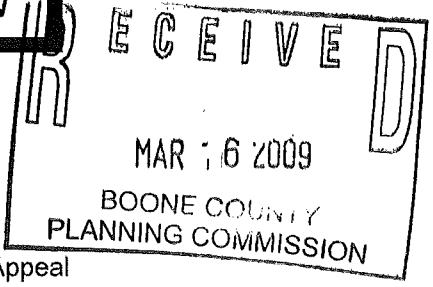


APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION



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

- 1. (Check One) Boone Florence _____ Walton _____ Union _____
- 2. (Check One) Conditional Use Permit Variance _____ Appeal _____
Change in Non-Conforming Use _____
- 3. Applicant's Name Ethos
Phone Number (502) 538-3172 Fax No. (502) 394-3353
Applicant's Address 520 Woodlake Drive
Mt. Washington KY
City State Zip
- 4. Description of Request: Variance - for height of building.
See attached description.
- 5. Name of Development Ethos at Main Street
- 6. Location of Development 212 Main Street
Florence, Kentucky
- 7. Acreage Under Review 5.1 Acres ±
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
NIA
- 9. Owner of Property Florence Main Street LLC
- 10. Address of Property Owner 1622 Briarwood Dr Phone No. _____
Florence KY 41042
City State Zip
- 11. Proposed Use(s) on Site Assisted living (Phase I)
- 12. Total Square Footage of Existing and/or Proposed Buildings 96,450 s.f.
- 13. Current Zoning on Property FMS
- 14. Deed Book 897 Page No. 394 Group No. 2034A
- 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? Yes. Site Plan previously submitted.
- 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.

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

ORIGINAL Applicant's Signature: (See signature on attached sheet.)
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

(over)

APPLICATION FORM


**BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION**

See Boone County Zoning Regulations

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- (Check One)
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ORIGINAL Applicant's Signature: 
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

(over)

**BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2**

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 3/16/09 Fee Received \$932⁰⁰ RA# 58350
2. Is application complete? Yes No
3. Staff Reviewer KEVIN WALL
4. Scheduled Board Action Date 4/8/09
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: _____

7. Reasons for Denial: _____

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

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: Ethos
LOCATION: 212 Main Street, Florence, Kentucky (Former YMCA Property)
ZONING: Florence Main Street (FMS)
DATE: April 8, 2009

PROPOSAL

The applicant has submitted a variance application to allow the height of a proposed assisted living building to be increased. The Florence Main Street Zoning Study permits a maximum 30 foot building height for "any use that adjoined an existing residential zone." The site adjoins SR-1 and UR-2 zones. The submitted building elevations note a proposed building height of 34' 4 1/2" based on how the zoning regulations calculate height, and the attached application narrative requests "up to a 40' high structure on our site."

The proposed building is a 96,450 square foot structure which is placed in the approximate location of the former YMCA building. The total length and width dimensions of the building are approximately 440 feet by 270 feet. The structure is organized into three basic wings when viewed in the plan. The rear two wings run parallel to Main Street and the third wing at the very front of the building is perpendicular to the street. The main roof lines have a 6/12 pitch. A hipped roof porte cochere with architectural columns is located along a circular drive at the front of the building. A two and a half story entry massing is located immediately behind it. The main facades of the front wing are one story high, and the other two wings extend from two to three stories as the grade drops toward the rear of the site. A two story "flat" roof massing with a heavy cornice line and a stone faced arcade at the ground level is proposed at the rear of the building.

The main facades are organized into alternating bays which are: A.) predominately brick with shuttered windows, with arched windows on the ground level, and B.) a combination of 4 inch exposure "smooth" and 7 inch exposure beaded hardi-plank siding with no shutters at the windows (brick is proposed for the ground level where these bays are three stories high). The bays are offset by jogs in the facades and roof lines. Dormers (with louvers) which are centered within the bays, and intermittent stone faced chimneys, are also proposed. Alternating window bays with hardi-board panels that run the entire height of the applicable facade are proposed throughout the building. Trellises with stone columns are proposed at the side and rear entrances.

