

**BOARD OF ADJUSTMENT  
BOONE COUNTY PLANNING COMMISSION**

Five (5) scaled copies and one (1) 11 x 17 reduction of submitted drawings are required

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

**SECTION A: (To be completed by applicant)**

1. Check One  Boone  Florence  Walton  Union

2. Check One  Conditional Use Permit  Variance  Appeal  
 Change in Non-Conforming Use

3. Applicant: Joe and Sue Kate Berkshire

Address: 7414 U.S. Highway 42

Florence Kentucky 41042-1906  
City State Zip Code

Phone Number: 859 371 5653 Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

4. Description of Request:  
To allow for less frontage required in a SR-1 zone

5. Name of Development: Berkshire Farm

6. Location of Development: 2460 Preservation Way

Florence Kentucky 41042  
City State Zip Code

7. Acreage Under Review: 1.036 acres

8. Lot Number and Name of Subdivision (if part of a subdivision):  
N.A.

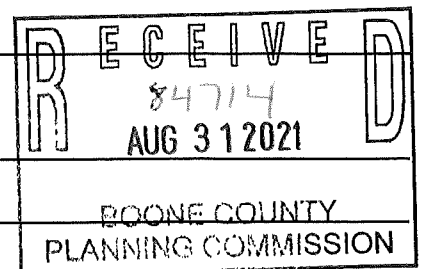
9. Current Owner: Joe and Sue Kate Berkshire

Address: 7414 U.S. Highway 42

Florence Kentucky \$1042  
City State Zip Code

Phone Number: 859 371 5653 Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_



10. Proposed Use(s) on Site: 1 single family house
11. Total Square Footage of Existing and/or Proposed Buildings: 4050 sq. ft.
12. Current Zoning: SR-1
13. 549 280 2038-A  
Deed Book Page Group Number
14. Is the site subject to a zone change:  Yes  No  
If yes, date of approval: \_\_\_\_\_
15. Have you submitted a Site Plan with this request:  Yes  No
16. Have you submitted a list of adjoining property owners with this request:  Yes  No
17. 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:** Joe B. Sabell  
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

**ORIGINAL Applicant's Signature:** Joe B. Sabell  
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

Adjoining property on the North, East and West Joe and Sue Kate Berkshire  
2460 Preservation Way, Florence, Ky. 41042

South  
Lot #338 Hearthstone Sub. Joseph A. and Kelly C. Wuellner  
2442 Preservation Way  
Florence, Ky. 41042

East  
The Dress Company Open space parcel G  
211 Grandview Drive Cabinet 5, slide 28  
Ft. Mitchell, Ky. 41017

**SECTION B:** (To be completed by Planning Commission staff)

1. Date Received: 8/31/21 Fee Received: \$666 Receipt #: 84714
2. Is application complete:
3. Staff Reviewer: M. Schwartz
4. Scheduled Board Action Date: 10/13/2021
5. Board Action: 10/13/2021  
 Approved  
 Approved with Conditions (see #6)  
 Denial (See #7)
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Reasons for Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Boone County Planning Commission  
Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, Kentucky 41005  
Phone: 859-334-2196 Fax: 859-334-2264  
[plancom@boonecountyky.org](mailto:plancom@boonecountyky.org)  
[www.boonecountyky.org](http://www.boonecountyky.org)

## STAFF REPORT

#1

APPLICANT: Joe and Sue Kate Berkshire

LOCATION: 2460 Preservation Way, Boone County, Kentucky (the terminus of Preservation Way)

ZONING: Suburban Residential One (SR-1)

DATE: October 13, 2021

### PROPOSAL

- A. The request is to reduce the minimum required frontage from sixty-five (65) to zero (0) feet in order to subdivide the property.

### SITE HISTORY

- 2012-  
2016 Based on information contained in the Boone County GIS, a house was built at the terminus of Preservation Way.
- 2014 On June 19, 2014, the Boone County Planning Commission approved a zoning permit for the construction of a house at the terminus of Preservation Way.

### APPLICABLE REGULATIONS

- A. Section 250 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to hear and decide on applications for variances.
- B. Section 250 of the Boone County Zoning Regulations defines a variance 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 KRS 100.241 to 100.247.
- C. 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. Findings listed in Section 251:
    - a. 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:
      - (1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

- (2) 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;
  - (3) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. 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.
- D. Section 3110 of the Boone County Zoning Regulations requires a minimum frontage of sixty-five (65) feet within the SR-1 district.
- E. Section 4000 of the Boone County Zoning Regulations defines lot frontage as the distance between the side property lines as measured across the required minimum front yard setback line.
- F. Section 3110 of the Boone County Zoning Regulations requires a minimum front yard setback of thirty (30) feet within the SR-1 district.
- G. Section 930 of the Boone County Zoning Regulations states that the “purpose of the Suburban Residential One district is to provide a low density, residential environment whose dwelling types and densities are typical of a suburban character. It is also to provide limited or passive and active recreational uses that are appropriate to the permitted uses in the district. Suburban Residential One districts will be located on lands within established urban areas where adequate infrastructure facilities and services are available or proposed.”

