

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED 70758 MAY 05 2015 15-0000A-003 BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [X] Florence [] Walton [] Union []
2. (Check One) Conditional Use Permit [] Variance [] Appeal []
3. Applicant's Name Kroger - Attn: Lisa Ammons
Applicant's Address P. O. Box 46234, 130 Tri-County Parkway, Suite #324
Cincinnati OH 45246
City State Zip
4. Description of Request: To increase the sign area allowed on the fuel canopy.
5. Name of Development Kroger Fuel Center
6. Location of Development South side of Patrick Drive at termination of McGrath Lane
7. Acreage Under Review 1.199
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property Burlington Retail Center LLC
Address of Property Owner 45 Fairfield Avenue
10. City BELLEVUE KY 41073
City State Zip
Phone Number 859-292-8040 Fax No. E-Mail
11. Proposed Use(s) on Site Fuel Center
12. Total Square Footage of Existing and/or Proposed Buildings Vacant/233 SF
13. Current Zoning on Property "C-4"/"PD"/"CD"
14. Deed Book 982 Page No. 827 Group No. 2031
15. Is the site subject to a zone change? YES - R-03-002-A
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.

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

ORIGINAL Applicant's Signature: Lisa M. Ammons, Real Estate Manager
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**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 5/5/15 Fee Received \$932⁰⁰ Receipt # 70758
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:

6/10/15 **Approved**
Approved with Conditions (See #6)
Denial (See #7)

6. Conditions of Approval: SEE 6/10/15 Meeting Minutes
AND CLR

7. Reasons for Denial: _____

15-BCBOA-003 n

**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: Lisa Ammons for Kroger

LOCATION: 1.199 Acre Site Immediately to the South of the Patrick Drive/McGrath Lane Intersection, Boone County, Kentucky

ZONING: Commercial Four/Planned Development (C-4/PD)

DATE: June 10, 2015

PROPOSAL

The applicant has submitted a Variance to increase the permitted signage on a proposed fuel center canopy. The request is to increase the permitted signage from 25% of the fascia area to 54.17% of the fascia area on the east and west faces of the fuel canopy.

The submitted sign drawings show that the east and west faces of the fuel canopy are 84 square feet in area (3'-6" x 24') and the proposed fuel signs are 45.5 square feet (3'-6" x 13') in area. As a result, the signs comprise 54.17% (45.5/84) of the east and west canopy faces.

APPLICABLE REGULATIONS

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 requests as they relate to the Variance criteria as listed 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.

Section 3413 (2) of the Boone County Zoning Regulations states that canopy (on gasoline and other completely detached canopies) mounted signage is permitted on no more than three (3) elevations of the canopy. The square footage allowed for canopy signs may not exceed 25% of the area of the fascia on which they are mounted and are figured within one rectangular sign area. The signs may not extend above or below the fascia of the canopy. A non-illuminated, two-dimensional horizontal stripe (paint, decal, etc.) consisting of a maximum of two (2) colors, including the background color, will be permitted on no more than three (3) elevations of the canopy and will not be counted as sign area. The signs may not extend above or below the fascia of the canopy.

Section 4000 of the Boone County Zoning Regulations defines a sign as a device designed to promote and identify an establishment or activity by any means including but not limited to words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

SITE CHARACTERISTICS

The 1.199 acre site is located immediately to the south of the Patrick Drive/McGrath Lane intersection and is currently wooded with mature deciduous trees. Overhead utilities exist along the parcel frontage and an underground oil pipeline runs through the western portion of the site. Boone County GIS shows that the topography of the site falls from 838' above sea level at the northwest property line to 822' above sea level at the southeast property line.

PERTINENT SITE HISTORY

On April 8, 2003, Boone County Fiscal Court approved a Zoning Map Amendment from Suburban Residential Two/Planned Development (SR-2/PD) to Commercial Four/Planned Development (C-4/PD) for the subject site. The conditions of approval list gasoline filling stations as a principally permitted use. Another condition indicates that a maximum 10' tall, 100 square monument sign is permitted on the lot.