Stone facing is proposed as a "foundation" level along the front facades and the "brick" bays described above, EIFS is proposed for incidental areas such as eaves and dormers, 4 inch exposure hardi-plank siding is proposed in the majority of the main gables, aluminum clad windows with grids (largely double hung) are shown on all facades, and dimensional, asphalt shingles are proposed for the roofing. A freestanding, octagonal gazebo with a cupola is proposed at the rear of the building.

APPLICABLE REGULATIONS

Section 3 "Height Standards" of the "Minimum Standards" section of the Florence Main Street Zoning Study (pg. 11) states "50 feet maximum and 30 feet maximum for any use that adjoined an existing residential zone."

Article 40 "Definitions" of the Boone County Zoning Regulations defines "building height" as "the vertical distance measured from the average elevation of the proposed finished grade at the front of building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs."

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Board should evaluate the request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.
 - A. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - B. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

SITE HISTORY

The YMCA owned the property at 212 Main Street in Florence prior to the construction of the recreation center and pool in the early 1990's. In the late 1980s, they proposed a 6,000 square foot expansion of the existing facility - the property was zoned C-2 at the time. That expansion required the demolition or relocation of the John Delahunty House, located on the west end of the site. The Delahunty House was a brick Tudor Revival style structure built in the late 1920s. John Delahunty was a prominent local businessman who was a member of Florence Baptist Church and who served as Director of the Florence Deposit Bank. The house itself was listed in the National Register of Historic Places in February 1989, as an excellent example of Tudor Revival architecture. The YMCA announced their expansion plans later that year and offered to sell the house for \$1 to anyone who could move it off site. No one stepped forward with the estimated

\$50,000 to relocate the house and it was demolished in early February 1990. At the time, the house was only the third Florence property on the National Register.

Certificate of Appropriateness and Major Site Plan applications were approved in 2005 for two additions to the YMCA building totaling approximately 53,000 square feet. These approvals occurred after the YMCA moved from the site and another user planned on occupying the property for a community/athletic center. The approved additions were not constructed.

A COA application was approved on February 18, 2009 to permit the demolition of the former YMCA building. The approved demolition work has since been substantially completed and the existing paving is being removed. Another COA was approved on March 25, 2009 for the design of the proposed assisted living building that is now before the BOA for a height variance. This approval is with the understanding that the pending variance must also be granted for the project to go forward as currently designed. Otherwise, a revised COA application will need to be approved by the Florence Main Street Design Review Board at a later time. A Major Site Plan application for the proposed assisted living facility is pending.

Although not part of the current proposal, the rear portion of the property has been referred to locally as Bloody Hollow. The current president of the Boone County Historical Society says the extent and nature of Bloody Hollow is ambiguous. It appears to have been the site of a conflict between Native American groups and/or Pioneers or was the site of burials associated with one of these groups.

SITE CHARACTERISTICS

The overall site contains 11.768 acres and has approximately 345 feet of frontage along Main Street. The western most part and northeast corner of the site are wooded, and the northern part of the site is grassed and has been used for athletic fields in the past. There are several large diameter trees in the front yard area near Main Street. The high point of the site is at the southwest corner along Main Street with an elevation of approximately el 918, and the low point is in the northeast corner of the site at approximately el 878. The front and rear portions of the site are relatively flat, and there is a notable grade change in the middle portion of the site in the approximate location of the proposed building.

ADJACENT LAND USES AND ZONING

- A. A U.S. Post Office, an office building, and a multi-tenant commercial building are located to the east and northeast along Turfway Road (FMS and C-2).
- B. A subdivision of multi-family residential buildings is located to the north and northwest along Sebree Drive (UR-2)
- C. Detached single family residences are located to the west along Lynn Street (SR-1).
- D. A combination of church, detached single family residential, and business uses are located to the south and southwest along both sides of Main Street (FMS).

