

**BOARD OF ADJUSTMENT
BOONE COUNTY PLANNING COMMISSION**

R E C E I V E D
83720
APR 13 2021
21-FBOA-006-A
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: Silverman and Company, Inc.
Address: 9545 Kenwood Road Suite 401
Cincinnati Ohio 45242
City State Zip Code
Phone Number: 513-984-5360 Fax Number: 513-984-1720
Email: hsilverman@silvermanandcompany.com
4. Description of Request: Variance for plantings in parking island. We request putting in ornamental grasses in island which will survive I-75 traffic + plane traffic.
5. Name of Development: Florence Executive Center I + II
6. Location of Development: 500 + 600 Meijer Drive.
Florence Kentucky 41042
City State Zip Code
7. Acreage Under Review: See picture attached
8. Lot Number and Name of Subdivision (if part of a subdivision):
10D + 10E Houlton LAKE
9. Current Owner: 500 Meijer LLC. and 600 Meijer LLC
Address: 500 Meijer and 600 Meijer Dr.
Florence Kentucky 41042
City State Zip Code
Phone Number: 513-984-5360 Fax Number: 513-984-1720
Email: hsilverman@silvermanandcompany.com

10. Proposed Use(s) on Site: Office
11. Total Square Footage of Existing and/or Proposed Buildings: 164,000 Φ
12. Current Zoning: Office - Two / Commercial Two / Planned Dev. / HDO
13. 1039 / 1039 Deed Book 293 / 996 Page 2033B 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: Harold A. Claen, Manager
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

ORIGINAL Applicant's Signature: Harold A. Claen, President
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

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

1. Date Received: 4/13/21 Fee Received: \$966.00 Receipt #: 83720

2. Is application complete:

3. Staff Reviewer: Todd Morgan

4. Scheduled Board Action Date: 7/21/21

5. Board Action: _____

- Approved
- Approved with Conditions (see #6)
- Denial (See #7)

6. Conditions of Approval: SEE 7/21/21 Meeting Minutes
AND 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
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountky.org
www.boonecountky.org

STAFF REPORT

#1

APPLICANT: Silverman and Company, Inc.

LOCATION: 500 and 600 Meijer Drive, Florence, Kentucky

ZONING: Office Two/Commercial Two/Planned Development/Houston-Donaldson
Study Overlay (O-2/C-2/PD/HDO)

DATE: July 21, 2021

PROPOSAL

The applicant is requesting a variance so the width and number of plantings in a parking lot landscaping island can be reduced. The subject parking lot island is located on the common property line of 500 and 600 Meijer Drive. These two properties contain the Florence Executive Center office buildings.

PERTINENT SITE HISTORY

On September 3, 1999 Boone County Planning Commission Staff approved the Major Site Plan application for the Florence Executive Center office buildings. The approved plan shows that the subject landscaping island would contain four (4) Autumn Purple Ash trees and perennial plantings.

On March 16, 2021 the City of Florence Code Enforcement Staff informed the property owner that the landscaping on the properties was not in compliance with the approved Site Plan.

APPLICABLE REGULATIONS

Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to hear and decide variance applications.

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.

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 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:

- 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 of 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 3625 of the Boone County Zoning Regulations contains the following standards for Interior Landscaping for Vehicular Use Area (VUAs) standards:

1. A minimum of 5 percent of the total VUA shall be landscaped and the landscaping shall be dispersed throughout the paved area (See Figure 36-1). This V.U.A. landscaping shall only be required for uses which have more than 50 parking spaces. This landscaped area cannot be combined into one large planting area, except as permitted by Items 4 and 5 of this section. No interior landscaping will be required within industrial zones if the V.U.A. is located outside of front yard and corner side yard areas. This interior landscaping shall be in addition to any other planting or landscaping required within this article.
2. The VUA landscaping shall contain a variety of trees listed from Plant List A and be dispersed in the form of islands or peninsulas throughout the VUA (See Figure 36-1). The minimum size of planting areas shall be 9 feet in width and 18 feet in length.
3. Planted areas will be required to have 1 tree from Plant List A per 162 square feet of area if designed as in (Figure 36-2.B) and 1 tree per 40 linear feet, (or fraction thereof), if designed as in (Figure 36-2.A).
4. Planted areas shall be required at the end of every other parking row and when parking adjoins each other at or near right angles (See Figure 36-3). Planting areas that are a minimum of 600 square feet will be required if rows of parking are unbroken for 180 linear feet or more (See Figure 36-2.B).
5. Sites which have large uninterrupted circulation areas for tractor trailers and trucks, such as warehouses and distribution centers, can provide one or more large landscape islands in order to comply with the required 5% landscaped area within the large circulation areas.
6. All planting islands shall be planted with either grass, low ground cover, shrubs, flowers, mulch or any combination of these. Hard surfaces or gravel are not permitted. All planting islands shall have minimum 6 inch curbs installed to protect the planting area from vehicular traffic.

7. All plant material (other than grass or ground cover) located within landscape islands where vehicle overhangs are needed shall be setback a minimum of 2' 6" from the edge of pavement or face of curb (See Figure 36-4)

SITE CHARACTERISTICS

The September 3, 1999 Site Plan shows the two properties are 6.6340 acres in area. Each parcel contains a 3-story office building, which is 55,335 square feet in area. A total of 499 parking spaces are on the lots. There are numerous VUA landscaping islands and perimeter landscaping buffers. The plan showed the overall green space percentage on the lots was 29% and the minimum green space percentage per the Houston-Donaldson Study is 22%.