#### RELATIONSHIP TO THE COMPREHENSIVE PLAN

- A. The Our Boone County Plan 2040 Future Land Use Plan designates the site in question for “Rural Land”, which is defined as wooded, agricultural, recreational, or low density residential uses of up to one dwelling unit per two acres. Residential construction in Rural lands does not occur in a formal subdivision.
- B. The following Our Boone County Plan 2040 Goals and Objectives apply to this application:

Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community (Overall Goal A, Objective 4).

Development policies shall not discriminate against any person (Demographics Goal A, Objective 1).

Home ownership shall be encouraged and incentivized as well as redevelopment and renovation of deteriorating housing stock (Demographics Goal B, Objective 3).

Residential developments shall be evaluated for impact on infrastructure, environment, health and safety considerations, buffering, and design with secondary consideration given to dwelling unit type and density (Demographics Goal B, Objective 4).

- C. Preservation Way is a county maintained local street providing for two way traffic within a twenty-five (25) foot pavement width. Sidewalks are provided along both sides of the roadway.

SURROUNDING LAND USES AND ZONING

- North: Vacant/undeveloped/wooded/agricultural land (SR-1 and RS)
- South: Single family and HOA open space (SR-1)
- East: Vacant/undeveloped land (SR-1)
- West: Vacant/undeveloped land (SR-1)

SITE CHARACTERISTICS

- A. The site is part of a larger tract containing approximately 107 acres.
- B. The site is currently occupied by a single-family residential dwelling with an attached garage.
- C. A portion of the site is located within the 100-year floodplain.
- D. The site slopes downward from south to north at an average grade of approximately 25%.

PROPOSED DEVELOPMENT

- A. The property owner is proposing to subdivide the property to create a 1.004 acre lot containing the existing single-family residential dwelling.
- B. The proposed 1.004 acre lot will be located at the existing terminus of Preservation Way.
- C. The proposed lot will be adjacent to the existing right-of-way of Preservation Way at a point in the eastern right-of-way line.
- D. The proposal is to create a permanent easement at the existing terminus of Preservation Way to provide access from the proposed lot to Preservation Way.
- E. The proposed legal description of the proposed permanent easement includes the

statement that the easement shall become a public right-of-way if Preservation Way is ever extended.

STAFF COMMENTS

- A. If Preservation Way is extended, and the permanent easement becomes public right-of-way, the proposed 1.004 acre lot will have seventy-five (75) feet of frontage along Preservation Way, meeting the frontage requirement of the SR-1 district.
- B. The applicant should address why they are not dedicating the area defined as a permanent easement as an unimproved right-of-way. If that was done, the proposed 1.004 acre lot would have seventy-five (75) feet of frontage along the unimproved right-of-way, meeting the frontage requirement of the SR-1 district.

CONCLUSION

- A. KRS 100.241 and Section 220 of the Boone County Zoning Regulations give the Boone County Board of Adjustment and Zoning Appeals the authority to act on the request.
- B. Section 251 of the Boone County Zoning Regulations identifies criteria necessary for granting a Variance. The applicant needs to provide information as to how their application meets this criteria.