RELATIONSHIP TO BOONE COUNTY COMPREHENSIVE PLAN

The 2005 Boone County Comprehensive Plan's Future Land Use Map designates the majority of the site as "Recreation," and a part of the western-most area of the site as "Commercial." The Recreation designation is described as "public and commercial outdoor recreation including golf courses, parks, race tracks, private reserves, wooded areas that serve an established recreation use, etc." The Commercial designation is described as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The "Design, Signs, and Historic Preservation" section (pg. 142) of the Land Use Element states "neo-traditional residential and commercial development should be encouraged to provide quality development that blends with the natural or historic character of parts of Boone County. This Comprehensive Plan encourages the restoration, renovation and/or adaptive re-use of historically significant structures in Boone County."

The Goals and Objectives include the following pertinent statements.

- A. Development issues shall be viewed in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, within appropriately planned and designed neighborhood developments ("Overall," Objective 2).
- B. Proper design principles shall be applied in development ("Overall," Objective 3).
- C. Innovative development design methods shall continue to be pursued ("Overall," Objective 9).
- D. Significant historic buildings, structures and sites, archeological sites and natural features in Boone County are preserved ("Preservation," Goal).
- E. Priorities shall be established for the conservation, restoration, preservation and protection of natural features, historic buildings, structures and sites, archeological sites, and cemeteries ("Preservation, Objective 1).
- F. Plans for new or redeveloped commercial, industrial, institutional and residential sites shall be reviewed, and reasonable measures taken, to ensure identification and protection of significant historical, archeological and architectural sites, including cemeteries ("Preservation, Objective 4).

STAFF COMMENTS

It is Staff's conclusion that the proposal as expressed on the submitted architectural elevations fulfills the statutory variance criteria and reasonably meets the public's interest as expressed in the "Design Review Guidelines" of the Florence Main Street Zoning Study and the 2005 Boone County Comprehensive Plan. The elevations note a proposed building height of 34' 4 ½" and the narrative generically requests a building height of 40 feet. Factors for the Board to consider include:

- A. A COA was approved by the Florence Main Street Design Review Board on 3/25/09 for the proposed building design, expressing a conclusion that it is appropriate for the site and surrounding area. The proposed 6/12 roof pitch could conceivably be lowered to meet the 30 foot height limitation, although this would result in a roof design that is not characteristic of the traditional pitched roof structures on Main Street and it would lessen the integrity of

the overall scheme. The two story section of the Main Street facing facade (where building height per the regulations is measured) is in scale with comparable structures in the district. Members of the Florence Main Street Design Review Board stated at their public hearing that they did not have any issue with the proposed variance.

- B. The overall site is relatively large (almost 12 acres), and the setbacks, especially the front and rear yards, are substantial when compared to the norm for properties along Main Street. Additionally, existing wood cover in the western part of the site which adjoins the neighboring residential structures is proposed to be retained. These factors both singularly and combined will help mitigate the visual impact of the additional building height.

If the Board grants this request, Staff recommends that the approval be based on the submitted architectural elevations which were approved by the Florence Main Street Design Review Board versus the more generic 40 foot figure mentioned in the application narrative.

CONCLUSION

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Kevin T. Wall, AICP
Director, Zoning Services

