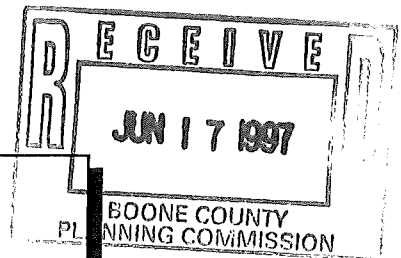


APPLICATION FORM



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 [checked] Walton Union
2. (Check One) [checked] Conditional Use Permit Variance Appeal
3. Applicant's Name ST. JOSEPH ACADEMY (SR. PATRICIA JEAN, S.J.W.)
Phone Number (606) 485-6444 Fax No. (606) 485-9302
Applicant's Address 48 NEEDMORE WALTON KY 41094
4. Description of Request: build two classrooms in the lower middle section of St. Waller's building
5. Name of Development WALLER HALL
6. Location of Development 1 BEATRICE AVE.
7. Acreage Under Review 1 acre
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property DR. WILLIAM WALLER
Phone Number of Owner (606) 485-4116
10. Address of Property Owner VERONA KY 41092
11. Proposed Use(s) on Site two classrooms
12. Total Square Footage of Existing and/or Proposed Buildings 1728 sq. ft.
13. Current Zoning on Property O-2 zone
14. Deed Book 285/420 Page No. 160/183 Group No.
15. Is the site subject to a zone change?
If yes, give date of approval
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: Sister Patricia Jean Cushing, S.J.W.

Property Owner's Signature: Walt & Waller +s.

BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2

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

B18'00 R# 13890

1. Date Received June 17, 1999 / 6/20/97 Fee Received 702.00 R# ~~468~~ 13848
2. Is application complete? Yes No
3. Staff Reviewer [Signature] ED CHEMAN
4. Scheduled Board Action Date 7/2/97
5. Board Action:  
 Approved  
 Approved with Conditions (See #6)  
 Denial (See #7)
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_
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

**DEVELOPMENT:** Saint Joseph Academy/Waller Hall

**APPLICANT:** Sister Patricia Jean Cushing

**LOCATION:** 1 Beatrice Avenue, Walton, Kentucky

**ZONING:** Office Two (O-2)

**DATE:** July 9, 1997

### Proposal

The applicant is requesting a Conditional Use Permit to use the basement level of an existing office building for elementary school classrooms. The building, Waller Hall, is located at 1 Beatrice Avenue, Walton, Kentucky. The basement level space would be divided into two classrooms that would be used for regularly scheduled elementary school classes. The property is zoned Office Two (O-2). A letter was written and mailed on the 10th of June to Sister Patricia Jean Cushing from Kevin Wall, Director of Zoning Services, with his interpretation of the stated and implied requirements of an Office Two (O-2) zoning district and his determination that the proposed elementary school classrooms are permitted as a Conditional Use in this district. A copy of this letter is included in this report.

### Article 2

Article 2, Section 220 of the Boone County Zoning Regulations, states that the Board of Adjustments and Zoning Appeals shall have the authority to grant Conditional Use Permits and may prescribe appropriate conditions and safeguards as part of the terms under which a Conditional Use Permit is granted.

Article 2, Section 262 of the Boone County Zoning Regulations, outlines the general standards applicable to all Conditional Uses. The Board should consider whether or not, the intended use:

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 school; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately and such services;
5. Will create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
6. Will involve uses, activities, process, materials, equipment and conditions of operation that will not 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 the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

#### Article 11

Article 11, Section 1123 of the Boone County Zoning Regulations, permits Elementary School Classrooms as a Conditional Use in an Office Two (O-2) zoning district based on the Zoning Administrator's interpretation, provided the Board finds the following:

- a) The activity is provided primarily and obtains the bulk of its trade from the use and support of the public employed in the district; or
- b) the activity is of integral relation to the purposes of the district;
- c) 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 of the district; and
- d) provided the arrangement of uses, buildings or structures is mutually compatible with the organization of permitted accessory uses to be protected in the district.

#### Staff Concerns/Comments

1. This type of use generally has some sort of active outdoor play/recess area for children. No such play area has been indicated by the applicant. If a play area is proposed, it should be located on the south side of the building (Waller Hall), away from the single family residences on Needmore Street.

Conclusion

K.R.S. 100.237 gives the Walton Board of Adjustment and Zoning Appeals the authority to approve the applicant's request for a Conditional Use Permit to allow two elementary school classrooms in the basement of Waller Hall. It is Staff's opinion that the proposed Conditional Use Permit 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. It is also Staff's opinion that the use is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district.