SURROUNDING LAND USES AND ZONING

North: Patrick Drive, McGrath Lane, Burger King, Jet Clean Auto Wash, Donato's, Multi-Tenant Building with Chipotle (C-4/PD)

South: Approximate 14.61 Acre Site with Shoppes of Burlington and Kroger (C-4/PD)

East: Approximate 14.61 Acre Site with Shoppes of Burlington and Kroger (C-4/PD)

West: Approximate 14.61 Acre Site with Shoppes of Burlington and Kroger (C-4/PD)

STAFF COMMENTS

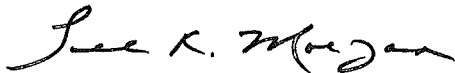
1. The applicant's team has provided a letter indicating why the Variance application should be approved. The letter indicates they are looking to reallocate their permitted signage. A total of 168.9 square feet of signage is permitted the north, east, and west faces of the fuel canopy and they are proposing a total of 136.5 square feet (45.5 square feet x 3) of signage.
2. The Site Plan application to construct the fuel center has been submitted and is currently being reviewed by Boone County Planning Commission. The Site Plan application shows that a 8' tall, 46.75 square foot monument sign will be constructed near the northeast property line and that a fuel price panel will be added to the revised Shoppes of Burlington freestanding sign.

3. The Board needs to analyze the Variance criteria before acting on the requests.
4. Staff recommends the following condition if the request is approved:
 - A. The signage on the fuel canopy shall be constructed as presented. Additional signage shall not be permitted on the canopy faces without Board of Adjustment approval.