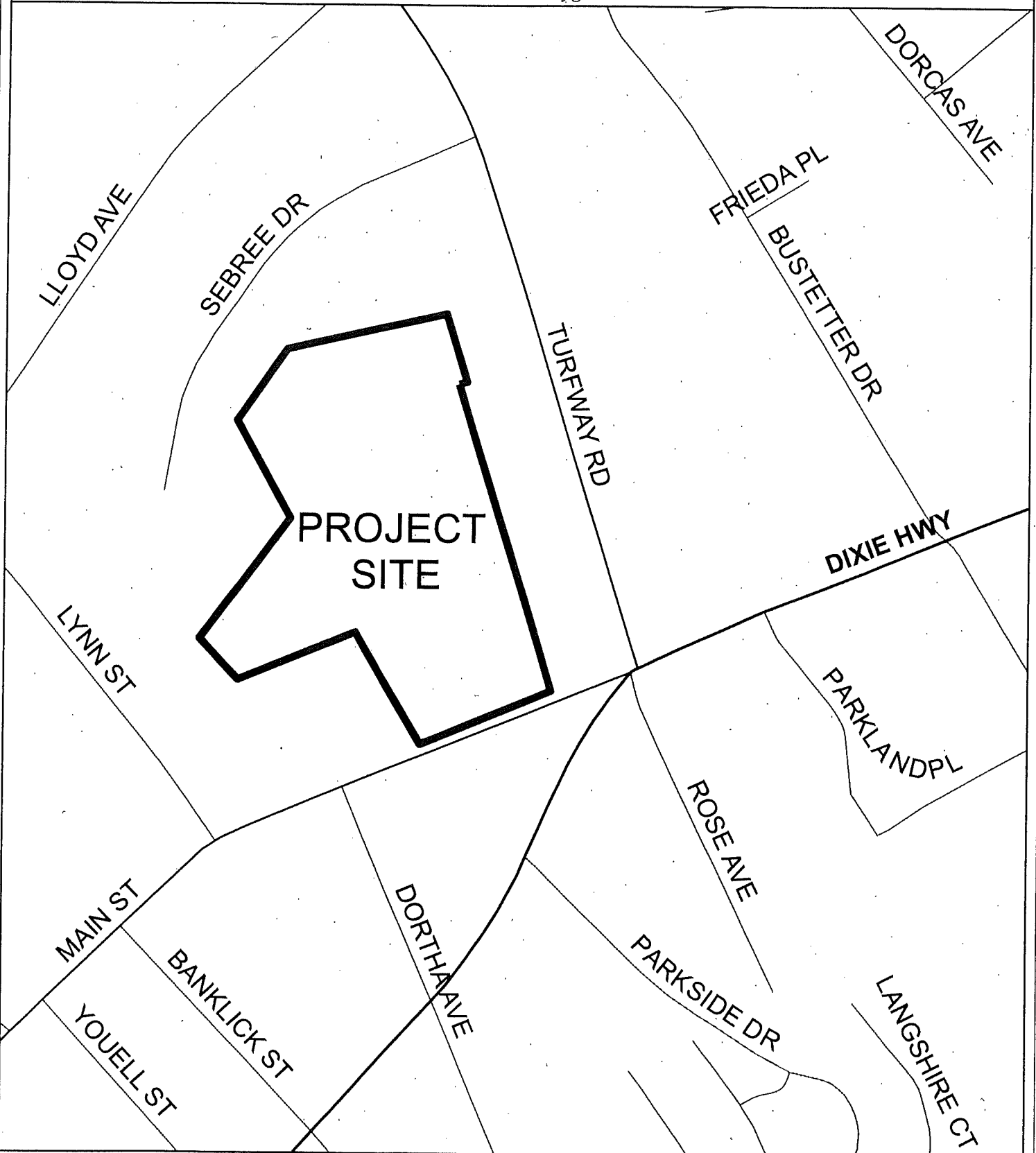
KTW/pr

attachments:

- * location map
- * aerial photo w/ zoning info
- * Future Land Use Map excerpt
- * application materials including plans

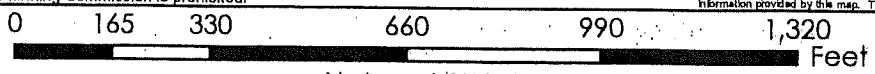
Location

www.boonecountygis.com



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Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS makes no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



Boone County GIS - Putting Northern Kentucky on the Map

Zoning

www.boonecountygis.com



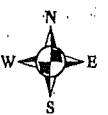
Copyright 2009 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

