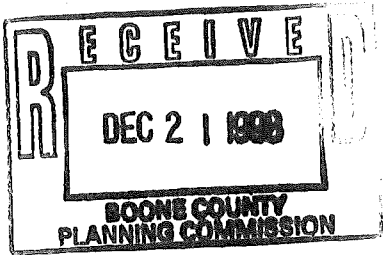


APPLICATION FORM



BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

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

- (Check One) 1. Boone [X] Florence [ ] Walton [ ] Union [ ] (Check One) 2. Conditional Use Permit [X] Variance [ ] Appeal [ ] [X] Change in Non-Conforming Use 3. Applicant's Name TATCO DEVELOPMENT, LTD. Phone Number 937 429 1050 Fax No. 937 427 9363 Applicant's Address 1241 MEADOWBRIDGE DR BEANSCREEK Ohio 45434 City State Zip 4. Description of Request: BUILDING SET BACK VARIANCE AND CHANGE IN PRE-EXISTING NON-CONFORMING USE REAR BUFFER YARD WIDTH STREET FRONTAGE BUFFER WIDTH From 10' to 6' 5. Name of Development CVS PHARMACY 6. Location of Development 6801 DIXIE Highway AND ADJACENT I. STATE Lot to THE South 7. Acreage Under Review 2 ± 8. Lot Number and Name of Subdivision (if part of a subdivision) 1, 2 and 3 OF STEGNER SUBD. PLAT B. 1 P. 116 and adj. acreage 9. Owner of Property HUGH & JOHNN IMFELD OLDSMAN REALTY & DEV CO BY Phone Number of Owner 371 0807 404 329 0053 10. CONTRACT ADDRESS OF PROPERTY OWNER 20 LACRESTA DR. 41042 1750 CENTER CIRCLE, SUITE 22 ATLANTA, GA. 30345 City State Zip 11. Proposed Use(s) on Site CVS 12. Total Square Footage of Existing and/or Proposed Buildings 10,125 13. Current Zoning on Property C-2 and SP-2 14. Deed Book 223/43 Page No. and 572/96 Group No. 207 and 2043A 15. Is the site subject to a zone change? NO If yes, give date of approval N/A 16. Have you submitted a Site Plan with this request? YES 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: [Signature]

Property Owner's Signature: \_\_\_\_\_

\* CONTACT GERALD F. DUSING ph 291 7270 40 W. P. Ke ST (over) fx 291 7902 COVINGTON, Ky 40111

Agree to Feb 10 public hearing as changed from Feb 3.

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 Dec 21, 98 Fee Received 992.00 R# 19045
2. Is application complete? Yes 971.00 R# 1260 No
3. Staff Reviewer DAVID B. VOEGER
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
2/10/99 **Approved**  
**Approved with Conditions (See #6)**  
**Denial (See #7)**
6. Conditions of Approval: 1) New driveway on Road min of 30' towards  
Right 2) Minor to Landscaping 3) Extend Fence along entire  
near property line of vacant property 4) Lighting provided on site
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:** Tatco Development, LTD  
**DEVELOPMENT:** CVS Pharmacy  
**LOCATION:** 6801 Dixie Highway, Florence, Kentucky  
**ZONING:** Commercial Two (C-2) and Suburban Residential Two (SR-2)  
**DATE:** February 10, 1999

### Proposal

The applicant is requesting a Change in Non-Conforming Use to allow a portion of a pharmacy building and parking to replace the existing parking lot which services Hugh's Oyster House restaurant. The applicant is also requesting three separate variances to allow a reduction in the required rear yard setback, rear buffer yard area, and street frontage buffer yard area.

The site in question is approximately 2 acres in size and is zoned Commercial Two (C-2) except for a 60' x 145' lot on the site which is zoned Suburban Residential Two (SR-2). Presently, a parking lot is located in this area. This particular area has been zoned SR-2 since 1980. Although this parking facility is not principally permitted in the SR-2 zone it has been determined to be a legal non-conforming use since it was existing when the SR-2 zone was adopted. The applicant is requesting to replace this use for a portion of the proposed building and some parking.

### Change in Non-Conforming Use

The Board of Adjustments and Zoning Appeals has the power to hear and render decisions on applications to permit a change from one non-conforming use to another. The Board shall not permit such a change unless the new non-conforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing non-conforming use. The Board shall not allow any changed non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original non-conforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with other provisions of the Boone County Zoning Regulations.

The Board should review the applicant's request for the Change in Non-conforming Use with regard to the compatibility of the proposed non-conforming use with the surrounding area compared to the existing non-conforming use and the surrounding area within this Suburban Residential Two (SR-2) zoning district. The Board shall not permit the increase or expansion of a non-conforming use and must determine if this proposed use is equally or more compatible with the district than the current and original non-conforming use.

