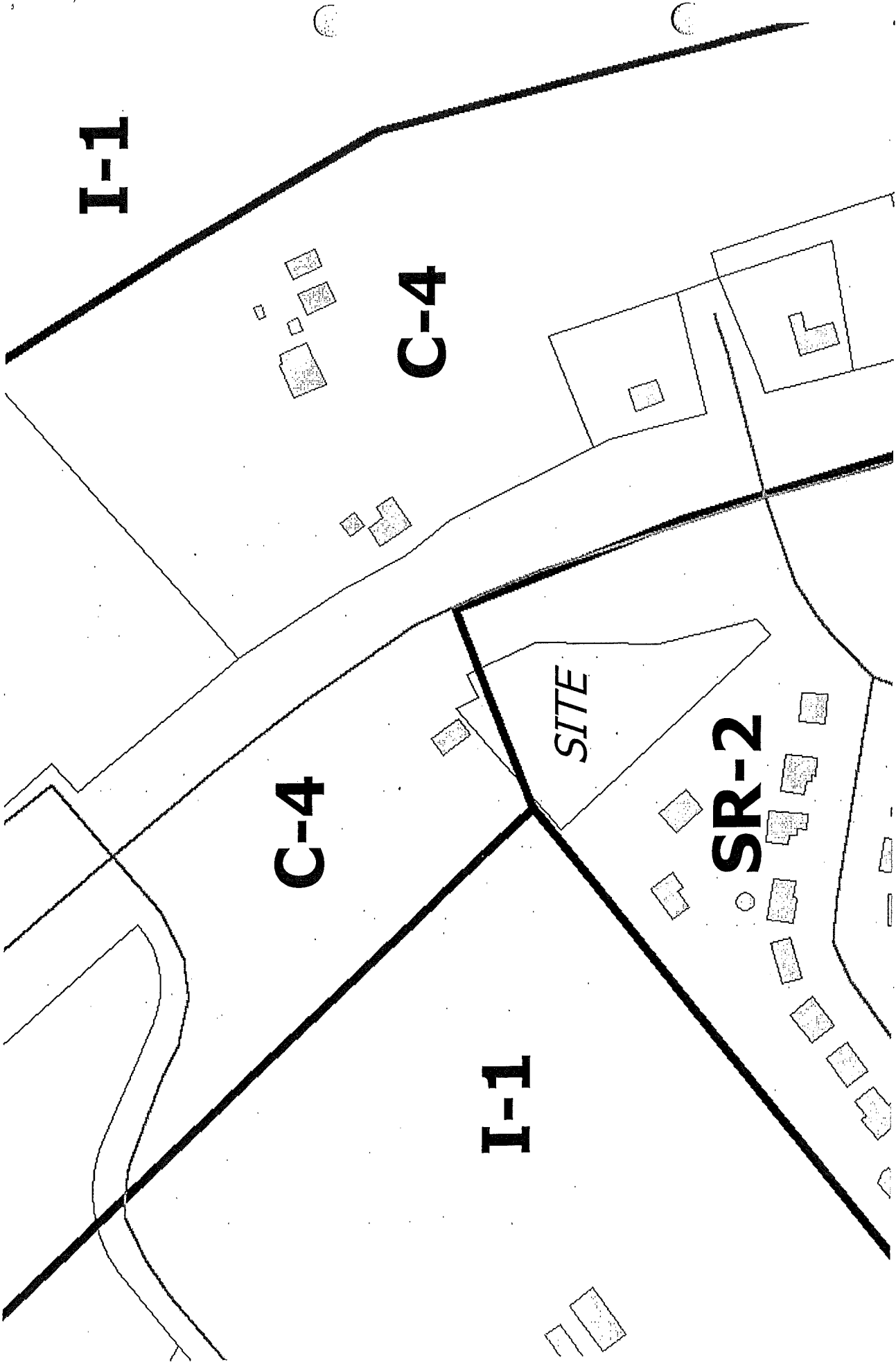
MAL/pr

Attachments:

- Vicinity Map
- Zoning Map
- Existing Site Topography
- Concept Development Plan
- C-4 Uses
- Request
- Application



VICINITY MAP



I-1

C-4

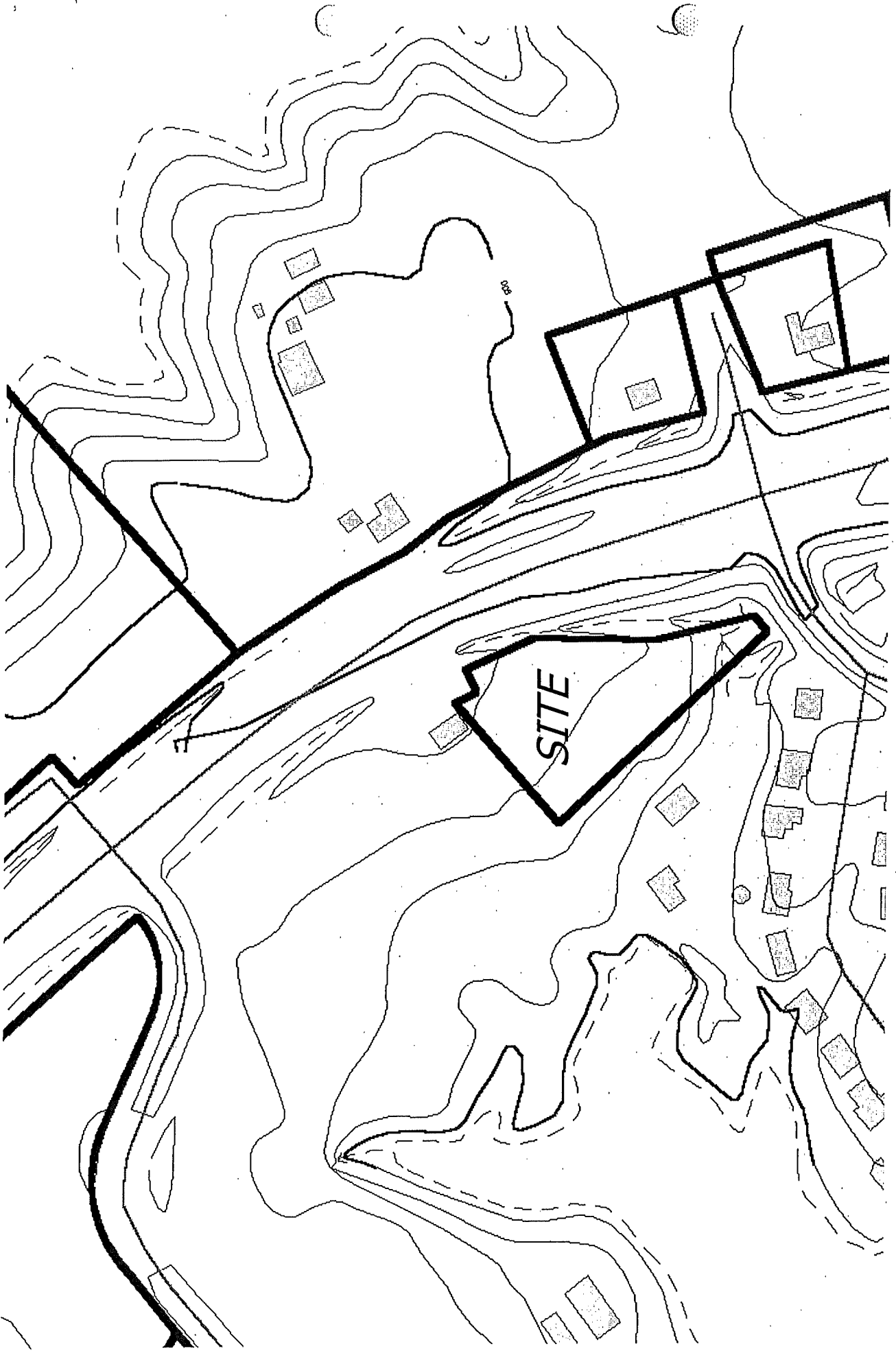
C-4

SITE

SR-2

I-1

SURROUNDING ZONING



EXISTING SITE TOPOGRAPHY

SECTION 1033

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use or service; or b) the arrangement of use, building or structure will be compatible with the organization of permitted and accessory uses to be protected in the district;

1. Welding or limited fabrication of metal products provided the use is of office or service contract and not storage or manufacturing which is more appropriate to an industrial district;
2. Truck stops.

SECTION 1034

Intensity

The intensity of use in a Commercial Services (C-3) district shall not exceed 18,000 square feet of gross floor area per acre of land.

SECTION 1035

Minimum Size

The minimum size and extent of a Commercial Services district, including all the contiguous private property so designated, shall not be less than three (3) acres.

SECTION 1036

Minimum Standards

See Article 31 for dimensional standards. (Site plan review required for all permitted uses, See Article 30)

SECTION 1040

COMMERCIAL FOUR (C-4)

The purpose of the Commercial Four district is to provide locally oriented commercial services, either retail, recreational or office uses, in areas located near or adjacent to interstate highways and arterial roads. These areas are either currently or expected to experience rapid growth due to the population projections and recommended land uses in the Boone County Comprehensive Plan and in other land use studies. Such uses would serve to accommodate the service demands of an expanding local population that normally can't be met because of the limited type and scale of office, recreational or retail use in the immediate area. These types of uses are intended to serve the local population or community rather than regional interests. Such districts shall be located near or adjacent to interstate highways and along arterial roads whereby access and visibility are required to serve local residents. These districts shall be limited in size in order to provide maximum egress and ingress for the local population.

SECTION 1041

Principally Permitted Uses

The following uses are permitted, subject to the minimum and maximum size, standards and intensity provisions of this zoning district:

1. Grocery stores and supermarkets;

2. Convenience stores;
3. Banking services (including drive-thru facilities), savings and loan associations, credit unions and other credit services;
4. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
5. Department stores or general merchandise stores;
6. Gasoline filling stations, automotive repair facilities and wash facilities;
7. Eating and drinking establishments including alcoholic beverages and with drive-thru facilities; Eating and drinking establishments including alcoholic beverages and entertainment, but excluding drive thru and franchise style fast food establishment (CITY OF FLORENCE ONLY);
8. Furniture stores;
9. Hardware stores;
10. Recreation centers, gymnasiums, clubs and similar athletic uses;
11. Medical offices, clinics and laboratory services;
12. Travel agencies;
13. Legal, architectural, engineering, accounting, insurance and real estate services;
14. Photo finishing services;
15. Florists, excluding greenhouses;
16. Shoe repair and dry cleaning services;
17. Nursery and day care centers;
18. Beauty and barber salons;
19. Veterinary services and pet grooming services;
20. Bakery stores;
21. Apparel shops;
22. Drug store;
23. Garden and landscaping sales and supplies including florist greenhouse;
24. Fire stations and related services and police stations;
25. Laundromats and self-service washing and drying;
26. Opticians and optical goods;

27. Television and audio sales and repair;
28. Paint and wallpaper stores;
29. Carpet stores;
30. Books, stationery, gift shops and card shops;
31. Household and electrical appliance stores including repair;
32. Sporting goods stores;
33. Video stores;
34. Churches, synagogues, temples and other places or religious assembly for workshop;
35. Funeral homes and crematoriums excluding cemeteries or mausoleums;
36. Liquor, beverage, drug and proprietary stores;
37. Auto parts and accessories stores;
38. Hotels and motels including convention facilities.