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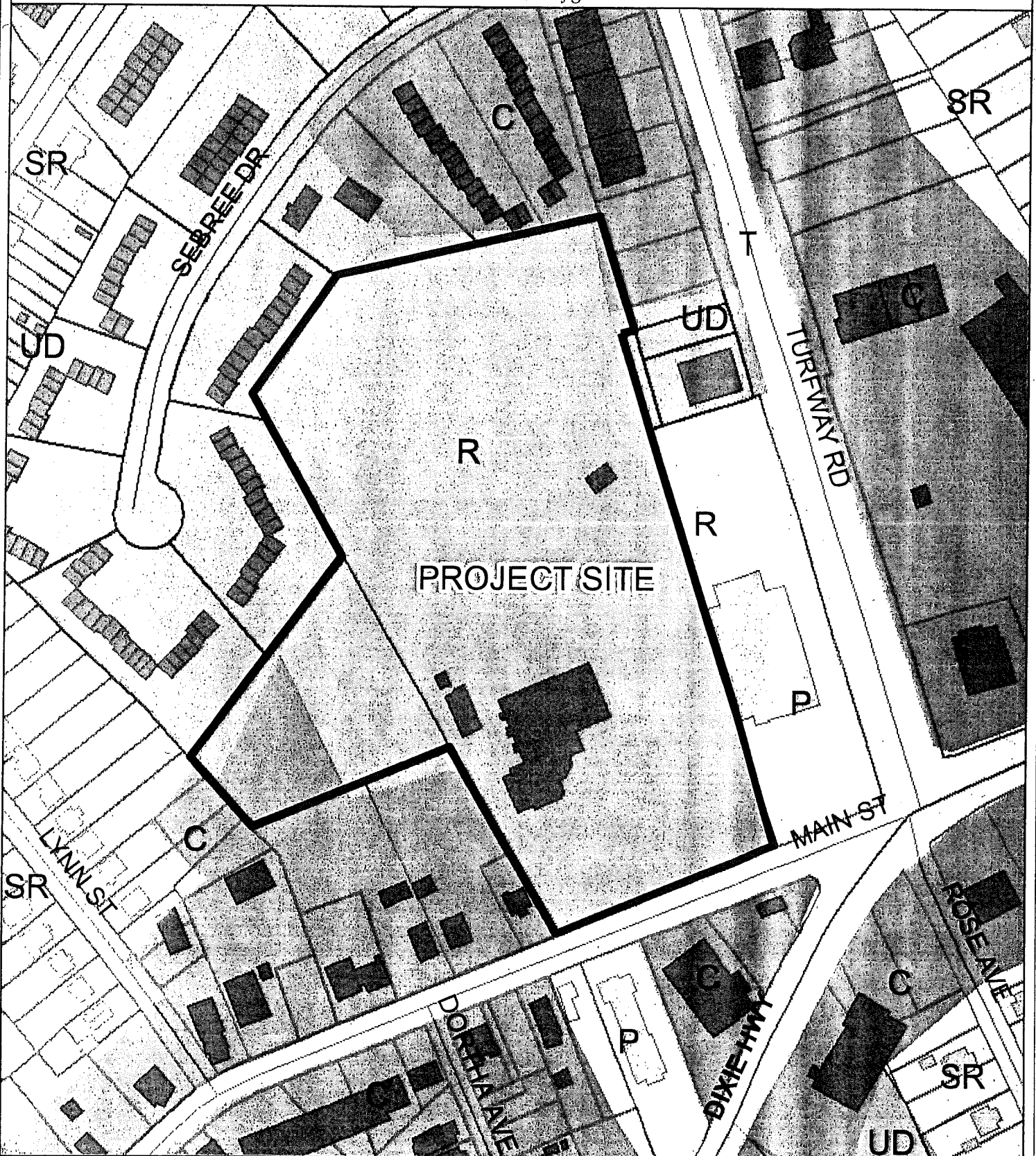
0 100 200 400 600 800 Feet
1 inch equals 194 feet

Boone County GIS - Putting Northern Kentucky on the Map



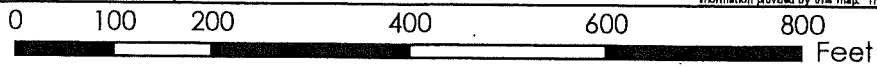
Future Land Use

www.boonecountygis.com



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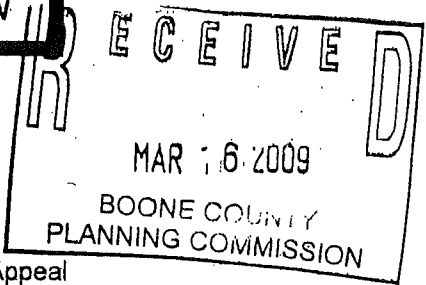
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APPLICATION FORM