### Dimensional Variance

The Boone County Zoning Regulations requires a minimum 50' rear yard setback for any structure built in a Commercial Two (C-2) zoning district which adjoins a Suburban Residential Two (SR-2) zoning district. The Zoning Regulations also require a minimum 30' rear yard setback for any structure built in a Suburban Residential Two (SR-2) zoning district which adjoins that same zone. Since the rear yard of this site is zoned both C-2 and SR-2, each respective portion must comply with the applicable setback requirements which is 50' and 30' respectfully. The nearest location of the proposed building to the property line is approximately 15.5 feet. In essence, the applicant is requesting a 34.5' Variance of the required 50' rear yard setback.

Article 36 of the Boone County Zoning Regulations requires a Buffer Yard C for the rear yard buffer area of this site. This requires a minimum 60 foot buffer yard area width. The width of this buffer yard area can be reduced to 30 feet if a 6 foot high berm, fence, or masonry wall is provided. The applicant has indicated on the Site Plan that a 6 foot high fence will be provided along a portion of the rear buffer yard. However, staff would like to see this proposed fence extend along the entire backside of the adjacent property. Essentially, the applicant is requesting that the rear buffer yard area be eliminated at the closest point of the proposed driveway and the property line. The width of the rear buffer yard is wider at both ends of the proposed building and driveway because of the location of the property line.

Article 36 of the Boone County Zoning Regulations requires that a Buffer Yard A be provided along Dixie Highway. The minimum required width of this buffer yard is 10 feet. The applicant is requesting a 4 foot Variance to allow a 6 foot wide buffer yard along Dixie Highway.

A Variance is defined as a departure from 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 K.R.S. 100.241 to 100.47.

Variances are appropriate by reason of exceptional narrowness, shallowness, or unusual shape of a site on the effective date of the zoning regulations or amendment thereof or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of the site. The literal enforcement of the above dimensional terms of the zoning regulation would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The dimensional terms pertaining to height, width and location involve such items as structures, parking space stalls, driveway aisles, landscaped buffers and signs. Lot frontages, the size of yards, and open spaces refer to minimum yard dimensions such as building setbacks.

K.R.S. 100.241 gives the Florence Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for the three Variances to reduce the rear yard setback, rear buffer yard area, and street frontage buffer yard area for the proposed pharmacy at 6801 Dixie Highway, Florence, Kentucky.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Variance, stated in Article 2, Section 251 of the Boone County Zoning Regulations.

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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- 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 of 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 regulations from which relief is sought.

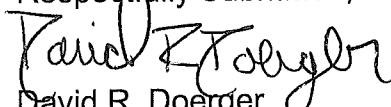
The Board shall deny any request for a Variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

#### Conclusion

Staff concedes that the existing parking lot located in the area of the site zoned SR-2 is legally non-conforming. The Florence Board of Adjustments and Zoning Appeals needs to determine if the request for the Change in Non-Conforming Use is appropriate.