SECTION 1042

Accessory Uses

Accessory uses, building and structures customarily incidental and subordinate to any of the permitted uses including:

1. Recreation uses, buildings and structures customarily incidental and subordinate to any of the permitted uses and defined to be:
 - a. Stages and similar assemble areas;
 - b. Auditoriums, exhibition halls and other public assembly spaces;
 - c. Amusement centers;
 - d. Tennis courts and swimming pools;
 - e. Play lots, tot lots, recreation centers and similar athletic uses;
 - f. General leisure, ornamental and other park spaces;
2. Signagé (See Article 34);
3. Parking (See Article 33);
4. Temporary buildings incidental to construction;
5. Storage, uncrating or unpacking areas provided such activities are an integral function of the permitted uses;

6. Dwelling units including:

- a. Private garage and parking;
- b. Structures such as fences and walls;
- c. Buildings such as storage sheds;
- d. Appropriate storage of a recreation vehicle or unit;
- e. The keeping and use of appropriate household pets;

8. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);

SECTION 1043

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use or service; or b) the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses to the district:

1. Mini-warehouses or storage facilities;
2. Franchise style fast food establishments and drive thru eating and drinking establishments (CITY OF FLORENCE ONLY).

SECTION 1044

Intensity

The intensity of use in a Commercial Four (C-4) district is 9,000 - 13,000 square feet of gross floor area per 1 acre. The maximum intensity for any principally permitted use or accessory use shall not exceed 100,000 square feet.

SECTION 1045

Minimum/Maximum Size

The minimum size and extent of a Commercial Four (C-4) district, including all the contiguous private property so designated, shall not be less than three (3) acres. There is no maximum size limit of a C-4 district. However, no development or project in a C-4 district shall exceed 30 acres in size.

SECTION 1046

Minimum Standards

See Article 31 for dimensional standards. (Site Plan Review required for all permitted uses, See Article 30)

BRANDICORP
7346 Beechmont Avenue
Cincinnati, Ohio 45230
513-232-2233

5/3/99

Mr. Mitch Light
Assistant Zoning Administrator
Boone County Planning Commission
2995 Washington St.
Burlington, KY 41005

Re: Whorley Property- Zoning Map Amendment

Dear Mitch:

Per our telephone conversation, please find attached the Zoning Map Amendment Application, optional Concept Plan and GIS Aerial Map.

The current Zoning is "Residential" and the County's Comprehensive plan shows the property in a "Business Park" Zone.

The property to the North is all commercial. The parcel directly contiguous (and also owned by a Brandicorp affiliate: A-L-Bluffton Inc.) is being developed as a Burger King Restaurant. North of that, the frontage along State Rte. 237 is all commercial.

The Whorley parcel is best suited for commercial use per the C-4 zoning classification.

The Whorley property shares a curb cut onto Rte 237 with the Burger King parcel. As required by KDOT, the median improvements to facilitate north bound left turns into the properties have been designed, approved, and are currently being constructed. Access to the traffic signal at Litton Lane can also be implemented via a rear exit to the private drive owned by, and being constructed by, A-L-Bluffton, Inc.

Utilities are also available at the site via improvements being made by A-L-Bluffton, Inc.. Sanitary sewer now exists (via a main extension) in the private drive. An 8" water main and fire hydrant are also being run down the private drive. Electric and gas are available at Rte 237.

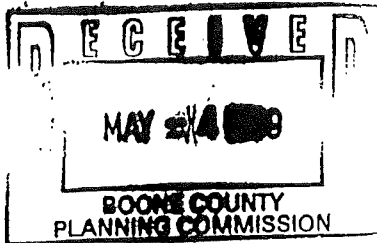
Natural vegetation along adjoining property lines to the north and west would enhance the development of this site as a commercial property while also providing substantial screening to the Coral Drive residential property. See Concept Plan. We would propose to leave this natural vegetation except where an exit drive would cross through to meet the new private drive serving the Burger King.

In actuality, the required set back / buffer landscaping along the Rte 237 frontage would serve to further buffer the traffic noise from this artery , as heard by the Coral Dr. residences abutting the rear of the site.

We look forward to working with you on this project.

Sincerely,

Doug King
Director Of Development



APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

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

1. Name of Project W Horkley Property - ST. RTE 237
2. Location of Project RTE 237 - NORTH BEND RD
3. Total Acreage of Site 1.264
4. Current Zoning of Site R
5. Proposed Zoning (Classification being requested) C-4
6. Proposed Uses (please specify each use) u

7. Names of Applicant(s) BRANDICORP
Phone Number 513-232-2233 Fax No. 513-624-2634
8. Address of Applicant(s) 7346 Beechmont Ave
LEWIS OH. 45230
City State Zip
9. Name of Property Owner(s) Three parcels - see attached.
Phone Number _____ Fax No. _____
10. Address of Property Owner(s) _____
City State Zip
11. Proposed Building Intensities (please specify): - proposed is 6,000 sq. ft
of Building.
12. Are there any existing buildings on the site? NO
How many? 0
13. Deed Book see below Page No. _____ Group No. _____
14. Are you also applying for:
 Conditional Use Permit W Horkley DB 90 PG 427
 Dimensional Variance W Horkley DB 90 PG 425
Aylor DB 90 PG 430
15. Have you submitted a Concept Development Plan? YES
16. Have you had a pre-application meeting with BCPC Staff? Discussed w/ Mitch via phone
17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- Boone County Water and Sewer District
- Florence Water and Sewer Commission
- Union Light Heat and Power
- Cincinnati Bell
- Owen County Rural Electric
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- City of Florence Public Services Department
- Boone County Building Department

(over)

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

Northern Kentucky Health District
 U.S. Soil Conservation Service
 Local School District
 Local Fire District
 Other: _____

*NO MEETINGS ON THIS SPECIFIC SITE
HAVE DISCUSSED DEVELOPMENT OF THIS LOT
IN GENERAL TERMS IN REGARD TO BURTON
KING SITE WHICH IS CONTIGUOUS.*

18. Project Jurisdiction/Location

Unincorporated Boone County Walton
 Florence Union

19. Applicant's Signature *[Signature]* *FOR BRANDICAP.*

Property Owner's Signature *see attached*

SECTION B (To be completed by BCPC Staff)

1. Date Received MAY 4 1999
2. Review Fee 1140.00 RE 20376 / 4.64 RE 20377
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of copies of plan received**
4. Is application complete? Yes No
5. Staff Reviewer MITCHA LEAT
6. Committee Chairman MARK HICKS
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - Approval
 - Approval with Conditions
 - Denial
9. Other: _____

** Five (5) Copies Are Required

Boone County Planning Commission
 2995 Washington Street
 Burlington, Kentucky 41005
 (606) 334-2196 Phone
 (606) 334-2264 Fax

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

PUBLIC HEARING ITEM NO. 1:

Commission members present: Vice Chairman Phil Damstrom, Judy Arnett, Mark Hicks, Richard Knock, Don McMillian, Bob Newman, Bob Ries, Carol Smith, Earl White, Lisa Wilson and Dave Zimmer.

Staff members present: Executive Director Kevin Costello, Assistant Zoning Administrator/ZEO Mitchell A. Light, and Planner Todd Morgan.

Legal Counsel present: Dale T. Wilson

Vice Chairman Damstrom introduced the first item on the Public Hearing Agenda:

1. **Applicant:** **Brandicorp for Joseph B. Aylor, Laura A. Wohrley and Ruth E. Wohrley (owners)**

Request: **Zoning Map Amendment**

The request of Brandicorp (applicant) for Joseph B. Aylor, Laura A. Wohrley, and Ruth E. Wohrley (owners) to consider a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.264 acre site located on the northwest corner of the KY 237/Coral Drive intersection, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the C-4 zone.

Staff Member Mitch Light presented the Staff Report which included a slide presentation (see Staff Report). Mr. Light commented that the applicant shows a 75 foot front yard setback, but that the C-4 zone requires only a 30 foot front yard setback, so theoretically the building could be pushed forward to achieve more buffering between the property line and the back of the building.

Vice Chairman Damstrom asked for the applicant's presentation, and recognized Thomas W. Breidenstein, attorney representing the applicant.

Mr. Breidenstein introduced Mike Brandy and Doug King of Brandicorp. He thanked Staff for a thorough review. He stated that the applicant recognizes that 75 feet is not the setback in the C-4 zone, and noted that that was a drafting error, and that they do not want to be bound by the 75 foot setback. He added that the applicant recognizes that moving the building forward would be a benefit to the residents, and they would like to have that flexibility.

Mr. Breidenstein stated that the first concern raised by Staff is the possible obnoxious uses. He stated that the applicant has not considered the possibility of eliminating certain C-4 uses, having just received the report this afternoon. He stated the applicant is not prepared to discuss or make a commitment to eliminate uses, but that they would be able to discuss this matter with the Committee.

Regarding the second Staff concern about the building type and materials, Mr. Breidenstein stated that they do not have an architectural rendering of this building, that they do not know what the building will be used for at this time, and that they are applying for the full gamut of C-4 uses. He assured the Commission that the building will be compatible with the residences, the existing businesses in the vicinity, and with Brändicorp's corporate philosophy.

Regarding Staff's concern about site lighting and public address system, Mr. Breidenstein stated this could be addressed at the Committee level as well as the Site Plan level, being items that relate to the Supplemental Standards of the Zoning Regulations with which they would be required to comply.

Regarding Staff's concern that no traffic study was submitted, Mr. Breidenstein stated that inasmuch as this was such a small use, 6,000 square feet, it was felt that a traffic study was not warranted. He cited Article 3 of the Zoning Text wherein traffic studies are suggested for major traffic generating uses. He indicated the applicant is not proposing such a use, and the intent of the C-4 zone is to serve the local area, as indicated by the list of permitted uses.

Regarding Staff's comment about the Future Land Use Map, Mr. Breidenstein indicated he did not see this as a concern, but as a technicality that could be worked out upon approval.

Mr. Breidenstein stated that when he looked at the application, he considered what other uses the property might have, noting that it was currently zoned residential, apparently as an appendage to the old way this area used to develop before KY 237 was rebuilt. He stated he could not think of another zoning district that could be appropriate for this site other than C-4, and that it is a natural extension of the existing C-4 area. He stated there is no other type of use, certainly no other residence that could ever be built there, and that nobody would want to live there. He stated that the 1.264 acres would be too small for most of the zoning districts within the Text.

Mr. Breidenstein reiterated that the request was in compliance with the Comprehensive Plan including both the Future Land Use Map and the Text. He stated C-4 is an appropriate zoning district for this site given the natural extension of the C-4 from the north and also from the east. He stated that there have been substantial changes in the area, that the trend is growth at this interchange, which changes the character of the property.

Vice Chairman Damstrom asked if there was anyone else present who wished to speak in favor of the request. None was forthcoming.

Vice Chairman Damstrom asked if there was anyone present who had questions or who wished to speak in opposition to the request. Vice Chairman Damstrom recognized Carter Momberger of 2030 West Horizon Drive (Lot 4), Boone County, Kentucky.

Mr. Momberger presented to the Commission a video tape, a list of the seven concerns that the residents on Coral and West Horizon have about this proposal, and a petition signed by

approximately 90 individuals requesting the Commission to disapprove the applicant's proposal, all of which he asked be made part of the official record

Mr. Momberger played the video tape which he stated he had made earlier this date, showing some of the properties in his neighborhood and their relationship to the proposed development.