CONCLUSION

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

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

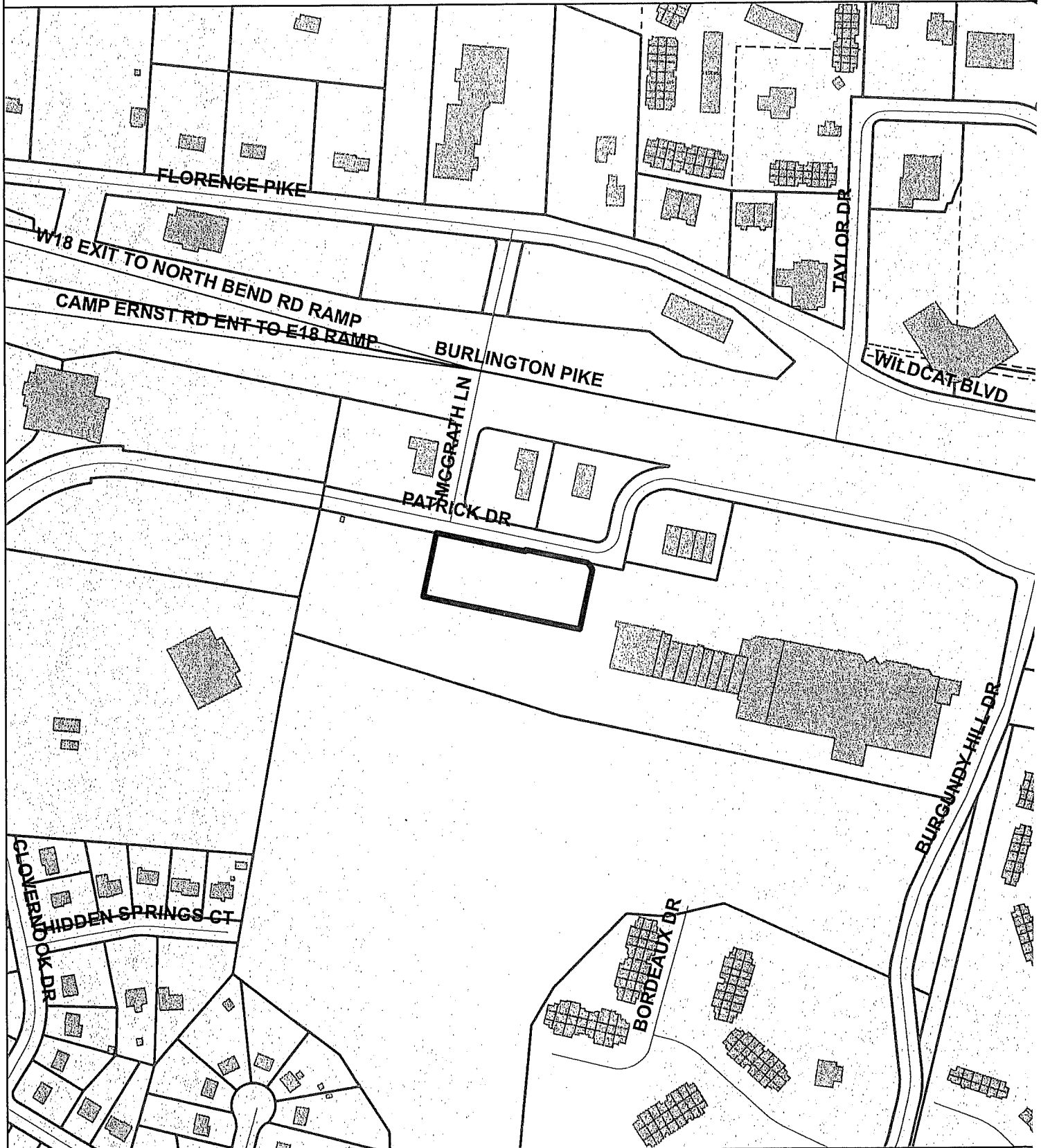
TKM/tlb

Attachments

- *Site Vicinity Map
- *Letter From Applicant
- *Submitted Site Plan
- *Gas Canopy Elevations With Proposed Signage
- *Zoning Map
- *Topographical Map
- *2012 Aerial Map
- *Application

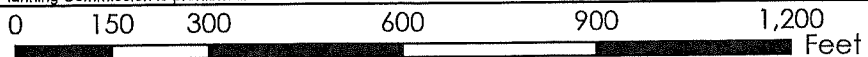
SITE VICINITY MAP

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 extends no warranty with respect to the accuracy or content of information provided by this map. This map should be used for general planning purposes only.



1 inch = 300 feet



Boone County GIS - Putting Northern Kentucky on the Map



**Kroger Fuel Center
Burlington, Kentucky**
Project Description and Justification Statement

Kroger has obtained an option to purchase 1.199 acres of vacant land on the south side of Patrick Drive at the terminus of McGrath Lane in unincorporated Boone County. Kroger would like to develop the property as a fuel center to complement their existing Burlington store to the east. The site is zoned "C-4"/"PD"/"CD" which permits fuel centers pursuant to Section 1041(6).

The fuel center development would include a 117.3 square foot kiosk, five fuel pumps which create 10 dispensing points covered by a 24 foot by 145 foot canopy. A total of six parking spaces will be created. The columns of the fuel canopy and the kiosk will be brick with the fuel center being done in earth tone colors.

Pursuant to Section 3413(2), the fuel canopy is entitled to signage on three elevations at an area not to exceed 25% of the canopy fascia. For the proposed Kroger fuel canopy, the following signage would be allowed:

