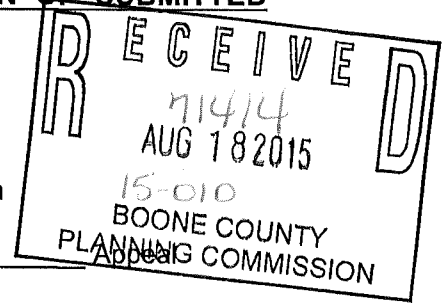


APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
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)

- (Check One)
1. Boone _____ Florence _____ Walton _____ Union _____
- (Check One)
2. _____ Conditional Use Permit _____ Variance _____
_____ Change in Non-Conforming Use _____
3. Applicant's Name Anne F. McBride, FAICP - McBride Dale Clarion
Applicant's Address 5725 Dragon Way, Suite 220
Cincinnati Ohio 45227
City State Zip
Phone Number 513-561-6232 Fax No. 513-561-1615 E-Mail amcbride@mcbridedale.com
4. Description of Request: A variance from Section 3645 to reduce the required buffer yard "A" from 10' to 5'.
5. Name of Development Kroger
6. Location of Development 9950 Berberich Drive 9950
7. Acreage Under Review 1.0+/- Acres
8. Lot Number and Name of Subdivision (if part of a subdivision)
Lot 8-A Mt. Zion Crossing
9. Owner of Property WD Florence Portfolio LP c/o Kroger
Address of Property Owner P. O. Box 46234
Cincinnati Ohio 45246
City State Zip
Phone Number 513-782-3424 Fax No. _____ E-Mail _____
11. Proposed Use(s) on Site To create a drive-thru pick-up window for the Kroger pharmacy and to add 50 parking spaces.
12. Total Square Footage of Existing and/or Proposed Buildings _____
13. Current Zoning on Property "C-4" Commercial Four District
14. Deed Book 1054 Page No. 229 Group No. 20498
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
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: Christy Gullig
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Ann McBride
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

SEE OTHER APP. FOR SIGNATURE

**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 8/18/15 Fee Received \$432⁰⁰ Receipt # 71414
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
9/9/15 **Approved**
_____ **Approved with Conditions** (See #6)
_____ **Denial** (See #7)
6. Conditions of Approval: None

7. Reasons for Denial: _____

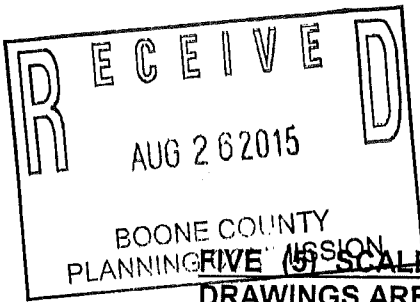
**Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
www.boonecountyky.org - Web Page**

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.

APPLICATION FORM



BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION 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)

- (Check One)
1. X Boone Florence Walton Union
2. Conditional Use Permit X Variance Appeal
3. Applicant's Name Anne F. McBride, FAICP - McBride Dale Clarion
Applicant's Address 5725 Dragon Way, Suite 220
Cincinnati Ohio 45227
City State Zip
Phone Number 513-561-6232 Fax No. 513-561-1615 E-Mail amcbride@mcbridedale.com
4. Description of Request: A variance from Section 3645 to reduce the required buffer yard "A" from 10' to 5'.
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6. Location of Development 9950 Berberich Drive 9950
7. Acreage Under Review 1.0+/- Acres
8. Lot Number and Name of Subdivision (if part of a subdivision)
Lot 8-A Mt. Zion Crossing
9. Owner of Property WD Florence Portfolio LP c/o Kroger
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14. Deed Book 1054 Page No. 229 Group No.
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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
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ORIGINAL Property Owner's Signature: [Signature]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

Have you met or received preliminary approval from any of the following organizations/agencies? (check the appropriate organizations/agencies and answer either yes, no, or n/a)

- Boone County Water District
- Florence Public Services Dept.
- Owen Cooperative Electric, Inc
- Kentucky Transportation Cabinet
- Northern Kentucky Health District
- Boone County Public Works Dept.
- USDA NRCS/Boone County Conservation District
- Cincinnati/N. KY International Airport
(KY Airport Zoning Commission for height restrictions near the airport)
- Other: _____
- Duke Energy
- Cincinnati Bell
- KY Division of Water
- Sanitation District #1
- Boone County Building Dept.
- Applicable Homeowners/
Property Owners Association

19. Are any of the improvements within a public street right-of-way or involve the extension of public utilities? _____ Yes No If yes, what are they?

- Driveway Apron
- Sidewalk
- Water Line
- Sanitary Sewer
- Storm Sewer

20. Site Plan Jurisdiction/Location

- Unincorporated Boone County
- Florence
- Walton
- Union

21. I, or we, understand and agree that all construction work will be performed in accordance with this application and the Boone County Zoning Regulations.