Mr. Momberger expressed concern regarding the property boundaries, noting that recently erected surveyors' markers did not seem to agree with previously constructed boundary markers from a different surveyor. He stated the survey that was accomplished for the West Horizon properties is currently engraved with a mason's saw on the street curbing, and that he, Mr. Momberger, had some time ago painted these marks with indelible red concrete paint. He added that the surveyor had also carved an "x" at the point between lots 4 and 5, at the end of the flag lot. He stated that he presumed the more recent survey had been based on the middle of KY 237 which was under construction, and he questioned the accuracy of that survey.

Mr. Momberger elaborated on the seven points of concern: property values; whether the Comprehensive Plan intended KY 237 to be like Turfway Road and Richwood Road; excessive lighting from the building, parking lots and traffic; increased traffic with regard to safety of children, capability of existing roads to handle the volume, and the necessity for future road construction; safety as relating to busy intersections, proximity of a school and school bus stops, and potential of a fast food restaurant to become a hangout for young people; sewage and water as related to capacity of existing lines, runoff from parking lots, potential for flooding, and the potential for environmental hazards; buffering issues as relating to appearance, noise, privacy and safety; and the preservation of green space along KY 237 and for the neighborhood.

Mr. Momberger noted that the drainage problem is currently an irritation, happening occasionally when an inch of rain or more is experienced. He asked whether development on the subject property would make the drainage problem worse. He suggested neighborhood security might be affected by the development since it would be easier for intruders to enter the backyards of the homes from the rear of the commercial property.

Mr. Momberger expressed concern for after-dark illumination of the property. He noted that in addition to all-night neon lighting, the existing Shell Station plays the radio all night long over their outdoor public address system, which can be heard by the residents. He commented that the gas station accepts deliveries 24 hours a day, and that the diesel engine of the waste hauler and the accompanying explosive-sounding noise of dumpster service occurs during the middle of the night, and he expressed concern that this new development would cause additional irritation for the neighborhood.

Mr. Momberger stated that he was startled that the applicant's attorney stated three times that he was unprepared to answer specific questions and concerns raised by Staff, and he asked how the Commission could be prepared to make any decisions based on that presentation.

Vice Chairman Damstrom recognized Mike Payette of 2024 West Horizon. Mr. Payette stated that his back yard abuts the subject property, and that he was concerned about declining property values resulting from the development. He stated that area traffic has increased tenfold in the three years he has lived there. Mr. Payette expressed concern for the neighborhood children's safety, stating that if there is a parking lot, the runoff of oils and other toxins could be a hazard. He asked if the Commission could ensure preservation of the green space.

Vice Chairman Damstrom then recognized Laura Musgale of 2173 West Horizon Drive. Ms. Musgale stated that although those living at the far end of West Horizon Drive would not be as negatively affected by the proposal as the residents at the closer end, she was concerned about the traffic. She stated that at 8 a.m. and 5 p.m., the heavy traffic on KY 237 from the industrial facility and other developments makes it difficult to cross or turn into the subdivision. She added that the traffic goes fast in that area, and the situation is even worse in winter weather. Ms. Musgale stated that what might seem like a small development to the applicant is a big development to the residents because it affects access into their neighborhood. She expressed concern that the accident rate would increase, and noted that there is no right-turn lane for their subdivision. She stated that she has seen traffic significantly increase in the ten months she has lived there, in part because of the development of 200 homes north of the interchange and the numerous Indiana-plated vehicles cutting through on KY 237 to get to Florence.

Vice Chairman Damstrom then recognized Bob Blades of 2108 West Horizon. Mr. Blades commented that the attorney for the applicant had stated that no one in their right mind would like to live on the site. He asked whether this might be due to the developments the applicant already put in around that community.

Vice Chairman Damstrom then recognized Joy Fussinger of 2020 West Horizon. She stated that she owns Lot 1 and the whole buffer is her back yard, and that she agreed with the previous statements in opposition. She added that if the applicant proposes the building of a buffer, the land is so much higher than the residential area that the trees would have to be fifty feet high.

Vice Chairman Damstrom asked Mr. Breidenstein if he desired to address any of the comments and questions. Mr. Breidenstein stated that with regard to the tree barrier which exists along the common property line, the applicant recognizes that this is within the 25 foot landscape buffer, and within the 50 foot building setback, and that is not the applicant's intent to touch that area. He added that it is in a lower elevation, not the most convenient location for Brandicorp to develop for any purpose, and it is their intent to leave the buffer intact, not only along the property line, but also along Coral Drive.

With regard to Mr. Momberger's concern about surveying accuracy, Mr. Breidenstein stated this was the first he had heard of this issue, that he did not think it was a concern at this level, and that if there is a property line dispute, the property owners would have to resolve it amongst themselves.

Mr. Breidenstein commented that Mr. Momberger had indicated the drainage problem was more of an irritation than anything more serious. Mr. Breidenstein assured the Commission that the site would be developed in accordance with the Site Plan Requirements of the Zoning Regulations, that he was sure it would be inspected, and would be maintained according to those standards. He noted that the post-development runoff must be equal to or less than what currently exists.

With regard to security, Mr. Breidenstein indicated he was not sure how to address the concerns expressed, and added that if the neighborhood youngsters are crossing onto private property in a way they should not be, that is an issue the parents need to address. He added that the applicant would be willing to talk about any security concerns that they can handle. He pointed out that erecting a fence along the back property line would have an impact on the buffer.

Mr. Breidenstein noted that the Zoning Regulations contain strict standards with regard to lighting, signage and noise under the Supplemental Performance Standards section, and that the applicant would certainly comply with these. With regard to the traffic concerns, Mr. Breidenstein stated that the C-4 uses do not generate a lot of traffic, but draw upon the traffic already there.

Vice Chairman Damstrom asked if there were any comments or questions from the Commissioners.

Mr. Zimmer noted that he did not see on the Concept Development Plan the 25 feet of required buffering along the driveway behind the proposed building. Mr. Light responded that a provision exists that would allow the applicant to reduce the setback if they install a wall or fence. Mr. Light continued, stating that since they have discovered that their front yard setback can be reduced from 75 to 30 feet, they can push the building forward and achieve the required amount of buffer, in which case there would be no need to install the wall or fence. Mr. Light indicated some staggered or selective plantings might be considered in addition to the existing tree line to ensure adequate buffering.

Mr. Zimmer asked whether the 25-foot buffering requirements include plantings; Mr. Light responded that if it was a clean site, they would probably be required to plant five large trees, three medium or small trees, and 30 shrubs per 100 linear feet. He noted that the property measures approximately 300 feet along that line and that the existing vegetation might be sufficient to screen.

Mr. Zimmer asked whether Staff was considering relaxing that requirement because of the existing vegetation; Mr. Light responded that the existing vegetation counts toward the total amount required, adding that one cannot put a price on a mature tree. He indicated that without the existing mature trees, the houses would have been more visible in his slide depicting the subdivision from across KY 237.

Mr. Zimmer asked if the drainage way is an outfall or an inlet; Mr. Light responded that he was unsure, but that he believed that from the drive, the drainage heads south to Coral Drive and goes

back into Galen McGlasson's farm pond to the west. He explained that when the State reconstructed KY 237, they took sufficient right-of-way to accomplish some other work in the future, but that either the applicant or Staff would have to talk with the State to see what their calculations were at that time with regard to drainage.

Mr. Zimmer commented that this Concept Plan indicates nothing for detention or retention, and he asked about the applicant's intention in this regard. Mr. Light responded, advising that the applicant is aware that they have to retain/detain their own water on site not to exceed the pre-development standards.

Mr. Zimmer asked regarding the shared access, and whether Burger King has a curb cut on KY 237; Mr. Light responded, stating that Mrs. Pelley lived there before the new KY 237 was constructed, and that when the new road was developed, the State created a shared access for her and the property to the south which had the potential to develop residentially. Mr. Light explained that Mrs. Pelley was the only one to ever use the access, so it appeared simply as the driveway to her residence. He continued, stating that the State has given permission for that to be upgraded to a commercial access and this is the only curb cut they are going to allow for these two properties. Mr. Light stated that since Brandicorp was installing all the improvements, they were concerned about the potential uses on the neighboring properties and are therefore in the process of purchasing them in order to gain control.

Mr. Zimmer asked if Burger King is going to use this proposed driveway; Mr. Light replied in the affirmative, adding that this is their access to KY 237. He added that they are also developing the driveway behind the Shell station out to Litton Lane and the traffic light, and this proposal would also tie into that driveway. He added that this connection would be reviewed through the Site Plan process.

Mr. Zimmer asked about the applicant's intention with regard to the small triangular corner shown on the Concept Development Plan marked "existing natural area." Mr. Light responded that he did not think they could do anything with it given the topography and the drainage way that crosses through there. He added that he believed it was the applicant's idea to keep everything to the north of the site. Mr. Light explained that the small piece of land was left over after right-of-way acquisition, that the old plan shows these three pieces much larger, but the State purchased land for the highway reconstruction which resulted in odd-shaped pieces of property.

Mr. Zimmer asked whether the drainage pipe was an outfall; Mr. Light responded he was not positive. Mr. Costello advised the Staff will research this question.

Mr. Zimmer asked whether Staff or the applicant had considered a pedestrian or bicycle path through that area to connect the C-4 line of businesses with Coral Drive and West Horizon. Mr. Light responded that this is something they could look into, noting that the topography in the area does not provide a lot of room, but that the State has considerable right-of-way and might be interested in such a project.

Mr. Zimmer asked why that would be a State issue; Mr. Light explained that the State owns the right-of-way along KY 237. Mr. Light added that he had thought about talking to the State about a right turn deceleration lane in at Coral because of the traffic situation, and if they were going to do a bit of grading, perhaps they would be willing to extend the culvert under Coral Drive.

Mr. Zimmer asked how many residents are in the West Horizon/Coral Drive area; Mr. Light indicated he could research that information. Mr. Light added that Coral Drive and Ridge actually come out on KY 20, so that can actually be used as a cut through to KY 20 instead of going to the light and across.

Mr. Costello pointed out that the vegetation area shown on the western property line that adjoins the subdivision are existing trees and that those can be retained as part of the 25 foot buffer area, however, in the middle of winter, those leaves will be down, making the business visible. Mr. Costello added that that also holds true for the existing natural area that might be slated for detention. He cautioned that if they go in there and start moving trees, they may disrupt that buffer area, so it is important to take that into consideration in those two areas.

Mr. Zimmer noted one of his concerns was the possibility of relaxing the buffering requirements, and he suggested it might be appropriate to require the addition of coniferous trees to the existing deciduous trees.

Vice Chairman Damstrom asked which of the three criteria required for zoning map amendments the request was based; Mr. Breidenstein responded that they were relying on two statutory criteria, (1) that the Concept Plan matches the Comprehensive Plan, the Future Land Use Map as well as the Future Land Use Text, and (2) that the existing zoning classification is inappropriate while the proposed zoning is appropriate.

Vice Chairman Damstrom commented that he had a problem understanding the reason for the zone change request when there is nothing to look at. He added that considering the price of the land, it would seem that the applicant would have some use in mind, and he expressed concern that the applicant was not sharing this information. He recalled that Staff had listed several different uses in the broad C-4 spectrum that could create problems for the nearby residences. He stated he had a problem with the idea of granting a blanket zone change without knowing exactly what would be developed there, especially because of the proximity to the residential development.

