

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)

MAT Real Estate LLC 10101 LINN STATIONS ROAD Louisville, KY 40223

- 1. (Check One) Boone Florence _____ Walton _____ Union _____
- 2. (Check One) Conditional Use Permit _____ Variance _____ Appeal _____
Change in Non-Conforming Use _____
- 3. Applicant's Name Quality Sign MARK Stoffma
Phone Number 502-946 Fax No. 502-0104
Applicant's Address LED Production D-
Burlington KY 40001
City State Zip
- 4. Description of Request: Replace gas pipe sign with LED gas pipe sign -
Replace reader board sign with Electronic Message Center sign.
- 5. Name of Development Thornhour
- 6. Location of Development 1104 US Rt 42 Florence KY 41042
- 7. Acreage Under Review _____
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property Thornhour
Address of Property Owner 1104 US Rt 42 Phone No. 740-209-6208
Florence KY 41042
City State Zip
- 11. Proposed Use(s) on Site Gas / Food Mart / Car Wash
- 12. Total Square Footage of Existing and/or Proposed Buildings See Sketch
- 13. Current Zoning on Property C-3
- 14. Deed Book 957 Page No. 642 Group No. 2040B
- 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.

Applicant's Signature: Mark Stoffma Quality Sign 12-17-08
Property Owner's Signature: Matthew Minge

**BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2**

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

R57899

1. Date Received 12-17-08 Fee Received \$ 1,082.⁰⁰
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
1/14/09 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: SEE 1/14/09 FBOA Meeting
MINUTES + C.L.U.R.
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.

STAFF REPORT

APPLICANT: Quality Signs for Thorntons
LOCATION: 8104 U.S. 42, Florence, Kentucky
ZONING: Commercial Services (C-3)
DATE: January 14, 2009

Proposal

The applicant has applied for a Conditional Use Permit to allow electronically changeable gas prices and an electronically changeable message board on one of Thorntons existing free-standing signs. The subject sign is located in front of the Thorntons gasoline station/convenience store and is adjacent to the U.S. 42 right-of-way line.

The submitted hand drawn survey shows that the existing sign is 30'- $\frac{1}{8}$ " tall and 185 square feet in area (the measurement includes a 33.33 square foot manually changeable message board). The submitted rendering shows that the sign will be modified to 30'- $\frac{1}{8}$ " tall and 144 square feet in area. The proposed sign is shown with a 11.08 square foot electronically changeable "unleaded" fuel window, 11.08 square foot "super unleaded" fuel window, and a 24.92 square foot electronically changeable message board which will advertise items for sale in the convenience store.

Pertinent Site History

On January 9, 1985, the Florence Board of Adjustment approved two variances. The first variance reduced the front yard setback requirement from 75' to 60'. The second variance allowed the height of a free-standing sign to be increased from 50' to 100'.

On September 10, 2008, the Florence Board of Adjustment approved two variances so a new Thorntons gasoline station and convenience store could develop on the lot. The requests reduced the side and rear yard building setbacks from 50' to 32.2'. Six (6) conditions were imposed on the approval (see attachments).

On December 12, 2008, the Boone County Planning Commission approved a Sign Permit allowing face changes to a 144 square foot cabinet on the interstate sign and 64 square foot cabinet on the U.S. 42 sign.

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that one duty of the Board of Adjustment and Zoning Appeals is to act on Conditional Use Permit applications.

The Board needs to evaluate the Conditional Use Permit request as it relates to the criteria necessary for granting or denying a Conditional Use Permit as stated in Section 262 of the Boone County Zoning Regulations. The criteria are listed below:

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 schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately 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 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 designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 34, Section 3413 of the Boone County Zoning Regulations states that individual parcels of land in C-3 zoning districts shall be permitted a density of one (1) on-premises, architectural free-standing. In the City of Florence, the sign can be up to 20' tall and 150 square feet in area (dependent on road frontage).

Article 34, Section 3430 of the Boone County Zoning Regulations permits electronically changeable message boards and electronic display screens as a Conditional Use in the Commercial Services (C-3) zoning district provided that the following requirements are met:

- A. Such message boards and screens will be considered a part of a permitted free-standing or building mounted sign; up to fifty percent (50%) of the permitted sign area can be used for an electronically changeable message board or electronic display screen.
- B. All such message boards shall meet the minimum standards of the Kentucky Transportation Cabinet and any other controlling local, state, or federal agency.
- C. Electronic message boards and electronic display screens shall not be permitted at intervals of less than six-hundred sixty (660) feet, measured along the centerline of each interstate or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.

- D. Apparent motion of the visual message, caused by, but not limited to, the illusion of moving objects, moving patterns or boards of light, expanding contracting, or rotating shapes or other similar animation effects, shall be prohibited. Such restriction applies to "scrolling" or "running" messages.
- E. The message displayed on the board must be displayed for a minimum of five (5) second intervals. In no instance can a message, or part thereof, flash on the message board.

Relationship of the Request to the Comprehensive Plan

The 2005 Boone County Comprehensive Plan's "2030 Future Land Use Plan" designates the majority of the site for "Commercial" uses. This designation is defined as "retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The Future Land Use Development Guidelines (pages 140-142) found in the Land Use Element state that "developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify a specific development, but should not be used as a means to compete for motorist attention. The objective is to avoid the confusion and/or distraction of motorists, and to avoid the potential negative impacts of signs on the visual appearance of a development or corridor" (Design, Signs, and Historic Preservation).

Surrounding Land Uses & Zoning

North: Brook Run Apartments (UR-2)

South: U.S. 42, Rawlings Foundation (O-2), and White Castle (C-3)

East: Strip Center with Dental Office and Tax Office (C-2)

West: Quick Stop Oil Change (C-3)

Site Characteristics

The approximate 1.84 acre site contains an 840 square foot Shell convenience store, four fuel islands, a gasoline canopy, a 1,335 square foot car wash, and two free-standing signs (112' tall interstate sign and 30' tall sign fronting on U.S. 42). The site currently has two access points on U.S. 42. The rear of the site is heavily wooded and also contains a gravel parking lot which is used by the adjoining strip center to the east. The topography of the parcel falls from approximately 900 feet above sea level at U.S. 42 to approximately 840 feet above sea level at the rear property line.

