

\$ 726.00
Application
Fee

00-FBOA-005-A

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

SEP 19 2009

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

- (Check One)
1. Boone Florence Walton Union
 2. (Check One)
 Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
 3. Applicant's Name PASTOR GARY NOE
Phone Number (859) 630-1319 Fax No. -
Applicant's Address 3801 CANDLEWOOD CT.
ERLANGER, Ky. 41018
City State Zip
 4. Description of Request: Church
 5. Name of Development GOOD NEWS FELLOWSHIP
 6. Location of Development 7802 DIXIE HIGHWAY
FLORENCE, Ky.
 7. Acreage Under Review LESS THAN 1 ACRE
 8. Lot Number and Name of Subdivision (if part of a subdivision)
N/A
 9. Owner of Property E. S. HANCOCK, LLC
Phone Number of Owner 5 SANCTUARY CT. 10.
Address of Property Owner EDGEWOOD, KY 41017
City State Zip
 11. Proposed Use(s) on Site Church
 12. Total Square Footage of Existing and/or Proposed Buildings 1350 sq. ft.
 13. Current Zoning on Property C1
 14. Deed Book 603 Page No. 189 Group No. 2042
 15. Is the site subject to a zone change? NO
If yes, give date of approval _____
 16. Have you submitted a Site Plan with this request? N/A
 17. Have you submitted a list of adjoining property owners with this request? YES
 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: Gary Noe

X Property Owner's Signature: Kathleen H Demplew 9/16/09
Manag. Member, E Hancock, LLC

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
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SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 9-11-00 Fee Received \$726.00 RA#25534
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: SEE OCT. 11, 2000 Florence BOA Meeting Minutes
7. Reasons for Denial: _____

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

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

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

STAFF REPORT

APPLICANT: Pastor Gary Noe, Good News Fellowship
LOCATION: 7802 Dixie Highway, Florence, Kentucky
ZONING: Commercial One (C-1)
DATE: October 11, 2000

Proposal

The applicant is requesting a Conditional Use Permit to operate a church on a .34 acre site located at 7802 Dixie Highway, Florence, Kentucky. The portion of the existing building to be utilized as a church is approximately 1,709 square feet in size and will be used to seat approximately 40 people. The applicant submitted Exhibits A and B as part of the application.

Exhibit A – Drawing of the existing site.

Exhibit B – List of adjacent property owners.

Applicable Regulations

Article 10, Section 1013 of the Boone County Zoning Regulations permits “*churches, synagogues, temples, and other places of religious assembly for worship*” as a conditional use in the Commercial One (C-1) district.

Article 33, Section 3300 of the Boone County Zoning Regulations states that “*No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this order.*”

Article 33, Section 3312 of the Boone County Zoning Regulations states that, “*All parking areas shall be striped to facilitate the movement into and out of the parking stalls.*”

Article 33, Section 3320 of the Boone County Zoning Regulations states that, “*Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap. The use of joint parking in lieu of required parking will require a written agreement between property owners and a parking study to be approved by the Zoning Administrator.*”

Article 33, Section 3323 of the Boone County Zoning Regulations states that, “*No parking is to be allowed along internal driveways.*”

Article 33, Section 3325 of the Boone County Zoning Regulations requires 1.00 parking spaces per every 5 seats for churches and other places of religious assembly and 1.00 spaces per 250 gfa for retail stores.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit stated in Section 262 and Section 1013 of the Boone County Zoning Regulations:

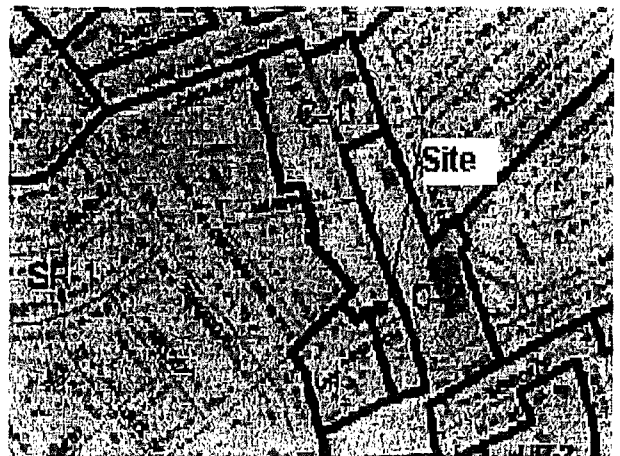
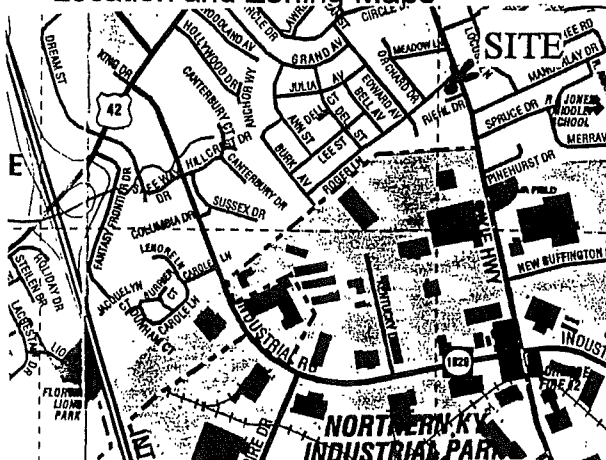
Findings listed in Section 262:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's comprehensive plan, a specific corridor plan and/or the zoning order;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area;
3. Will be hazardous to existing or future neighboring uses;
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately such services;
5. Will create excessive additional requirements at public cost for public facilities and services and will be detrimental to the economic welfare of the community;
6. Will involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, dust, fumes, glare, or odors;
7. Will have vehicular approaches to property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 10, Section 1013 of the Boone County Zoning Regulations permits "churches, synagogues, temples, and other places of religious assembly for worship" as a conditional use in the C-1 district if the proposed facility meets all of the following requirements:

1. The activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or
2. The activity will further add to, not detract from, the creation of a compact, multi-purpose, and pedestrian oriented commerce center; and
3. The arrangement of uses, buildings or structures will be compatible with the organization of permitted and accessory uses to be protected in the district.

Location and Zoning Maps



Surrounding Land Uses and Zoning

The existing building where Pastor Gary Noe proposes to operate a church is divided into two separate retail areas and currently contains an Ameristop Convenience Store. To the north of the site is Days Auto Center and Dominos Pizza both of which are zoned Commercial One (C-1). To the east of the site is Remke Market zoned Commercial Two (C-2). South of the site is a gas station (zoned C-1). Dixie Apartments zoned Urban Residential (R-2) and a single family neighborhood zoned Suburban Residential One (SR-1) are located to the west of the site.

Staff Concerns/Comments

1. The total amount of retail space within the enclosed building is approximately 4,725 square feet. If both sides of the building are used for retail purposes, 19 parking spaces (1 parking space per 250 sq.ft. of gross floor area) must be provided in order to meet the requirements of Article 33, Section 3325 of the Boone County Zoning Ordinance. However, it is important to note that different parking requirements apply to churches (1 parking space per every 5 seats). Therefore, the parking required for each use must be calculated separately. As the retail space for Ameristop is approximately 2,982 square feet in size, 12 parking spaces are required for this use. As the applicant proposes to seat 40 persons in the church, 8 parking spaces are required for this use. Therefore, a total of twenty (20) parking spaces are necessary in order to meet the requirements in Article 33, Section 3325 of the Boone County Zoning Ordinance. As shown on Exhibit C, the present site only has 19 parking spaces or one less than required. Although, the site contains an internal paved driveway to the side of the building and a gravel area to the rear of the building, Article 33, Sections 3312 and 3325 of the Boone County Zoning Ordinance state that all parking must be paved and striped. In addition, Article 33, Section 3323 states that internal driveways cannot be used for parking.
2. Pastor Noe has indicated that no structural changes will occur to the building. Chairs will be added to accommodate those attending church services. Services are tentatively scheduled for mid-morning on Sunday with the possibility of adding a mid-week service in the future. As the hours of use are limited and would not normally overlap that of the Ameristop, the applicant can request permission from the Zoning Administrator for joint use of one parking space in accordance with Article 33, Section 3320 of the Boone County Zoning Ordinance. However, it should be noted that there is not additional room for expansion of the parking area should the church's congregation expand beyond 35 to 40 persons. In addition, Ameristop would have to sign a written agreement in accordance with Article 33, Section 3320.
3. Between the proposed site and Days Auto Center is a portion of sidewalk which drops off significantly. This area is potentially hazardous to children and disabled persons as there is not railing to prevent accidents. Should the Board approve this request, it is recommended that approval be contingent upon installation of appropriate railing for this area.