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

ORIGINAL Applicant's Signature _____
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

SECTION B (To be completed by BCPC Staff)

1. Date Received _____ Review Fee _____
2. Number of Copies of Plan Received _____ Is application complete? ___ Yes ___ No
3. Staff Reviewer _____
4. Staff Recommendation:
 - _____ **Approved** _____ **Date**
 - _____ **Approved With Conditions** (See #5)
 - _____ **Denied** (See #6) _____ **Resolution #** (if applicable)
5. Conditions: _____
6. Reasons for Denial: See letter dated- _____

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

STAFF REPORT

APPLICANT: Anne F. McBride for Kroger

LOCATION: 9950 Berberich Drive, Boone County, Kentucky

ZONING: Commercial Four (C-4)

DATE: September 9, 2015

PROPOSAL

The applicant has submitted a Variance so Kroger can construct a pharmacy drive through lane within a required landscaping buffer. The submitted plan shows the pharmacy drive through will be added on the north side of the building and the lane will be located as little as 5.7 feet from the northern property line. The proposal is to reduce the width of the required landscaping buffer from 10 feet in width (Buffer Yard A) to 5.7 feet in width.

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 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.

Buffer Yard Table 1 in the Boone County Zoning Regulations requires Buffer Yard A to be installed between a developing Commercial Four (C-4) use and adjoining Commercial Four (C-4) use.

Buffer Yard Table 2 in the Boone County Zoning Regulations indicates that Buffer Yard A shall be a minimum of 10' in width and contain the following plantings per 100 linear feet:

- 3 large, medium, or evergreen trees from Plant Lists A, B, or D or 5 small trees from Plant List C.
- 30 small shrubs from Plant List E or 15 large shrubs from Plant List C.

PERTINENT SITE HISTORY

On June 5, 2015, WD Florence Portfolio LP bought lot 8A of Mt. Zion Crossing Subdivision. Lot 8A is approximately 1 acre in area. The lot was purchased so Kroger could construct a pharmacy drive through and parking addition.

SITE CHARACTERISTICS

The overall site (lots 8 and 8A of Mt. Zion Crossing) is approximately 7.22 acres in area and contains a 61,644 square foot Kroger grocery store, fuel center, and 261 parking spaces. Access to the site is provided from Mt. Zion Road and Berberich Drive. Lot 8A is currently comprised of two grass areas, which are divided by a development driveway.

ADJOINING PROPERTIES AND ZONING

North: Middendorf Animal Hospital and Pediatrics Associates (C-4)

South: Mt. Zion Road, Greenlawn Mobile Home Park (MHP), and Multi-Tenant Building with Kroger Liquor Store and Great Clips (C-4)

East: Industrial Business Fronting on Sam Neace Blvd. and Mt. Zion Road (I-2)

West: Berberich Drive, La Fuente Mexican Restaurant, and Multi Tenant Building with Hot Head Burritos and La Rosa's (C-4)

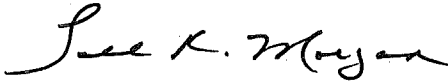
STAFF COMMENTS

1. The preliminary Site Plan shows that Kroger plans on constructing the pharmacy drive through and 48 parking stalls on lot 8A of Mt. Zion Crossing Subdivision. The 48 stall parking lot addition is not part of the request.
2. Staff has the following comments:
 - A. The applicant has provided a letter indicating why the Variance should be approved. The letter indicates the Variance is only being requested along an approximate 125 foot segment of the northern property line.
 - B. The number of landscape plantings shown in the 250 foot area between the loading dock and main driveway aisle exceed code.
 - C. Staff believes that denying the request would deprive the owner of the reasonable use of the land. The pharmacy drive through will not be able to be constructed if the 10' wide landscaping buffer is required.
 - D. Staff does not believe the essential character of the area will be altered if the request is approved.