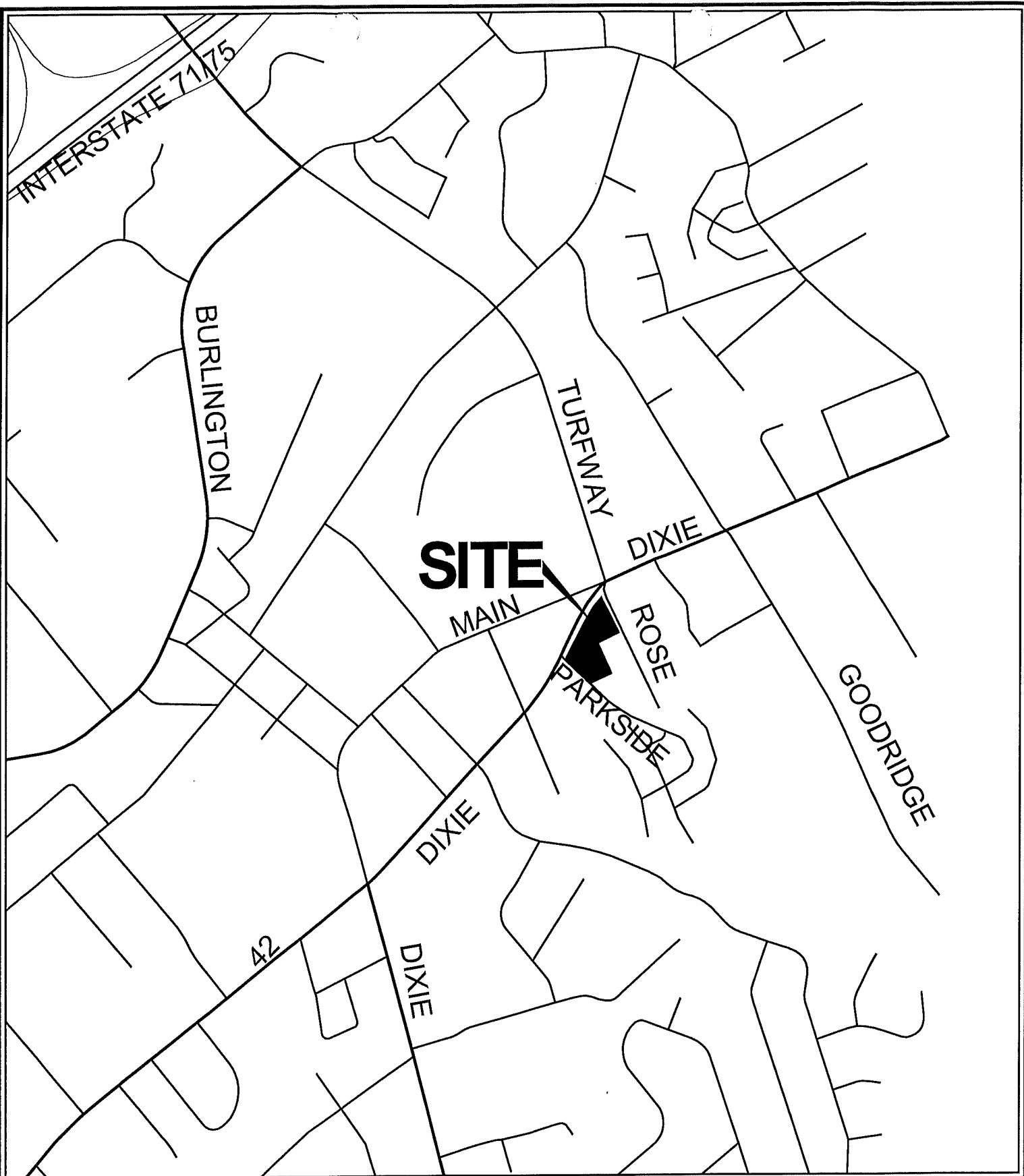
The staff will agree that granting the entire request for the Change in Non-Conforming Use and the three Variances will not adversely affect the health or safety of the public or alter the essential character of the general vicinity. However, granting any of the three Variances may allow an unreasonable circumvention of the requirements of the zoning regulations. The applicant could conceivably comply with the setback and buffer yard requirements set forth in the Boone County Zoning Regulations and still have the same size building on this site. Granting of the Variances could be assumed to be nothing more than an accommodation of the applicant's desire for this reduction in the setback and buffer yards. Staff believes that the strict application of the provisions of the zoning regulations, regarding setback and buffer yard requirements, would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Respectfully Submitted,

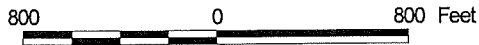
  
David R. Doerger  
Planner

Attachments

- Location Map
- Zoning Map
- Site Plan
- Landscaping Plan
- Rendering
- Letter representing Applicant