Staff Comments

1. The pole sign is legally non-conforming for the following reasons:
 - A. The subject sign is currently 30'-1/8" tall and 185 square feet in area. The zoning regulations permit signs in C-2 districts to be a maximum of 20' tall and 150 square feet in area in the City of Florence.
 - B. Two free-standing signs are located on the subject property.
2. Section 3430 of the Boone County Zoning Regulations states that electronic message boards shall conform to the following criteria:
 - A. The electronic message board(s) shall not be more than fifty percent (50%) of a permitted sign area. The three message boards are 32.7% (47.08/144) of the overall sign area.
 - B. Electronic messages must be displayed on the board for at least 5 seconds and that the messages cannot flash, scroll, or run.
 - C. Electronic message boards must be at least 660 feet apart. The closest electronic sign is located at Walgreen's on the corner of Mall Road and U.S. 42. The Walgreen's sign is approximately 1,360' from the Thorntons sign.
3. Staff would like the applicant to address the following:
 - A. Will the electronically changeable message board comply with the 5 second rule. Will any messages flash, scroll, or run?
 - B. How many lines of text can be displayed on the changeable message board?
 - C. What colors will be displayed in the three electronic sign windows?
 - D. Are the electronic portions of the sign being equipped with photocells?
4. Staff has the following comments that are relevant the proposal:
 - A. The Florence Board of Adjustment has been fairly consistent in only allowing one color of electronically changeable copy on a sign. The one recent exception was the Thorntons sign on Industrial Road.

On May 14, 2008, the Florence Board of Adjustment approved a Conditional Use Permit allowing Thorntons to replace their 75.96 electronic price panel. The new sign cabinet was 49.11 square feet in area and contained red and green L.E.D. price signs. Several conditions were imposed on the approval (see attachments). To date, the sign has not been modified.

- B. The Thorntons sign on Industrial Road contains an electronically changeable reader board that was mistakenly approved by Planning Commission Staff in 1997. The electronic portion of the sign should have been approved by the Board of Adjustment.
- C. The Florence Board of Adjustment approved two setback Variances on September 10, 2008 which will allow a new building to be constructed on the subject site. One of the conditions on the approval states that the new building, gasoline canopy, and dumpster have to be constructed per the submitted elevation drawing (see attachments). Staff would like the applicant to address if the sign poles could be wrapped in matching masonry.
- D. The Board should analyze the "Design, Signs, and Historic Preservation" section of the Future Land Use Development Guidelines before making a decision on the Conditional Use Permit. This section calls out that motorists should not be confused and/or distracted by excessive signs and that signs should not have a negative impact on the visual appearance of a corridor.

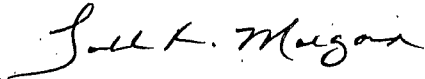
Staff is concerned about the electronically changeable reader board because it could be distracting to motorists. Staff would prefer the reader board to be removed from the proposal. A second preference would be to limit the reader board to two lines of text and allow the message to change no more than once an hour.

- 6. If the application is approved, Staff recommends the following conditions:
 - A. The proposed electronically changeable fuel windows shall only advertise fuel prices;
 - B. The electronic copy colors should be defined;
 - C. Conditions which deal with the electronically changeable message board;
 - D. The sign poles should be wrapped with masonry which matches the future building;
 - E. A photocell shall be provided in the sign and the electronic messages shall dim as the sky gets darker;
 - F. The applicant will contact the Kentucky Transportation Cabinet and determine if an advertising device permit is required.

Conclusion

KRS 100.237 and Section 2220 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