Conclusion

KRS 100.237 and Sections 260 and 1013 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Conditional Use Permit for "churches, synagogues, temples, and other places of religious assembly for worship". It is the staff's opinion that the proposed use will not be incompatible with or detrimental to the existing character of the area, not create a need for additional public facilities or services, or be hazardous to adjacent uses. However, should the Board of Adjustment decide to approve the conditional use request, it is recommended that railing be installed as discussed in staff comment (3) and that the following options be considered to ensure that the proposed use provides adequate parking in conformance with the requirements contained in Article 33, Section 3325 of the Boone County Zoning Regulations. Therefore, approval of the request should:

1. be contingent upon one (1) parking space of joint use being approved by the Zoning Administrator and an agreement being signed with Ameristop, **OR**
2. limit the number of seats to thirty-five (35).

Respectfully submitted,



Lara B. Robertson, AICP

Attachments

- Exhibit A - Drawing of the existing site.
- Exhibit B - List of adjacent property owners.
- Exhibit C - Site plan showing actual parking spaces.

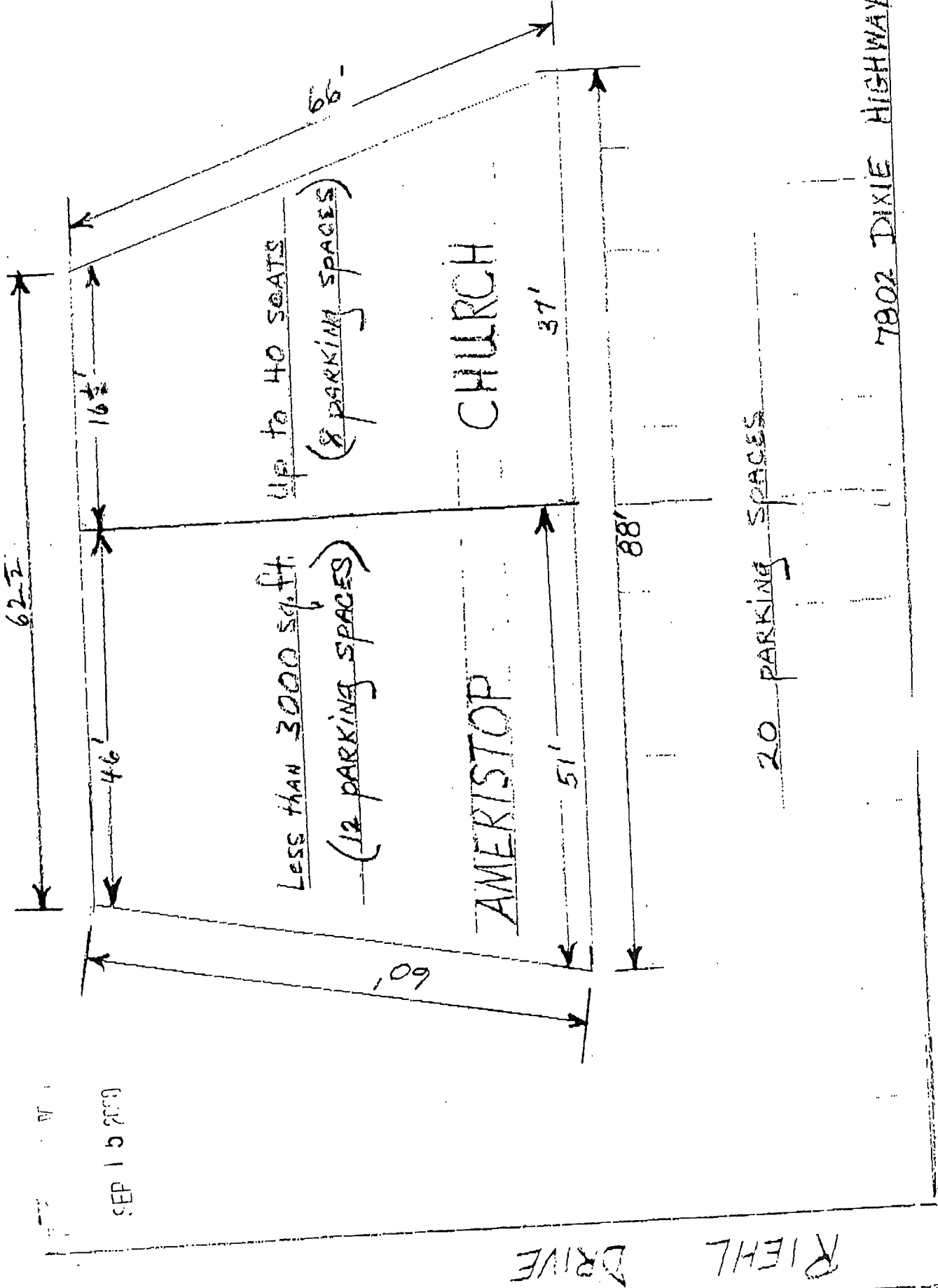
GOOD NEWS FELLOWSHIP
7802 DIXIE HIGHWAY
FLORENCE, Ky.