West Elevation:	One sign	21.0 square feet
North Elevation:	One sign	126.9 square feet
East Elevation:	One sign	<u>21.0</u> square feet
Total Sign Area Permitted:		168.9 square feet

Kroger is requesting a variance to reconfigure the allowed sign area over the three elevations to provide for a total of only 136.5 square feet of sign area on the three sides as follows:

West Elevation:	One sign	45.5 square feet
North Elevation:	One sign	45.5 square feet
East Elevation:	One sign	<u>45.5</u> square feet
Total Sign Area Proposed:		136.5 square feet

Each elevation is proposed to have one 45.5 square foot sign that would identify the fuel prices, which is critical to the success of the fuel center.

With regards to the Standards for Variances, we would offer the following information:

1. The granting of the variance to reallocate the permitted sign area will not adversely affect the public health, safety, or welfare. In allowing the motoring public to be informed as to fuel pricing, it allows them to make informed decisions in advance of turning into the fuel center as opposed to last minute turn decisions.
2. As requested, the variance will not alter the character of the area. This area is zoned "C-4"/"PD"/"CD" and has been developed as a shopping center to the east, a car wash and fast food restaurants to the north, and the land to the west is vacant. Property to the south is vacant and signage is not proposed for that elevation of the fuel canopy. Signage

is permitted on three elevations of the canopy, however the reallocation of sign area for two elevations of the canopy will not be out of character with the auto-oriented commercial context of the existing area.