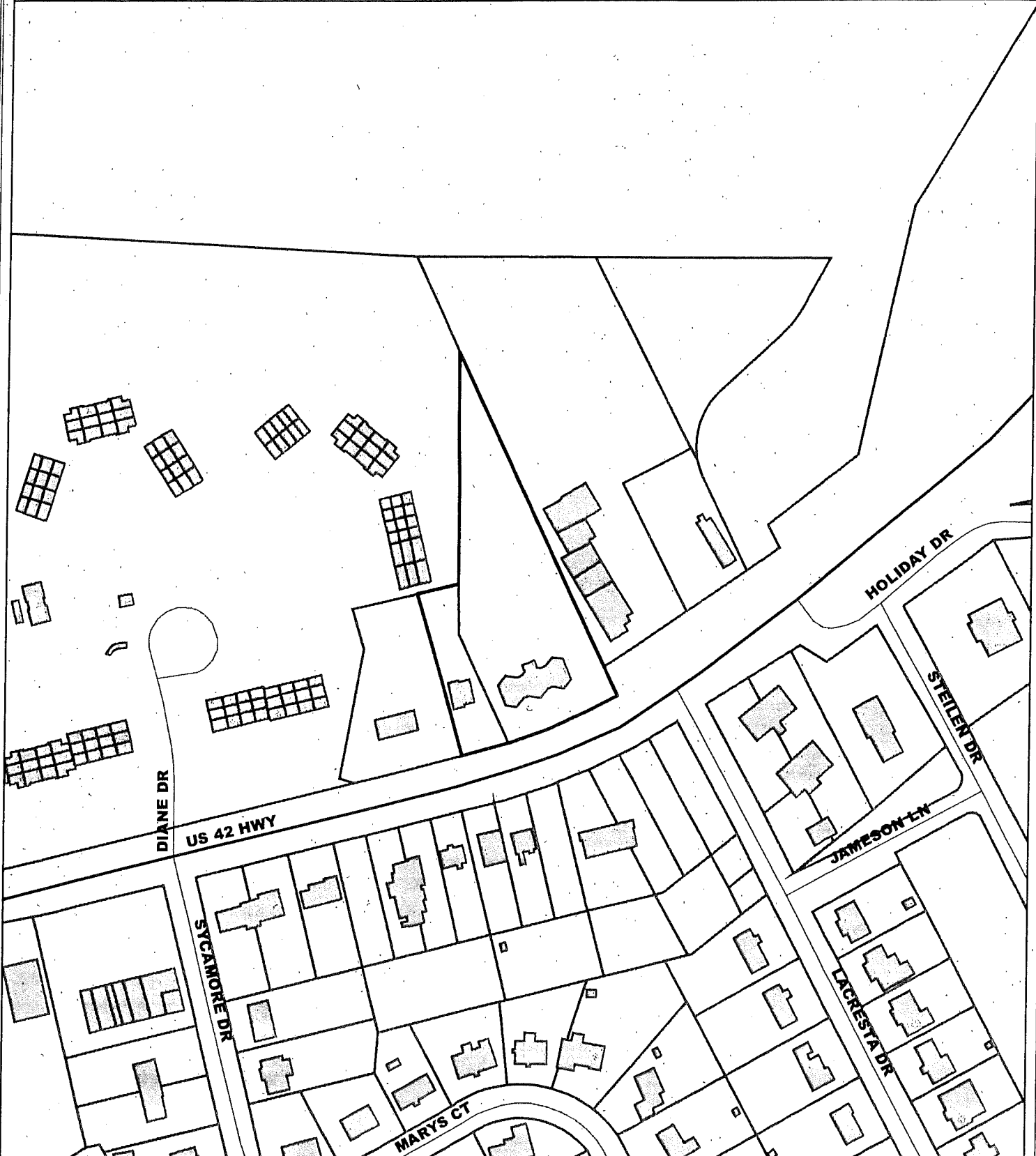
TKM/pr

Attachments

- *Site Vicinity Map
- *Aerial Map
- *Zoning Map
- *Topographical Map
- *Rendering of Proposed Sign
- *Picture of Existing Sign
- *Hand Drawn Sign Survey
- *Approved Plan, Rendering, and Conditions From the 9/10/08 F.B.O.A. Meeting
- *Approved Drawing and Conditions From the 5/14/08 F.B.O.A. Meeting
- *Application

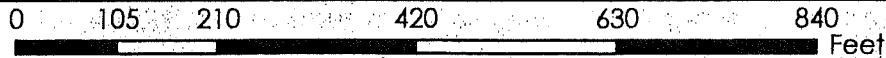
SITE VICINITY MAP

www.boonecountygis.com



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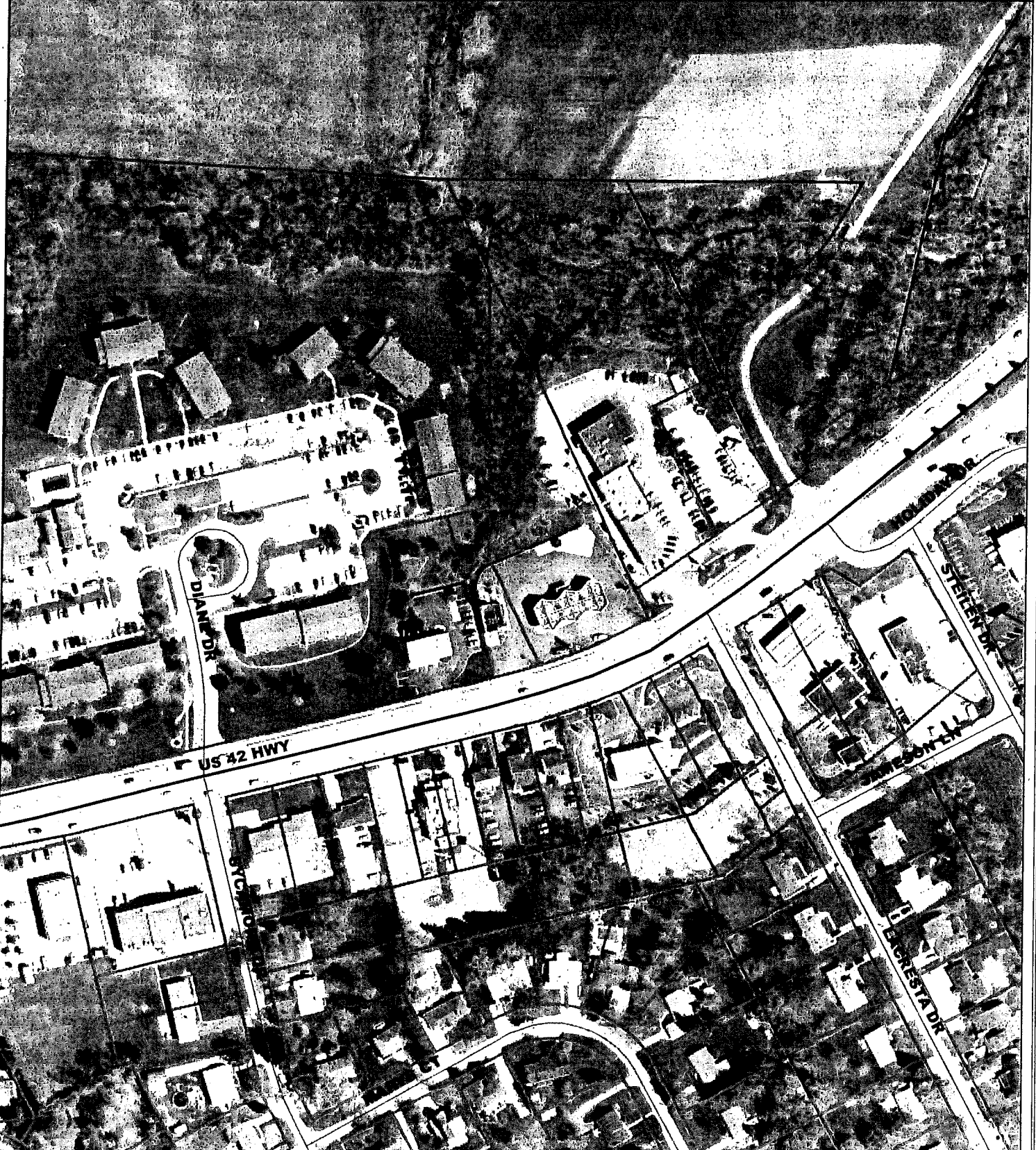
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Boone County GIS - Putting Northern Kentucky on the Map