CONCLUSION

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

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

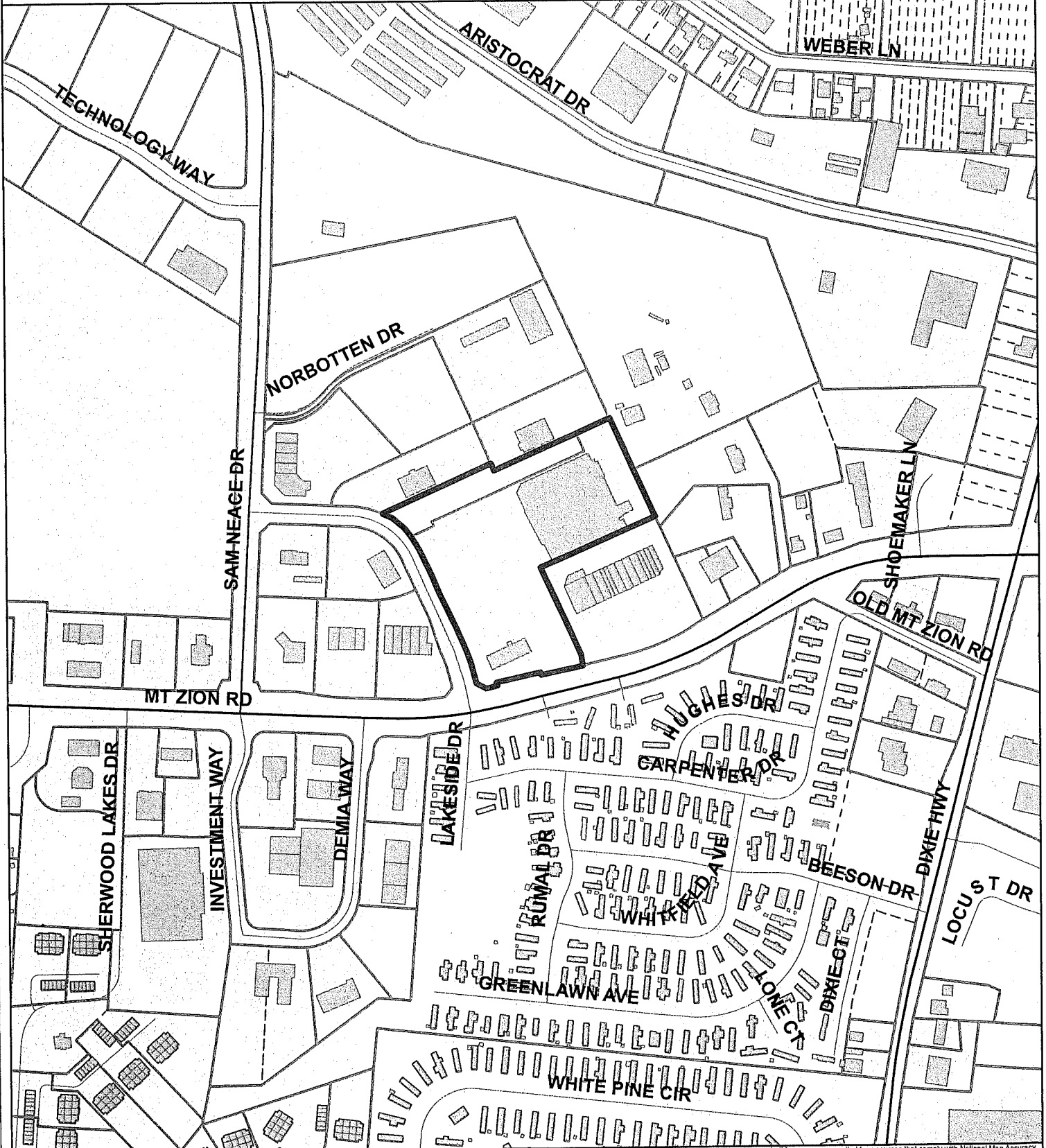
TKM/tlb

Attachments:

- *Site Vicinity Map
- *Preliminary Site Plan
- *Preliminary Landscaping Plan
- *Letter From Applicant
- *Zoning Map
- *Topographical Map
- *2013 Aerial
- *Application

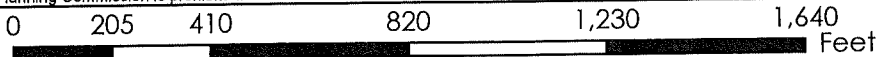
SITE VICINITY MAP

www.boonecountygis.com



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1 inch = 400 feet

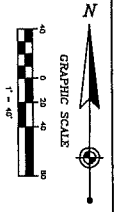
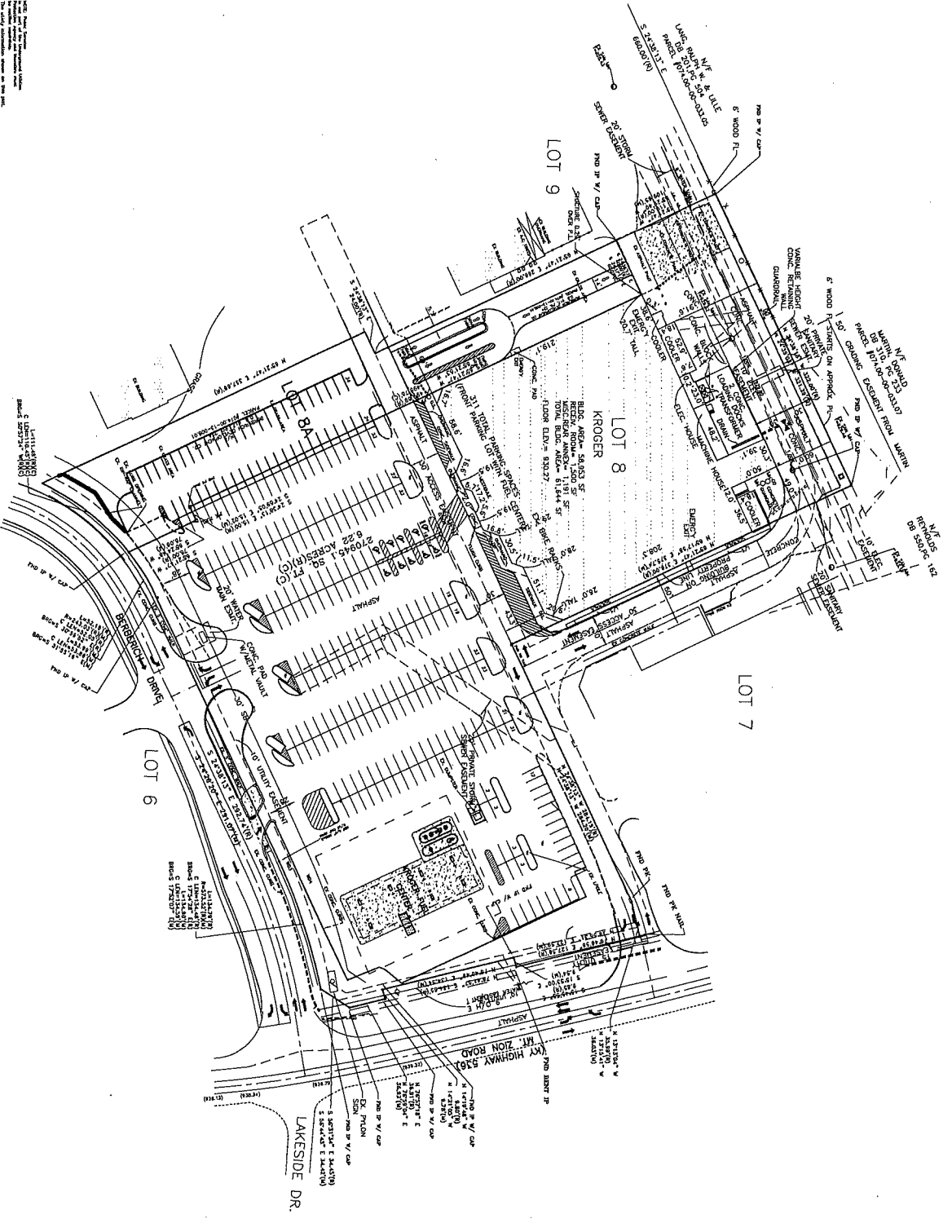
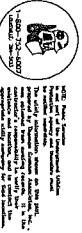