Respectfully Submitted,

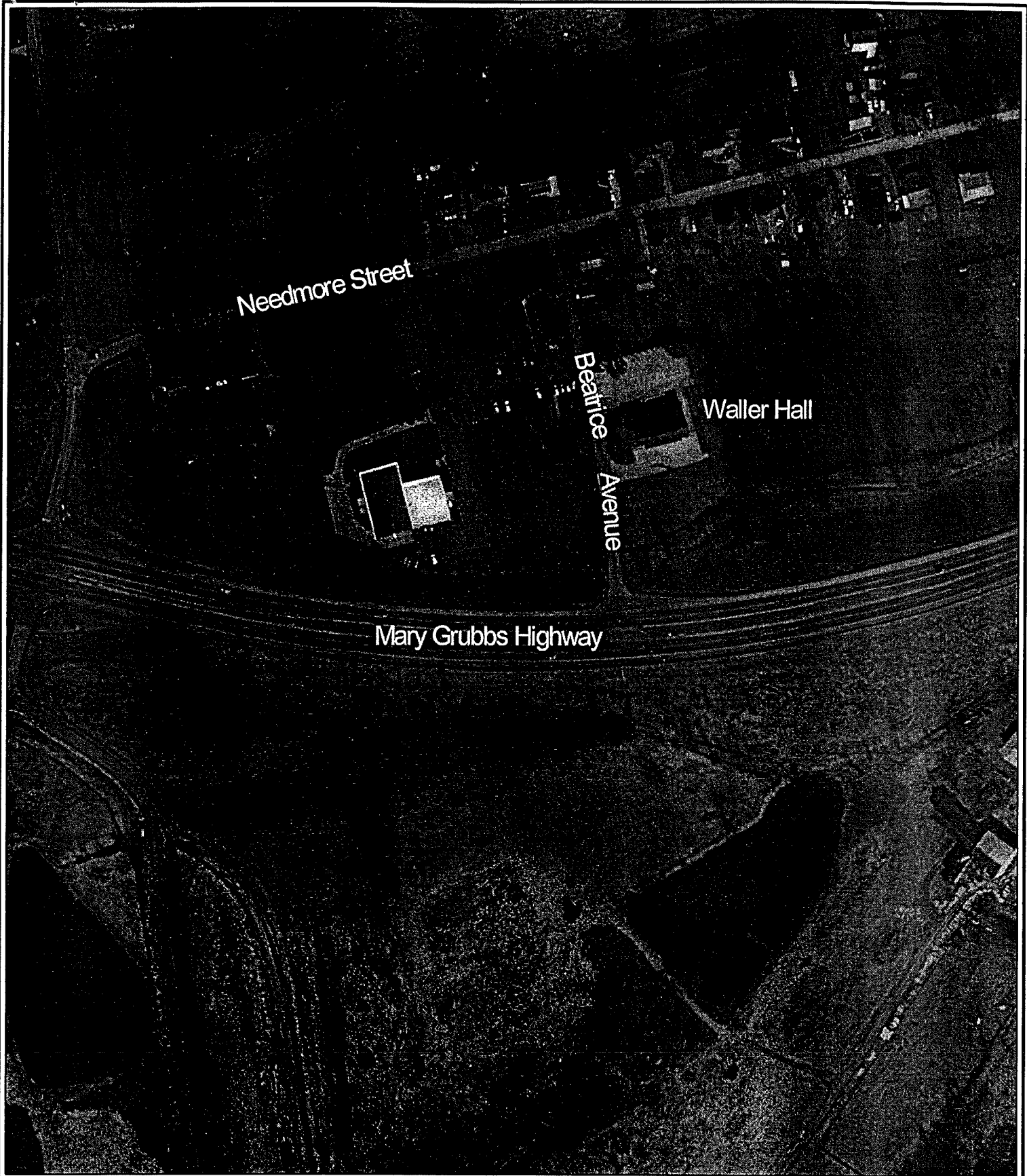


Edward Coleman  
Planner

EC\par

Attachments

- Location Map
- Zoning Administrator's Letter to the applicant
- Building Floor Plan
- Zoning Map



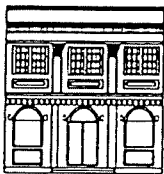
# Saint Joseph Academy

200 0 200 Feet

1 inch equals 200 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
July 2, 1997



# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005  
606-334-2196 FAX 606-334-2264

June 10, 1997

Sister Patricia Jean  
St. Joseph's Academy  
48 Needmore  
Walton, KY 41094

RE: Use of Office Space for Elementary School Classrooms - 1 Beatrice (Waller Office Building), Walton, Kentucky - Office Two (O-2) Zone

Dear Sister Patricia Jean:

In response to your inquiry, I am providing the following information as Zoning Administrator for the City of Walton.