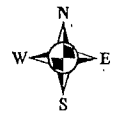
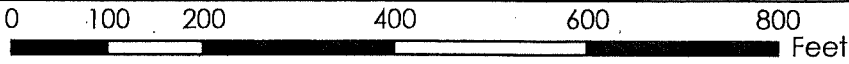
AERIAL MAP

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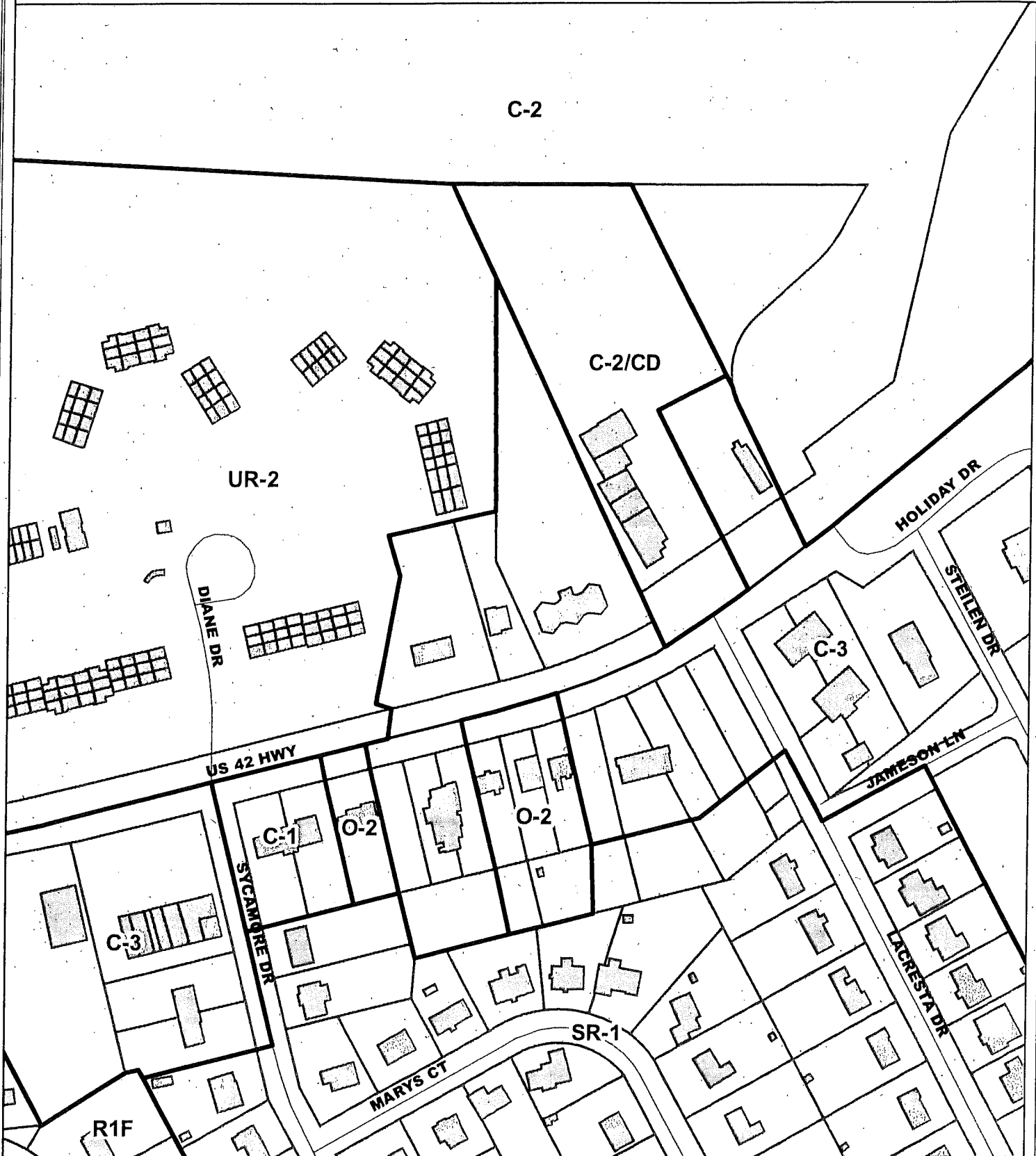
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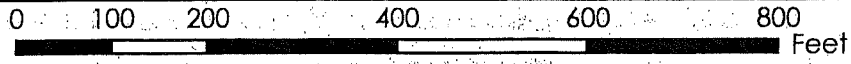
ZONING MAP