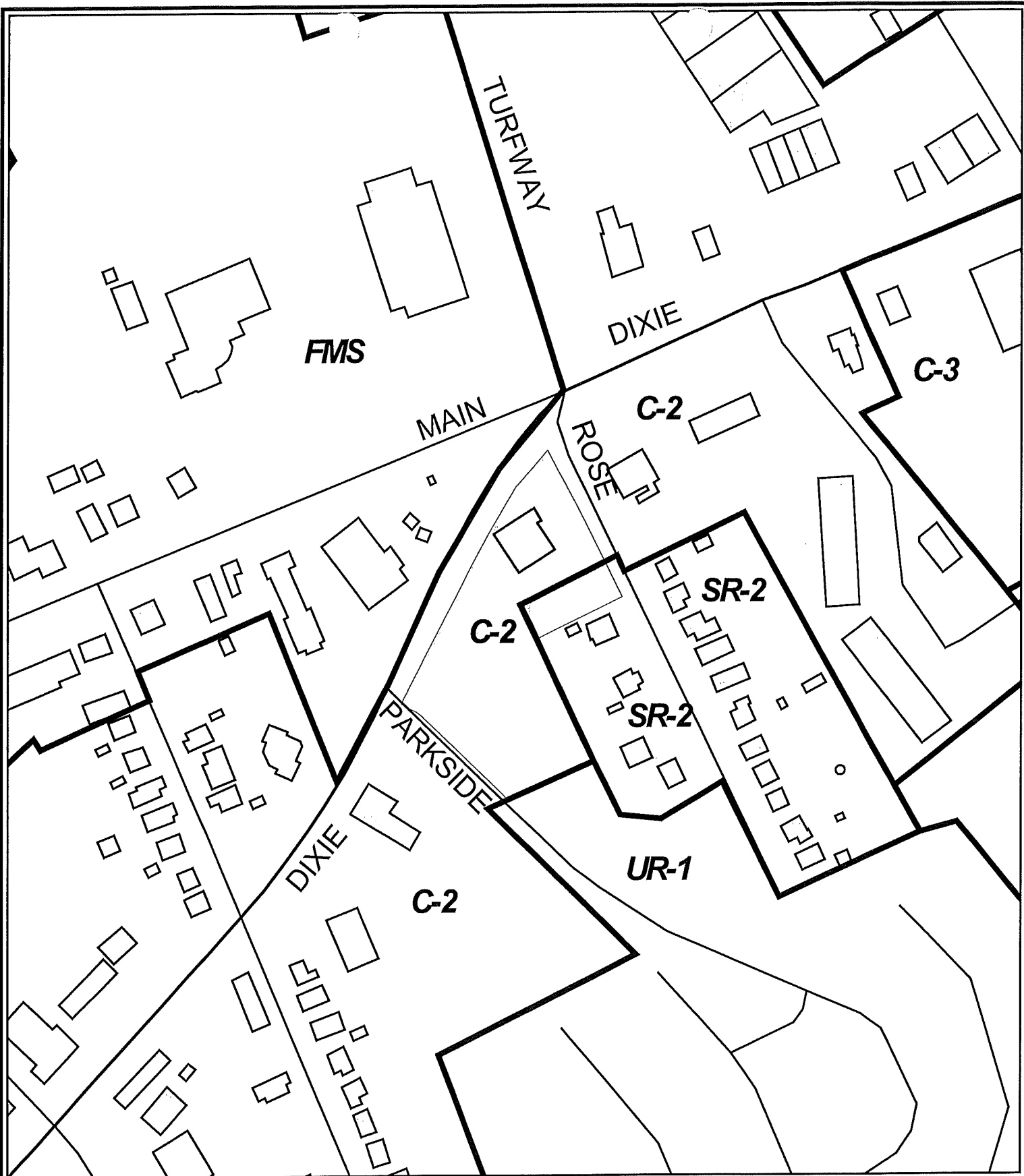


# LOCATION MAP



1 inch equals 800 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
January 6, 1999





# ZONING MAP

200 0 200 Feet

1 inch equals 200 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 January 6, 1999