SEP 19

PASTOR GARY NOE
CHURCH TELEPHONE (859) 630-1319

Adjoining properties:

1. DIXIE APARTMENT Co., LTD.
7832 RIEHL DRIVE
FLORENCE, Ky. 41042
2. 7800 DIXIE GAS, LLC
3114 HUDNALL LANE
EDGEWOOD, Ky. 41017
3. Spring MEADOW ASSOCIATES
3075 ASHLEY DRIVE
EDGEWOOD, Ky. 41017
4. PEARL AND SARAH COLLINS
2 ROGER LANE
FLORENCE, Ky. 41042
5. LYKINS REALTY, INC.
5300 DU PONT' CIRCLE
SUITE C
MILFORD, OHIO 45150

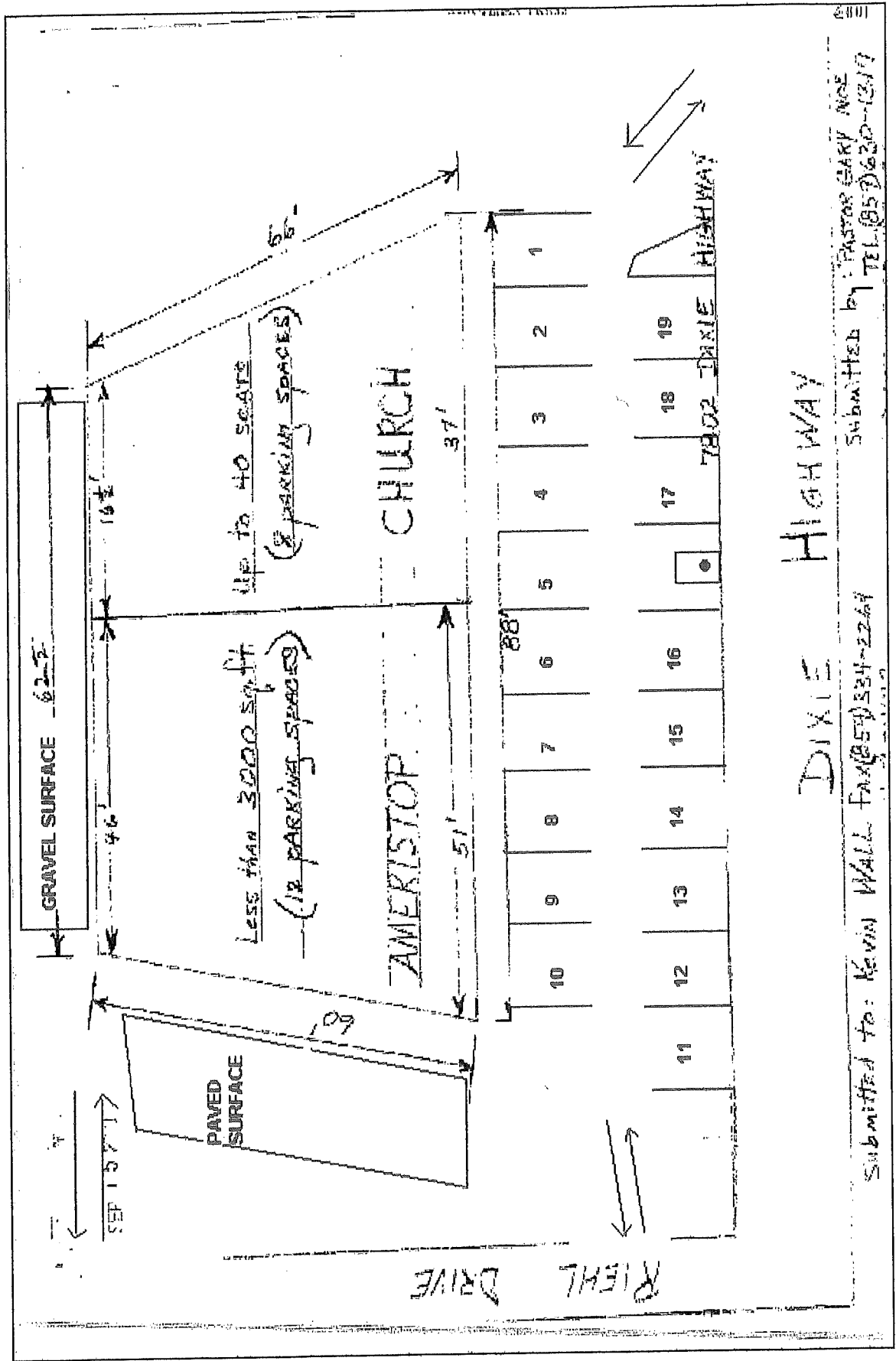


SEP 15 2000

Submitted by: PASTOR GARY NEE
TEL. (859) 620-1219

1111 WALL FAX (859) 334-2264

EXHIBIT C - LOCATION OF PARKING SPACES FOR 7802 DIXIE HIGHWAY



Submitted to: Kevin Wall FAX (859) 334-2269

Submitted by: PASTOR GARY NEE TEL (859) 630-1319

DIXIE HIGHWAY

COPY

CLUR #00-FBOA-005-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
E.S. Hancock, LLC
5 Sanctuary Court
Edgewood, KY 41017

2. ADDRESS OF PROPERTY
7802 Dixie Hwy.
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Good News Fellowship

4. DEED BOOK 603 PAGE NO. 189 GROUP NO. 2042

5. TYPE OF RESTRICTION(S) (Check all that apply)

 Zoning Map Amendment: Conditional Use Permit
From To

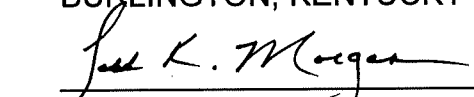
 Development Plan Conditional Zoning

 Subdivision Plat Other:
(Not Recorded)

 Variance

6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005



SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the

Boone County Planning Commission this 27 day of October, 2000.

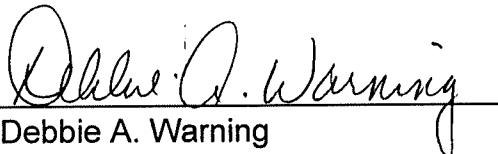


Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 2003

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of October 11, 2000 Certificate of Land Use Restriction (#00-FBOA-005-A), for E.S. Hancock, LLC, Property Owner(s).

The following conditions will apply:

1. A Waiver application must be submitted and approved by the Zoning Administrator for one parking stall of joint use. An agreement to allow the joint use parking stall must be signed by the owner of Ameristop, or the number of seats is limited to thirty-five (35).
2. A Minor Site Plan must be submitted which shows a guardrail at the end of the sidewalk and a handicapped ramp and parking space.

The approved Conditional Use Permit as well as the preceding conditions apply to the property described in:

DEED BOOK 603

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GROUP NO. 2042