

DATE: September 9, 2026
TO: Kenton County Joint Board of Adjustment Members
FROM: Andy Videkovich, AICP, Director of Planning
SUBJECT: Kenton County Joint Board of Adjustment Public Hearing for **September 16, 2026**

Staff has published notice of a public hearing of the **Kenton County Joint Board of Adjustment** at 5:30 PM ET (4:30 PM CT) **on Wednesday, September 16, 2026**, at the Kenton County Court House, Fiscal Court Chambers, 5272 Madison Pike, Independence, KY 41051. We submit this case review and recommendation for your consideration prior to the hearing.

The applicant will explain his/her reasons for this request during the hearing and address how he/she believes it meets legal requirements established in law. Staff will lay out the case, provide our findings and a recommendation, and address your comments and/or questions.

If you need additional information or clarification prior to then, don't hesitate to contact me.

cc: Thia Brambley, Wolpert – Applicant
Olowalu Land Company LLC – Owner

**BOARD OF ADJUSTMENT:
CHANGE OF USE**File No: **BOA-26-0019**

Jurisdiction: Independence

Applicant: Woolpert on behalf of
Olowalu Land Company, LLCStaff Review: Andy Videkovich, AICP,
Director of Planning**GENERAL CASE INFORMATION**

1. **Request:** A variance request to reduce the required side yard setback within the CC (Community Commercial) Zone of the Independence Zoning Ordinance. The applicant is proposing to construct an approximately 4,900 square foot restaurant with two drive-thru lanes. This includes an outside meal delivery (OMD) canopy over the drive-thru lanes which will be 5.19 feet from the property line in common with 2088 Declaration Drive to the north, where 10 feet is required.
2. **Location:** 2112 Declaration Drive, Independence

**SITE LOCATION AND BACKGROUND**

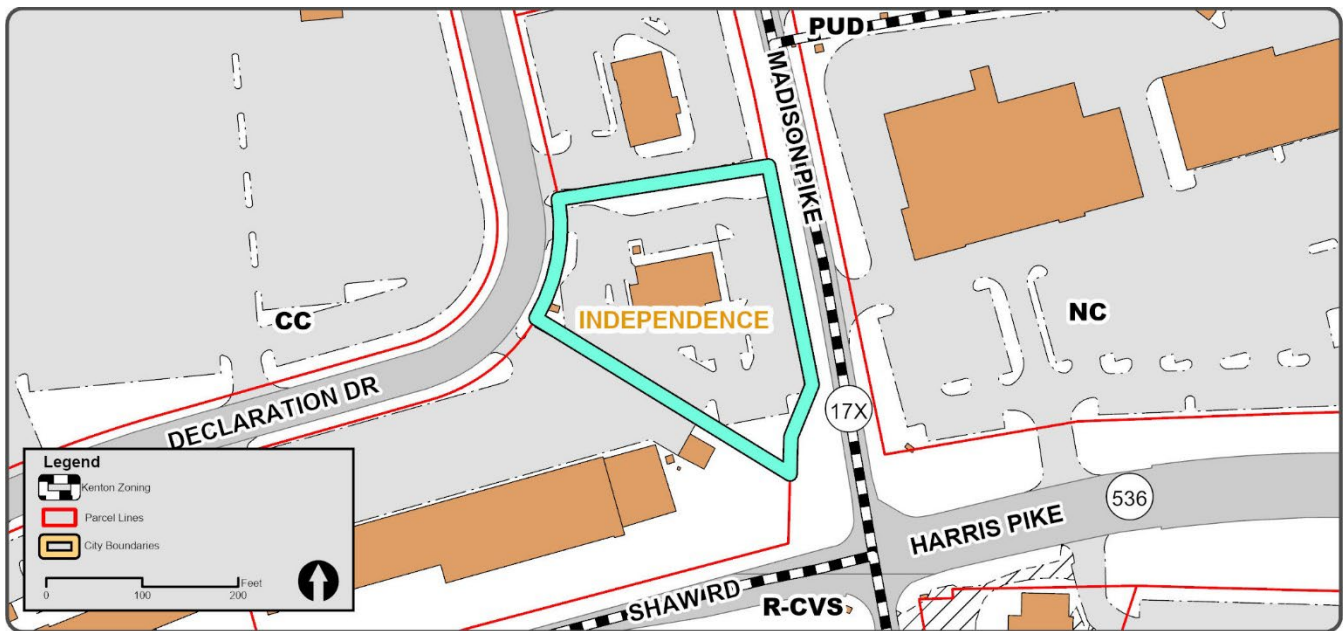
1. The site in question is approximately 1.31 acres and is located on east side of Declaration Drive. The site is a double frontage lot with additional frontage along Madison Pike.
2. The site is the former location of a Frisch's restaurant. There is a vacant restaurant building and off-street parking area on the site. The site is surrounded by commercial uses that are suburban in character.