Boone County GIS - Putting Northern Kentucky on the Map



Map Created: 07/01/2013

ArcMap Document: BooneMap (Site).mxd



tga
THOMAS GRAHAM ASSOCIATES, INC.
 ENGINEERS

604 Georgetown Road
 513-521-4700 (local)
 Fax # 513-521-4249

Date: **April 12, 2015**

Scale: **1" = 40'**

Job No: **7879**

Revisions

No. Date

SITE PLAN

BOONE COUNTY, KENTUCKY

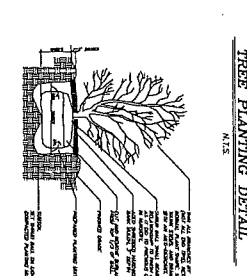
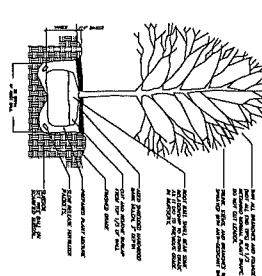
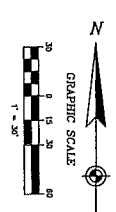
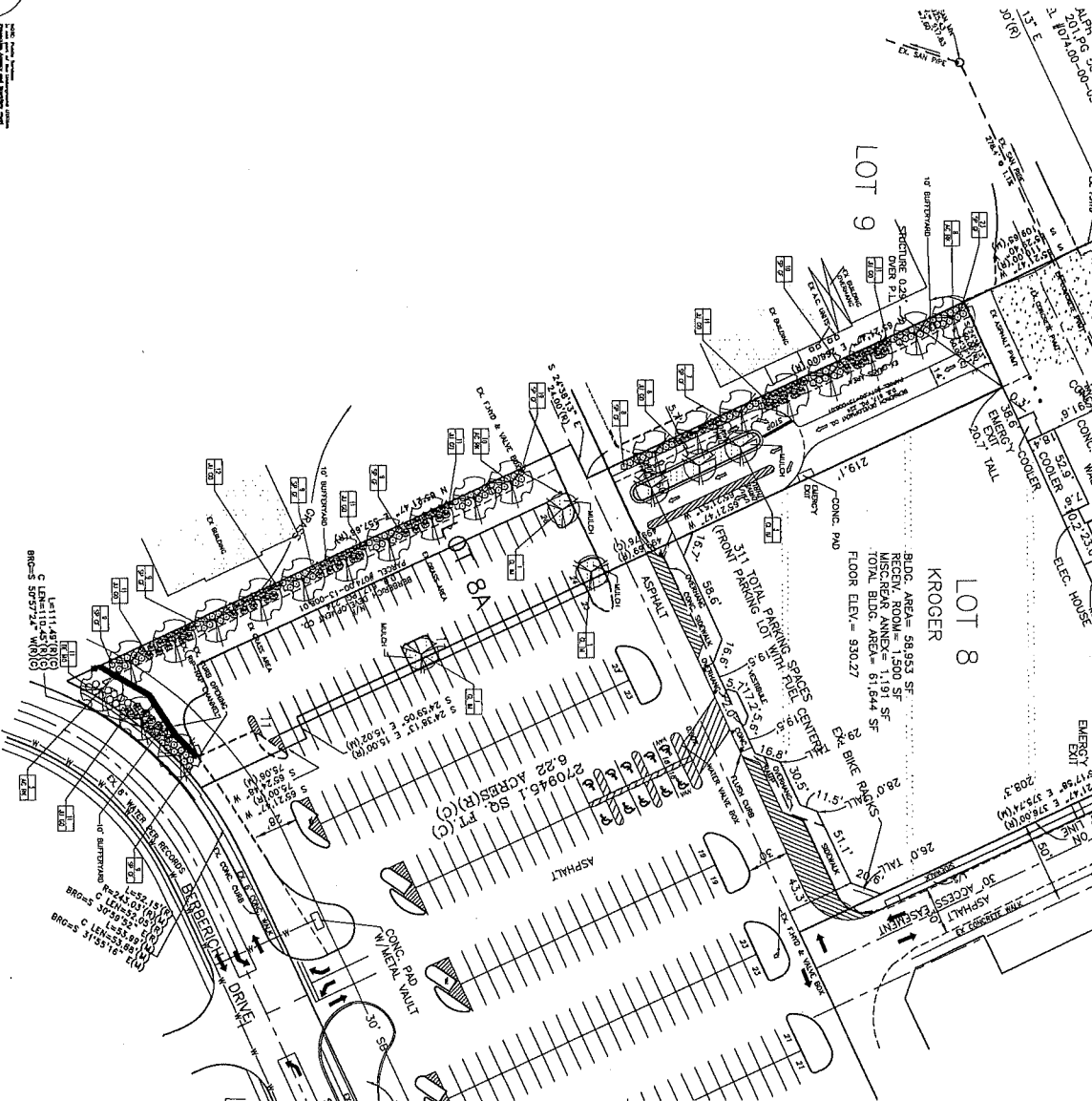
PROJECT: **364**
 SHEET: **1** OF **1**
 DRAWN BY: **E.L. HENDERSON**
 JOB NO: **7879-15**