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AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION**



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APPLICATION FORM

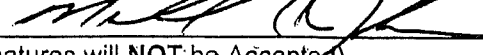
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AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION**

See Boone County Zoning Regulations

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(over)

**BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2**

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 3/16/09 Fee Received \$932⁰⁰ R# 58250
2. Is application complete? Yes Yes _____ No _____
3. Staff Reviewer KEVIN WALL
4. Scheduled Board Action Date 4/8/09
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: _____

7. Reasons for Denial: _____

**Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountky.org - E-mail
www.boonecountky.org - Web Page**

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.

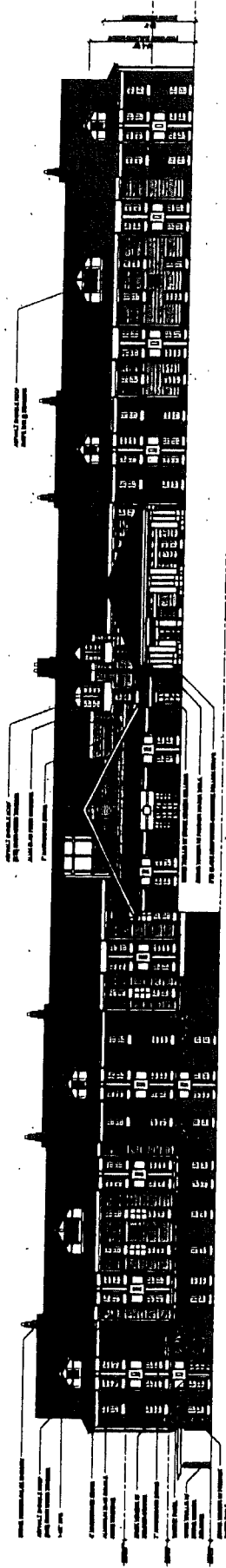
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Ethos
Florence, Kentucky
Variance Application

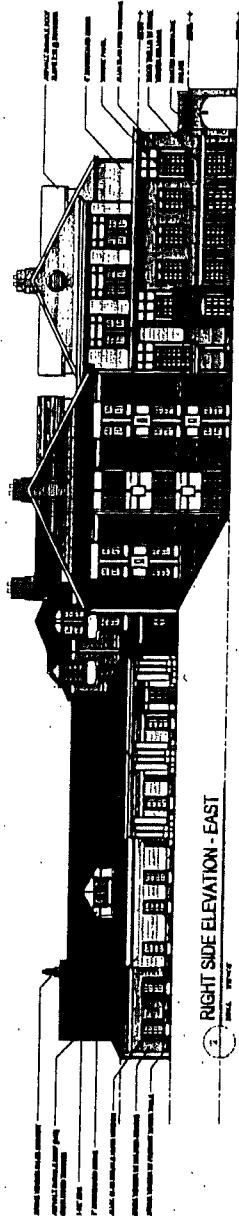
With this application we are requesting that the 30' height restriction be waived for our project allowing up to a 40' high structure on our site. This request for variance from the Florence Main Street Zoning Study height standards is requested for the following reasons.

1. The existing requirement on p.11 of the standard states: 'Height Standards – 50 feet maximum and 30 feet maximum for any use that adjoined an existing residential zone'. In effect this standard allows up to a 50' high structure within this zone, our limitation is imposed solely due to our proximity to the single family residences adjacent to our property. Our building is appropriately scaled to the neighborhood with a one-story wing closest to Main Street; and a 2-Story façade for the remainder of the building that fronts on Main Street.
2. Our 2-story structure is in keeping with the architectural character of the neighborhood, and would appear to be 'squatty' if we lowered the roof pitch to bring the building into compliance with the 30' requirement. It is our opinion that the aesthetics of the Florence Main Street streetscape will be diminished significantly by compliance with the height restriction of 30'.
3. The criteria for granting a waiver in the Florence Main Street Zoning Study is due to an 'unnecessary hardship'. We believe that imposition of this standard does institute an unnecessary hardship for the 2 reasons stated above.