ANALYSIS – Current Zoning

	ZONING	MIN LOT SIZE	MAX DENSITY
SITE: CURRENT	CC	N/A	N/A
NORTH OF THE SITE	CC	N/A	N/A
SOUTH OF THE SITE	CC	N/A	N/A
EAST OF THE SITE	NC	N/A	N/A
WEST OF THE SITE	CC	N/A	N/A

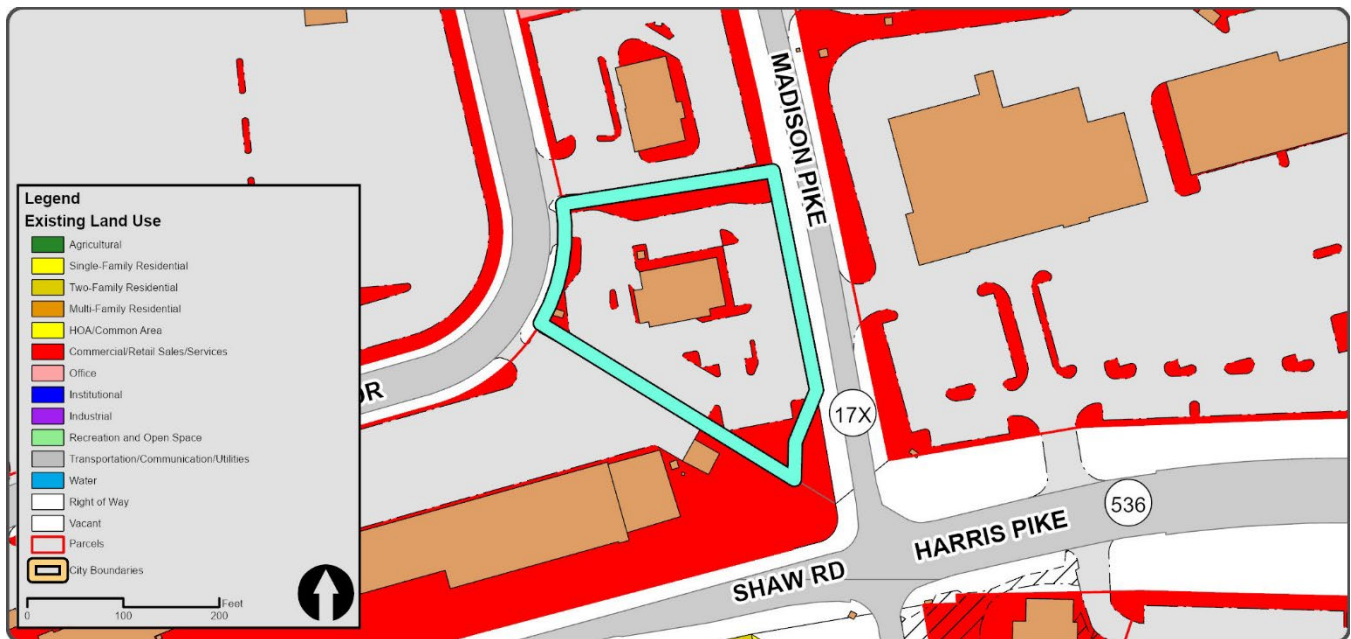
The site in question is currently zoned CC. The CC Zone is intended to provide locations for supermarkets, general merchandise retailers, and offices. It may include large-footprint retail uses as well as smaller outlets or strip centers, subject to the following area and height requirements:

- Minimum lot area – N/A;
- Minimum lot width at building setback line – 100 feet;
- Minimum front yard – 15 feet;
- Minimum side yard – 10 feet/35 feet when adjacent to residential;
- Minimum rear yard – 10 feet/35 feet when adjacent to residential;
- Maximum building height – 40 feet.