Respectfully submitted,



Michael D. Schwartz  
Planner

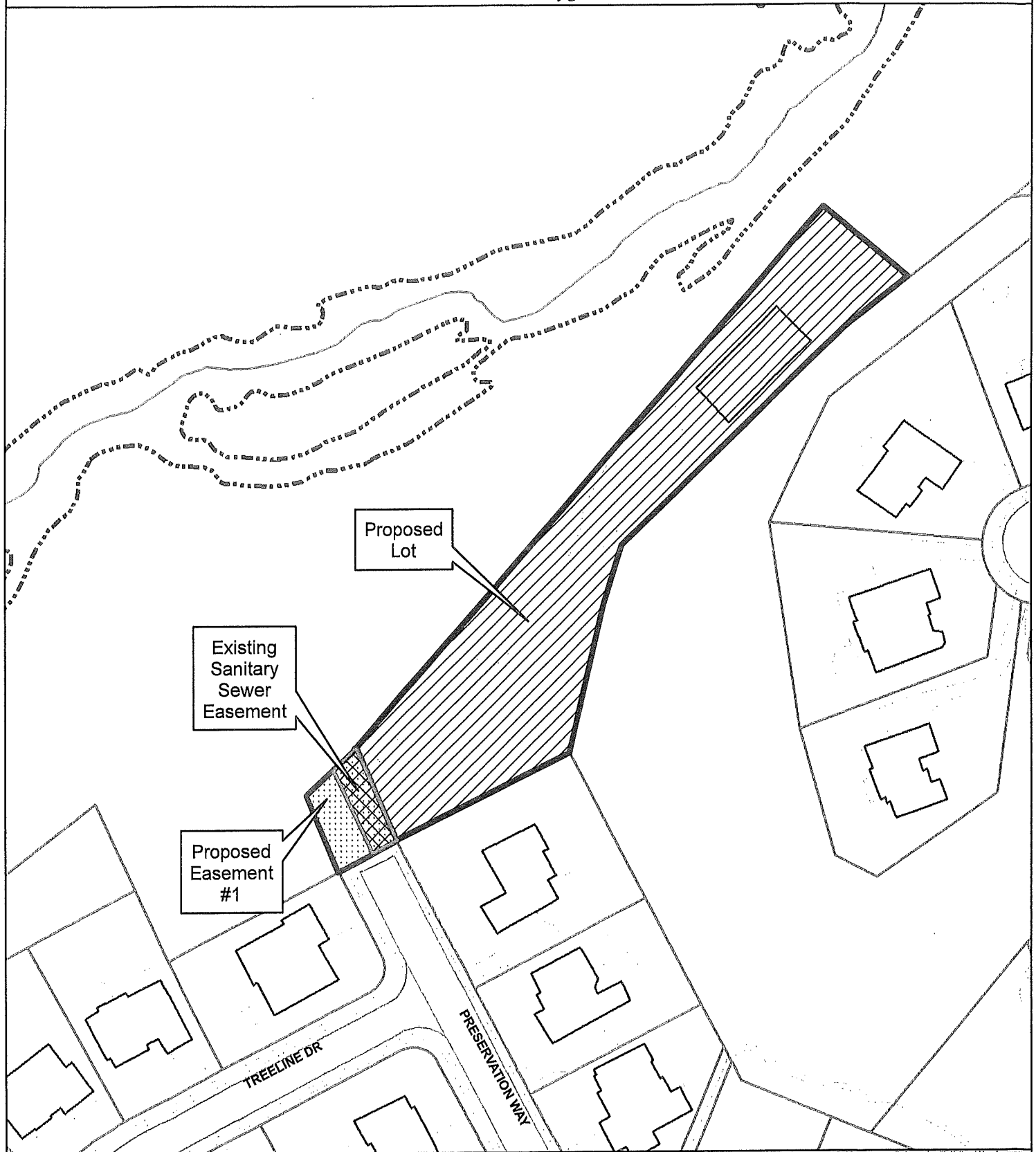
MDS/ss

Attachments

- \*Vicinity Map
- \*Aerial Map
- \*Topographical and Floodplain Map
- \*Zoning Map
- \*2040 Future Land Use Map
- \*Application
- \*Development Plan

# Vicinity Map

www.boonecountygis.com

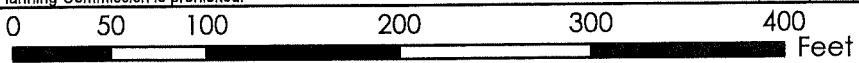


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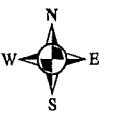
Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