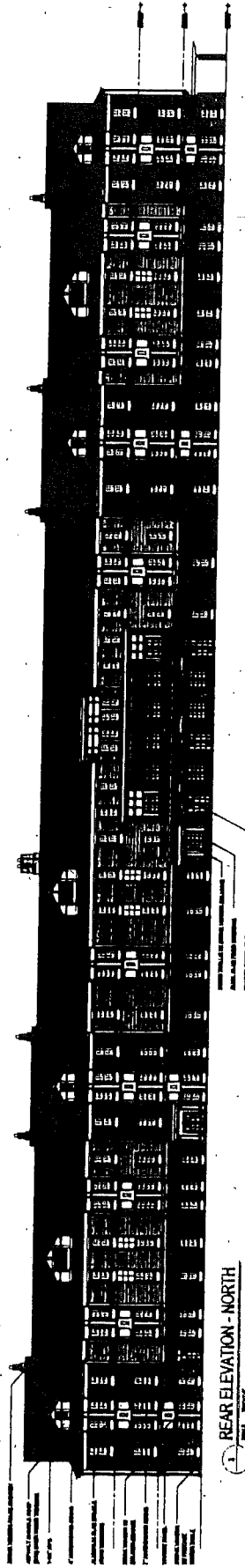
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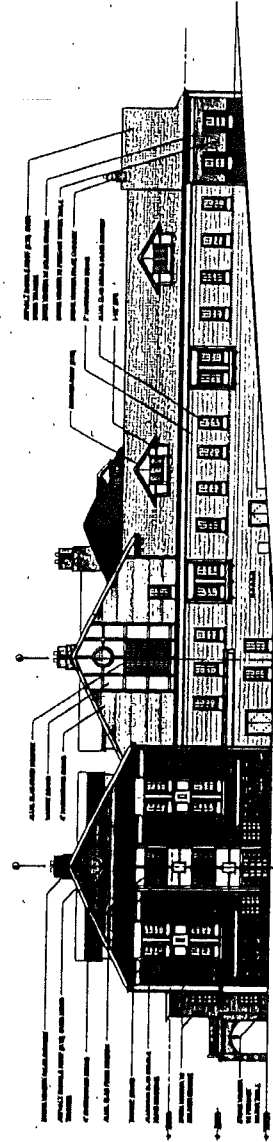
1 MAIN ELEVATION - SOUTH