ACAD FILENAME: 7879_F2015.dwg

Plant Schedule

Trees	Common Name	Botanical Name	Size	Qty.	Cont.	Remarks
AC BK	Kentucky Road Maple	Acer rubrum 'Koppeck'	2' cal.	6	BAB	Headed to 5'
GL IM	Impatiens Flower/foetal	Gaillardia tunicata	2' cal.	6	BAB	Headed to 5'

Shrubs	Common Name	Botanical Name	Size	Qty.	Cont.	Remarks
RS 1/2	Shrub	Barberry	2' H	11	BAB	
JL 1/2	Shrub	Juniperus virginiana	2' H	11	BAB	
SP 0/5	Shrub	Spiraea x Vanhouttei	3 gal	112	Cont.	



PLANTING NOTES

1. ALL PLANTING SHALL COMPLY WITH LOCAL AND JURISDICTIONAL REGULATIONS AND SPECIFICATIONS. ALL PLANT MATERIAL SHALL BE COMPANY WITH AND SUBSTITUTES AFTER APPROVAL OF CONTRACTOR. VERIFY THE THICKNESS OF SPREAD PLANT MATERIAL IS NOT MORE THAN 1/2\"/>
- 2. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF THE OWNER. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTING AND SHALL BE RESPONSIBLE FOR THE REPLACEMENT OF ANY PLANTING DAMAGED OR DESTROYED DURING THE COURSE OF THE PROJECT.
- 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTING AND SHALL BE RESPONSIBLE FOR THE REPLACEMENT OF ANY PLANTING DAMAGED OR DESTROYED DURING THE COURSE OF THE PROJECT.
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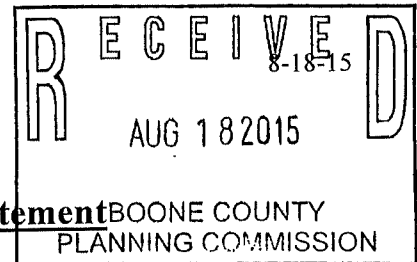
PRELIMINARY LANDSCAPE PLAN

BOONE COUNTY, KENTUCKY

JACOBS
 1880 WAYCROSS ROAD
 CINCINNATI, OHIO 45240
 PH 513-595-7915
 FAX 513-595-7939
 WWW.JACOBS.COM

Date:	AUG. 18, 2015
Scale:	1" = 30'
Job No.:	7829
Revision:	
No.:	104

PROJECT NO. 364
 SHEET NO. 1 OF 1
 DRAWN BY: JACOBSON



Kroger – 9940 Berberich Drive
Project Description and Justification Statement

In response to customer requests, Kroger would like to add a pharmacy drive-thru window to the north side of their existing 61,644 square foot store at 9940 Berberich Drive. The site is zoned “C-4” Commercial District which permits drive-thru operations pursuant to Section 1042(9). As with all Kroger pharmacy drive-thrus, only prescribed items can be obtained in the drive-thru which complies with all of the provisions for drive-thrus contained in Section 3155. Stacking for 8 cars is provided along with an escape lane. As part of the reinvestment in this store, 48 additional parking spaces are also going to be added to the site on the northwest portion of the property which meet all of the provisions of Section 3155.

To allow for the inclusion of the pharmacy drive-thru window, Kroger is requesting a variance from Section 3645 of the Zoning Code which requires a 10’ buffer yard between the access drive and the north property line. To accommodate the stacking lanes and an escape lane within the 60’ between the property and the existing building, it is only possible to provide a 5’7” buffer for approximately 125’ of the property line. All of the plant material required for the buffer area is provided.