**PREPARED BY:  
REINKE & ASSOCIATES  
DAYTON, OHIO  
937.434.4810**

**DIXIE HIGHWAY  
(TRAFFIC - 20,200)**

**MAIN STREET**

**DIXIE HWY**

**TURKEY ROAD  
(TRAFFIC - 18,200)**

JANUARY 21, 1999



GRAPHIC SCALE

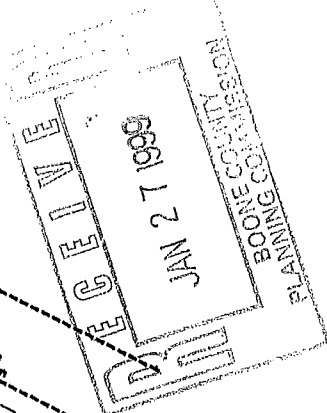
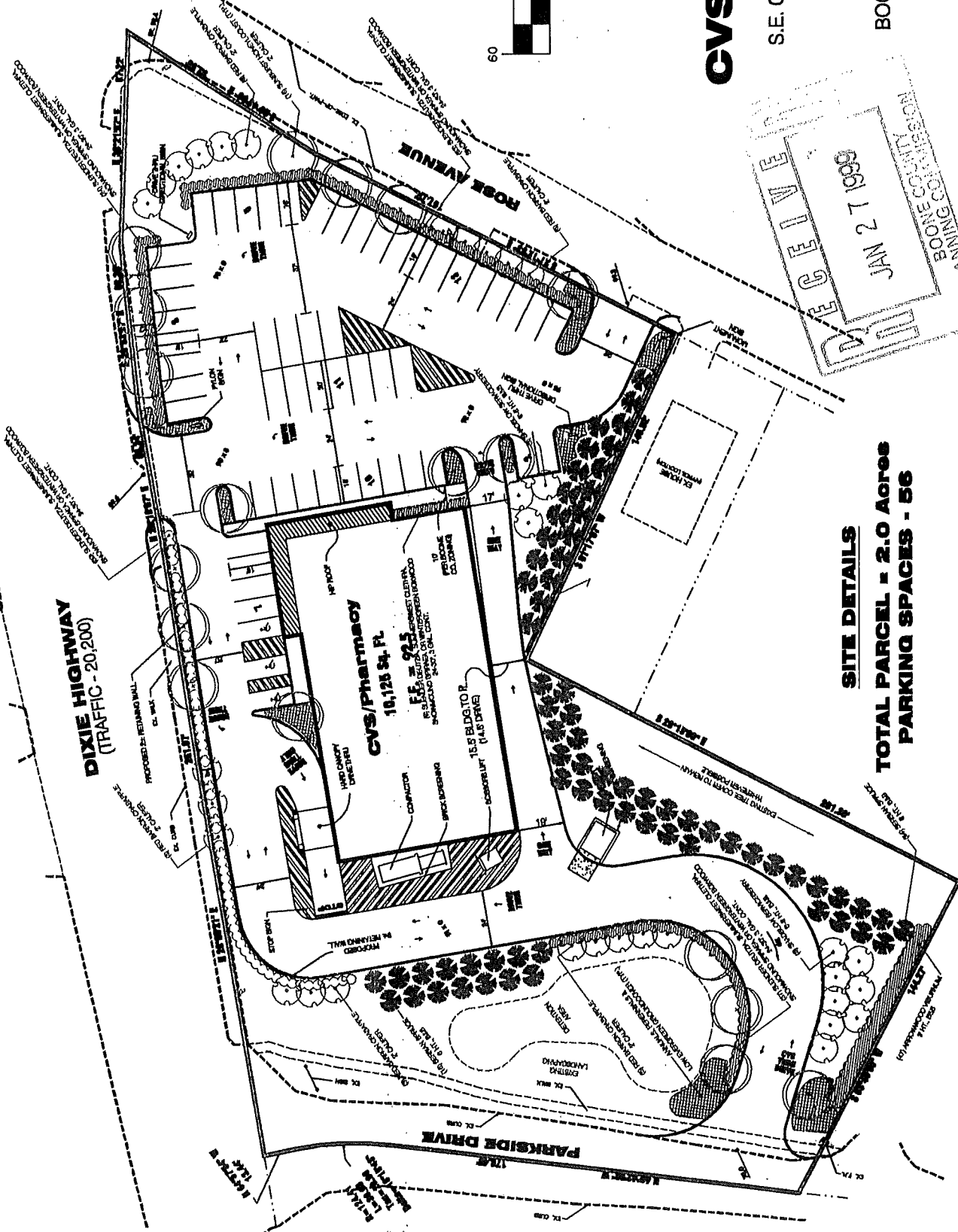


( IN FEET )  
1 inch = 60 ft.