Mr. Ries commented that he shared Vice Chairman Damstrom's concerns.

Mr. Knock asked Mr. Breidenstein to explain his previous comment that nobody in their right mind would want to live there. Mr. Breidenstein stated that if that was understood to mean the larger context of this neighborhood, he was misunderstood, that his comment was geared toward this specific location considering the traffic on KY 237, the lay of the land, the access to the site, and the development to the north and northwest. He added, "If I came off a little bit harsh, it was

unintentional. I think it is more appropriately zoned for commercial use than for residential, the SR-2 use that it is currently zoned.”

Mr. Ries asked whether the applicant ever looked at any kind of project for the existing SR-2 zone; Mr. Breidenstein indicated they have not considered any SR-2 development for that site because they did not think it was appropriate from a business or a planning standpoint. Mr. Ries asked regarding a financial standpoint; Mr. Breidenstein responded that obviously there was a financial return.

Mr. Hicks asked regarding the proximity of the access road behind the building to the property line; Mr. Light responded, indicating the Staff would work with the applicant to prepare a revised Concept Plan because of the front yard set back change which had been referenced earlier, adding that since they own the property adjacent to the subject property, they cannot leave themselves hanging.

There being no further comments, Vice Chairman Damstrom stated that the Zone Change Committee Meeting for this item will be at 5:00 p.m. on June 10, 1999 in the Circuit Court Room of the Old Courthouse. He cautioned that no new testimony will be permitted, but that the Committee may ask questions for clarification of information presented at this public hearing. This item will be on the Agenda for the Business Meeting of June 16 at 7:30 p.m. in Courtroom 3A of the Boone County Administration Building.

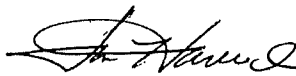
Vice Chairman Damstrom declared this Public Hearing closed, the time being 8:46 p.m..

APPROVED:



Phil Damstrom, Vice Chairman

ATTEST:



Jan Hancock, Recording Secretary

The minutes of this meeting were recorded and transcribed by Betsy R. Conrad, Recording Secretary.

1. Property Values

2. Comprehensive Plan

-is 237 to be like Turfway Road and Richwood Road?

3. Excessive Lighting

-from the building

-parking lots: lights posts and cars

-traffic, headlights shining in windows

4. Increased traffic

-safety, children in area.

-capability of existing roads to handle increased volume

-future road construction

5. Safety

-children, busy intersections

-school nearby

-school bus stops

-fast food restaurant, etc. to become hang out

6. Sewage and Water

-capability of existing lines to handle increased volume

-run off from parking lots

-water, flooding

-oil and other toxins from cars

7. Buffer issues

-appearance

-noise

-privacy

-safety

8. Green Space

-preserve green space along 237

-preserve green space for neighborhood

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June 2, 1999

OUTLINE OF COMMENTS TO THE BOONE COUNTY PLANNING COMMISSION

Re re-zoning of Aylor/Wohrley/Wohrley properties from SR-2 to C-4 at request of Brandicorp (applicant).

Please enter these brief comments in the official minutes of this meeting.

We live in a friendly pleasant suburban neighborhood in Hebron, Kentucky, and we are collectively concerned about the possible negative impact of commercial development on residential properties in the vicinity of the proposed re-zoning. A video tape of the location (from the current residential side) has been prepared and we would like to have the video tape played for the commission, as well as to have a copy of it entered into the formal records of the proceedings. In addition, we have also brought a citizens petition, which we would like to have entered into the records of this meeting.

We, the residents of West Horizon Drive, have the following concerns and questions about the proposed re-zoning and possible development of the Aylor/Wohrley/Wohrley property:

Tree line/barrier/buffer There currently exists a natural tree line along the existing fence which separates West Horizon lot # 4 and the proposed Brandicorp property. We would like to maintain this natural barrier as much as possible. The barrier is mostly mature trees, shrubs and honeysuckle. It minimizes noise from Route 237 and also is a beautiful enhancement to suburban environment of the residential back-yards. Our greatest concern is that this buffer zone will be bull-dozed to accommodate a fence, curbing, parking lot, etc. Please note in the videotape that the bulldozing equipment building the new Burger King has come within approximately 6 feet of the property line of lot # 5.

Survey The survey stakes recently placed are not in the same location as the survey stakes that were placed in the previous survey done in 1996. The variance is as much as 35 yards (estimated). This variance is evident in the video tape. Which survey is correct??

Drainage During the occasional cloudburst (1+ inch of rain), the current culvert cannot properly drain Route 237, Coral Drive and West Horizon Drive. A temporary lake develops (primarily in lot # 4). Who designed/constructed this culvert and drainage pipe? Why were the calculations of water run-off in error to such an extent? At times, the entire culvert is substantially under water. Please refer to the videotape. Who has the burden of liability for this possibly dangerous condition?

Security Part of the fence that separates lot # 5 from the Burger King property has been trampled by youngsters who want to create a short-cut to the convenience store located in the Shell gas station. What fencing is proper to maintain security? We prefer a barrier that maintains the rural forested look of the property as is. Furthermore, we have a concern about visitors to a commercial property fronting on Route 237 being able to enter the residential area via the backyards.

Lighting We are also concerned about the potential for a future developer to install high-intensity mercury vapor type flood lights which could have a negative impact on the residential properties. Are large illuminated signs or lamp-posts or spot-lighted flagpoles to be installed (as at the Shell gas station) ?? Are the buildings to be outlined in 24 hours a day neon strips?? Is vehicular traffic to be directed in such a way that the headlights will face the residential areas?? These questions need to be answered and addressed properly before any re-zoning decisions are made.


Noise We are concerned about the potential for elevated (and unnecessary) noise levels, particularly from out-of-doors loudspeaker systems. As residents, we are at times disconcerted by the current loudspeaker system used at the Shell gas station, which sometimes plays a radio station (at 2 a.m.) in addition to loudly greeting customers at the pump. In the event of commercial development, are deliveries/pick-ups to be made during the middle of the night?? (as is currently the case with the Shell gas station). Are the development proposals for entities that will operate 24 hours a day??

We have an earnest and compelling desire to be good, friendly neighbors and residents. We would also like to work in a sensible and accommodating and amicable manner with current and/or future owners of adjoining properties.

In closing, we would like to ask the commission and the applicants in a specific way to what extent they are willing to address our specific concerns regarding maintaining the nature of our neighborhood, security, noise, lighting, barrier buffer zones, property boundaries, and so forth.

Thank you for the opportunity to enter these comments and concerns into the official minutes of this meeting

Carter R. Momberger
2030 West Horizon Drive
(lot # 4)
Hebron, Ky 41048

 689.5608

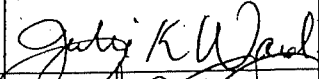

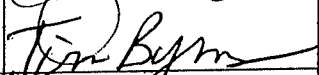
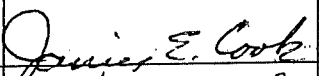
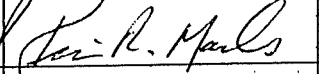
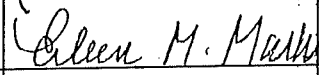
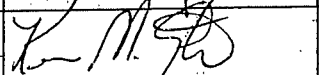
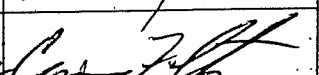
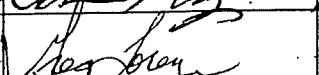
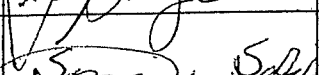
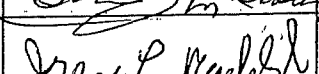
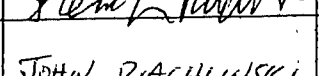
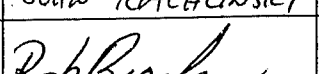
PETITION

We the undersigned residents of Boone County, Kentucky firmly disapprove of the rezoning proposal for the 1.264 acre site located on the northwest corner of the KY237/Coral Drive intersection, Boone County, Kentucky. Our concerns are many regarding the negative impact of commercial property so close to a residential neighborhood. They include a lower quality of life, heavier traffic volume, a reduction of property values, our privacy and our safety.

PRINT NAME	SIGNATURE	ADDRESS	DATE
PAM RILEY	<i>Pam Riley</i>	2076 W HORIZON HEBRON, KY	5-29-99
Mary Ann M. Snow	<i>MARY ANN M. SNOW</i>	2239 TEAL BRIAR BURLINGTON KY	5-29-99
Sue Stasie	<i>Sue Stasie</i>	2138 W. HORIZON Hebron KY 41048	5-29-99
Pam Wolfe	<i>Pam Wolfe</i>	2144 W Horizon Hebron, Ky 41048	5-29-99
MATT JACKELS	<i>Matt Jackels</i>	2153 W. HORIZON HEBRON, KY 41048	5-29-99
CONNIE GARCIA	<i>Connie Garcia</i>	2137 W. Horizon Dr. Hebron ⁴¹⁰⁴⁸ KY	5-29-99
Greg Garcia	<i>Greg Garcia</i>	2137 W Horizon Dr. Hebron	5/29/99
Faye Ruth	<i>Faye Ruth</i>	2097 W. Horizon Hebron	6/1/99
Cynthia Honey	<i>Cynthia Honey</i>	2100 W. Horizon Dr. ^{Hebron}	6/1/99
Joe Ardo	<i>Joe Ardo</i>	2036 W. HORIZON	6/1/99
Peggy Niehaus	<i>PEGGY NIEHAUS</i>	2040 W. Horizon Dr	6-1-99
LIZ McDaniel	<i>Liz McDaniel</i>	2044 W. Horizon Dr.	6-1-99
GLENN McDANIEL	<i>Glenn McDaniel</i>	2044 W. Horizon Dr.	6/1/99
Kelly White	<i>Kelly White</i>	2068 W Horizon Dr	6/1/99
Todd White	<i>Todd White</i>	" "	6/1/99
JANET DUFF	<i>Janet Duff</i>	2072 W Horizon Dr	6/1/99
Cindy Spain	<i>Cindy Spain</i>	2065 W. Horizon	6/1/99
Connie Wicks	<i>Connie Wicks</i>	2080 W. Horizon	6/1/99
David Flynn	<i>David Flynn</i>	2085 W Horizon	6/1/99
SCOTT RUSHIN	<i>Scott Rushin</i>	2079 W HORIZON HEBRON KY 41048	6-1-99

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PRINT NAME	SIGNATURE	ADDRESS	DATE
Julie Ward		2051 Bridgett Lane	5/28/99
John Ward		" " "	"
Tim Byrns		2327 GRAVES RD	"
Thomas Lamb	Thomas Lamb	2025 W HORIZON	"
Janice E Cook		2028 W. Horizon	5/29/99
Kevin Marks		2221 PARKRUN CT	5/29/99
Eileen Marks		2221 Parkrun Ct	5/31/99
Kenneth J Cook	KENNETH J Cook	2028 W. HORIZON	5-31-99
Danna Mombarger	DANNA Mombarger	2030 W. Horizon	5/31/99
Valerie Lytle	Valerie Lytle	2081 WEST HORIZON	6/1/99
Kevin M. Lytle		2081 WEST HORIZON	6/1/99
Carmen Feltz		2077 W Horizon	6/1/99
Greg Lozenzel		2073 W. Horizon Dr.	6/1/99
Sayed Saleh		2057 W. Horizon Dr.	6/1/99
I Rachinski		2053 W. Horizon Dr	6/1/99
John Rachinski	JOHN RACHINSKI	2053 W. Horizon Dr	6/1/99
Rob Brashere		2045 W. Horizon Dr	6/1/99
Maria Brashere	MARIA BRASHERE	2045 W. Horizon DR	6/1/99
David Rombach		2041 W. Horizon DR	6/2/99
Vicki Rombach	V. Rombach	2041 W. HORIZON DR	6-1-99

PETITION

We the undersigned residents of Boone County, Kentucky firmly disapprove of the rezoning proposal for the 1.264 acre site located on the northwest corner of the KY237/Coral Drive intersection, Boone County, Kentucky. Our concerns are many regarding the negative impact of commercial property so close to a residential neighborhood. They include a lower quality of life, heavier traffic volume, a reduction of property values, our privacy and our safety.