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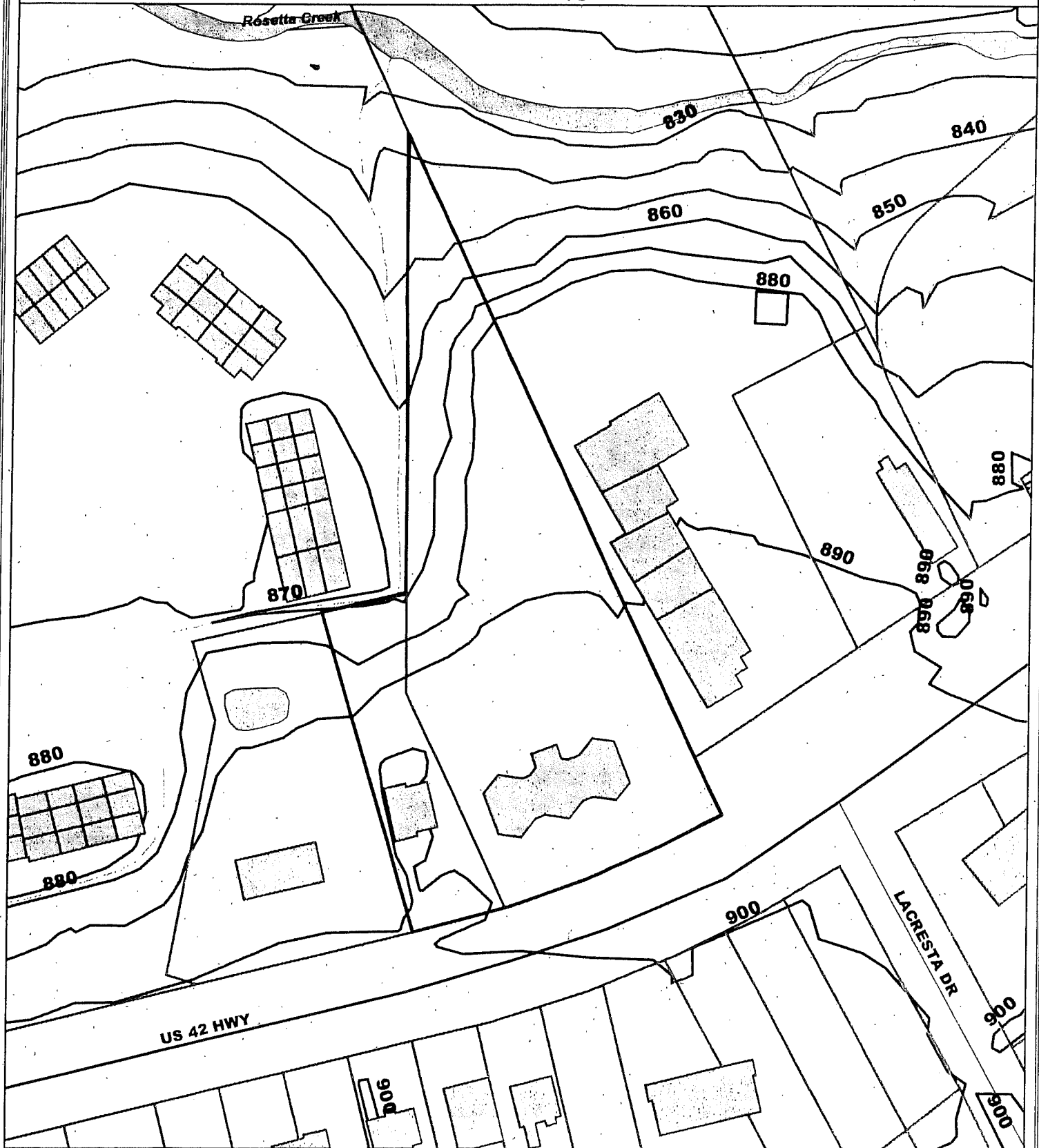
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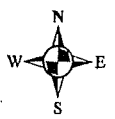
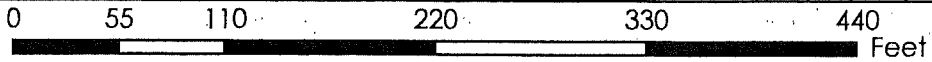
TOPOGRAPHICAL MAP

www.boonecountygis.com



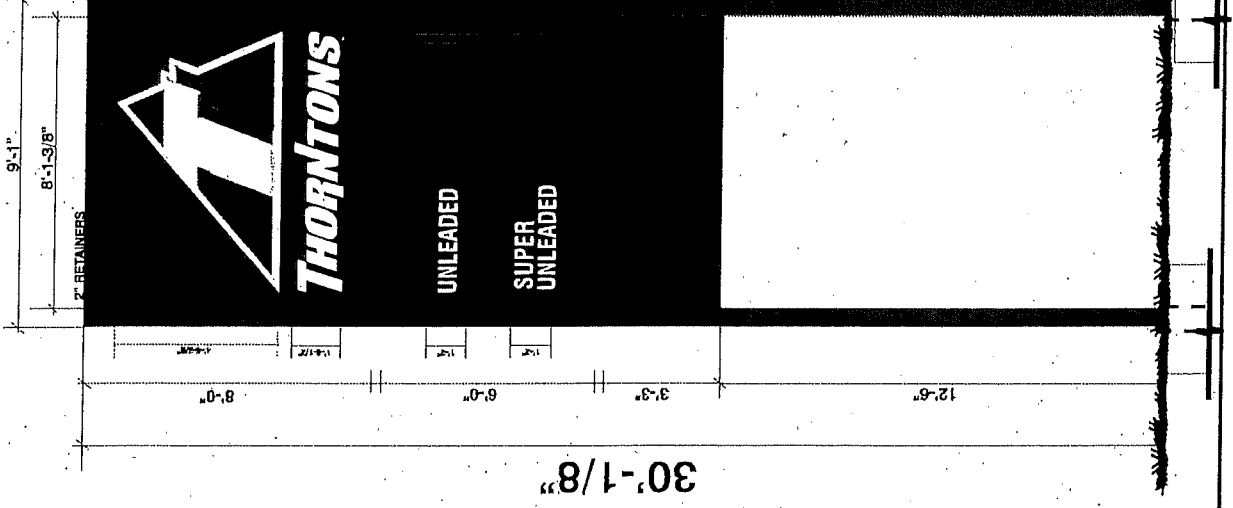
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Boone County GIS - Putting Northern Kentucky on the Map

SCALE: 3/16" = 1'-0"
158 TOTAL SQ. FT. PER SIDE



**PROPOSED
D/F PYLON V
RED PAINT
ALUMINUM P
AND RETAIN**

HEADER UNIT:
8'-0" x 8'-1 3/8" x 2'-6"
3" PANNED FACE PAINTED W/
GRIP FLEX FLAME RED 585

3" DIVIDER BAR

PRICE DISPLAY UNIT:
SUNSHINE SINGLE PRICER
CHAR. HEIGHTS 24"

BLACKED-OUT AREA: 28"H x 57" PER PRICE

3" DIVIDER BAR
DAKTRONICS UNIT: GALAXY 34MM MONO 3400
CABINET SIZE 3'-3" X 7'-8"
DAKTRONICS 24 x 64 MATRIX
MODEL: AF-3400-24X64-34-R-2V

POLES BURIED BELOW GRADE
PER CITY CRITERIA



Sigi
Part
CLIENT SIGNATURE & AFF.