ANALYSIS – Current Land Use

	DESCRIPTION
SITE: CURRENT	Vacant restaurant
NORTH OF THE SITE	Commercial
SOUTH OF THE SITE	Commercial
EAST OF THE SITE	Commercial
WEST OF THE SITE	Commercial



SUBMISSION MATERIALS

The applicant has submitted the following information and materials (attached):

- a. a letter detailing the nature and reasons for the submitted request; and
- b. a site plan and drawings detailing the proposed request.

PETITION REVIEW

1. The submitted site plan and application materials show the following:
 - a. Construction of an approximately 4,900 square foot fast food restaurant with off-street parking and two drive-thru lanes.
 - i. Construction of a canopy over the outdoor meal delivery area on the north side of the proposed building.
 - ii. Set back 5.19 feet from the side property line.
2. KRS 100.243 states:
 - 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:
 - i. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - iii. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

RECOMMENDATION: Unfavorable recommendation on the variance request to reduce the required side yard setback within the CC (Community Commercial) Zone of the Independence Zoning Ordinance from 10 feet to 5.19 feet.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION

1. The variance will alter the essential character of the general vicinity and will allow an unreasonable circumvention of the requirements of the zoning regulations. The variance arises from the applicant's site layout selection rather than from a unique condition on the site.
2. No special circumstances exist on this site that do not generally apply to other land in the general vicinity or within the same zone. This is a standard commercial lot of typical size, shape, and topography, and the proposed encroachment results from the applicant's chosen site layout rather than from any condition unique to the property.
3. The strict application of the zoning regulations will not deprive the applicant of the reasonable use of the land and will not create an unnecessary hardship. The site is an existing 1.31-acre commercial lot on which the proposed restaurant use is permitted as of right, and the applicant retains full reasonable use of the land under the 10-foot side yard requirement.
4. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The encroachment arises from the site layout the applicant selected rather than from any pre-existing condition of the property.

Additional Information

1. If approved, building and zoning permits are required.



August 18, 2026

Kenton County
Planning and Development Services
1840 Simon Kenton Way, Ste. 3400
Covington, KY 41011-2999

Attention: KCPC - Board of Adjustments

Re: Chick-fil-A, Inc.
2112 Declaration Dr., Independence, KY
PID #033-00-03-010.00
BOA Variance Application

To Whom It May Concern:

On behalf of our client, Chick-fil-A, Inc., we respectfully request the following dimensional variance for the redevelopment of the property at 2112 Declaration Drive in Independence, Kentucky. The requested variance is the minimum deviation from code needed to support reasonable use of the property, enhance customer comfort and operational flow, and uphold the County's standards.

In support of this application, we are including a current ALTA Survey, Site Demolition Plan, new Site Plan, Grading and Drainage Plan, Pre Lot Coverage/Post Lot Coverage Plans, Utility Plan sheets, Trash Truck Turning Exhibit and Photometric Plan, and Signage Plans.

Setbacks – Article 5 Dimensional Requirements, 5.06 Setback and Lot Width Measurements

Required: Side yard setback – Ten feet (10')

Proposed: A variance to decrease the required side yard setback for a drive-through canopy located on the north side of the property from ten feet (10') to five feet (5') within the CC (Community Commercial) Zone.

Justification: Allowing the setback from ten feet (10') to five feet (5') will accommodate placement of the dual lane drive-through standalone canopy which provides security lighting and shelter from the elements for staff when delivering meals to patrons. This will also assist with the function of dual lane drive-through requirements to meet the needs of a restaurant with a business function that is designed or intended to be used for sales or services to patrons who remain in their vehicle. The dual lane drive-through is critical for the applicant to operate a viable and successful business.