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

1. The granting of the variance to reduce 125’ of the required 10’ buffer area to 5’7” will not adversely affect the public health, safety, or welfare. In allowing the buffer yard to be modified, Kroger will be able to safely provide a pharmacy pick-up window which is a significant convenience to older customers and those with small children especially in bad weather.
2. As requested, the variance will not alter the character of the area. This area is zoned “C-4” and has been developed for a variety of retail and office uses. The adjacent property to the north is a veterinarian office which has its dog run and HVAC equipment on the elevation facing Kroger. With all of the required plant material provided and the limited visibility of this 125’ of the buffer, the character of the area will not be altered.
3. The variance to reduce a portion of the width of the buffer will not cause a hazard or nuisance to the public but will, as noted, allow Kroger to provide adequate stacking and an escape lane.
4. If granted, the variance will not provide for the circumvention of the zoning regulations. The intent to create a visual landscape buffer between the two properties is being met in a reduced area due to the limited distance between the existing building and property line.
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 existing Kroger building is fixed at 60’ off the north property line. The stacking and drive lane dimensions are a fixed width of 10’ per Code. To create adequate lane separation, the 10’ landscape and the 5’ striped islands are necessary. This leaves only 5’7” for the 125’ section of the buffer yard.

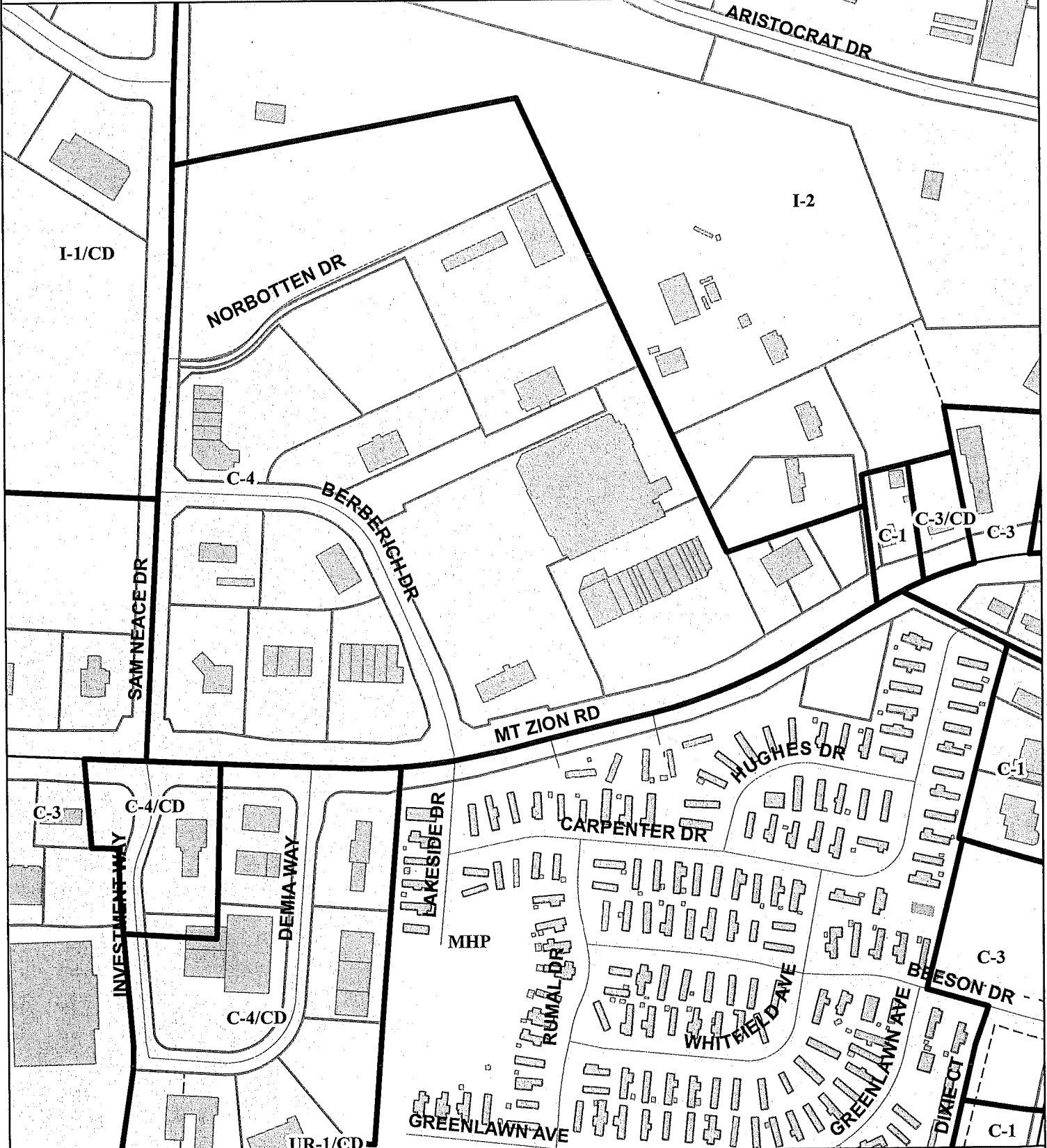


6. The strict application of the Zoning Resolution would not allow for the inclusion of the drive-thru with stacking and an escape lane, which would be a hardship on Kroger customers who have repeatedly requested this service.
7. The circumstances requiring the variance are not the result of actions taken by Kroger but rather are the result of the existing store location to the property line.
8. No zoning violations have been incurred by the applicant from which relief is being sought.

The approval of the variance to modify the required 10' buffer for approximately 125' on the north property line is within keeping of the spirit and intent of the Zoning Resolution. Approval of the variance as requested is respectfully requested.