30'-1/8"

REVISION HISTORY	
DATE	CHANGES MADE
12/11/08SS	COLOR OF PRICE DISPLAY
12/11/08SS	ADDED BLACK OUT DIMENSIONS

TICKET #: 150140	DATE: 12/10/08
PROJECT MANAGER: MATT MINGEE	DESIGNER: DP
ELECTRONIC FILE LOCATION & NAME: T\THORNTONS\#556 FLORENCE, KY PYLON	
REVIEWED BY:	DATE:

CLIENT: **THORNTONS**
ADDRESS: 8104 US 42
FLORENCE, KY 41042

IGN COMPANY
BLVD.
0 44060
440-209-6277

NOTICE: PRINTS ARE THE EXCLUSIVE PROPERTY OF "MC SIGN COMPANY" ANY UN-AUTHORIZED USE OR DUPLICATION WILL RESULT IN A 20% CHARGE PER OCCURRENCE PER THE VALUE OF THE DISPL



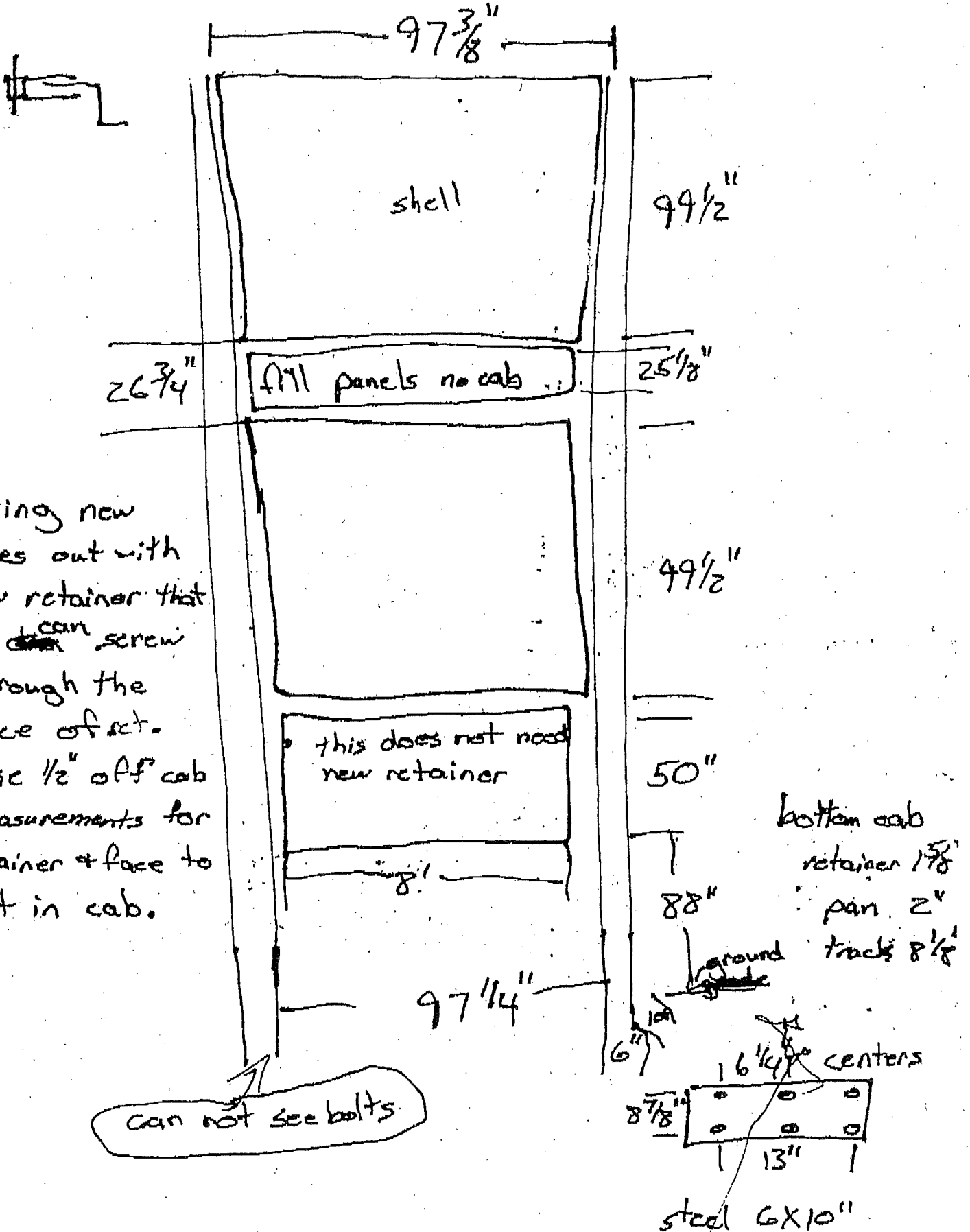
T
THORNTONS

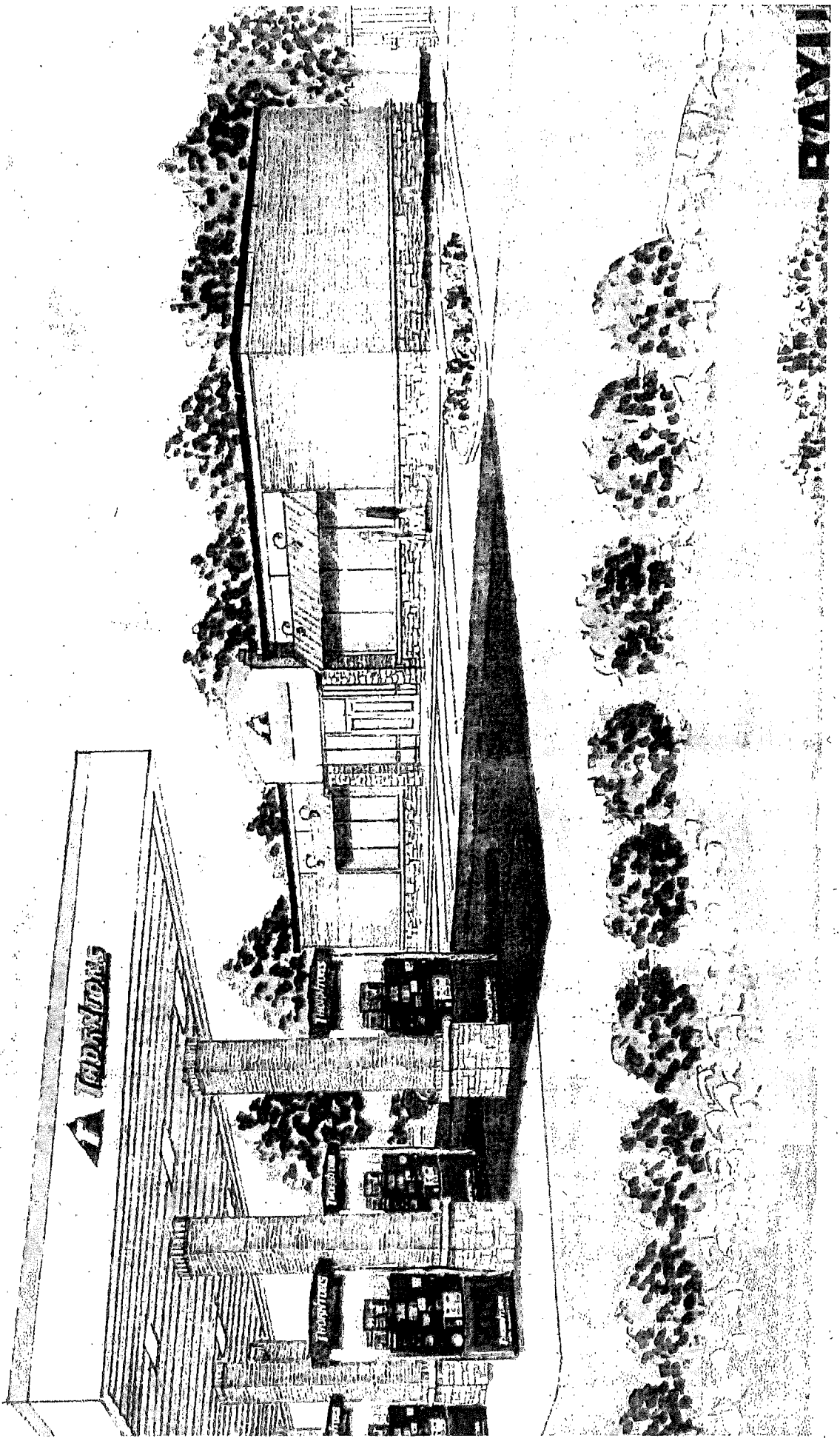
Regular 45.99
Plus 49.99
Super Unleaded 53.99
Car Wash

MARLBORO 3.19PK

ROYAL CENTER
FREEDOM
THANK YOU TO
THE SERVICE
MEN & WOMEN

THORNTONS
WING
BONE!





RAYI

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the VariANCES (2) approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of September 10, 2008 Certificate of Land Use Restriction (#08-FBOA-010-A), for Shaya Enterprises, LLC, Property Owner(s).

The following conditions will apply:

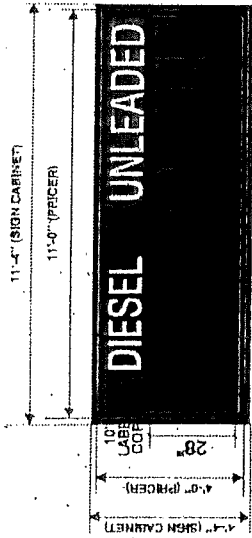
- 1) The building, gasoline canopy, and dumpster shall be constructed per the submitted rendering. The rear façade of the building shall correlate to the front or side facades.
- 2) All roof mounted roof mechanical equipment shall not be visible from U.S. 42 or the adjoining apartment buildings.
- 3) Screening for the apartments is to be Buffer Yard B, which is to include two different species of evergreen trees in the plantings in order to screen the residential area year round.
- 4) Light poles are to be no greater than 20 feet in height and lights are to face downward and inward towards the site.
- 5) There is to be motion sensor lighting in the back so that the residents are not disturbed by the light.
- 6) Any outside amplification is not to be audible at the residential property lines.