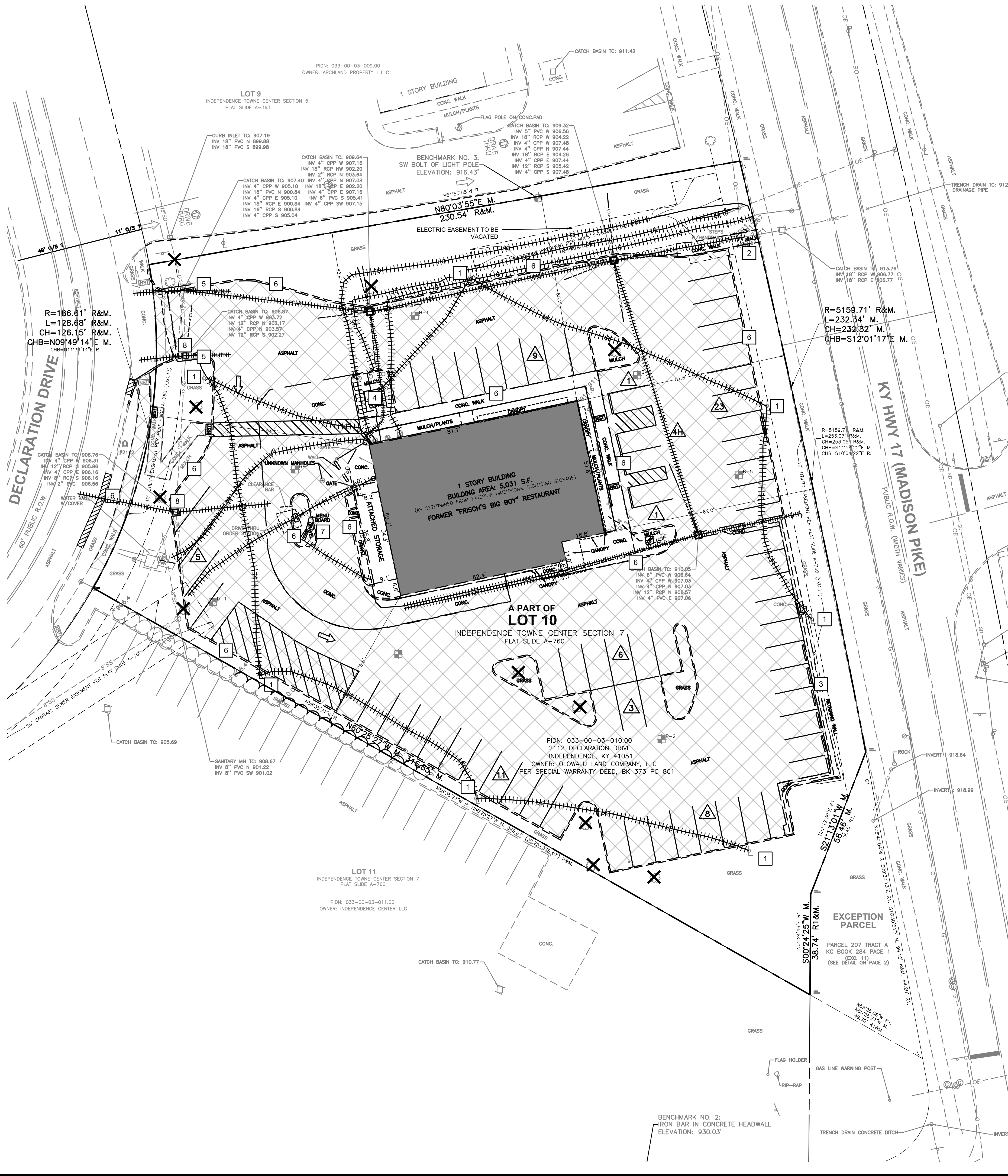
We appreciate your time and consideration of this variance request and respectfully ask that it be given favorable consideration in light of the project's contribution to the community and the opportunity it provides for our client to operate successfully at this location.

We look forward to hearing from you.