SURROUNDING LAND USES AND ZONING

- Northeast: LA Fitness (O-2/C-2/PD/HDO)
- Northwest: Meijer Drive and Home Depot (O-2/C-2/PD/HDO)
- Southeast: I-71/75
- Southwest: Woodspoint Drive and Bridge Point Center (O-1/PD/HDO)

STAFF COMMENTS

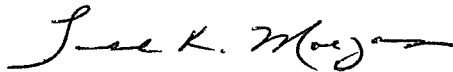
1. The subject site was developed under the 1996 Zoning Regulations. These regulations stated that the minimum size of a VUA landscaping island was required to be 10' in width and 200 square feet in area. One large tree from Plant List A was to be planted per 40 linear feet. The subject landscaping island was approved with a width of 6'.
2. The property owner has made Staff aware that they have tried to plant trees in the subject island numerous times and they always die. Staff would like the applicant to address the following:
 - A. Have attempts been made to dig the island out and install better soils?
 - B. What type of trees have been installed in the island?
 - C. Is the plan to install more large shrubs or ornamental grasses in the buffer? Has a landscaping plan been prepared?
3. While taking pictures, Staff noticed that the next landscaping island to the southeast (across the driveway aisle) did not contain a large tree per the approved landscaping plan. Staff would like the applicant to address if this tree is proposed to be replaced or if they are asking for this island to be included in the request.
4. Staff is not opposed to a Variance being granted to reduce the amount of landscaping that is required in the landscaping island because it is only 6' wide (and approximately 144' long) and the rest of the property is very well landscaped. However, Staff would like to

know what the applicant proposes to install in the island. At a minimum, Staff recommends that four large shrubs or small trees from Plant List C should be required in the island.

CONCLUSION

- A. KRS 100.241 and Section 220 of the Boone County Zoning Regulations give the Florence 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,



Todd K. Morgan
Senior Planner, Zoning Services

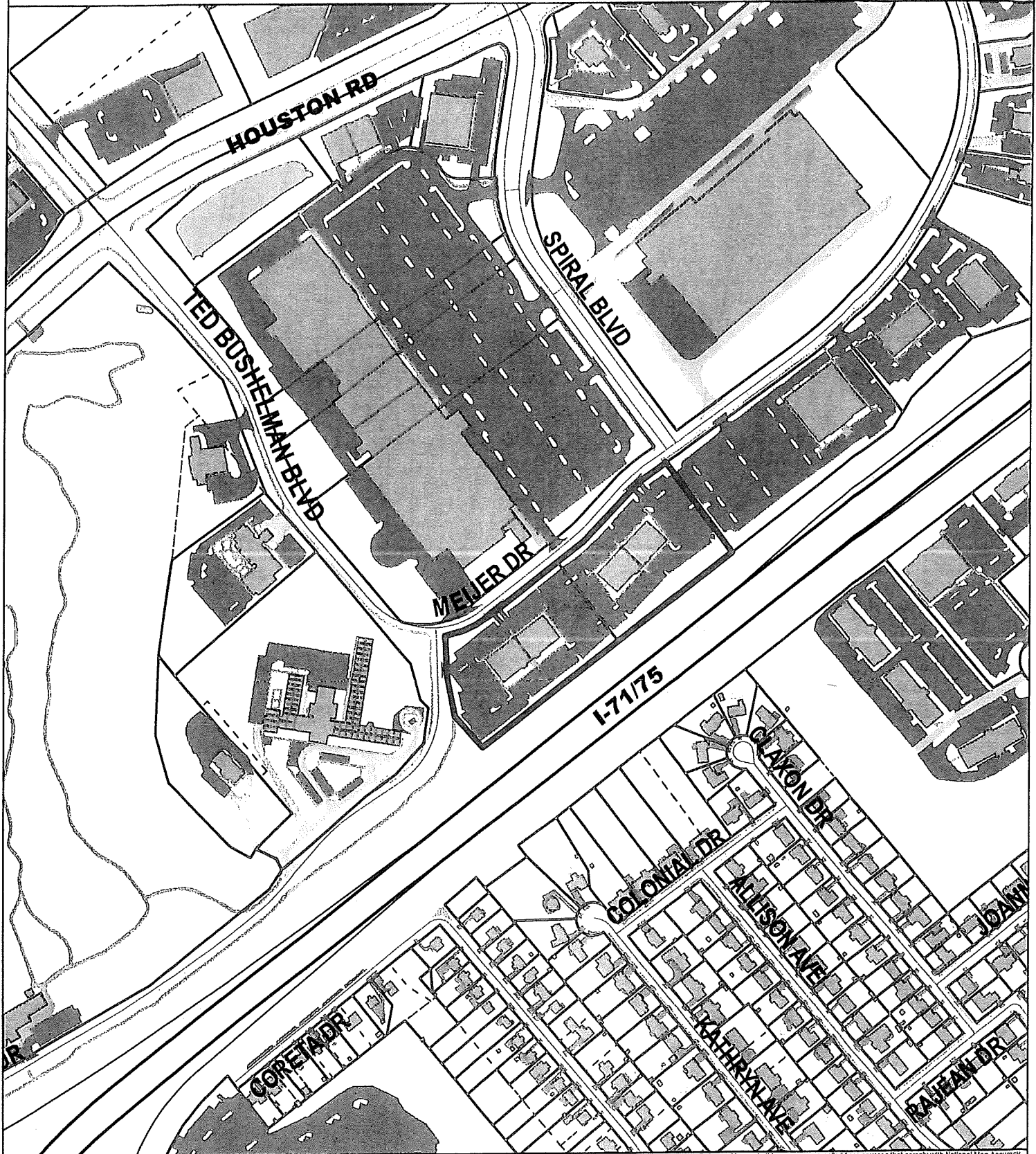
TKM/ss

Attachments

- *Site Vicinity Map
- *Existing Conditions Plan
- *1999 Site Plan
- *1999 Landscaping Plan
- *Section 3645 of the 1996 Zoning Regulations
- *3/16/21 Letter from the City of Florence
- *2020 Aerial Map
- *Zoning Map
- *Topographical Map
- *Application