PRINT NAME	SIGNATURE	ADDRESS	DATE
Karen Harden Dorsh	<i>Karen Harden Dorsh</i>	Curley Ct., Burlington, KY 41005	5/28/99
Aimee Boese	<i>Aimee L. Boese</i>	Petersburg Rd, Petersburg	5/28/99
Carol Nielson	<i>Carol Nielson</i>	Heabury Ct. Heabury	5/28/99
Angie Scroggins	<i>Angie Scroggins</i>	328 White Pine, Flo.	5/28/99
Suzanne Johnson	<i>Suzanne Johnson</i>	1011 Whirlaway Dr. Union, KY	5/28/99
Leslie Brown	<i>Leslie C. Brown</i>	6119 Tasha Dr. Burlington, KY	5/28/99
Ken Keller	<i>Ken Keller</i>	2120 W. Horizon Dr	5-28-99
FRED MEDLOCK	<i>Fred Medlock</i>	2148 W. HORIZON HEBRON	5-28-99
MARK JACOBS	<i>Mark A. Jacobs</i>	2157 U. Horizon Hebron	5-28-99
Donna Yeager	<i>Donna Yeager</i>	2084 W. Horizon Hebron	5-28-99
Hector Castro	<i>Hector Castro</i>	2094 W. Horizon Hebron	586-7468
Naomi Carella	<i>Naomi Carella</i>	1768 Hunters Trace Burlington	586-9065
Lana Koogler	<i>Lana Koogler</i>	2101 West Horizon Hebron	586-0097
Robert Blydes	<i>Robert Blydes</i>	2108 W. Horizon Hebron	586-7213 5-28-99
MELISSA SIES	<i>Melissa Sies</i>	2096 W Horizon	586-7020
Dan Sies	<i>DAN SIES</i>	2096 W HORIZON DR	5/29/99
Chris Kenton	<i>Chris Kenton</i>	1808 Stahl Rd. Hebron	5/29/99
Leaha Franks	<i>Leaha Franks</i>	1779 Clearbrook Dr Burlington	5/29/99
Wanda + Todd Wooden	<i>Wanda + Todd Wooden</i>	2104 West Horizon Dr, Hebron	5/29/99
Chris Kaas	<i>Chris Kaas</i>	2088 W. Horizon	5/29/99

PETITION

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PRINT NAME	SIGNATURE	ADDRESS	DATE
DON PERZY	<i>Don Perzy</i>	2087 Bridgette	5-28-99
CHARLES CRASS	<i>Charles Crass</i>	2091 BRIDGETTE LANE	5-28-99
VICKY EARHART	<i>Vicky Earhart</i>	2090 BRIDGETTE LANE	5-28-99
DOUG EARHART	<i>Doug Earhart</i>	2090 BRIDGETTE LN	5/28/99
JIM EVANS	<i>Jim Evans</i>	2078 Bridgette Lane	5/28/99
Debbie Evans	<i>Debbie Evans</i>	2078 Bridgette Lane	5-28-99
Jennifer Deaton	<i>Jennifer Deaton</i>	3106 Millakin Pl.	5/28/99
Joel Davidson	<i>Joel Davidson</i>	2070 Bridgette Ln	5/28/99
Deborah Davidson	<i>Deborah Davidson</i>	2070 Bridgette Ln	
MARY HOLLAND	<i>Mary Holland</i>	2058 Bridgette Lane	5/28/99
Brian Jump	<i>Brian Jump</i>	2059 Bridgette Lane	5/28/99
Susan Jump	<i>Susan Jump</i>	2059 Bridgette Lane	5/28/99
Harlan Suchan	<i>Harlan Suchan</i>	2054 Bridgette Lane	5/28/99
RON AKIN	<i>Ron Akin</i>	2050 BRIDGETTE LANE	5/28/99
Jackie Akin	<i>Jackie Akin</i>	2050 Bridgette Lane	5/28/99
Patricia Nace	<i>P. Nace</i>	2038 Bridgette Lane	5/28/99
Mary Minser	<i>M. Minser</i>	2034 Bridgette Ln.	5-28-99
CHIPP LATHAM	<i>Chipp Latham</i>	2035 BRIDGETTE LN.	5-28-99
Lance Nelson	<i>Lance Nelson</i>	2043 Bridgette Ln	5-28-99
Lori Albrecht	<i>Lori Albrecht</i>	2047 Bridgette Ln	5-28-99

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
October 20, 1999
7:30 P.M.

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:30 P.M..

COMMISSION MEMBERS PRESENT:

Mr. Arnold Caddell, Chairman
Mr. W. Thomas Chaney
Mr. Phil Damstrom, Vice Chairman
Mr. Mark Hicks, Temporary Presiding Officer
Mr. Don McMillian
Mr. Robert Newman
Mr. Robert Ries
Mr. Bob Schwenke
Mrs. Carol Smith
Mr. Earl White
Mrs. Lisa Wilson
Mr. David Zimmer

COMMISSION MEMBERS NOT PRESENT:

Mrs. Judy Arnett, Secretary/Treasurer
Mr. Richard Knock
Mr. Charlie Reynolds

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Ms. Jan Hancock, Secretary
Mr. Mark Jordan, Planner
Mr. Todd Morgan, Planner
Mr. Mitch Light, Assistant Zoning Administrator/ZEO

Approval of the Minutes:

Chairman Caddell stated that the Commissioners received a copy of the Minutes of the October 6, 1999 Business Meeting. He noted that the Minutes for Agenda Item #2 were approved at the October 6, 1999 Business Meeting. The Chairman asked if there were any comments or corrections to the Minutes.

There being no changes to the Minutes, Mr. White moved that they be approved as mailed. Mr. Ries seconded the motion and it carried unanimously.

ACTION ON PLAN REVIEWS:

The Chairman stated that he has a business relationship with Brandicorp. He asked Mr. Damstrom to chair the meeting at this time and left the room.

Mr. Damstrom chaired the meeting and introduced the first item on the Agenda:

1. Zoning Map Amendment

The request of Brandicorp (applicant) for Joseph B. Aylor, Laura A. Wohrley, and Ruth E. Wohrley (owners) to consider a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.264 acre site on the northwest corner of the KY 237/Coral Drive intersection, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the C-4 zone.

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). In regard to Condition #3, Staff has been informed by the applicant and the adjoining property owner that two trees are leaning badly. Condition #3 does not mean that trees which should be removed cannot be taken out. Staff will visit the site with the property owner and the adjoining property owner to determine if any trees need to be removed. The removal of the two trees which are currently leaning will not be prohibited by Condition #3. In regard to Condition #4, the owner has agreed to work with Staff in regard to a stockade type fence and landscaping.

Mr. White moved to approved the request based on the Committee Report. Mrs. Smith seconded the motion.

Mrs. Smith noted that the uses that will be permitted on the property are listed under Condition #6. She questioned if a new owner of the property would also have to abide by these conditions. Mr. Light responded that, if the request is approved by Fiscal Court, the uses will go on a Certificate of Land Use Restriction (CLUR) and future owners of the property would also have to abide by these restrictions. Counselor Wilson advised that they would be a limitation under the current zoning if the request is approved, but a current or future owner of the property has the right to request a zone change.

In response to a question from Mr. Zimmer, Mr. Light stated that he believes the pipe is an outfall pipe that goes into the McGlasson pond.

Mr. Zimmer stated that there is no condition for a pedestrian connection to Coral Drive off KY 237. Mr. Light stated that this was discussed at the Committee level, but the applicant and an adjoining property owner did not want it. An easement would have to be received from the property owner next to Coral Drive and then on through to the Brandicorp property. He does not know how the Planning Commission could compel that property owner to give an easement. Mr. Damstrom stated that someone would have to donate the land for an easement, and that property owner would have nothing to do with this project. The Committee felt that there was no justification to pursue the easement. Mr. Zimmer asked if the Brandicorp site goes to the right of way of Coral Drive. Mr. Light responded "yes", but noted that there is a guard rail there and no room for a sidewalk up to where they own and down the hill. A sidewalk would have to go in someone else's back yard and then into the Brandicorp property.

Mr. Chester Longberger, an adjoining property owner, stated that his understanding was that there would only be ground level lighting at the back. Mr. Damstrom agreed. Mr. Light stated that the lighting will be about two-feet high. Mr. Longberger stated that with a stockade fence and the two dead trees taken out, he will be happy.

There being no further comments, Mr. Damstrom asked for a vote on the motion made by Mr. White to approve the request. The vote found Mr. Chaney, Mr. Damstrom, Mr. Hicks, Mr. McMillian, Mr. Newman, Mr. Ries, Mr. Schwenke, Mrs. Smith, Mr. White, and Mrs. Wilson in favor. Mr. Zimmer was opposed. Chairman Caddell was not present and did not vote. The motion carried by a vote of 10 to 1.

The Chairman returned to the meeting at this time and introduced the next item on the Agenda:

2. Zoning Map Amendment

The request of William M. Code (applicant) for Tobacco Country, Inc. (owner) to consider a Zoning Map Amendment from Office One (O-1) to Suburban Residential One (SR-1) for a 0.75 acre tract at 18 Needmore Street, Walton, Kentucky. The request is for a zone change to allow a detached single-family residence.

The Chairman stated that there is a request to defer Agenda Item #2 to the November 17, 1999 Business Meeting. The Committee Meeting will be on November 4, 1999 at 5 P.M. in the second floor conference room. Mr. White so moved. Mrs. Smith seconded the motion and it carried unanimously.

EXHIBIT
“B”

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Mark Hicks, Chairman

DATE: October 20, 1999

RE: Request of **Brandicorp (applicant)** for **Joseph B. Aylor, Laura A. Wohrley, and Ruth E. Wohrley (owners)** to consider a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.264 acre site located on the northwest corner of the KY 237/Coral Drive intersection, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the C-4 zone.

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 applicant has adequately demonstrated that the existing zoning classification of Suburban Residential Two (SR-2) is inappropriate and that the proposed zoning classification of Commercial Four (C-4) is appropriate.
2. The Committee has concluded that the map amendment request is in agreement with the adopted Comprehensive Plan and its Future Land Use Map.
3. The Committee has concluded that the attached conditions are necessary to mitigate any foreseeable impacts that may be created by the development. The property owners have signed a letter demonstrating agreement with these conditions.

Conditions

1. The owner agrees to install ground-mounted driveway lighting behind the building and provide Staff with a photometric plan at site plan review.
2. The owner agrees to provide a revised survey of the property before the site plan is submitted for review by the Planning Commissions' Staff.