First, it is my understanding that you wish to use the basement level of Dr. Waller's office building located at 1 Beatrice in Walton. This space would be divided into two classrooms which would be used for regularly scheduled elementary school classes.

Second, the location in question is located in an Office Two (O-2) zone. The regulations do not list elementary, primary, or secondary schools as either a Principally Permitted Use or a Conditional Use in the O-2 zone. However, the Boone County Zoning Regulations do identify two similar uses that are permitted in this zone. These include "business colleges or schools" which are permitted as a Principally Permitted Use and "child and adult care centers" which are permitted as a Conditional Use.

Third, Section 201 "Duties of Zoning Administrator" of the Zoning Regulations states that one of the roles of the Zoning Administrator is to (underlines added for emphasis): "determine the classification of a use of land, buildings or structures as a permitted (meaning "Principally Permitted"), accessory, or conditional use in a specific zoning district, as well as determine the applicability and substance of development performance standards, based on interpretation of the stated and implied requirements of the zoning regulations." Therefore, based on my interpretation of the stated and implied requirements of the O-2 zone requirements, it is my determination that the proposed elementary school classrooms are permitted as a Conditional Use in the O-2 zone due to the following reasons:

Sister Patricia Jean

June 10, 1997

Page 2

- A. As mentioned above, the zone allows business colleges or schools as a Principally Permitted Use and child and adult care centers as a Conditional Use. From a land use perspective, the proposed elementary school classrooms basically constitute a hybrid of both of these use categories, as the classroom use has an inherent child care aspect (like a day care center) and is educational in nature (like a business/technical college).
- B. Based on the two use categories mentioned above, I have determined that the use is most appropriately classified as a Conditional Use because the land use characteristics of elementary school classrooms (including how the use "behaves" relative to neighboring properties) most closely resemble that of a day care center versus a business or technical college/school (both have concentrated morning and afternoon peak hour traffic where business/technical schools have dispersed traffic over the course of a day; both uses tend to have active outdoor play areas or other active outdoor activities; the duration of use is fairly constant over the course of a day for both uses where business/technical schools tend to have fluctuations in the intensity of the use over the course of an average day; and , both uses involve the care of children which necessitates an environment conducive to active supervision whereas adult students are theoretically "self supervised").

Because the classroom use has been classified as a Conditional Use in the O-2 zone, a Conditional Use Permit (CUP) must be granted by the Board of Adjustment (BOA) through a Public Hearing process before the Planning Commission can grant zoning approval for a Building Permit to alter the space to accommodate the classroom use or before the use can be initiated. As we discussed previously, the basic purpose of the Conditional Use Permit process is to assure that a given use is appropriate for a specific location.

For the benefit of future inquiries that may use this letter for reference, I will note that this interpretation is predicated on the fact that your proposal includes only a few classrooms in the O-2 zone which would basically serve as an annex to an established school that is located within a Public Facilities (PF) zone (versus an entire elementary school complex or campus within the O-2 zone). Any proposal for an entire elementary school campus within the O-2 zone would need to be evaluated on its own merits.

I recommend that you schedule a "pre-application" meeting with Ed Coleman, a Planner in our office, regarding the Board of Adjustment process and the materials that must be submitted with a CUP application. Ed handles all Board of Adjustment requests. The submittal deadline for the July Board of Adjustment meeting is Wednesday, July 18, 1997. Please call me if you have any questions regarding the determination outlined above.