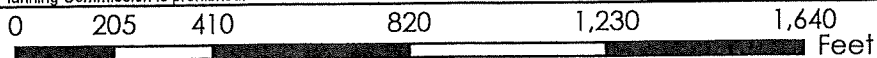
SITE VICINITY MAP

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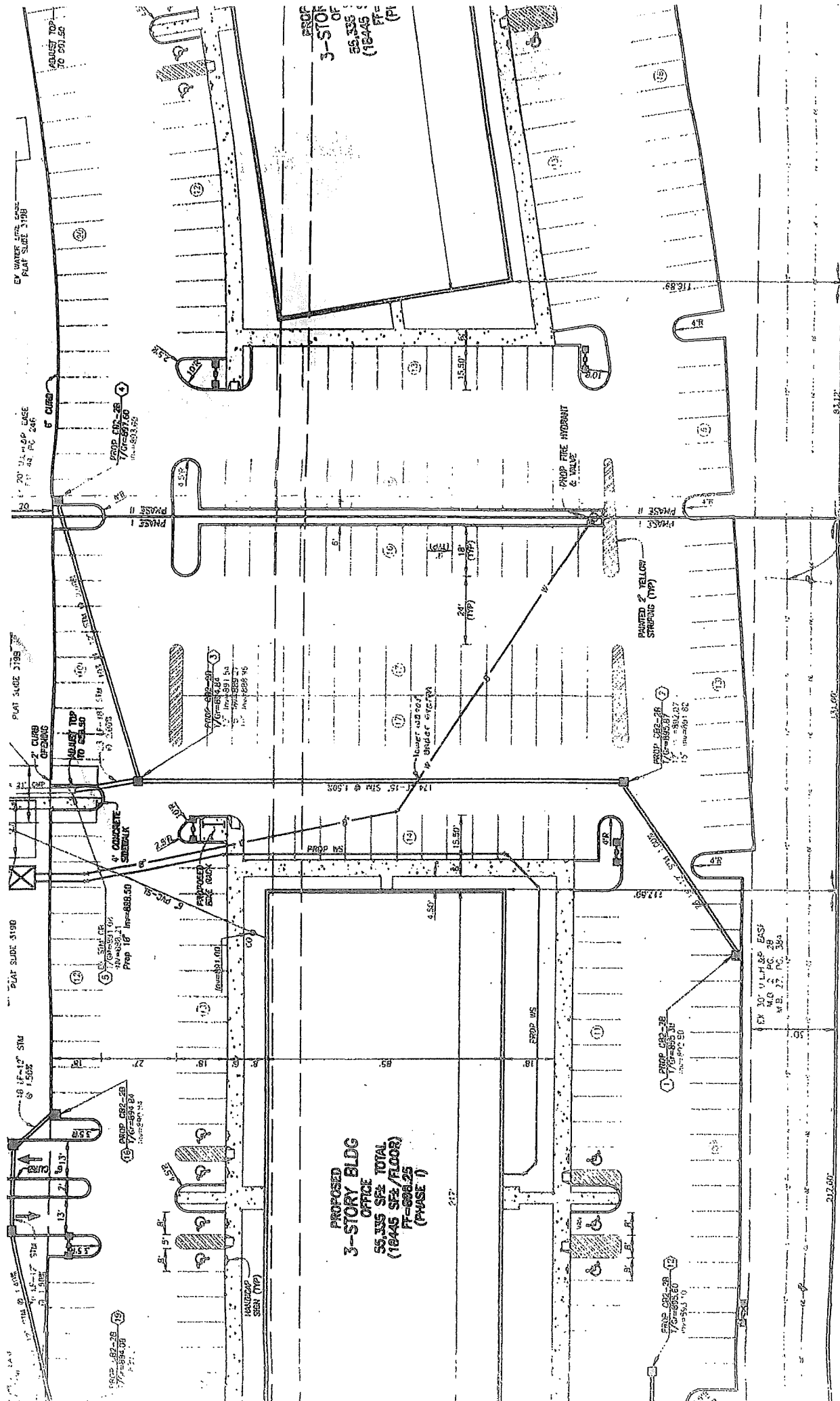


1 inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map





PROPOSED
3-STORY BLDG
OFFICE FLOOR
55,335 SFE TOTAL
(19,445 SFE/FLOOR)
FT=696.25
(PHASE 1)

55°15'00" W 945.83'

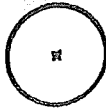
9/3/99 SITE PLAN

11 791 11 97E

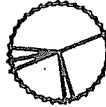
PLANT KEY

9/3/99

DECIDUOUS TREES



RSM (35) RED SUNSET MAPLE 2 1/2' b4b
ACER RUBRUM 'red sunset'



APA (24) AUTUMN PURPLE ASH 2 1/2' b4b
FRAXINUS AMERICANA



CSP (23) CLEVELAND SELECT PEAR 2 1/2' b4b
PYRUS CALLERYANA 'cleveland select'

FLOWERING TREES



PC (16) PRAIRIEFIRE CRABAPPLE 2' b4b
MALUS x 'prairiefire'

EVERGREEN TREES



AP (29) AUSTRIAN PINE 6-7' b4b
PINUS NIGRA



NS (16) NORWAY SPRUCE 6-7' b4b
PICEA ABIES

DECIDUOUS SHRUBS



KSV (36) KOREAN SPICE VIBURNUM 30' b4b
VIBURNUM 'carlesii'



BB (30) COMPACT BURNING BUSH 24' b4b
EUONYMUS ALATUS COMPACTUS



DKL (32) DWARF KOREAN LILAC 5' 15-18'
SYRINGA MEYERI PALIBIN



GMS (31) GOLD MOUND SPIREA 5' 15-18'
SPIREA x 'gold mound'



CPB (91) CRIMSON PYGMY BARBERRY 5'
BERBERIS THUNBERGII STROBILIPURPUREA 'crimson pygmy'

EVERGREEN SHRUBS



TR (222) TAXUS RUNYAN 15-18' b4b
TAXUS x MEDIA 'runyan'

PERENNIALS



SDO (630) STELLA-D-ORO 9'
HEMEROCALLIS 'stella-d-oro'



VL (283) VARIGATED LIRIOPE 9'
LIRIOPE MUSCARI 'variegata'



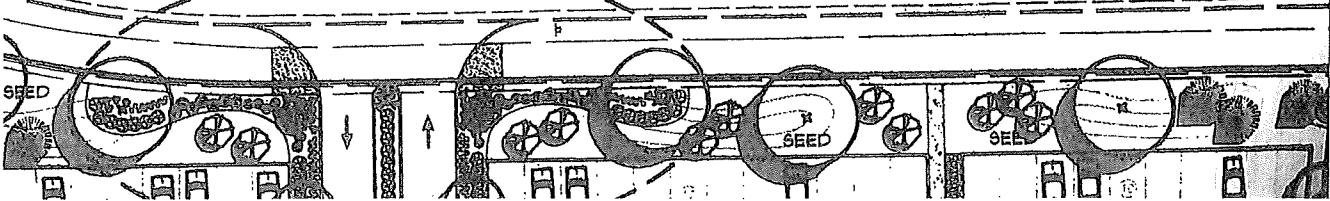
CB (150) CORALBELLS 9'
HEUCHERA MICRANTHA 'purple palace'



PW (4919) PURPLE WINTERCREEPER cell pack @ 10' o.c.
EUONYMUS FORTUNAE COLORATUS



MEIJER DRIVE



SECTION 3615

Enforcement

Inspections will be conducted by the Boone County Zoning Inspector before and after construction to assure compliance with the submitted and approved Site Plan. Post Development site inspections will be conducted according to Article 30.