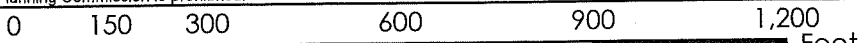
ZONING MAP

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1 inch = 300 feet



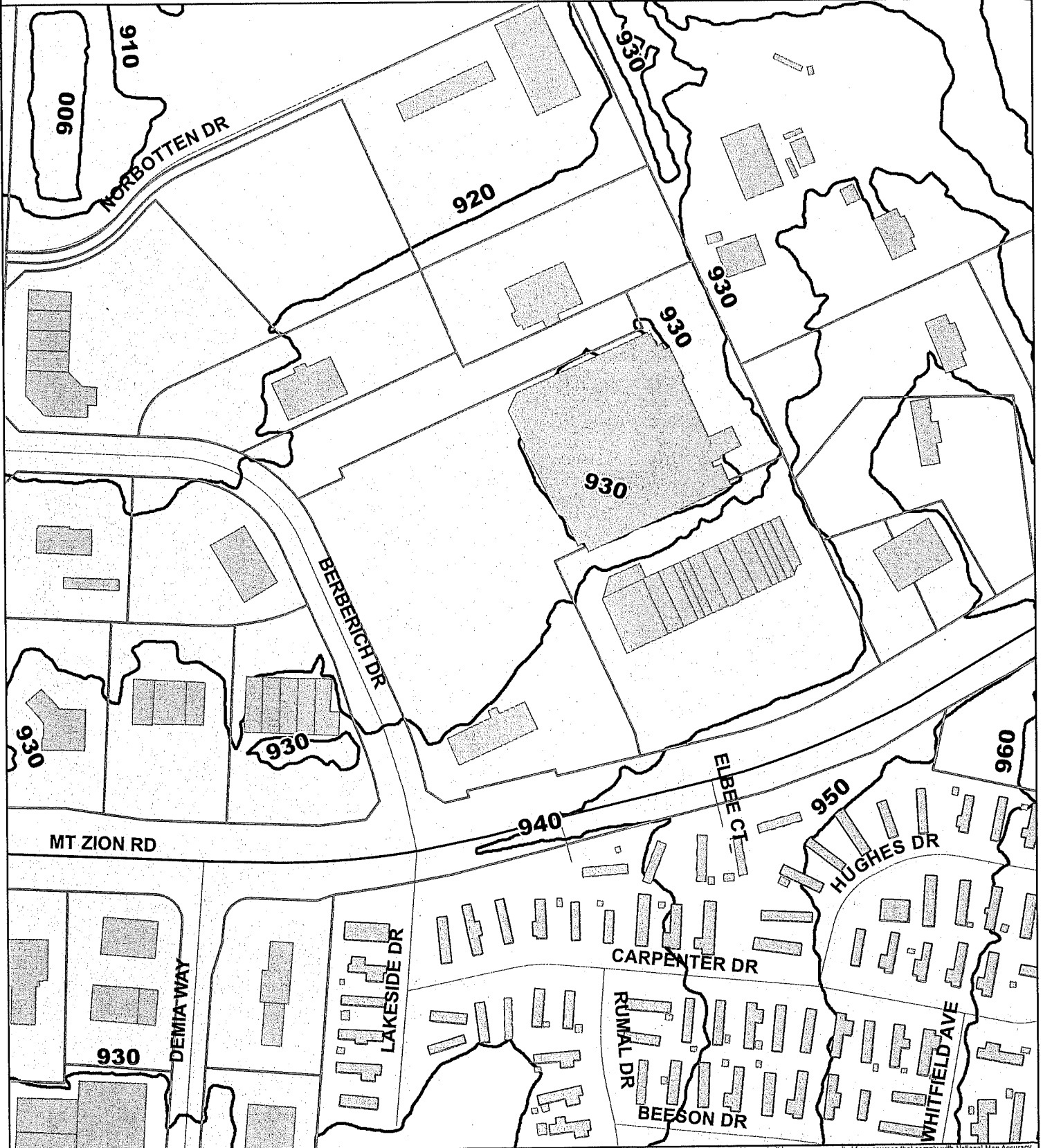
Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 07/01/2013

Boone County GIS - Putting Northern Kentucky on the Map
ArcMap Document, BooneMap (M).mxd