The approved VariANCES (2) as well as the preceding conditions apply to the property described in:

5/14/08 F80A

POLE SIGN

PROPOSED - (1) 28" OPTION DOUBLE PRICE SUNSHINE LED PRICER TO REPLACE EXISTING PRICER

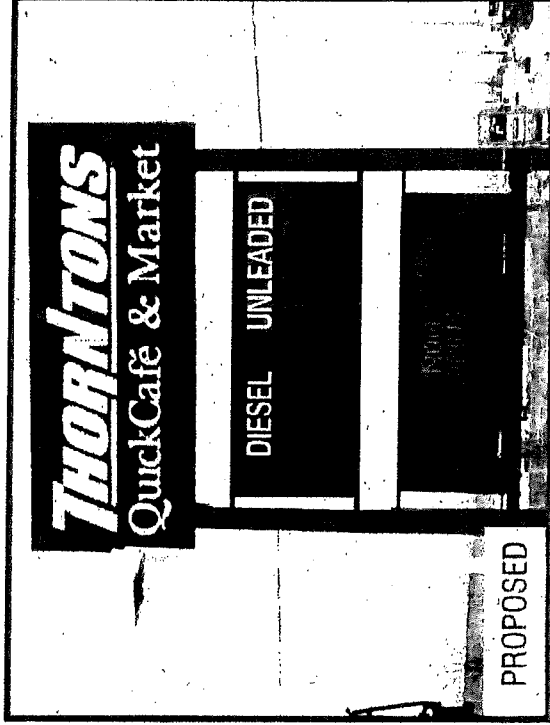
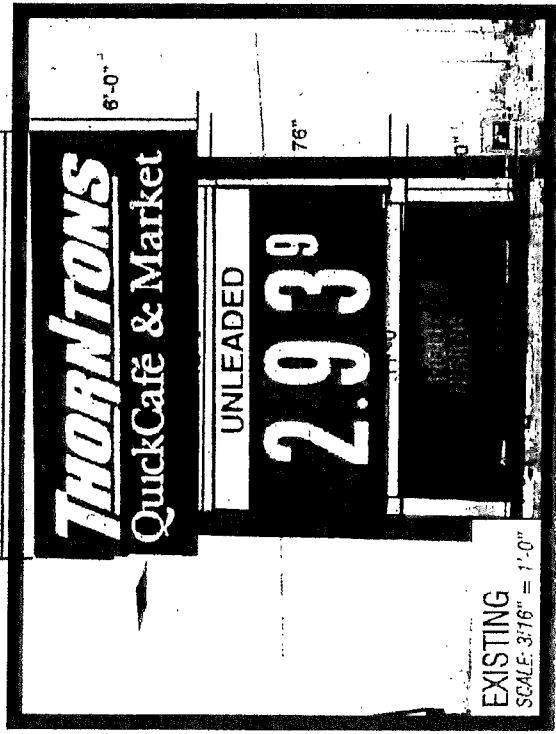
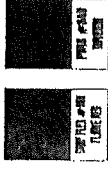


49.11 Sq. Ft. Cabinet
25.66 Sq. Ft. Elec. Copy

SIGN CABINET:
6'-4" x 12'-0" x 2'-6"
BLACK SIGN CABINET

PRICE DISPLAY UNIT:
SUNSHINE DOUBLE PRICER
4'-0" x 11'-0" x 2'-6"
CHAR. HEIGHTS 28"

*NOTE: "UNLEADED"
TEXT IS NEAREST TO ROAD



*NOTE: SIZES ARE APPROXIMATE AND
NEED TO BE VERIFIED BY A SURVEY

- Sign is 212.96 Sq. Feet in Area
- 20.7% of Sign is LED Copy
- Remove 75.96 Sq. Foot Cabinet
- Install 49.11 Sq. Foot Cabinet
- Sign is 186.1 Sq. Feet in Area
- 37.4% of Sign is LED Copy

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of May 14, 2008 Certificate of Land Use Restriction (#08-FBOA-004-A), for Thornton's, Property Owner(s).

The following conditions will apply:

- 1) The bottom sign (existing electronic sign) is to abide by the five-second rule.
- 2) The new LED sign is for gas prices only and limited to two colors.
- 3) There is to be a sign filler between the existing LED sign and the newly approved sign and fillers on the sides between the signs and the poles. The filler panels shall be painted black to match the poles. There is to be no signage on the filler panels.

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

DEED BOOK 451

PAGE NO. 153

GROUP NO. 2042

COPY

CLUR #09-FBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

MAT Real Estate, LLC
10101 Linn Stations Road
Louisville, KY 40223

2. ADDRESS OF PROPERTY

8104 U.S. 42
Florence, KY 41042

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Thorntons

4. DEED BOOK 957

PAGE NO. 642

GROUP NO. 2040B

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

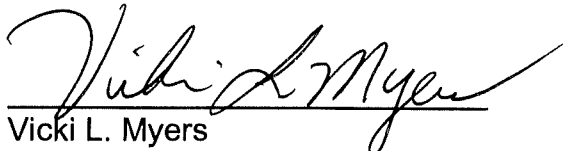
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

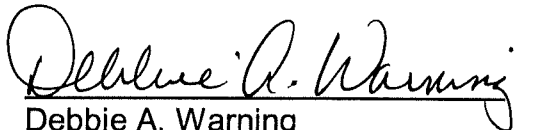
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 28 day of January, 2009.


Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2011

This instrument was prepared for recording purposes only by:


Debbie A. Warning
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 Conditions of Approval apply to the Conditional Use Permit approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of January 14, 2009 Certificate of Land Use Restriction (#09-FBOA-001-A), for MAT Real Estate, LLC, Property Owner(s).

The following conditions will apply:

- 1) The proposed electronically changeable fuel windows shall advertise fuel prices only and all three panels (2 electronic fuel windows and electronic reader board) are to be one color only and that color is red.
- 2) The electronic reader board is to be red only. It is limited to two lines of text and the message can change no more often than every ten seconds.
- 3) The electronically changeable message board and fuel cells shall comply with the applicable zoning regulations (Article 34).
- 4) There is to be a photo cell in the sign and the electronic messages are to dim as the sky gets darker.
- 5) The interstate high rise sign at the rear of the property is to be totally removed prior to installing the new sign.
- 6) There are to be no scrolling, running, moving patterns or other effects prohibited by the regulations.
- 7) The applicant is to contact the Kentucky Transportation Cabinet and determine if an advertising device permit is required.

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

DEED BOOK 957 PAGE NO. 642 GROUP NO. 2040B