SECTION 3617

Waiver of Requirements

The Zoning Administrator shall have the authority to grant a waiver of any of the requirements in this article upon receipt of a written request which outlines the rationale for the waiver. The Zoning Administrator shall review each written request and grant a waiver only: under unusual or extreme circumstances which cause a unreasonable hardship such as the size of the lot; or, when an innovative or alternative approach can be made which still meets the intent and purpose of this Article.

SECTION 3618

Sight Triangles

No landscaping materials which impair visibility for motorist shall be placed in sight triangles. See Article 32, Section 3218 for definition and Figure 32.1 for diagram of sight triangles. Any plant materials taller than 3.5 feet shall not be permitted within sight triangles. This includes trees which are limbed up because a mature tree trunk can impair motorist visibility.

SECTION 3620

Landscaping Along Street Frontages

When a use adjoins a street, regardless of whether it is public or private, landscaping shall be required from Buffer yard A (See Table #2). This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the street frontage and not clustered entirely at the ends of the property. This landscaping will provided screening for vehicular use areas, while also allowing flexibility for uses which require high visibility from street frontages. If the street frontage (area between the building and the street) does not contain a V.U.A., then only the trees from Plant List A, B, or D shall be required. The required plants from Plant List C and E can be reduced by 50 percent if the buffer yard width is increased from 10 feet to 20 feet and can be eliminated if the buffer yard area is increase to 30 feet. However, in all cases the trees required from Plant List A, B, or D shall still be required.

Activities, such as outside storage, loading/unloading areas, parking of semi-trailers and heavy equipment or other unsightly activities or operation which do not require public visibility for the operation of the use, shall be required to provide screening found within Buffer yard C (See Table #2). Buffer yards required in this section shall include the specified width of each buffer yard found within Table #2.



SECTION 3625

(1996 Zoning Regs.)

Interior Landscaping for Vehicular Use Areas (VUAs)

Landscaping shall be provided for vehicular use areas, as defined in Article 40 in accordance with the following standards:

1. A minimum of 5 percent of the total VUA shall be landscaped and the landscaping shall be dispersed throughout the paved area (See Figure 36-1). This V.U.A. landscaping shall only be required for uses which have more than 50 parking spaces. This landscaped area cannot be combined into one large planting area, except as permitted by Items 4 and 5 of this section. No interior landscaping will be required within industrial zones if the V.U.A. is located behind the front of the building. This interior landscaping shall be in addition to any other planting or landscaping required within this article.



2. The VUA landscaping shall contain a variety of trees listed from Plant List A and be dispersed in the form of islands or peninsulas throughout the VUA (See Figure 36-1). The minimum size of planting areas shall be 10 feet in width and 200 square feet in size.



3. Planted areas will be required to have 1 tree from Plant List A per 200 square feet of area if designed as in (Figure 36-2.B) and 1 tree per 40 linear feet, (or fraction thereof,) if designed as in (Figure 36-2.A).

4. Planted areas shall be required at the end of every other parking row and when parking adjoins each other at or near right angles (See Figure 36-3). Planting areas that are a minimum of 600 square feet will be required if rows of parking are unbroken for 180 linear feet or more (See Figure 36-2.B).

5. Sites which have large uninterrupted circulation areas for tractor trailers and trucks, such as warehouses and distribution centers, can provide one or more large landscape islands in order to comply with the required 5% landscaped area within the large circulation areas.

6. All planting islands shall be planted with either grass, low ground cover, shrubs, flowers, mulch or any combination of these. Hard surfaces or gravel are not permitted. All planting islands shall have minimum 6 inch curbs installed to protect the planting area from vehicular traffic.

7. All plant material (other than grass, or ground cover) located within landscape islands where vehicle overhangs are needed shall be setback a minimum of 2' 6" from the edge of pavement or face of curb (See Figure 36-4).

SECTION 3630

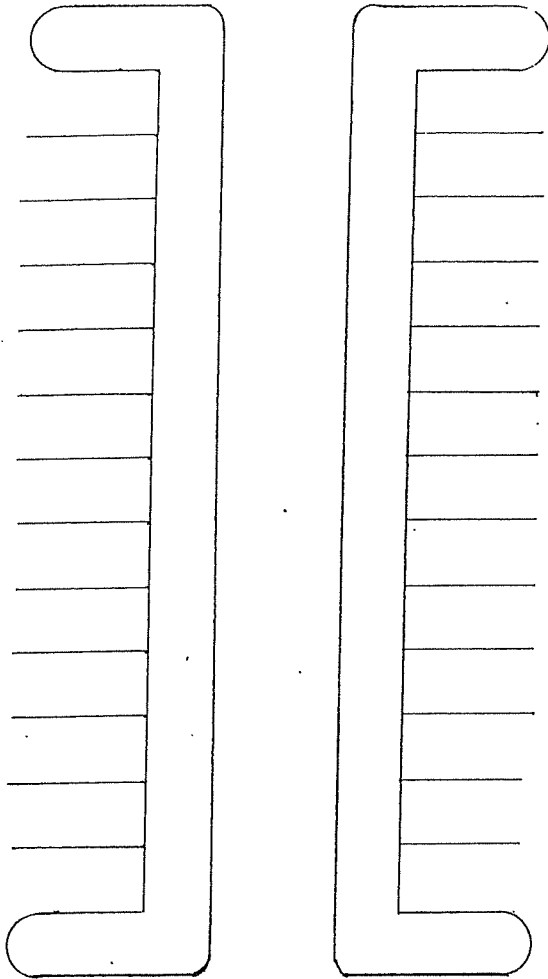
Building Landscaping

Any blank facade or portion of a facade of a building that is not used for outdoor display, storage or loading/unloading shall be required to provide the following landscaping if the wall is visible from a public right-of-way. Blank facades shall be classified as any wall which does not have windows used for display or entry doors for customers or the general public. Buildings which are 10,000 square feet or smaller shall be exempt from the requirement within this section.

1. The landscaping found within Buffer Yard A shall be required to break the mass and visual monotony of long continuous facades. This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the length of the building facade. If the required buffer yard can be used to adequately reduce the view of the facade from the public right-of-way no building landscaping shall be required. However, the determination of whether the required buffer yard can be used for building landscaping shall be determined by the Boone County Planning Commission Staff.