Map Created: xx/xx/2021



1 Inch = 100 feet

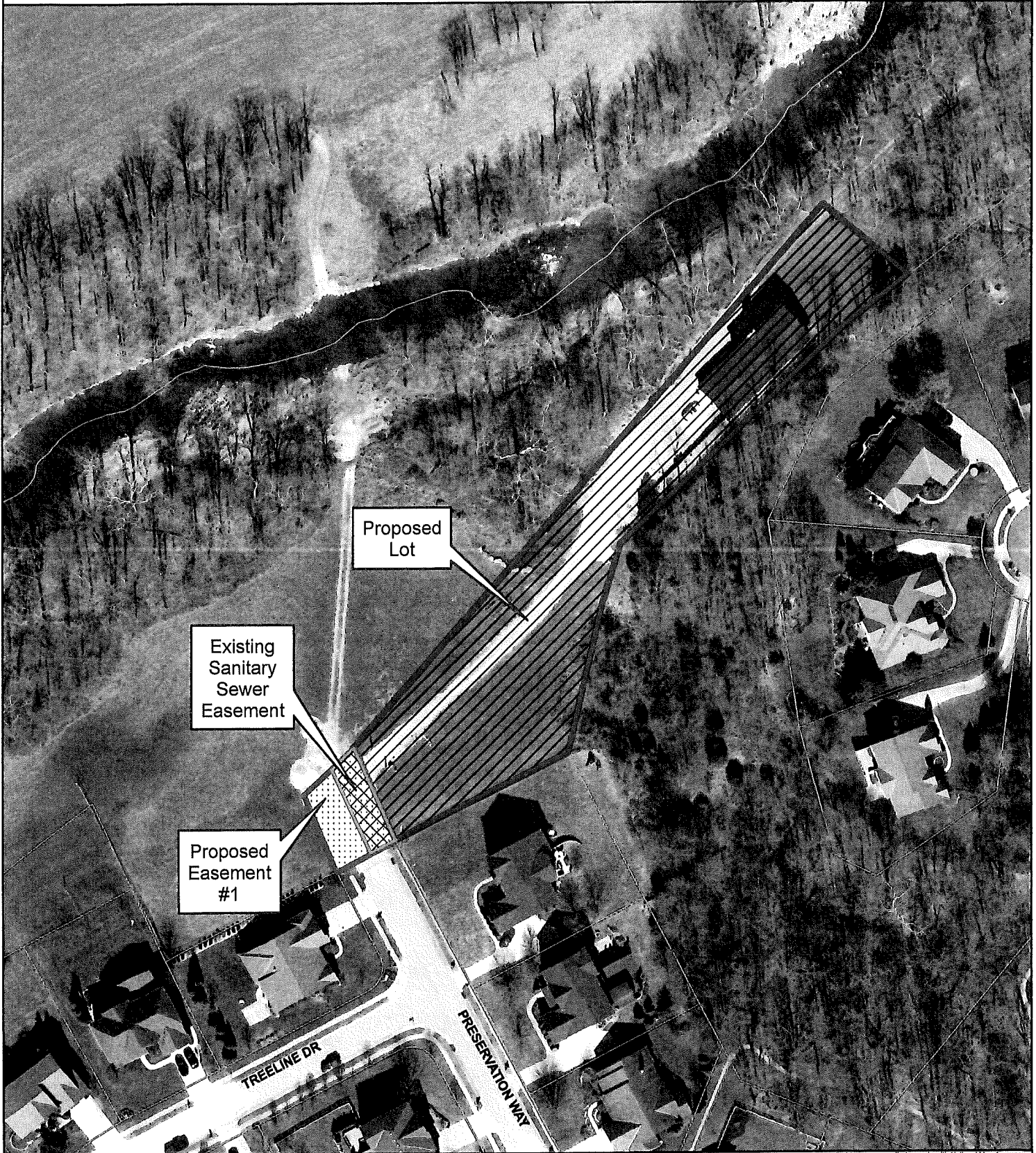


**Boone County GIS - Putting Northern Kentucky on the Map**

Boone County GIS  
ArcMap Document: \*.mxd

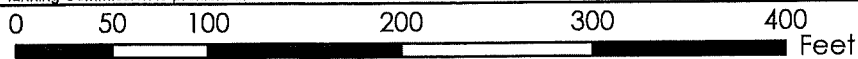