Sincerely,

WOOLPERT, Inc.
David Teyber, P.E., S.I.
Engineer Team Leader – Civil Engineering
david.teyber@woolpert.com
(937) 531-1206

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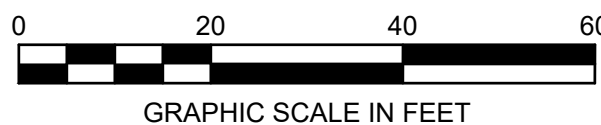


DEMOLITION LEGEND

	FULL DEPTH SAWCUT AND REMOVE EXISTING PAVEMENT TO SUBGRADE
	FULL DEPTH SAWCUT AND REMOVE EXISTING CURB TO SUBGRADE
	REMOVE TREE/SHRUB
	REMOVE UTILITY LINE
	ABANDON UTILITY LINE

DEMOLITION KEYNOTES

1	REMOVE LIGHTPOLE
2	REMOVE STAIRS
3	REMOVE EXISTING RETAINING WALL
4	REMOVE TRANSFORMER
5	REMOVE SIGN
6	FULL DEPTH SAW CUT AND REMOVE EXISTING CURB TO SUBGRADE
7	REMOVE DRIVE THRU SPEAKER, MENU BOARD, ASSOCIATED EQUIPMENT, AND UTILITIES
8	REMOVE AND REPLACE WITH STRUCTURE AS SHOWN ON SITE PLAN