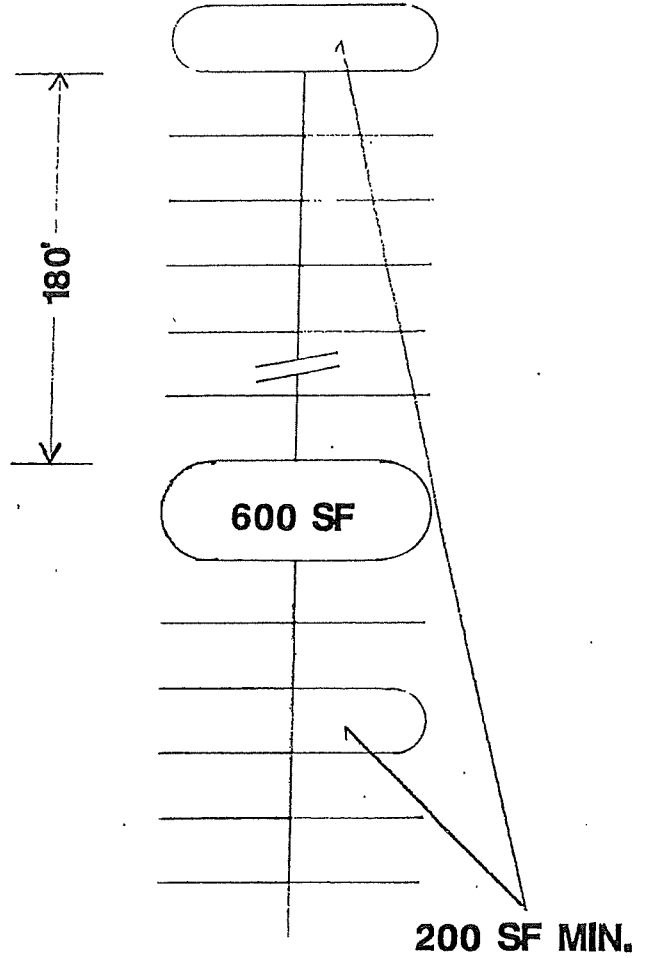
2. Facades that abut VUAs shall have a minimum eight (8) feet wide planting area. This planting area can be reduced by four (4) feet if sidewalks are installed.

LANDSCAPE ISLAND TYPES



TREES 40' ON CENTER

36 - 2.A



1 TREE PER 200 SF

36 - 2.B

FIGURE 36.2



MAR 18 2021

PUBLIC SERVICES DEPARTMENT

COURTESY NOTICE

Mar 16, 2021
600 MEIJER LLC
9545 KENWOOD RD STE 401
CINCINNATI, OH 45242

Case # 21-1278

Dear 600 MEIJER LLC:

This is a courtesy notice to alert you of a condition on your property at 600 Meijer Drive, Florence, KY, 41042 that was observed by a Florence Code Enforcement Officer. This condition is in violation of City of Florence ordinances.

The condition that needs to be resolved is listed below:

Table with 4 columns: Municipal Code, Description, Resolutions, and Comply-By. It lists two violations: ZG 3610 (O-8-14) regarding landscaping materials and PM 302.3 (O-11-03) regarding sidewalk and driveway maintenance.

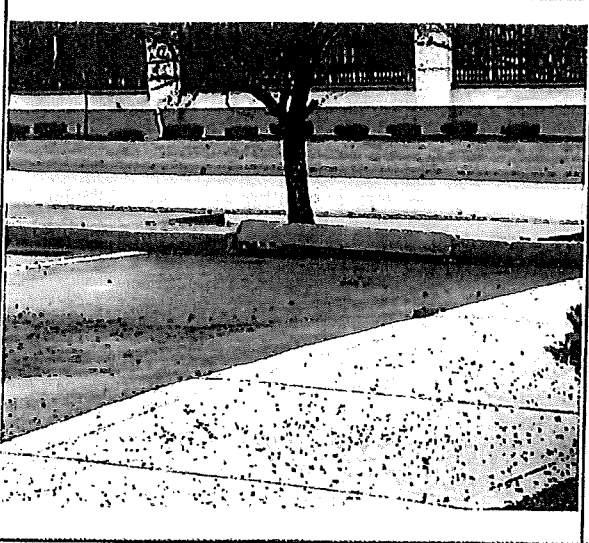

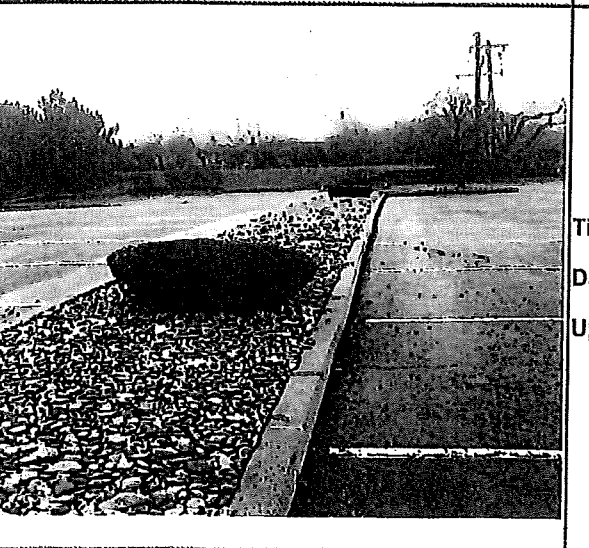
Through this courtesy notice, it is our desire to work with you to prevent a citation from being issued. A citation being issued would result in a fine being assessed and the possibility of a hearing before the Florence Code Enforcement Board.

A follow-up inspection will occur on the follow-up date listed above. Please contact the Florence Code Enforcement Officer assigned to this case as soon as possible if you have any questions or if you need additional time to bring your property into compliance with City of Florence ordinances.