# Aerial Map

www.boonecountygis.com



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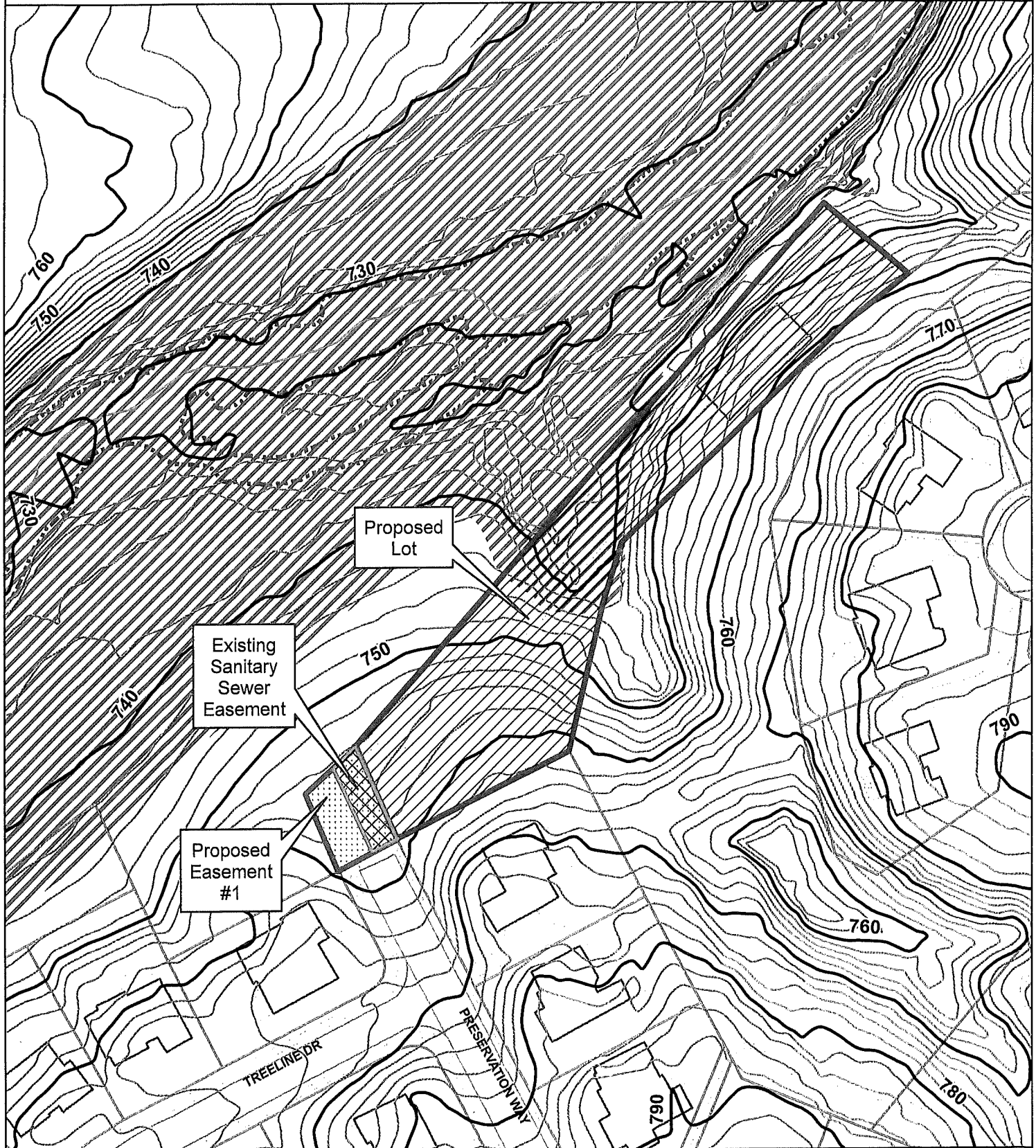


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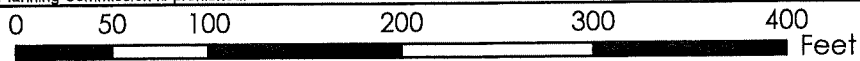
# Topographical and Floodplain Map