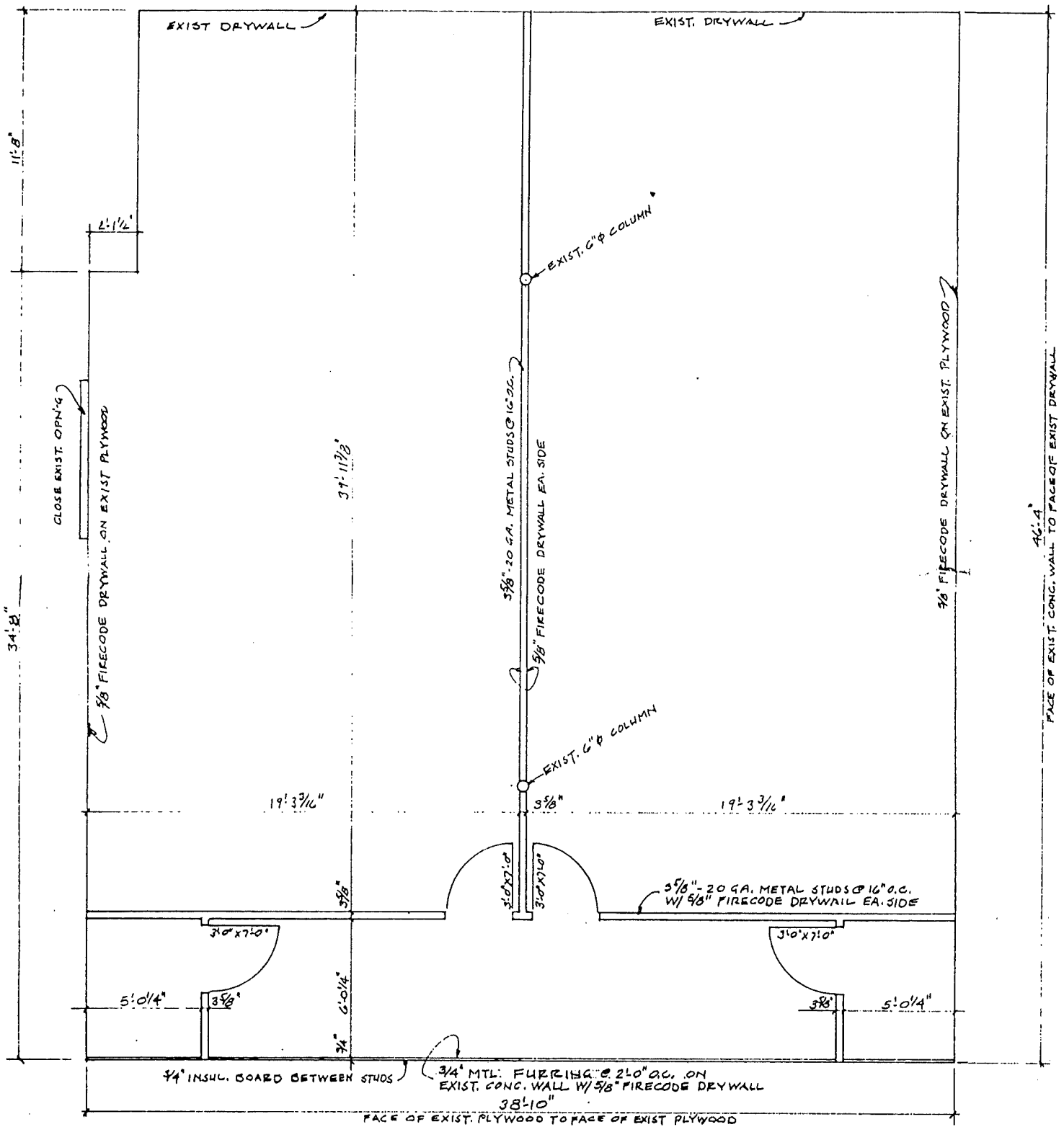
Sincerely,



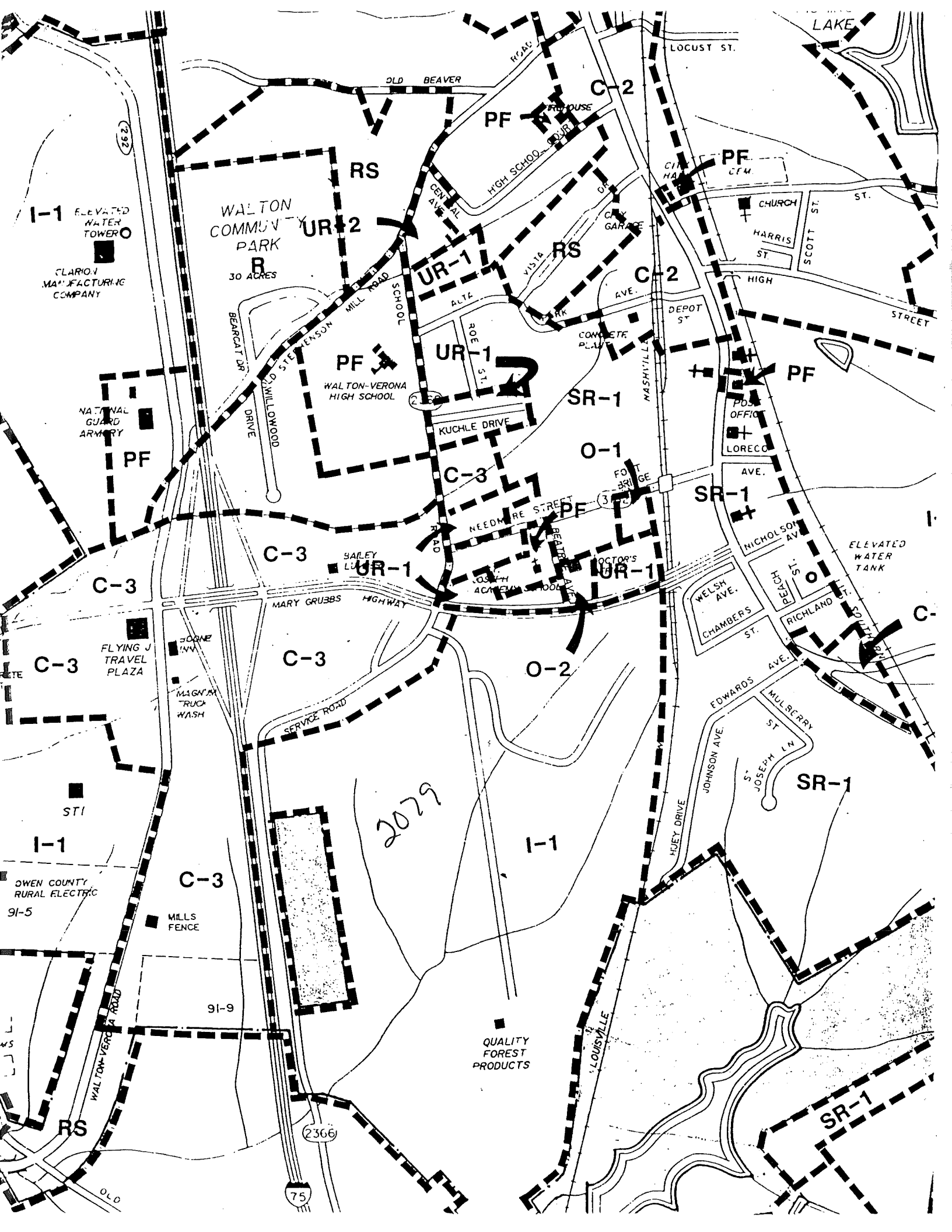
Kevin T. Wall, AICP CDT  
Director, Zoning Services

KTW/vlm

cc: Ed Coleman, Planner



FLOOR PLAN 1/4" = 1'-0"



I-1 ELEVATED WATER TOWER  
CLARION MANUFACTURING COMPANY

WALTON COMMUNITY PARK  
30 ACRES

WALTON-VERONA HIGH SCHOOL

NATIONAL GUARD ARMORY

FLYING J TRAVEL PLAZA

OWEN COUNTY RURAL ELECTRIC  
91-5

MILLS FENCE

QUALITY FOREST PRODUCTS

2079

ELEVATED WATER TANK

OLD

2366

91-9

I-1

SR-1

SR-1

I

I

I

I

I

COPY

CLUR # 97-WBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Dr. William Waller  
1 Beatrice Ave  
Walton, Kentucky 41094

2. ADDRESS OF PROPERTY

1 Beatrice Ave  
Walton, Kentucky

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

St. Joseph Academy

DEED BOOK: 295

PAGE NO.: 160

GROUP NO.: 2079

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

Zoning Map Amendment:  
From    to   

Conditional Use Permit

Development Plan

Conditional Zoning

Subdivision Plat  
(Unrecorded)

Other: Site Plan

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

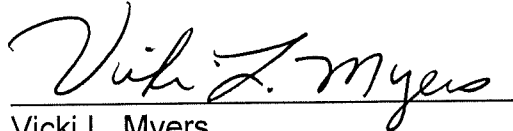
Edward Coleman, Planner

Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Edward Coleman, on behalf of  
the Boone County Planning Commission this 28th day of July 1997.

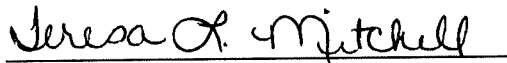


Vicki L. Myers  
NOTARY PUBLIC, State at Large

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 Conditional Use Permit approved by the Walton Board of Adjustments and in accordance with the current zoning in effect as of July 9, 1997 Certificate of Land Use Restriction (# 97-WBOA-001-A), for Dr. William Waller, Property Owners

The following conditions will apply: 1). No Conditions.

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

described in: DEED BOOK 295

PAGE NO. 160

Group No. 2079