Sincerely,

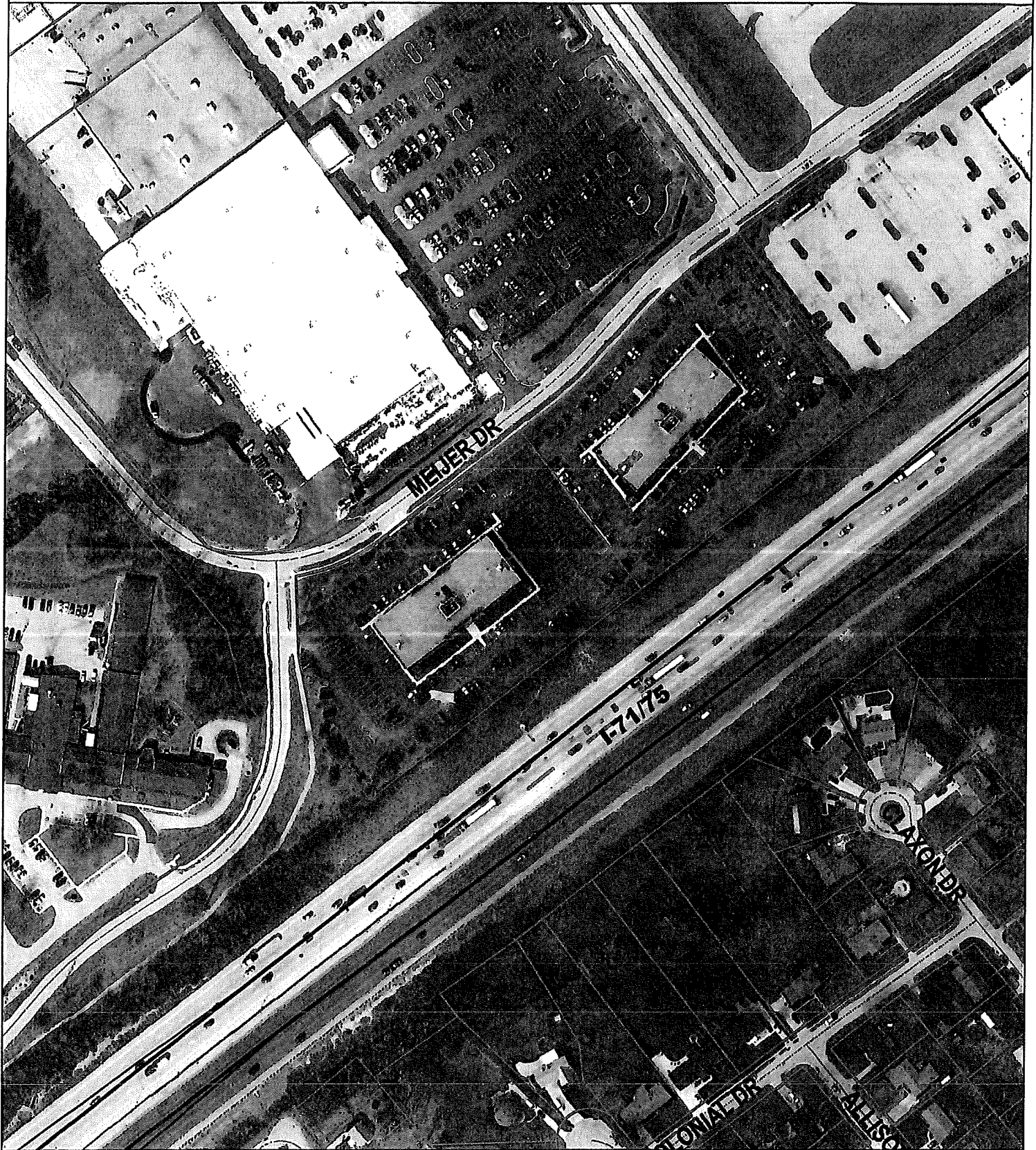
Mike Macaluso
Code Enforcement Officer
(859) 647-5416
mike.macaluso@florence-ky.gov

The below photos were taken by a Florence Code Enforcement Officer to document the status of the violation in question at the time of inspection:

Photo	Details
	<p>Title: image_1615901004219.jpg Date: Mar 16, 2021 09:24 Uploaded by: Mike Macaluso</p>
	<p>Title: image_1615901041903.jpg Date: Mar 16, 2021 09:24 Uploaded by: Mike Macaluso</p>
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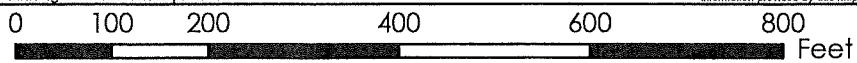
2020 AERIAL MAP

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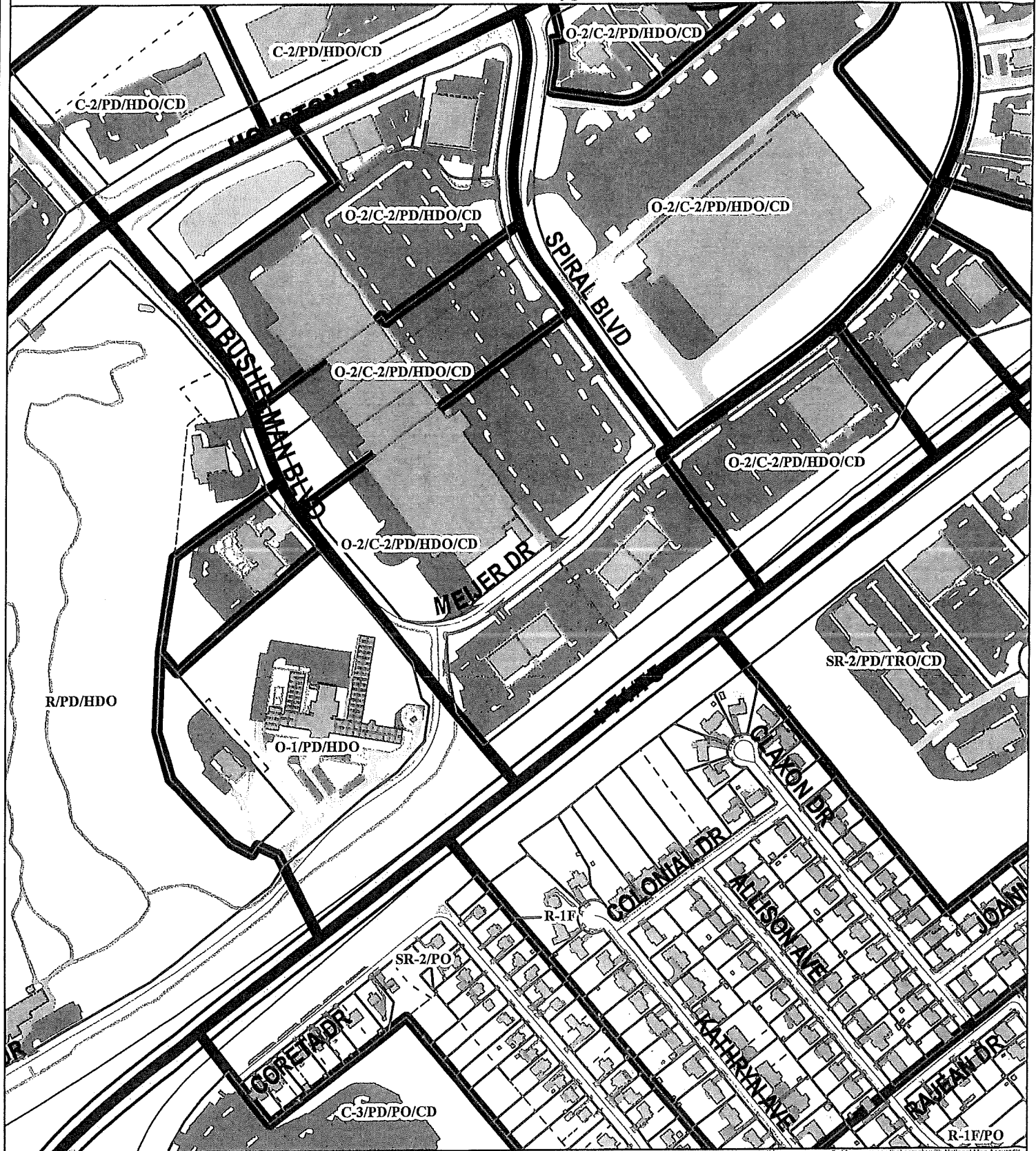
1 inch = 200 feet