www.boonecountygis.com



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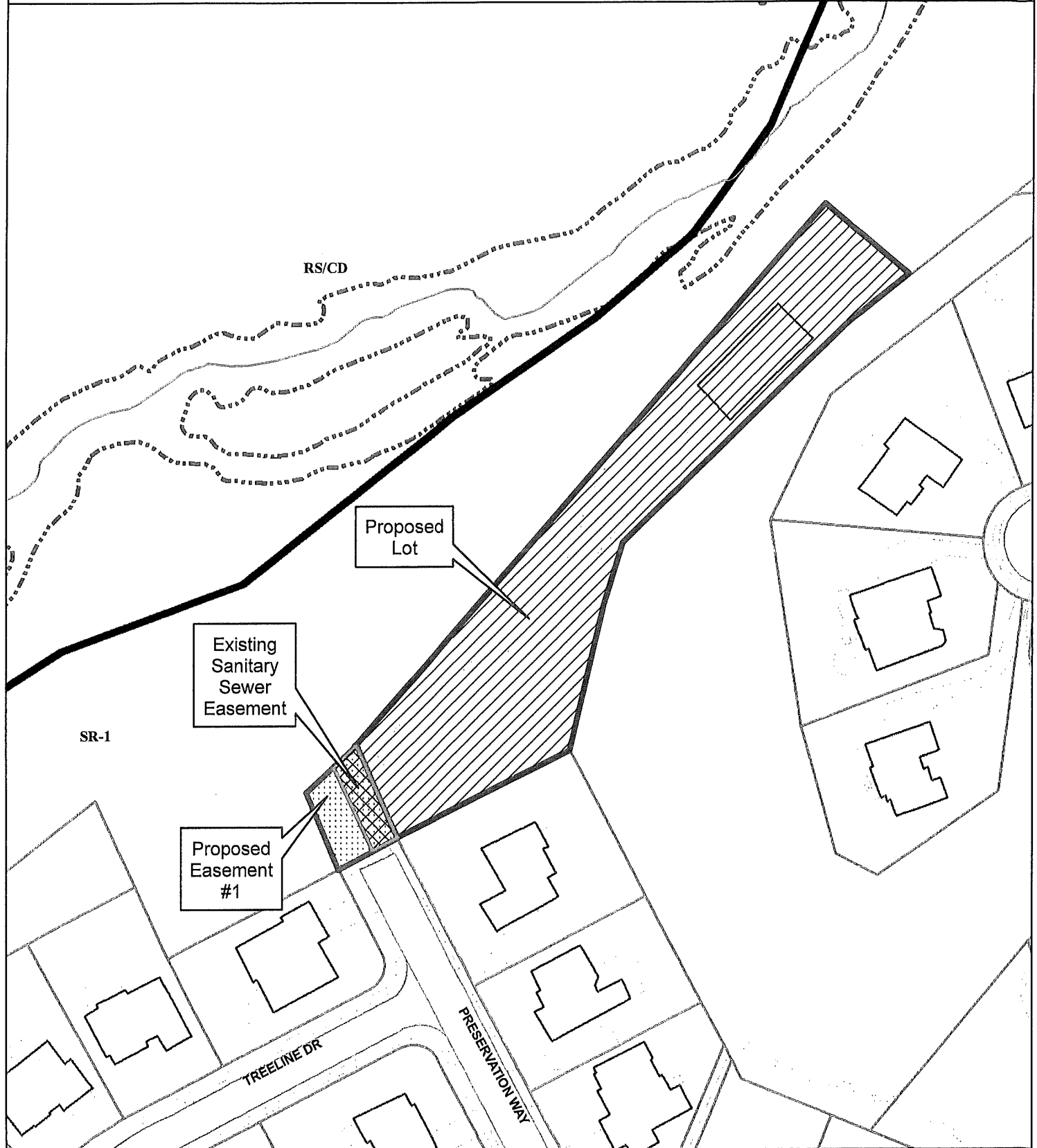


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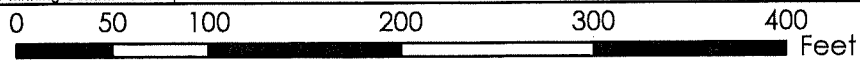
# Zoning Map