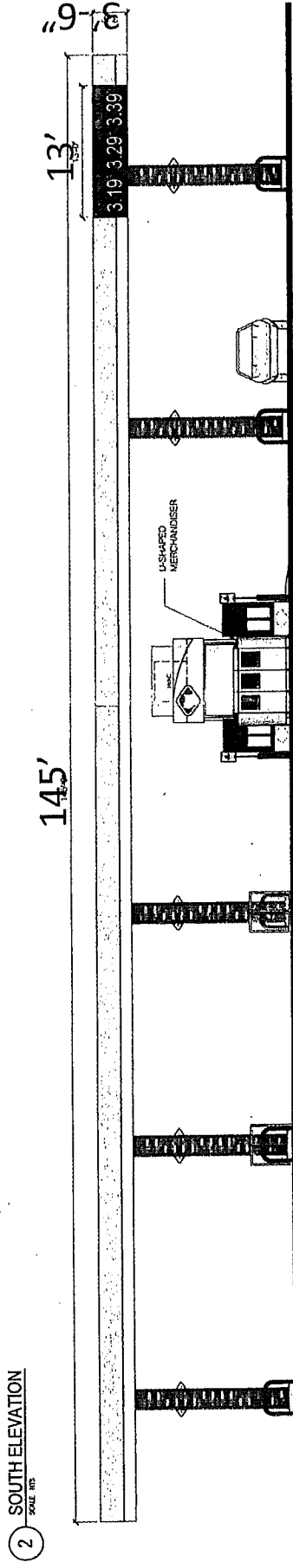
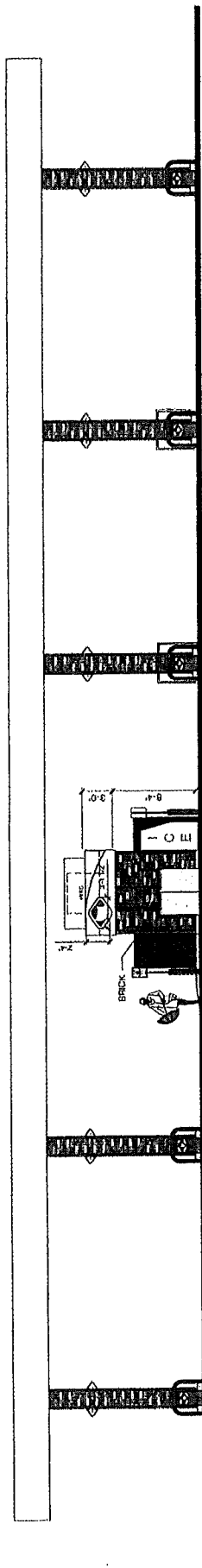
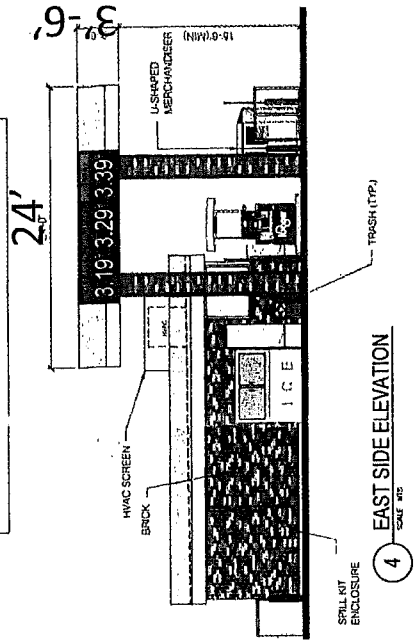
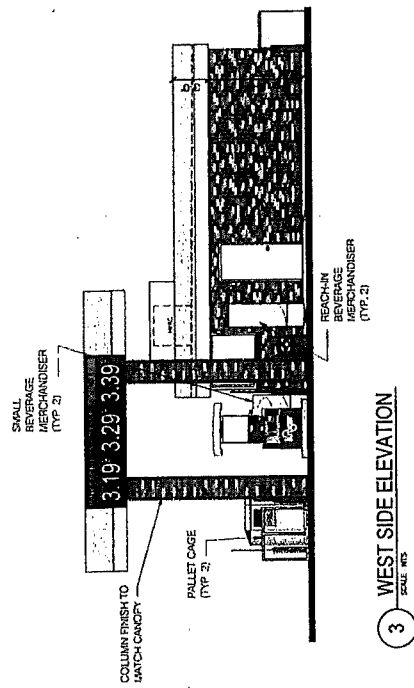
3. The variance and redistribution of permitted sign area will not cause a hazard or nuisance to the public but will, as noted, allow them to make advance decisions regarding fuel purchases.
4. If granted, the variance will not provide for the circumvention of the zoning regulations. Signage is permitted on three elevations totaling 168.9 square feet. Signage is proposed on three elevations totaling 136.5 square feet. Each elevation would have one sign per elevation as permitted.
5. The requested variance is a result of special circumstances that do not apply to other land in the area given the proposed use. The sale of fuel is largely determined by pricing so it is imperative that this information be provided to Kroger customers in a timely and efficient manner. The proposed site is challenged in that it is not located on KY 18, but rather is over 350' south of KY 18 with a car wash and fast food restaurants being located between the fuel center and KY 18. With traffic coming from the Kroger store to the east and from Patrick Drive and the reconfigured interchange of SR 237 to the west as well as KY 18, it is necessary to provide pricing information on three of the elevations to serve potential customers.
6. The strict application of the Zoning Resolution would not allow enough sign area on the east and west canopy elevations to provide fuel pricing information, which would be a hardship on Kroger.
7. The circumstances requiring the variance are not the result of actions taken by Kroger but rather are the result of the requirements of the proposed use and the location of the site.
8. No zoning violations have been incurred by the applicant from which relief is being sought.