3. The owner agrees to keep the mature trees along the common property line with the Horizon West Subdivision.
4. The owner agrees to work with the Staff and adjoining neighbors within the Horizon West Subdivision at site plan review regarding the screening and landscape buffering of the project.
5. The owner agrees to provide colored elevations of the building with the site plan for Design Review by the Planning Commissions' Staff that will be "compatible."
6. The owner agrees to limit the Principally Permitted Uses in the Commercial Four (C-4) zone to the following:
 3. Banking services (including drive-thru facilities), savings and loan associations, credit unions and other credit services;
 11. Medical offices, clinics and laboratory services;
 12. Travel agencies;
 13. Legal, architectural, engineering, accounting, insurance and real estate services;
 17. Nursery and day care centers;
 19. Veterinary services and pet grooming services;
 21. Apparel shops;
 26. Opticians and optical goods;
 28. Paint and wallpaper stores;

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.

Mark Hicks

Mark Hicks, Chairman

For Against _____
Abstain _____ Absent _____

Thomas W. Chaney

Thomas W. Chaney

For Against _____
Abstain _____ Absent _____

Phil Damstrom

Phil Damstrom

For Against _____
Abstain _____ Absent _____

Don McMillian

Don McMillian

For Against _____
Abstain _____ Absent _____

Earl White

Earl White

For Against _____
Abstain _____ Absent _____

TOTAL: 5 FOR 0 AGAINST 0 ABSTAIN 0 ABSENT

PUBLIC HEARING ITEM NO. 1:

Commission members present: Vice Chairman Phil Damstrom, Judy Arnett, Mark Hicks, Richard Knock, Don McMillian, Bob Newman, Bob Ries, Carol Smith, Earl White, Lisa Wilson and Dave Zimmer.

Staff members present: Executive Director Kevin Costello, Assistant Zoning Administrator/ZEO Mitchell A. Light, and Planner Todd Morgan.

Legal Counsel present: Dale T. Wilson

Vice Chairman Damstrom introduced the first item on the Public Hearing Agenda:

1. **Applicant:** Brandicorp for Joseph B. Aylor, Laura A. Wohrley and Ruth E. Wohrley (owners)

Request: Zoning Map Amendment

The request of Brandicorp (applicant) for Joseph B. Aylor, Laura A. Wohrley, and Ruth E. Wohrley (owners) to consider a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.264 acre site located on the northwest corner of the KY 237/Coral Drive intersection, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the C-4 zone.

Staff Member Mitch Light presented the Staff Report which included a slide presentation (see Staff Report). Mr. Light commented that the applicant shows a 75 foot front yard setback, but that the C-4 zone requires only a 30 foot front yard setback, so theoretically the building could be pushed forward to achieve more buffering between the property line and the back of the building.

Vice Chairman Damstrom asked for the applicant's presentation, and recognized Thomas W. Breidenstein, attorney representing the applicant.

Mr. Breidenstein introduced Mike Brandy and Doug King of Brandicorp. He thanked Staff for a thorough review. He stated that the applicant recognizes that 75 feet is not the setback in the C-4 zone, and noted that that was a drafting error, and that they do not want to be bound by the 75 foot setback. He added that the applicant recognizes that moving the building forward would be a benefit to the residents, and they would like to have that flexibility.

Mr. Breidenstein stated that the first concern raised by Staff is the possible obnoxious uses. He stated that the applicant has not considered the possibility of eliminating certain C-4 uses, having just received the report this afternoon. He stated the applicant is not prepared to discuss or make a commitment to eliminate uses, but that they would be able to discuss this matter with the Committee.

Regarding the second Staff concern about the building type and materials, Mr. Breidenstein stated that they do not have an architectural rendering of this building, that they do not know what the building will be used for at this time, and that they are applying for the full gamut of C-4 uses. He assured the Commission that the building will be compatible with the residences, the existing businesses in the vicinity, and with Brandicorp's corporate philosophy.

Regarding Staff's concern about site lighting and public address system, Mr. Breidenstein stated this could be addressed at the Committee level as well as the Site Plan level, being items that relate to the Supplemental Standards of the Zoning Regulations with which they would be required to comply.

Regarding Staff's concern that no traffic study was submitted, Mr. Breidenstein stated that inasmuch as this was such a small use, 6,000 square feet, it was felt that a traffic study was not warranted. He cited Article 3 of the Zoning Text wherein traffic studies are suggested for major traffic generating uses. He indicated the applicant is not proposing such a use, and the intent of the C-4 zone is to serve the local area, as indicated by the list of permitted uses.

Regarding Staff's comment about the Future Land Use Map, Mr. Breidenstein indicated he did not see this as a concern, but as a technicality that could be worked out upon approval.

Mr. Breidenstein stated that when he looked at the application, he considered what other uses the property might have, noting that it was currently zoned residential, apparently as an appendage to the old way this area used to develop before KY 237 was rebuilt. He stated he could not think of another zoning district that could be appropriate for this site other than C-4, and that it is a natural extension of the existing C-4 area. He stated there is no other type of use, certainly no other residence that could ever be built there, and that nobody would want to live there. He stated that the 1.264 acres would be too small for most of the zoning districts within the Text.

Mr. Breidenstein reiterated that the request was in compliance with the Comprehensive Plan including both the Future Land Use Map and the Text. He stated C-4 is an appropriate zoning district for this site given the natural extension of the C-4 from the north and also from the east. He stated that there have been substantial changes in the area, that the trend is growth at this interchange, which changes the character of the property.

Vice Chairman Damstrom asked if there was anyone else present who wished to speak in favor of the request. None was forthcoming.

Vice Chairman Damstrom asked if there was anyone present who had questions or who wished to speak in opposition to the request. Vice Chairman Damstrom recognized Carter Momberger of 2030 West Horizon Drive (Lot 4), Boone County, Kentucky.

Mr. Momberger presented to the Commission a video tape, a list of the seven concerns that the residents on Coral and West Horizon have about this proposal, and a petition signed by

approximately 90 individuals requesting the Commission to disapprove the applicant's proposal, all of which he asked be made part of the official record

Mr. Momberger played the video tape which he stated he had made earlier this date, showing some of the properties in his neighborhood and their relationship to the proposed development.

Mr. Momberger expressed concern regarding the property boundaries, noting that recently erected surveyors' markers did not seem to agree with previously constructed boundary markers from a different surveyor. He stated the survey that was accomplished for the West Horizon properties is currently engraved with a mason's saw on the street curbing, and that he, Mr. Momberger, had some time ago painted these marks with indelible red concrete paint. He added that the surveyor had also carved an "x" at the point between lots 4 and 5, at the end of the flag lot. He stated that he presumed the more recent survey had been based on the middle of KY 237 which was under construction, and he questioned the accuracy of that survey.

Mr. Momberger elaborated on the seven points of concern: property values; whether the Comprehensive Plan intended KY 237 to be like Turfway Road and Richwood Road; excessive lighting from the building, parking lots and traffic; increased traffic with regard to safety of children, capability of existing roads to handle the volume, and the necessity for future road construction; safety as relating to busy intersections, proximity of a school and school bus stops, and potential of a fast food restaurant to become a hangout for young people; sewage and water as related to capacity of existing lines, runoff from parking lots, potential for flooding, and the potential for environmental hazards; buffering issues as relating to appearance, noise, privacy and safety; and the preservation of green space along KY 237 and for the neighborhood.

Mr. Momberger noted that the drainage problem is currently an irritation, happening occasionally when an inch of rain or more is experienced. He asked whether development on the subject property would make the drainage problem worse. He suggested neighborhood security might be affected by the development since it would be easier for intruders to enter the backyards of the homes from the rear of the commercial property.

Mr. Momberger expressed concern for after-dark illumination of the property. He noted that in addition to all-night neon lighting, the existing Shell Station plays the radio all night long over their outdoor public address system, which can be heard by the residents. He commented that the gas station accepts deliveries 24 hours a day, and that the diesel engine of the waste hauler and the accompanying explosive-sounding noise of dumpster service occurs during the middle of the night, and he expressed concern that this new development would cause additional irritation for the neighborhood.

Mr. Momberger stated that he was startled that the applicant's attorney stated three times that he was unprepared to answer specific questions and concerns raised by Staff, and he asked how the Commission could be prepared to make any decisions based on that presentation.

Vice Chairman Damstrom recognized Mike Payette of 2024 West Horizon. Mr. Payette stated that his back yard abuts the subject property, and that he was concerned about declining property values resulting from the development. He stated that area traffic has increased tenfold in the three years he has lived there. Mr. Payette expressed concern for the neighborhood children's safety, stating that if there is a parking lot, the runoff of oils and other toxins could be a hazard. He asked if the Commission could ensure preservation of the green space.

Vice Chairman Damstrom then recognized Laura Musgale of 2173 West Horizon Drive. Ms. Musgale stated that although those living at the far end of West Horizon Drive would not be as negatively affected by the proposal as the residents at the closer end, she was concerned about the traffic. She stated that at 8 a.m. and 5 p.m., the heavy traffic on KY 237 from the industrial facility and other developments makes it difficult to cross or turn into the subdivision. She added that the traffic goes fast in that area, and the situation is even worse in winter weather. Ms. Musgale stated that what might seem like a small development to the applicant is a big development to the residents because it affects access into their neighborhood. She expressed concern that the accident rate would increase, and noted that there is no right-turn lane for their subdivision. She stated that she has seen traffic significantly increase in the ten months she has lived there, in part because of the development of 200 homes north of the interchange and the numerous Indiana-plated vehicles cutting through on KY 237 to get to Florence.

Vice Chairman Damstrom then recognized Bob Blades of 2108 West Horizon. Mr. Blades commented that the attorney for the applicant had stated that no one in their right mind would like to live on the site. He asked whether this might be due to the developments the applicant already put in around that community.

Vice Chairman Damstrom then recognized Joy Fussinger of 2020 West Horizon. She stated that she owns Lot 1 and the whole buffer is her back yard, and that she agreed with the previous statements in opposition. She added that if the applicant proposes the building of a buffer, the land is so much higher than the residential area that the trees would have to be fifty feet high.

Vice Chairman Damstrom asked Mr. Breidenstein if he desired to address any of the comments and questions. Mr. Breidenstein stated that with regard to the tree barrier which exists along the common property line, the applicant recognizes that this is within the 25 foot landscape buffer, and within the 50 foot building setback, and that is not the applicant's intent to touch that area. He added that it is in a lower elevation, not the most convenient location for Brandicorp to develop for any purpose, and it is their intent to leave the buffer intact, not only along the property line, but also along Coral Drive.

With regard to Mr. Momberger's concern about surveying accuracy, Mr. Breidenstein stated this was the first he had heard of this issue, that he did not think it was a concern at this level, and that if there is a property line dispute, the property owners would have to resolve it amongst themselves.

Mr. Breidenstein commented that Mr. Momberger had indicated the drainage problem was more of an irritation than anything more serious. Mr. Breidenstein assured the Commission that the site would be developed in accordance with the Site Plan Requirements of the Zoning Regulations, that he was sure it would be inspected, and would be maintained according to those standards. He noted that the post-development runoff must be equal to or less than what currently exists.

With regard to security, Mr. Breidenstein indicated he was not sure how to address the concerns expressed, and added that if the neighborhood youngsters are crossing onto private property in a way they should not be, that is an issue the parents need to address. He added that the applicant would be willing to talk about any security concerns that they can handle. He pointed out that erecting a fence along the back property line would have an impact on the buffer.