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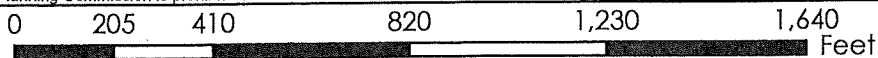
ZONING MAP

www.boonecountygis.com

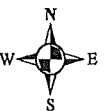


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1 inch = 400 feet



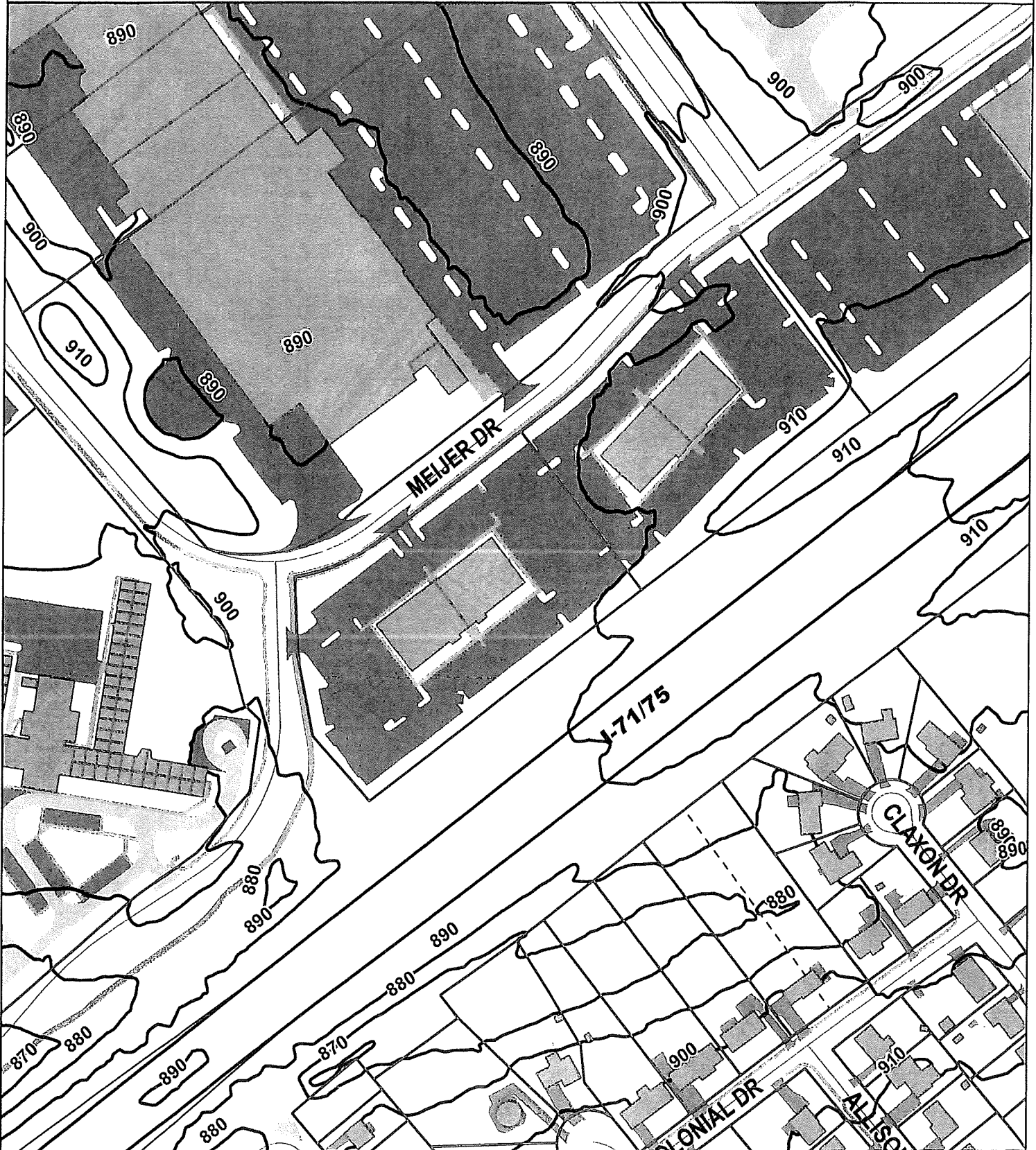
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Map Created: xx/xx/2020

Map File: xx/xx/2020 GIS 1111
ArcMap Document: *.mxd

TOPOGRAPHICAL MAP

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0 100 200 400 600 800 Feet

1 inch = 200 feet



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BOONE COUNTY PLANNING COMMISSION**

RECEIVED
83720
APR 13 2021
BOONE COUNTY
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100 & 10E Houlton LAKET
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Florence Kentucky 41042
City State Zip Code
Phone Number: 513-984-5360 Fax Number: 513-984-1720
Email: hsilverman@silvermanandcompany.com

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
500 Meijer LLC 600 Meijer LLC
500 Meijer Drive 600 Meijer Drive
Florence, KY 41042 Florence, KY 41042
2. ADDRESS OF PROPERTY 500 & 600 Meijer Dr
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Florence Executive Center I & II
4. DEED BOOK 1039 PAGE NO. 993 GROUP NO. 2033B
DEED BOOK 1039 PAGE NO. 996 GROUP NO. 2033B
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

Todd K. Morgan, AICP, 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 26th day of July, 2021.