The approval of the variance to reallocate permitted sign area would allow for a reduction in the total sign area on the site over what is permitted and is within keeping of the spirit and intent of the Zoning Resolution. Approval of the variance as requested is respectfully requested.

EAST AND WEST CANOPY FACES = 84 SQ. FEET
PERMITTED SIGN AREA = 21 SQ. FEET
PROPOSED SIGN AREA = 45.5 SQ. FEET

HEIGHT OF KIOSK: 11'-0"
KIOSK AREA: 21'-10-1/2" X 8'-1-1/2" = 233 SF
HEIGHT TO BOTTOM OF CANOPY: 15'-6" MIN
CANOPY AREA: 24'-0" X 145'-0" = 3,480 SF
HEIGHT OF FASCIA: 3'-6"

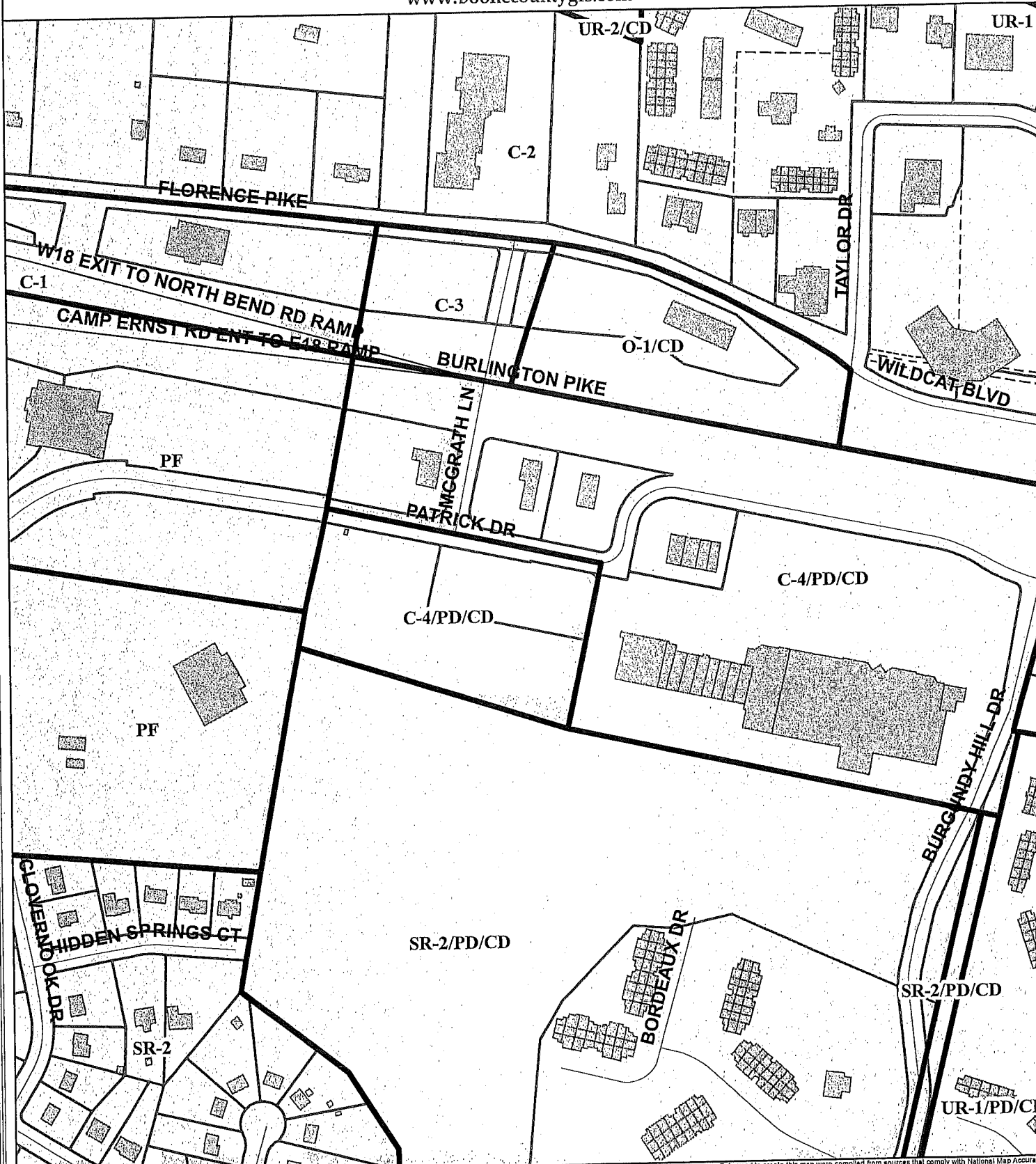
SIGNAGE SCHEDULE			
SIGN	QUANTITY	SIGN AREA (SF)	TOTAL AREA (SF)
319 329 339	3	45.5	136.50
ENCLOSURE LETTERS	2	2.0	4.00
CANOPY-FASCIA	2	0.17	0.34
KIOSK	2	4.6	9.2
Kruger	1	10.5	10.5
	TOTAL		160.54



1 NORTH ELEVATION NORTH CANOPY FACE = 507.5 SF; PERMITTED SIGN AREA = 126.88 SF; PROPOSED SIGN AREA = 45.5 SF

ZONING MAP

www.boonecountygis.com



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0 150 300 600 900 1,200 Feet