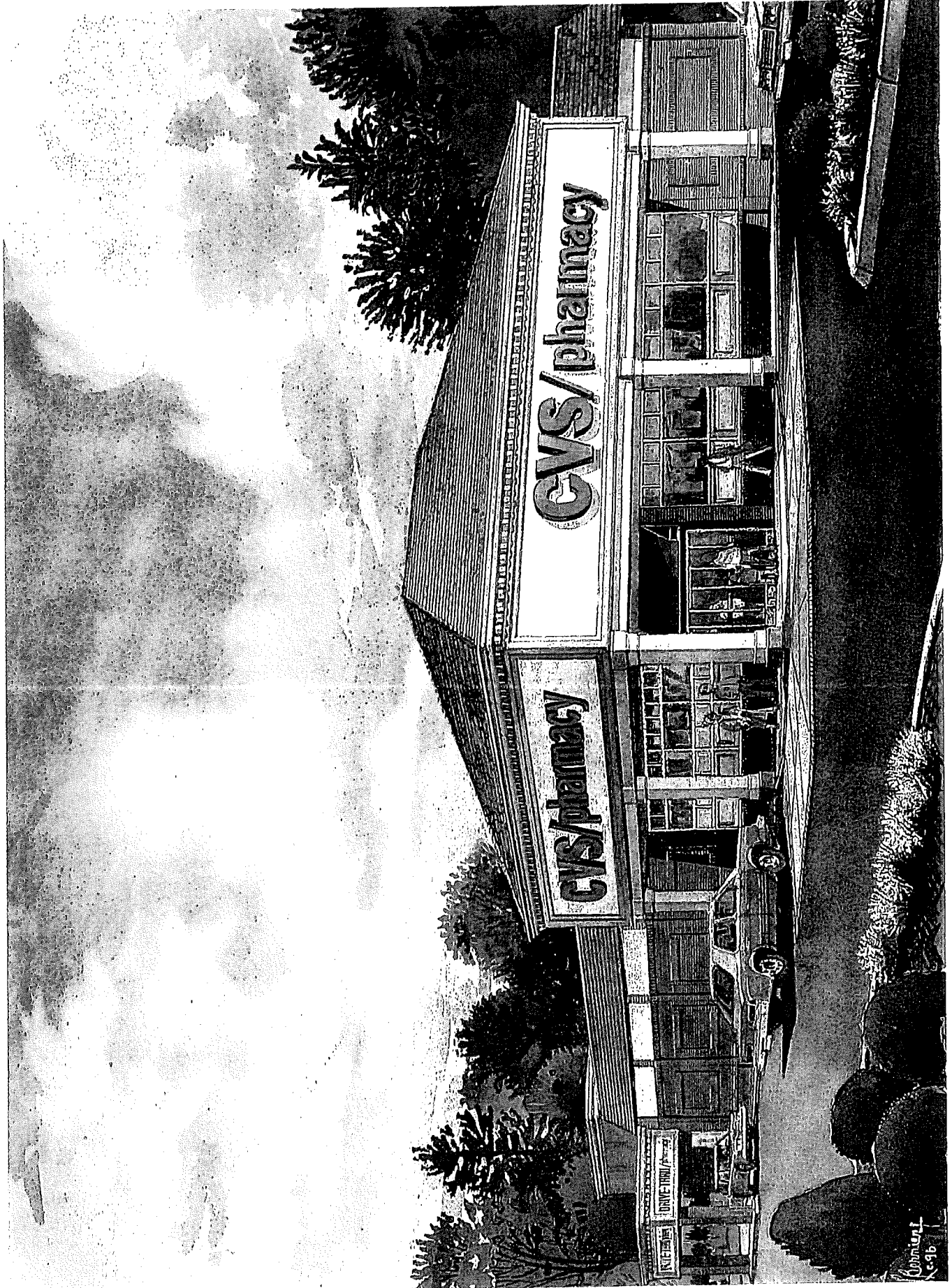
**LANDSCAPING PLAN**  
**CVS/pharmacy**

S.E. CORNER OF DIXIE HIGHWAY  
& ROSE AVENUE

LOCATED IN:  
CITY OF FLORENCE  
BOONE COUNTY, KENTUCKY



**SITE DETAILS**  
**TOTAL PARCEL = 2.0 Acres**  
**PARKING SPACES - 56**



**ADAMS, BROOKING, STEPNER, WOLTERMANN & DUSING,  
P.L.L.C.**

*Attorneys and Counselors at Law*

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JAMES O. WOLTERMANN \*    STACEY L. GRAUS \*  
GERALD F. DUSING    PAUL J. DARPEL \*  
MICHAEL M. SKETCH \*    LORI A. SCHLARMAN \*  
DENNIS R. WILLIAMS \*    CHANDRA S. BALDWIN \*  
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R. JEFFREY SCHLOSSER \*    JEFFREY A. STEPNER \*  
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40 WEST PIKE STREET

P.O. BOX 861

COVINGTON, KENTUCKY 41012-0861

AREA CODE 606-291-7270

FAX 606-291-7902

8100 BURLINGTON PIKE - SUITE 344  
P.O. BOX 376  
FLORENCE, KENTUCKY 41012-0376  
AREA CODE 606-371-6220  
FAX 606-371-8341

1650 FEDERATED BUILDING  
7 WEST SEVENTH STREET  
CINCINNATI, OHIO 45202-2417  
AREA CODE 513-241-7640

\* ALSO ADMITTED IN OHIO  
\*\* ADMITTED ONLY IN OHIO

CHARLES S. ADAMS (1906-1971)  
C. GORDON WALKER (1911-1967)

January 5, 1999

**Via Fax No. 334-2264**

Mr. David R. Doerger, Planner  
BOONE COUNTY PLANNING COMMISSION

**RE: Tatco Development, LTD**

Dear David:

The attached Memorandum should be provided to each member of the Board of Adjustment at the hearing on January 13<sup>th</sup>. I would appreciate it if you would also attach this Memorandum to your Staff Report.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to call.

Very truly yours,

ADAMS, BROOKING, STEPNER,  
WOLTERMANN & DUSING

*Gerald F. Dusing*  
GERALD F. DUSING

GFD:vam  
Attachment (6 Pages)

Cc: **Via Fax No. 371-9872**  
Hon. Dale T. Wilson  
ROUSE, SKEES, WILSON & DILLON  
w/attachment

**ADAMS, BROOKING, STEPNER, WOLTERMANN & DUSING,  
P.L.L.C.**

*Attorneys and Counselors at Law*

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MICHAEL M. SKETCH \*      WESTON W. WORTHINGTON  
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JAMES R. KRUBER \*      SCOTT M. GUNTHERNER  
JEFFREY C. MANDO \*      ROBERT D. DILTS \*  
MARC D. DIETZ \*      JEFFREY A. STEPNER \*  
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OF COUNSEL  
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CINCINNATI, OHIO 45202-2417  
AREA CODE 513-241-7460