Mr. Breidenstein noted that the Zoning Regulations contain strict standards with regard to lighting, signage and noise under the Supplemental Performance Standards section, and that the applicant would certainly comply with these. With regard to the traffic concerns, Mr. Breidenstein stated that the C-4 uses do not generate a lot of traffic, but draw upon the traffic already there.

Vice Chairman Damstrom asked if there were any comments or questions from the Commissioners.

Mr. Zimmer noted that he did not see on the Concept Development Plan the 25 feet of required buffering along the driveway behind the proposed building. Mr. Light responded that a provision exists that would allow the applicant to reduce the setback if they install a wall or fence. Mr. Light continued, stating that since they have discovered that their front yard setback can be reduced from 75 to 30 feet, they can push the building forward and achieve the required amount of buffer, in which case there would be no need to install the wall or fence. Mr. Light indicated some staggered or selective plantings might be considered in addition to the existing tree line to ensure adequate buffering.

Mr. Zimmer asked whether the 25-foot buffering requirements include plantings; Mr. Light responded that if it was a clean site, they would probably be required to plant five large trees, three medium or small trees, and 30 shrubs per 100 linear feet. He noted that the property measures approximately 300 feet along that line and that the existing vegetation might be sufficient to screen.

Mr. Zimmer asked whether Staff was considering relaxing that requirement because of the existing vegetation; Mr. Light responded that the existing vegetation counts toward the total amount required, adding that one cannot put a price on a mature tree. He indicated that without the existing mature trees, the houses would have been more visible in his slide depicting the subdivision from across KY 237.

Mr. Zimmer asked if the drainage way is an outfall or an inlet; Mr. Light responded that he was unsure, but that he believed that from the drive, the drainage heads south to Coral Drive and goes

back into Galen McGlasson's farm pond to the west. He explained that when the State reconstructed KY 237, they took sufficient right-of-way to accomplish some other work in the future, but that either the applicant or Staff would have to talk with the State to see what their calculations were at that time with regard to drainage.

Mr. Zimmer commented that this Concept Plan indicates nothing for detention or retention, and he asked about the applicant's intention in this regard. Mr. Light responded, advising that the applicant is aware that they have to retain/detain their own water on site not to exceed the pre-development standards.

Mr. Zimmer asked regarding the shared access, and whether Burger King has a curb cut on KY 237; Mr. Light responded, stating that Mrs. Pelley lived there before the new KY 237 was constructed, and that when the new road was developed, the State created a shared access for her and the property to the south which had the potential to develop residentially. Mr. Light explained that Mrs. Pelley was the only one to ever use the access, so it appeared simply as the driveway to her residence. He continued, stating that the State has given permission for that to be upgraded to a commercial access and this is the only curb cut they are going to allow for these two properties. Mr. Light stated that since Brandicorp was installing all the improvements, they were concerned about the potential uses on the neighboring properties and are therefore in the process of purchasing them in order to gain control.

Mr. Zimmer asked if Burger King is going to use this proposed driveway; Mr. Light replied in the affirmative, adding that this is their access to KY 237. He added that they are also developing the driveway behind the Shell station out to Litton Lane and the traffic light, and this proposal would also tie into that driveway. He added that this connection would be reviewed through the Site Plan process.

Mr. Zimmer asked about the applicant's intention with regard to the small triangular corner shown on the Concept Development Plan marked "existing natural area." Mr. Light responded that he did not think they could do anything with it given the topography and the drainage way that crosses through there. He added that he believed it was the applicant's idea to keep everything to the north of the site. Mr. Light explained that the small piece of land was left over after right-of-way acquisition, that the old plan shows these three pieces much larger, but the State purchased land for the highway reconstruction which resulted in odd-shaped pieces of property.

Mr. Zimmer asked whether the drainage pipe was an outfall; Mr. Light responded he was not positive. Mr. Costello advised the Staff will research this question.

Mr. Zimmer asked whether Staff or the applicant had considered a pedestrian or bicycle path through that area to connect the C-4 line of businesses with Coral Drive and West Horizon. Mr. Light responded that this is something they could look into, noting that the topography in the area does not provide a lot of room, but that the State has considerable right-of-way and might be interested in such a project.

Mr. Zimmer asked why that would be a State issue; Mr. Light explained that the State owns the right-of-way along KY 237. Mr. Light added that he had thought about talking to the State about a right turn deceleration lane in at Coral because of the traffic situation, and if they were going to do a bit of grading, perhaps they would be willing to extend the culvert under Coral Drive.

Mr. Zimmer asked how many residents are in the West Horizon/Coral Drive area; Mr. Light indicated he could research that information. Mr. Light added that Coral Drive and Ridge actually come out on KY 20, so that can actually be used as a cut through to KY 20 instead of going to the light and across.

Mr. Costello pointed out that the vegetation area shown on the western property line that adjoins the subdivision are existing trees and that those can be retained as part of the 25 foot buffer area, however, in the middle of winter, those leaves will be down, making the business visible. Mr. Costello added that that also holds true for the existing natural area that might be slated for detention. He cautioned that if they go in there and start moving trees, they may disrupt that buffer area, so it is important to take that into consideration in those two areas.

Mr. Zimmer noted one of his concerns was the possibility of relaxing the buffering requirements, and he suggested it might be appropriate to require the addition of coniferous trees to the existing deciduous trees.

Vice Chairman Damstrom asked which of the three criteria required for zoning map amendments the request was based; Mr. Breidenstein responded that they were relying on two statutory criteria, (1) that the Concept Plan matches the Comprehensive Plan, the Future Land Use Map as well as the Future Land Use Text, and (2) that the existing zoning classification is inappropriate while the proposed zoning is appropriate.

Vice Chairman Damstrom commented that he had a problem understanding the reason for the zone change request when there is nothing to look at. He added that considering the price of the land, it would seem that the applicant would have some use in mind, and he expressed concern that the applicant was not sharing this information. He recalled that Staff had listed several different uses in the broad C-4 spectrum that could create problems for the nearby residences. He stated he had a problem with the idea of granting a blanket zone change without knowing exactly what would be developed there, especially because of the proximity to the residential development.

Mr. Ries commented that he shared Vice Chairman Damstrom's concerns.

Mr. Knock asked Mr. Breidenstein to explain his previous comment that nobody in their right mind would want to live there. Mr. Breidenstein stated that if that was understood to mean the larger context of this neighborhood, he was misunderstood, that his comment was geared toward this specific location considering the traffic on KY 237, the lay of the land, the access to the site, and the development to the north and northwest. He added, "If I came off a little bit harsh, it was

unintentional. I think it is more appropriately zoned for commercial use than for residential, the SR-2 use that it is currently zoned."


Mr. Ries asked whether the applicant ever looked at any kind of project for the existing SR-2 zone; Mr. Breidenstein indicated they have not considered any SR-2 development for that site because they did not think it was appropriate from a business or a planning standpoint. Mr. Ries asked regarding a financial standpoint; Mr. Breidenstein responded that obviously there was a financial return.

Mr. Hicks asked regarding the proximity of the access road behind the building to the property line; Mr. Light responded, indicating the Staff would work with the applicant to prepare a revised Concept Plan because of the front yard set back change which had been referenced earlier, adding that since they own the property adjacent to the subject property, they cannot leave themselves hanging.

There being no further comments, Vice Chairman Damstrom stated that the Zone Change Committee Meeting for this item will be at 5:00 p.m. on June 10, 1999 in the Circuit Court Room of the Old Courthouse. He cautioned that no new testimony will be permitted, but that the Committee may ask questions for clarification of information presented at this public hearing. This item will be on the Agenda for the Business Meeting of June 16 at 7:30 p.m. in Courtroom 3A of the Boone County Administration Building.


Vice Chairman Damstrom declared this Public Hearing closed, the time being 8:46 p.m..

APPROVED:



Phil Damstrom, Vice Chairman

ATTEST:

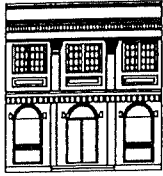


Jan Hancock, Recording Secretary

The minutes of this meeting were recorded and transcribed by Betsy R. Conrad, Recording Secretary.

SUPPORTING INFORMATION

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005

606-334-2196

FAX 606-334-2264

E-Mail plancom@one.net

October 12, 1999

Mr. Doug King
Brandicorp
7346 Beechmont Avenue
Cincinnati, OH 45230

RE: Conditions of Approval for the request of **Brandicorp (applicant)** for **Joseph B. Aylor, Laura A. Wohrley, and Ruth E. Wohrley (owners)** to consider a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.264 acre site located on the northwest corner of the KY 237/Coral Drive intersection, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the C-4 zone.

Dear Mr. King:

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

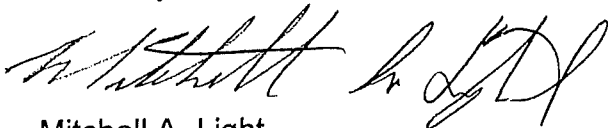
Conditions

1. The owner agrees to install ground-mounted driveway lighting behind the building and provide Staff with a photometric plan at site plan review.
2. The owner agrees to provide a revised survey of the property before the site plan is submitted for review by the Planning Commissions' Staff.
3. The owner agrees to keep the mature trees along the common property line with the Horizon West Subdivision.
4. The owner agrees to work with the Staff and adjoining neighbors within the Horizon West Subdivision at site plan review regarding the screening and landscape buffering of the project.

Mr. Doug King
October 12, 1999
Page 2

5. The owner agrees to provide colored elevations of the building with the site plan for Design Review by the Planning Commissions' Staff that will be "compatible."
6. The owner agrees to limit the Principally Permitted Uses in the Commercial Four (C-4) zone to the following:
 3. Banking services (including drive-thru facilities), savings and loan associations, credit unions and other credit services;
 11. Medical offices, clinics and laboratory services;
 12. Travel agencies;
 13. Legal, architectural, engineering, accounting, insurance and real estate services;
 17. Nursery and day care centers;
 19. Veterinary services and pet grooming services;
 21. Apparel shops;
 26. Opticians and optical goods;
 28. Paint and wallpaper stores;

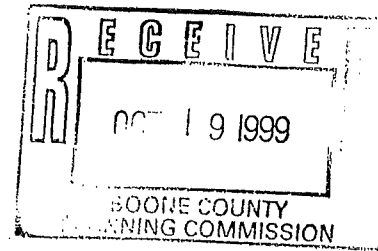
Sincerely,



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

MAL\pr

Mr. Doug King
October 12, 1999
Page 3



Agreement

We, Joseph B. Aylor, Laura A. Wohrley, and Ruth E. Wohrley,, do hereby agree to the conditions of approval stated above for the Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four (C-4) for a 1.264 acre site located on the northwest corner of the KY 237/Coral Drive intersection, Boone County, Kentucky.

Joseph B Aylor 10/18/99
Joseph B. Aylor (Owner) (date)

Laura A. Wohrley 10/18/99
Laura A. Wohrley (Owner) (date)

Ruth E. Wohrley 10/18/99
Ruth E. Wohrley (Owner) (date)

STATE OF KENTUCKY }
COUNTY OF BOONE } Sot.

I, C.D.BENSON, Clerk of the County Court for the County and State aforesaid, certify that the foregoing instrument of writing was on the 16th day of August, 1948, at 1:00 o'clock, P.M., lodged in my office for record, whereupon the same with foregoing and this certificate have been duly recorded in my office.

Given under my hand, this 16th day of August, 1948.

C.D. Benson, Clerk
By Herbert O. Green, D.C.