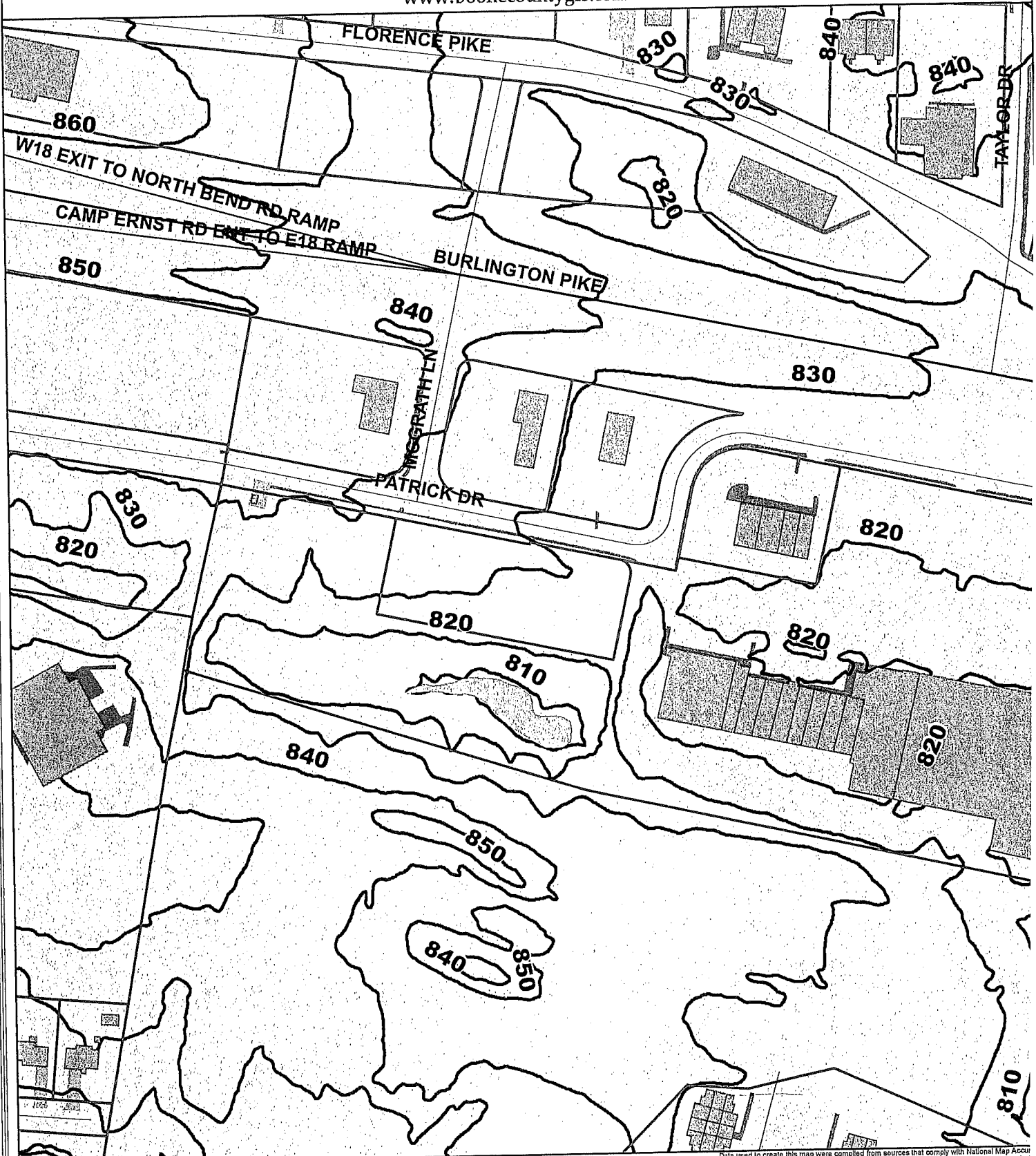
1 inch = 300 feet



Boone County GIS - Putting Northern Kentucky on the Map

TOPOGRAPHICAL MAP

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0 100 200 400 600 800 Feet

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Boone County GIS - Putting Northern Kentucky on the Map