\* ALSO ADMITTED IN OHIO  
\*\* ADMITTED ONLY IN OHIO

CHARLES S. ADAMS (1906-1971)  
C. GORDON WALKER (1911-1967)

January 5, 1999

**TO: FLORENCE BOARD OF ADJUSTMENT**

**FROM: TATCO DEVELOPMENT, LTD**

**RE: PROPOSED CVS PHARMACY  
6801 DIXIE HIGHWAY  
FLORENCE, KY 41042**

**MEMORANDUM OF APPLICANT IN  
SUPPORT OF CHANGE IN NONCONFORMING  
USE AND VARIANCE**

This site is zoned C-2 except for a 50' strip as indicated on the proposed development plan located to the rear of the existing Hugh's Oyster House.

The entire site has historically been zoned C-2 but apparently some time, in approximately 1980, the 50' strip was inadvertently and mistakenly zoned residential, SR-2, without notice to Hugh's Oyster House.

The original site plan of Jerry's Restaurant constructed on the site of Hugh's Oyster House in 1964, which will be presented at the hearing, documents that the use of the Hugh's Oyster House portion of the site has consistently and uninterruptedly been used as a permitted use within the C-2 and SR-2 zone since 1964.

Applicant is entitled to a change in nonconforming use in accordance with Section 272 of the Florence Zoning Ordinance as well as KRS 100.253. The applicable law is as follows:

## FLORENCE BOARD OF ADJUSTMENT

January 5, 1998

Page Two

### Nonconforming Uses of Land

Where, at the time of adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time these regulations were adopted.

K.R.S. 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.
3. Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

## FLORENCE BOARD OF ADJUSTMENT

January 5, 1998

Page Three

Changes from one nonconforming use to another is governed by KRS 100.253(2) which provides in applicable part as stated above:

The Board of Adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the Board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification.

A change from storing bricks to storing logs was permissible even though the logs were stacked eight feet higher, since the storage of logs was not "materially" different and did not obstruct the view of impede the flow of air. Franklin Planning & Zoning Comm'n v. Simpson County Lumber Co., 394 S.W.2d 593 (Ky. 1965).

The phrase "more restrictive classification" in KRS 100.253(2) was held to be synonymous with "less objectionable" or "less obnoxious" so that the change from a plumbing business to a screw company was a change to a less obnoxious use and was therefore, a permissible change. Smith v. Howard, 407 S.W.2d 139 (Ky. 1966).

Prewitt v. Johnson, 710 S.W.2d 238 (Ky. Ct.App. 1986), held that a change from a legally nonconforming automobile service station to an automobile sales business was permissible because both uses are listed in the same zoning classification, as required by KRS 100.253(2). In Prewitt, Id., the Kentucky Court of Appeals held unequivocally that a property owner may change from one nonconforming use to a different use as long as the second use is in the same, or more restrictive, zoning category in the zoning ordinance as the first use. Also in Prewitt, the Court explained that the nonconforming use to which the property owner is changing is not required to be incidental to or related to the original nonconforming use under the zoning statute: the statute only requires that the second use be in the same or more restrictive zoning category.

It is undisputed, and is common knowledge in the City of Florence, that Hugh's Oyster House has operated its commercial premises and parking lot within the 50' strip that was mistakenly rezoned as SR-2 continuously and uninterruptedly to this date.

It is also a fact that the proposed use of a pharmacy is a permitted use within C-2 and that Hugh's Oyster House is a permitted use as a restaurant within C-2. Thus, it is clear that the new nonconforming use is in the same zoning classification as the existing nonconforming use.

In the recent case of Board of Adjustments, Bourbon County v. Brown, (96-CA-001913-MR), 45 K.L.S. 7 at p. 3, the Kentucky Court of Appeals reiterated that the increase in activity as well as enclosing additional and previously unenclosed space in a protected preexisting nonconforming

## **FLORENCE BOARD OF ADJUSTMENT**

January 5, 1998

Page Four

use was a matter of right when the activity and space was in the same or less restrictive zoning classification as the preexisting nonconforming use.

In Dempsey v. Newport Bd. Of Adjustments, Ky. App., 941 S.W.2d 483 (1997) the Kentucky Court of Appeals held that, "A [preexisting] nonconforming use constitutes a legitimate, vested property right and enjoys broad constitutional protection."

In Applicant's situation, the proposed pharmacy actually encompasses less space on the Hugh's Oyster House lot than the Hugh's Oyster House building presently embodies. The development plan encompasses the conforming use of a C-2 zone of the vacant Florence Drive-In lot which is available for far more intense uses with far greater impact on the surrounding neighborhood as permitted uses than the CVS Pharmacy as is proposed.