www.boonecountygis.com



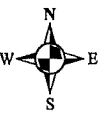
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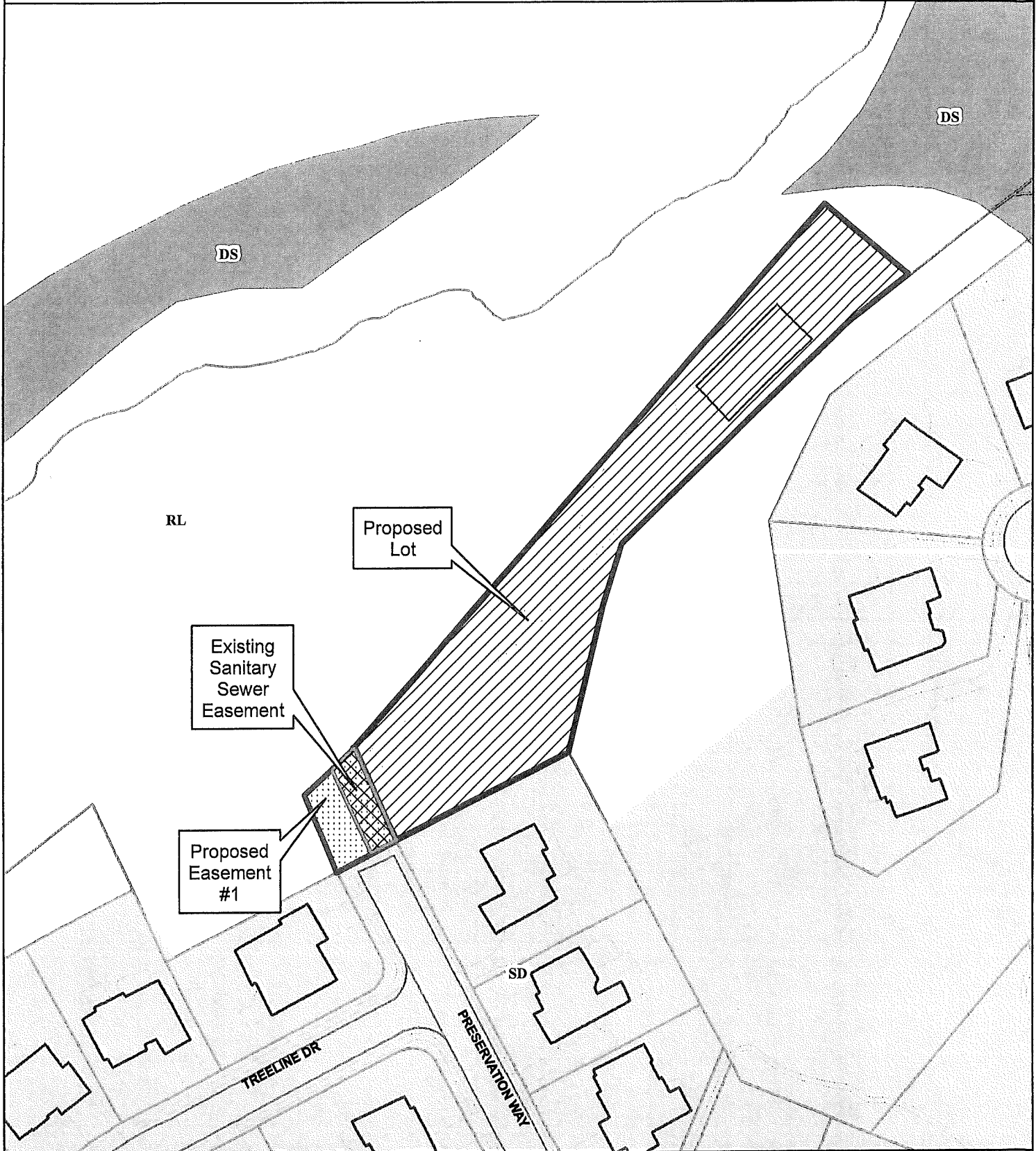
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**Boone County GIS**



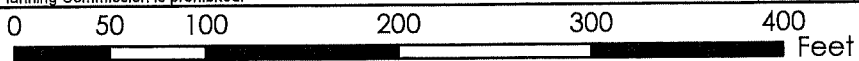
# 2040 Future Land Use Map

www.boonecountygis.com



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1 inch = 100 feet



**Boone County GIS**



**BOARD OF ADJUSTMENT  
BOONE COUNTY PLANNING COMMISSION**

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Florence Kentucky 41042-1906  
 City State Zip Code

Phone Number: 859 371 5653 Fax Number: \_\_\_\_\_

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4. Description of Request:  
To allow for less frontage required in a SR-1 zone

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6. Location of Development: 2460 Preservation Way

Florence Kentucky 41042  
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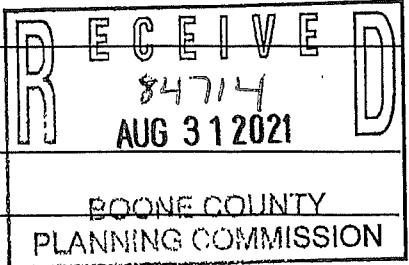
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Address: 7414 U.S. Highway 42

Florence Kentucky \$1042  
 City State Zip Code

Phone Number: 859 371 5653 Fax Number: \_\_\_\_\_

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Deed Book Page Group Number
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If yes, date of approval: \_\_\_\_\_
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ORIGINAL Applicant's Signature: Joe B. Sabell  
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Adjoining property on the North, East and West Joe and Sue Kate Berkshire  
2460 Preservation Way, Florence, Ky. 41042

South  
Lot #338 Hearthstone Sub. Joseph A. and Kelly C. Wuellner  
2442 Preservation Way  
Florence, Ky. 41042

East  
The Dress Company  
211 Grandview Drive  
Ft. Mitchell, Ky. 41017

Open space parcel G  
Cabinet 5, slide 28

Description of a small parcel of land within the Berkshire Farm at 2460 Preservation Way, Florence, Kentucky.

This parcel and permanent easement is being established for Estate planning purposes and is described as follows.