2 RIGHT SIDE ELEVATION - EAST



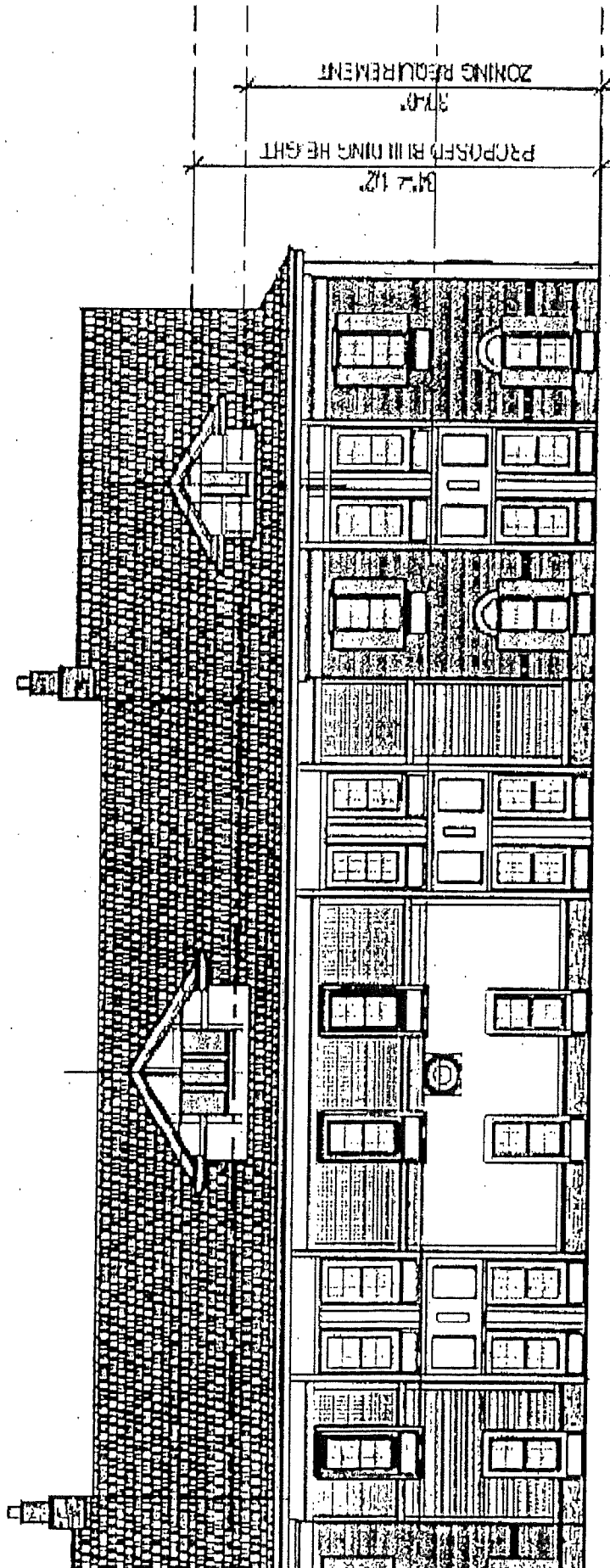
3 REAR ELEVATION - NORTH



4 LEFT SIDE ELEVATION - WEST

THOS AT MAIN STREET
LORENCE, KY
MAIN ELEVATIONS
DATE: 3/16/09

Tucker Booker Donhoff + Partners



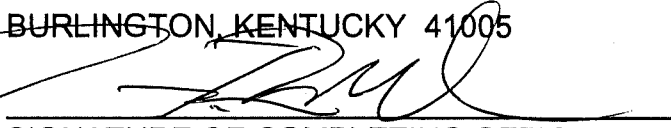
COPY

CLUR #09-FBOA-002-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Florence Main Street, LLC
1622 Briarwood Drive
Florence, KY 41042
2. ADDRESS OF PROPERTY
212 Main Street
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Ethos at Main Street
4. DEED BOOK 897 PAGE NO. 394 GROUP NO. 2034A
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment:
From To
- Conditional Use Permit
- Development Plan Conditional Zoning
- Subdivision Plat
(Not Recorded) Other:
- 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
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005



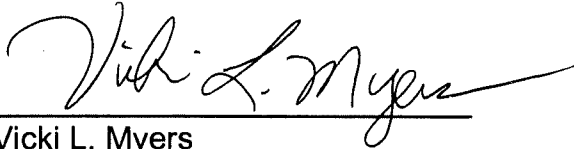
SIGNATURE OF COMPLETING OFFICIAL

Kevin T. Wall, Director, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

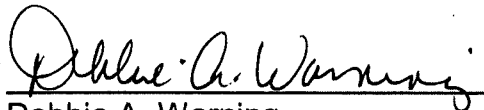
Subscribed, sworn to, and acknowledged before me by Kevin T. Wall on behalf of the
Boone County Planning Commission this 9 day of April, 2009.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2011

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
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 Variance approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of April 8, 2009 Certificate of Land Use Restriction (#09-FBOA-002-A), for Florence Main Street, LLC, Property Owner(s).

The following conditions will apply:

No conditions.

The approved Variance as well as the preceding conditions apply to the property described in:

DEED BOOK 897 PAGE NO. 394 GROUP NO. 2034