See the face of the certificate for a full description of the property.

KNOW ALL MEN BY THESE PRESENTS, THAT Minnie Wohrley a widow FOR AND IN CONSIDERATION OF One Dollar (\$1.00) and other good and valuable considerations to her paid by Dallas L. Wohrley THE RECEIPT WHEREOF IS HEREBY ACKNOWLEDGED, do hereby bargain, sell and convey to the said: Dallas L. Wohrley, his heirs, and assigns forever, the following described real estate, lying and being in Boone County, Kentucky: on the West side of the Hebron-NorthBend rural highway about 1 mile North of the town of Hebron and described thus; BEGINNING at a point 136.12 feet SouthEastwardly along said road from it's intersection with the common Thieman Bros.-Wohrley line; thence S 45-30 W 350 feet to a point; thence N 44-00 W 136.12 feet to a point; thence N 45-30 E 350 feet to a point in said highway; thence along it S 44-00 E 136.12 feet to the place of beginning.

Handed to
Noel Walton
in office
9-16-48

Being a part of the same property conveyed to the Grantor by George Wohrley and others by deed dated 24th day of July, 1948, and recorded in deed book 90, page 327, in the office of the Clerk of the Boone County Court, Burlington, Ky., together with all the privileges and appurtenances to the same belonging, to have and to hold the same unto the said Dallas L. Wohrley his heirs and assigns forever with covenants of General Warranty:

In Witness whereof the said Grantor Minnie Wohrley a widow hereunto sets her hand this 13th day of August 1948.

Minnie Wohrley

No stamps required

KNOW ALL MEN BY THESE PRESENTS, THAT Minnie W Ehrley a widow FOR AND IN CONSIDERATION OF One Dollar (\$1.00) and other good and valuable considerations to her paid by Douglas C. W Ehrley THE RECEIPT WHEREOF IS HEREBY ACKNOWLEDGED, do hereby bargain, sell and convey to the said: Douglas C. W Ehrley his heirs, and assigns forever, the following described real estate, lying and being in Boone County, Kentucky:

Handed to
Noel Walton
in office
9-66-48

On the West side of the Hebron-NorthBend rural highway about 1 mile north of the town of Hebron and described thus: BEGINNING at a point 272.25 feet SouthEastwardly along said road from it's intersection with the common Thieman Bros. - W Ehrley line; thence S 45-30 W 350 feet to a point; thence N 44-00 W 136.12 feet to a point; thence N 45-30 E 350 feet to a point in said highway; thence S 44-00 E 136.12 feet to the place of beginning.

Being a part of the same property conveyed to the Grantor by George W Ehrley and others by deed dated 24th day of July 1948, and recorded in deed book 90, page 327, in the office of the Clerk of the Boone County Court, Burlington, Ky., together with all the privileges and appurtenances to the same belonging, to have and to hold the same unto the said Douglas C. W Ehrley his heirs and assigns forever with covenants of General Warranty;

In Witness whereof the said Grantor Minnie W Ehrley a Widow hereunto sets her hand this 13th day of August, 1948.

Minnie W Ehrley

No stamps required

STATE OF KENTUCKY }
COUNTY OF KENTON } SOT.

I, Noel Walton a Notary Public in and for the County and State aforesaid, do certify that this instrument of writing from Minnie W Ehrley a widow to Douglas C. W Ehrley was on the 13th day of August 1948 produced to me in my county by the party which was acknowledged before me by the said Minnie W Ehrley a widow to be her act and deed

My commission as a Notary Public expires on 23d day of May 1951
Given under my hand and seal, this 13th day of August, 1948

Noel Walton Notary Public
In and for Kenton Co., Ky.

(Notarial Seal)

STATE OF KENTUCKY }
COUNTY OF BOONE } Sot.

I, C.D.BENSON, Clerk of the County Court for the County and State aforesaid, certify that the foregoing instrument of writing was on the 16th day of August, 1948, at 1:00 o'clock, P.M., lodged in my office for record, whereupon the

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going

KNOW ALL MEN BY THESE PRESENTS THAT Minnie W Ehrley a widow FOR AND IN CONSIDERATION OF One Dollar (\$1.00) and other good and valuable considerations to her paid by Blanch Aylor THE RECEIPT WHEREOF IS HEREBY ACKNOWLEDGED, does hereby bargain, sell and convey to the said: Blanch Aylor her heirs, and assigns forever, the following described real estate, lying and being in Boone County, Kentucky: on the West side of the Hebron-NorthBend rural highway and described thus; BEGINNING at a point 437.75 feet South Eastwardly along the centerline of said highway from it's intersection with the common Thiemann Bros.-W Ehrley line; thence S 45-30 W 280 feet to a point; thence N 44-00 W 150 feet to a point; thence N 45-30 E 350 feet to a point in said highway; thence along it S 19-00 E 165.5 feet to the place of beginning.

Being a part of the same property conveyed to the Grantor by George W Ehrley and others by deed dated 24th day of July, 1948, and recorded in deed book 90, page 327, in the office of the Clerk of the Boone County Court, Burlington, Ky., together with all the privileges and appurtenances to the same belonging, to have and to hold the same unto the said Blanch Aylor her heirs and assigns forever with covenants of General Warranty;

In Witness whereof the said Grantor Minnie W Ehrley a widow hereunto sets her hand this 13th day of August 1948.

Mrs. Minnie W Ehrley

No stamps required

STATE OF KENTUCKY)
COUNTY OF KENTON) Sot.

I, Noel Walton a Notary Public in and for the County and State aforesaid, do certify that this instrument of writing from Minnie W Ehrley to Blanch Aylor was on the 13th day of August 1948 produced to me in my county by the party which was acknowledged before me by the said Minnie W Ehrley to be her act and deed.

My commission as a Notary Public expires on 23d day of May 1951
Given under my hand and seal, this 13th day of August, 1948.

(Notarial Seal) Noel Walton Notary Public
In and For Kenton Co. Ky.

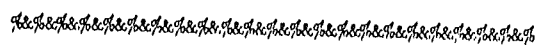
STATE OF KENTUCKY)
COUNTY OF BOONE) Sot.

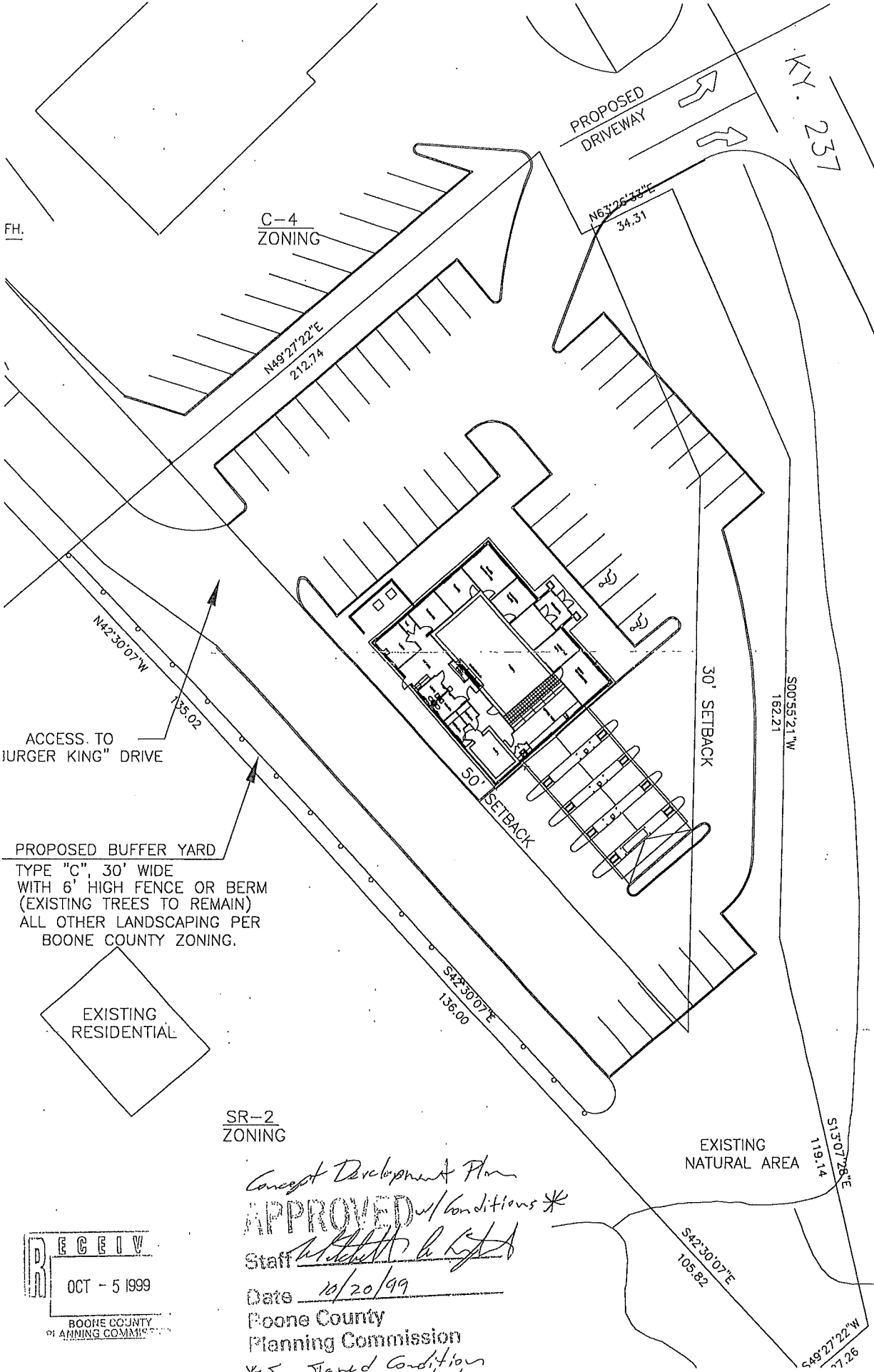
I, C.D. BENSON, Clerk of the County Court for the County and State aforesaid, certify that the foregoing instrument of writing was on the 16th day of August, 1948, at 1:00 o'clock, P.M., lodged in my office for record, whereupon the same with foregoing and this certificate have been duly recorded in my office.

Given under my hand, this 16th day of August, 1948.

C.D. Benson, Clerk
BY Alberta O. Green, D.C.

14





FH.

C-4
ZONING

PROPOSED
DRIVEWAY

K.Y. 237

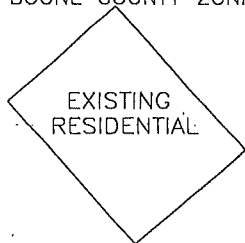
N49°27'22\"/>

N63°26'33\"/>

N42°30'07\"/>

ACCESS TO
BURGER KING DRIVE

PROPOSED BUFFER YARD
TYPE "C", 30' WIDE
WITH 6' HIGH FENCE OR BERM
(EXISTING TREES TO REMAIN)
ALL OTHER LANDSCAPING PER
BOONE COUNTY ZONING.



EXISTING
RESIDENTIAL

SR-2
ZONING

30' SETBACK

50' SETBACK

EXISTING
NATURAL AREA

Concept Development Plan
APPROVED w/ conditions *

Staff *[Signature]*

Date 10/20/99

Boone County
Planning Commission

* See Signed Conditions

RECEIVED
OCT - 5 1999
BOONE COUNTY
PLANNING COMMISSION