Beginning at a set nail which is N 33-25-56 W 0.12' from an existing rod marking the Northwest corner of Lot 338 and the East 25.00' line of Preservation Way; thence with the extension of the East right-of-way line of Preservation Way into the Berkshire Farm N33-25-56 W, 75.00' to a set rod; thence with 2 lines within the farm N-35-29-31 E, 487.87' to a set rod; thence continuing N 35-29-51 E, 60.00' to a set rod for a total distance of 547.87' ; thence S 49-51-39 E, 82.94' to a set rod, thence S 45-57-08 W, 60.11 to an existing rod (CAP #797) in the line of the Berkshire Farm and open space Parcel G (Cabinet 5, Slide 28 for 3 calls S 40-08-21 W, 230.32' to a set 6" nail 0.31' from an existing rod S 12-31-25 W, 50.83' to a set nail in the top of a 750 millimeter plastic pipe, S 8-26-52 W, 109.60' to a set rod; thence with the North line of Lot 338 (Cabinet 5, Slide 210) S 56-51-45 W, 145.00' to the place of the beginning).

This parcel contains 1.004 acres and is part of the Berkshire Farm as found in Deed Book 549, Page 380, Boone County records.

With this parcel is a permanent easement to get to the 1.004 acres from Preservation Way described as follows. Beginning at a set nail which is N 33 25 56 W 0.12' from an existing rod marking the Northwest corner of Lot 338 and the East 25.00' right of way line of Preservation Way; thence with the extension of the East right of way of Preservation Way into the Berkshire Farm N 33 25 56 W, 75.00' to a set rod; thence S 35 29 51 W, 53.58' to a point; thence S 33 25 56 E, 55.48' to an existing rod, marking the end of Preservation Way; thence across the end of Preservation Way N 56 51 45 E, 50.00' to the place of beginning. This permanent easement contains 3,262 square feet.

A permanent easement is also retained by the grantors for ingress and egress on the existing rock road in the 1.004 acres.

There is also an existing 20' permanent easement for the Sanitary sewer existing in the 1.004 acres.

In addition to the permanent easement described to get to the 1.004 acres there is a 20' strip starting at the end of Preservation Way and extending the East 25' right-of-way line (West edge of the 1.004 acres) N 33-25-56 W, 75.00' to a set rod, thence S 35-29-51 W, 21-43 W to a set mag nail; thence S 33-25-56 E, 67.19' to set mag nail; thence N 56-51-45 E, 20.00' to the place of the beginning.

This parcel contains 0.032 acre and provides access from Preservation Way to the 1,004 acres.

The total area being conveyed is 1.036 acres.

Also it is to be understood that if Preservation Way ever extended the 20' strip would become part of the right-of-way for Preservation Way.



Description of a small parcel of land within the Berkshire Farm at 2460 Preservation Way, Florence, Kentucky.

This parcel and permanent easement is being established for Estate planning purposes and is described as follows.

Beginning at a set nail which is N 33-25-56 W 0.12' from an existing rod marking the Northwest corner of Lot 338 and the East 25.00' line of Preservation Way; thence with the extension of the East right-of-way line of Preservation Way into the Berkshire Farm N33-25-56 W, 75.00' to a set rod; thence with 2 lines within the farm N-35-29-51 E, 487.87' to a set rod; thence continuing N 35-29-51 E, 60.00' to a set rod for a total distance of 547.87' ; thence S 49-51-39 E, 82.94' to a set rod, thence S 45-57-08 W, 60.11 to an existing rod (CAP #797) in the line of the Berkshire Farm and open space Parcel G (Cabinet 5, Slide 28 for 3 calls S 40-08-21 W, 230.32' to a set 6" nail 0.31' from an existing rod S 12-31-25 W, 50.83' to a set nail in the top of a 750 millimeter plastic pipe, S 8-26-52 W, 109.60' to a set rod; thence with the North line of Lot 338 (Cabinet 5, Slide 210) S 56-51-45 W, 145.00' to the place of the beginning).

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Also it is to be understood that if Preservation Way ever extended the 20' strip would become part of the right-of-way for Preservation Way.



CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Joe & Sue Kate Berkshire  
7414 US Highway 42  
Florence, KY 41042
2. ADDRESS OF PROPERTY  
2460 Preservation Way  
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Berkshire Farm
4. DEED BOOK 549                      PAGE NO. 280                      GROUP NO. 2038A
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

\_\_\_\_\_  
SIGNATURE OF COMPLETING OFFICIAL

Michael D. Schwartz, Director, Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Michael D. Schwartz on behalf of the  
Boone County Planning Commission this 14<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
Trevia L. Beagle  
Notary ID 588897  
NOTARY PUBLIC, State at Large

My commission Expires:  
November 12, 2021

This instrument was prepared for recording purposes only by:

Nicole Dierna  
Nicole Dierna  
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.)