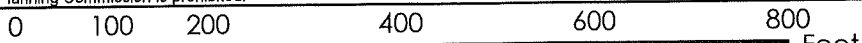
TOPOGRAPHICAL MAP

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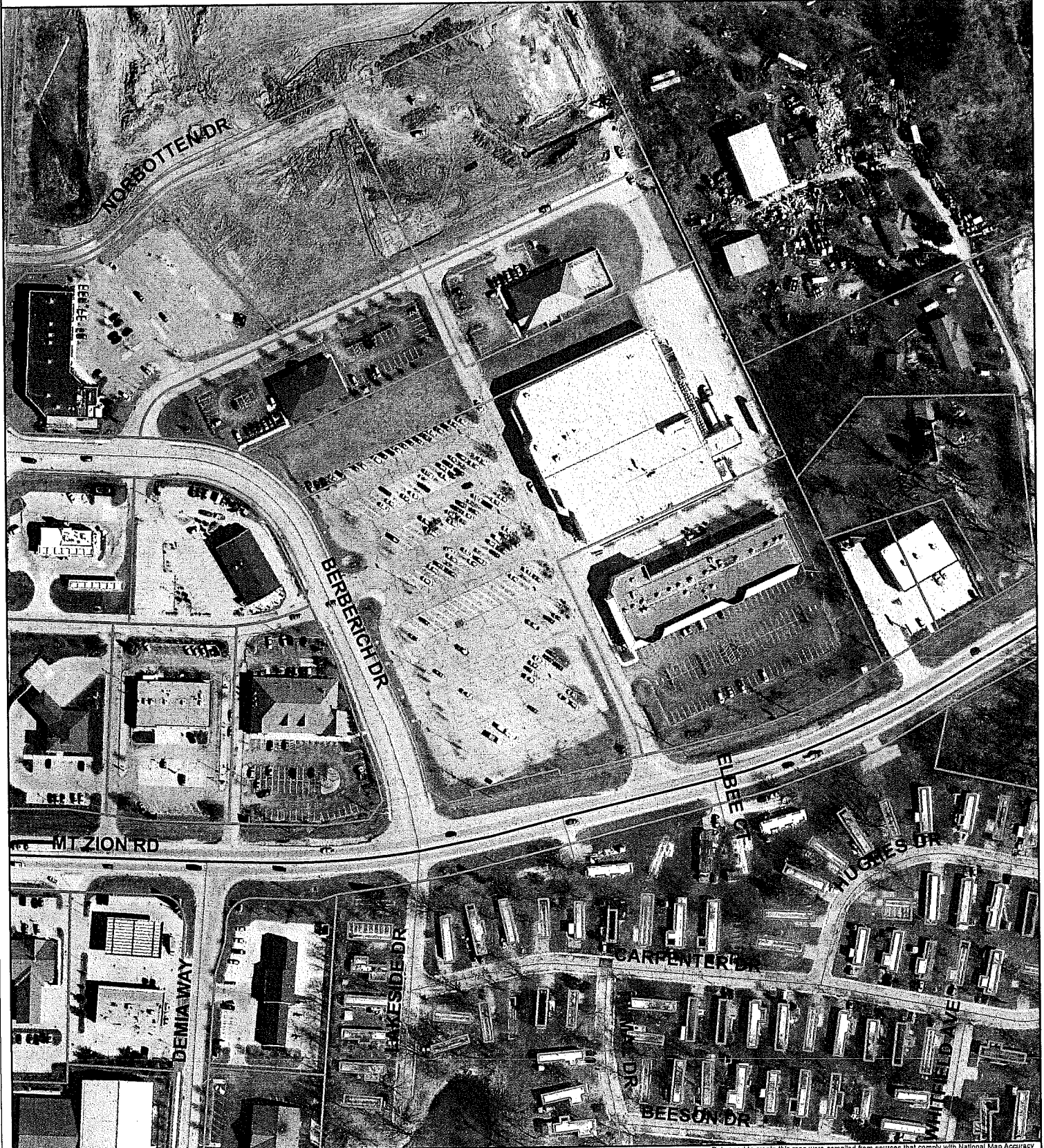
1 inch = 200 feet



Boone County GIS - Putting Northern Kentucky on the Map

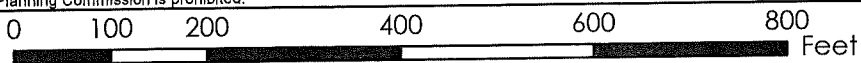
2013 AERIAL MAP

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1 inch = 200 feet



Boone County GIS - Putting Northern Kentucky on the Map



APPLICATION FORM

RECEIVED
AUG 26 2015
BOONE COUNTY
PLANNING COMMISSION

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
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)

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1. Boone _____ Florence _____ Walton _____ Union _____
- (Check One)
2. _____ Conditional Use Permit _____ Variance _____ Appeal _____
 _____ Change In Non-Conforming Use _____
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 Applicant's Address 5725 Dragon Way, Suite 220
Cincinnati _____ Ohio _____ 45227
 _____ City _____ State _____ Zip _____
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6. Location of Development ~~9940~~ Berberich Drive 9950
7. Acreage Under Review 1.0+/- Acres
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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: [Signature]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

WD Florence Portfolio
P.O. Box 46234
Cincinnati, OH 45246

2. ADDRESS OF PROPERTY

9950 Berberich Drive
Florence, KY

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Kroger

4. DEED BOOK 1054 PAGE NO. 229 GROUP NO. 2049B

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

Zoning Map Amendment:
From To

Conditional Use Permit

Development Plan

Conditional Zoning

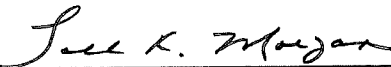
Subdivision Plat
(Not Recorded)

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

Todd K. Morgan, Senior Planner

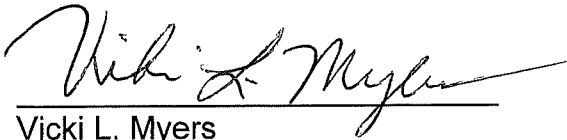
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan

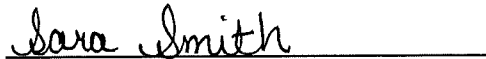
on behalf of the Boone County Planning Commission this 10 day of September, 2015.



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.)