The criteria for granting a variance appears in Section 251 of the Florence Zoning Ordinance which is as follows:

### **Section 251**

#### **Application and Standards for Variances**

A Variance from the terms of this order shall not be granted by the Board of Adjustment and Zoning Appeals unless and until a written and signed application for a Variance is submitted to the Zoning Administrator and the Board of Adjustment and Zoning Appeals, along with any additional information the Board may find appropriate.

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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
  - 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 of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

## FLORENCE BOARD OF ADJUSTMENT

January 5, 1998

Page Five

2. The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulations by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

Criteria 1. is met in that the pharmacy certainly will not alter the essential character of the neighborhood because it is a sedate pharmacy replacing a lively bar and restaurant. The site is surrounded on three of four sides by intense commercial development, including a florist, a McDonald's restaurant, a major post office, a YMCA recreational center, a church, and property zoned C-2 which allows approximately 140 permitted commercial uses.

Criteria a) is met in that the requirements of a modern pharmacy with a drive-through window and the parking ratios required in the Zoning Ordinance only accommodate the footprint of the building and the site as proposed on the development plan which necessitates decreasing the rear lot setback line in accordance with the plan. It is also noted that a curb cut on Dixie Highway is eliminated. In addition, the orientation of the building is in a far safer location than the present Hugh's Oyster House structure in that it is set farther back from Dixie Highway and Rose Avenue than the existing structure, affording significant enhancement of visibility, pedestrian safety, and aesthetic improvement.

Criteria b) is met in that the strict application of the provisions of the regulations would deprive the Applicant of the reasonable use of the lot and would create an unnecessary hardship on the Applicant in that the building cannot be oriented in a safe, functional or aesthetically pleasing manner other than its proposed footprint on this odd "boot shaped" lot. The strict application of the zoning ordinance rear setback is unfair in that the 50' wide strip of subject property was mistakenly rezoned from C-2 to SR-2 by administrative error to begin with.

Criteria c) is met in that the circumstances presented are not the result of any actions of the Applicant taken subsequent to the adoption of the zoning regulations from which relief is sought. In other words, the Applicant did not create the circumstances upon which it now seeks relief.

The reduction in the rear setback line is more than offset by the measures to be taken by the development plan to protect existing residential to the rear of the development. Substantial landscaping and buffering would occur along with the proposed privacy fence as indicated on the "preliminary landscaping plan." As is indicated by the plan, there is no activity, nor access between the rear of the residential lot and the rear of the pharmacy building, whereas under present circumstances, parking and outdoor dining, drinking and music occur within this area. The proposed plan, with the requested variance, provides significant additional buffering and protection to the adjacent neighbor.

**FLORENCE BOARD OF ADJUSTMENT**

January 5, 1998

Page Six

Accordingly, the application for change in nonconforming use and rear setback variance should be approved on condition development will occur in conformity with the submitted development and landscape plans.

Very truly yours,

ADAMS, BROOKING, STEPNER,  
WOLTERMANN & DUSING



GERALD F. DUSING  
Attorney for Applicant

GFD:vam

Cc: **Via Fax No. 371-9872**  
Hon. Dale T. Wilson  
ROUSE, SKEES, WILSON & DILLON

#13469

COPY

CLUR # 99-FBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Hugh & JoAnn Imfeld  
20 LaCresta Dr.  
Florence, KY 41042

2. ADDRESS OF PROPERTY

6801 Dixie Highway  
Florence, Kentucky

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

CVS Pharmacy

DEED BK.: 223/43

PAGE NO.: 572/96

GROUP NO.: 2043A

4. 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

5. 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

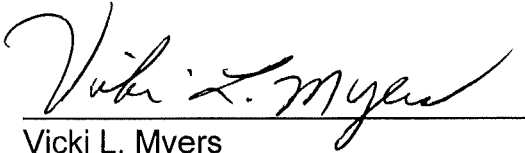
Kevin T. Wall, AICP/CDT, Director of Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Kevin T. Wall behalf of the

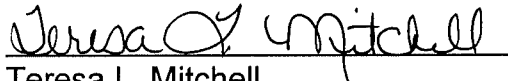
Boone County Planning Commission this 3rd day of March 1999.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell  
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 Variance approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of February 10, 1999 Certificate of Land Use Restriction (# 99 FBOA-001-A), for Hugh and JoAnn Imfeld, Property Owners.

The following conditions will apply: 1). That the driveway is moved at least thirty feet to line up with the florist, (2). The lights face inward. (3) There will be a privacy fence along the entire Vasser property line at the rear, (4) The landscaping will be as shown in the Landscaping Plan of the Boone County Zoning Regulations Boone and will be maintained

The approved Variance as well as the preceding conditions apply to the property described in: DEED BOOK 223/43 PAGE NO. 572/96 Group No. 2043A