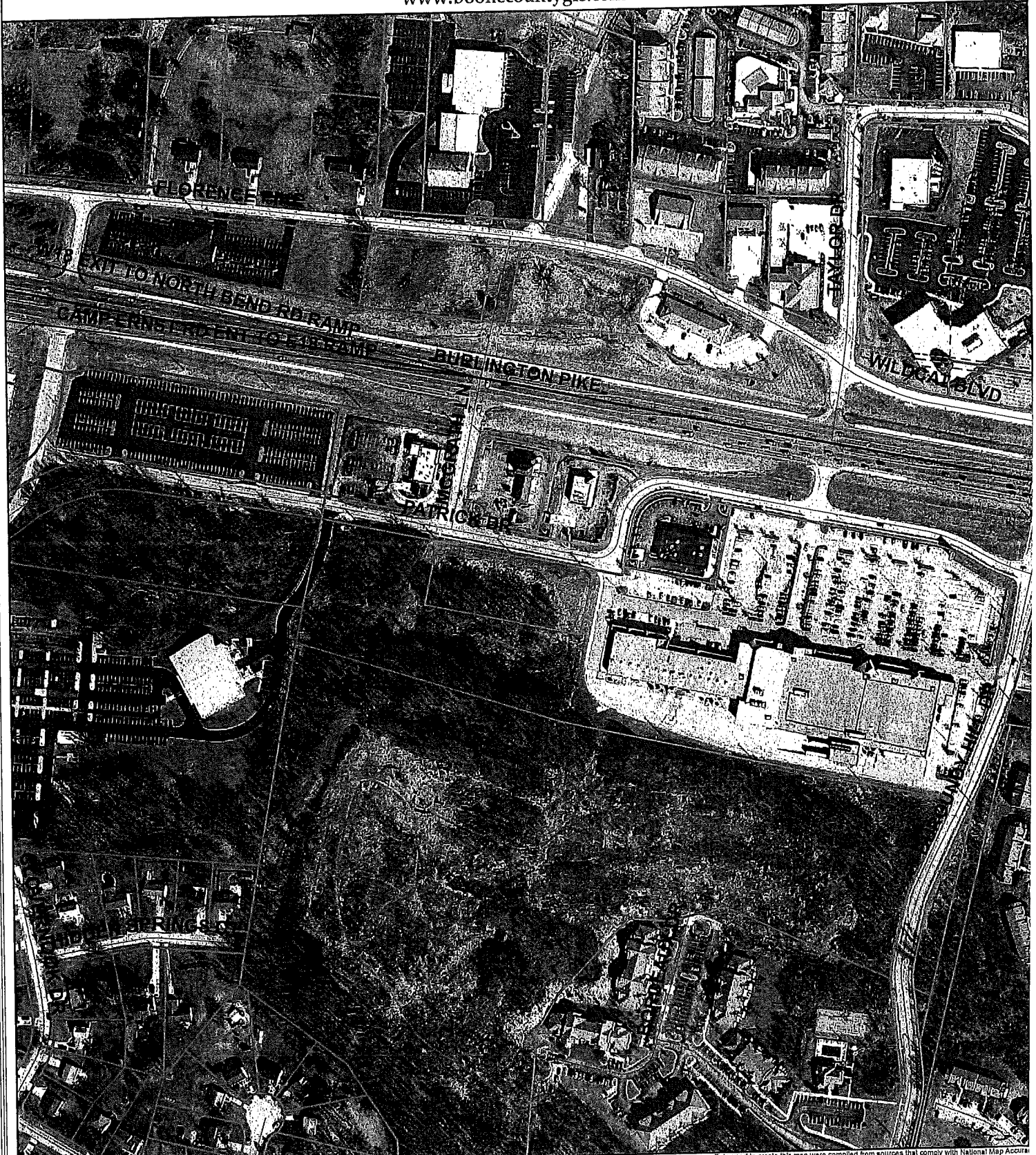


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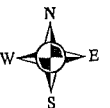
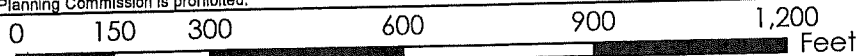
2012 AERIAL MAP

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Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 07/01/2013
ArcMap Document: BooneMap (1to) mxd

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED 70758 MAY 05 2015 BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) X Boone Florence Walton Union
2. (Check One) Conditional Use Permit X Variance Appeal
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14. Deed Book 982 Page No. 827 Group No. 2031
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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.

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

ORIGINAL Applicant's Signature: Lisa M. Ammons, Real Estate Manager (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CLUR #15-BCBOA-003-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Burlington Retail Center, LLC
45 Fairfield Avenue
Bellevue KY 41073
2. ADDRESS OF PROPERTY
Patrick Drive
Burlington, KY
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Kroger Fuel Center
4. DEED BOOK 982 PAGE NO. 827 GROUP NO. 2031
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
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005

Todd K. Morgan

SIGNATURE OF COMPLETING OFFICIAL

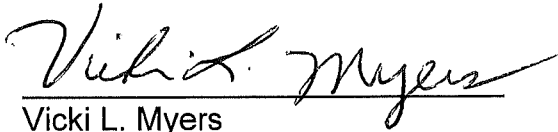
Todd K. Morgan, Senior Planner
Name and Title of Completing Official

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 18 day of June, 2015.



Vicki L. Myers

Notary ID 438411

NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 2019

This instrument was prepared for recording purposes only by:



Sara Smith

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 Condition of Approval applies to the variance approved by the Boone Board of Adjustment and in accordance with the current zoning in effect as of June 10, 2015 Certificate of Land Use Restriction (#15-BCBOA-003-A), for Burlington Retail Center, Property Owner(s).

The following condition will apply:

1. The signage on the fuel canopy shall be constructed as presented. Additional signage shall not be permitted on the canopy faces without Board of Adjustment approval.

The approved variance as well as the preceding condition apply to the property described in:

DEED BOOK 982

PAGE NO. 827

GROUP NO. 2031