Treva 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.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the _____ variance _____ approved by the Florence Board of Adjustment and in accordance with the current zoning in effect as of July 19, 2021 Certificate of Land Use Restriction (#21-FBOA-006-A), for 500 & 600 Meijer LLC, Property Owner(s).

The following conditions will apply:

1. The larger landscaping island will contain four trees and the smaller landscape island immediately across the driveway aisle will contain one tree. The selected trees can be any of those that were recommended by Boone County Arboretum.

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

DEED BOOK 1039
DEED BOOK 1039

PAGE NO. 993
PAGE NO. 996

GROUP NO. 2033B
GROUP NO. 2033B

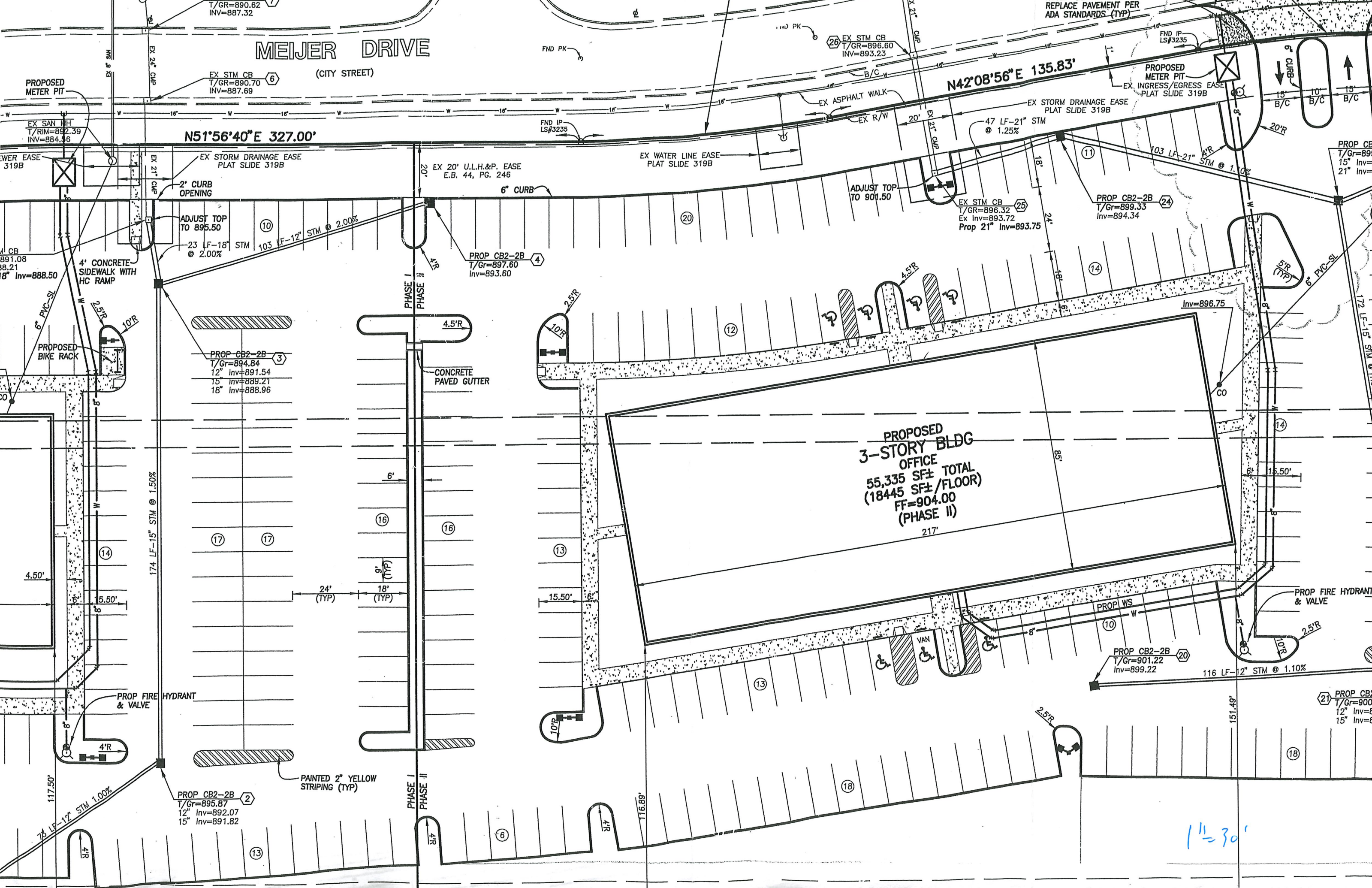
MEIJER DRIVE

(CITY STREET)

N51°56'40"E 327.00'

N42°08'56"E 135.83'

**PROPOSED
3-STORY BLDG
OFFICE**
55,335 SF± TOTAL
(18445 SF±/FLOOR)
FF=904.00
(PHASE II)



PROP CB2-2B
T/Gr=894.84
12" Inv=891.54
15" Inv=889.21
18" Inv=888.96

PROP CB2-2B
T/Gr=897.60
Inv=893.60

EX STM CB
T/Gr=896.32
Ex Inv=893.72
Prop 21" Inv=893.75

PROP CB2-2B
T/Gr=899.33
Inv=894.34

PROP CB2-2B
T/Gr=895.87
12" Inv=892.07
15" Inv=891.82

PROP CB2-2B
T/Gr=901.22
Inv=899.22

PROP CB2
T/Gr=900
12" Inv=898.00
15" Inv=896.00

1"=30'