Chick-fil-A
5200 Buffington Road
Atlanta, Georgia
30349-2998

CHICK-FIL-A
INDEPENDENCE (KY) FSU
2112 DECLARATION DR
INDEPENDENCE, KY

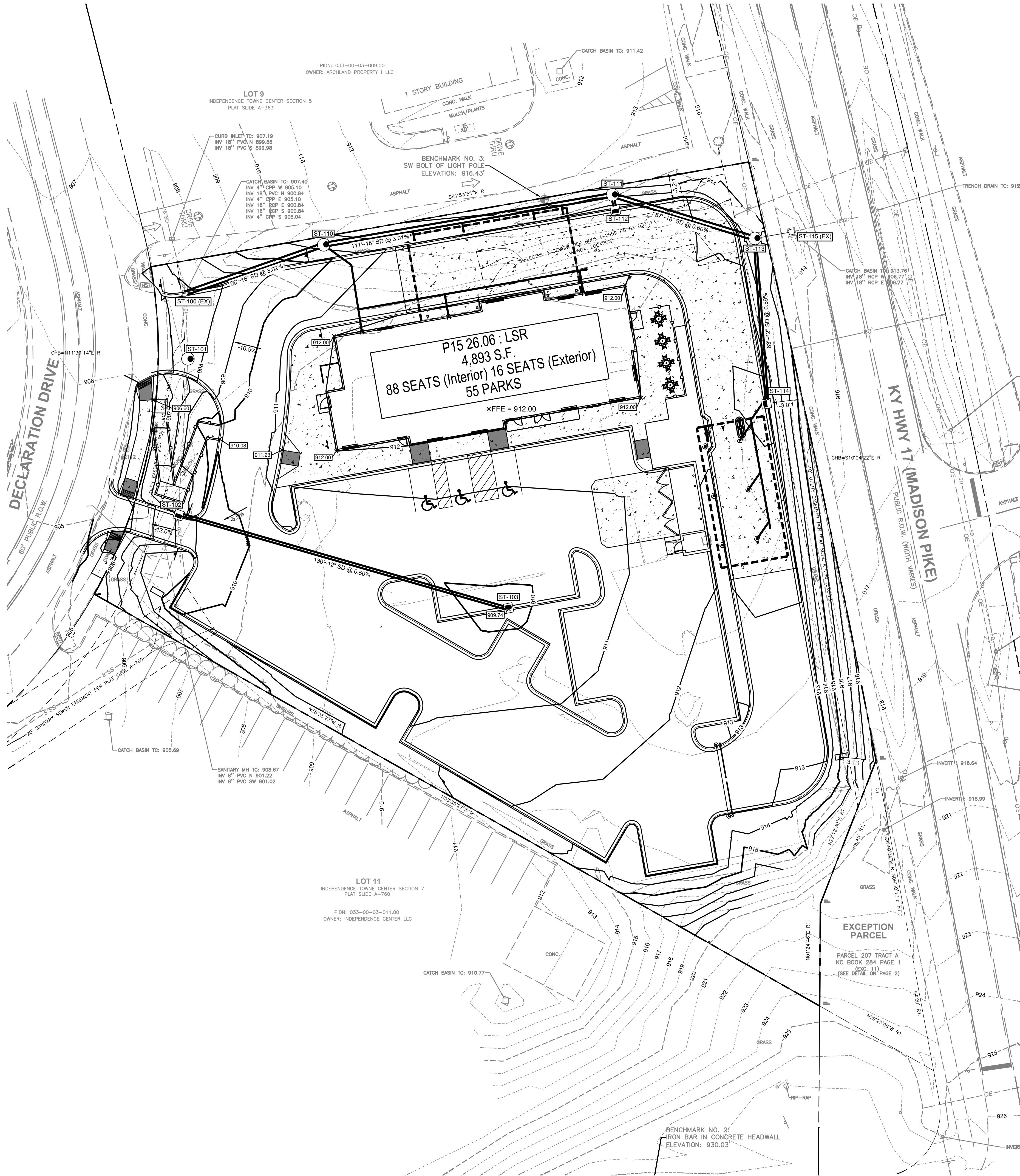
FSR# 06415

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NO.	DATE	

NOT FOR CONSTRUCTION

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CHECKED BY:		DT
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SHEET		
SITE DEMOLITION PLAN		
SHEET NUMBER		
C-100		

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EXISTING LEGEND

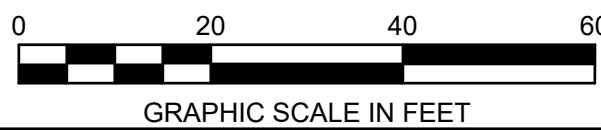
- PROPERTY BOUNDARY
- 1' CONTOUR
- 5' CONTOUR
- STORM SEWER
- DRAINAGE STRUCTURE

PROPOSED LEGEND

- 1' CONTOUR
- 5' CONTOUR
- STORM SEWER
- REVERSE (SPILLING) CURB & GUTTER
- CONCRETE CURB & GUTTER (CATCHING)
- DEPRESSED SPILLING CURB & GUTTER
- DEPRESSED CATCHING CURB & GUTTER
- DEPRESSED SIDEWALK
- CURB INLET
- CATCH BASIN
- STORM MANHOLE
- STORM STRUCTURE I.D.
- BENCHMARK
- DRAINAGE DIRECTION ARROW
- OVERFLOW DIRECTION ARROW
- ELEVATION
- TOP OF CURB ELEVATION
- BOTTOM OF CURB ELEVATION
- TOP OF CASTING ELEVATION
- TOP OF FOOTING ELEVATION
- MATCH EXISTING ELEVATION

GRADING NOTES

- SEE SHEET C-001 FOR GENERAL NOTES.
- CONTRACTOR SHALL REFER TO OTHER PLANS WITHIN THIS CONSTRUCTION SET FOR OTHER PERTINENT INFORMATION. IT IS NOT THE ENGINEER'S INTENT THAT ANY SINGLE PLAN SHEET WITHIN THIS SET OF DOCUMENTS FULLY DEPICT ALL WORK ASSOCIATED WITH THE PROJECT.
- PROVIDE POSITIVE DRAINAGE AT ALL TIMES TO ENSURE NO STANDING WATER WITHIN PAVEMENT, BUILDING PAD OR GREEN AREAS.
- ALL STORM STRUCTURES WITHIN PAVED AREAS REQUIRE WEEP HOLES. SEE DETAILS 40 & 40A ON SHEET C-403 FOR WEEP HOLE DETAILS.



Chick-fil-A
5200 Buffington Road
Atlanta, Georgia
30349-2998



CHICK-FIL-A
INDEPENDENCE (KY) FSU
2112 DECLARATION DR
INDEPENDENCE, KY

FSR# 06415

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SHEET GRADING & DRAINAGE	
SHEET NUMBER C-300	

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SHEET
PRE LOT COVERAGE

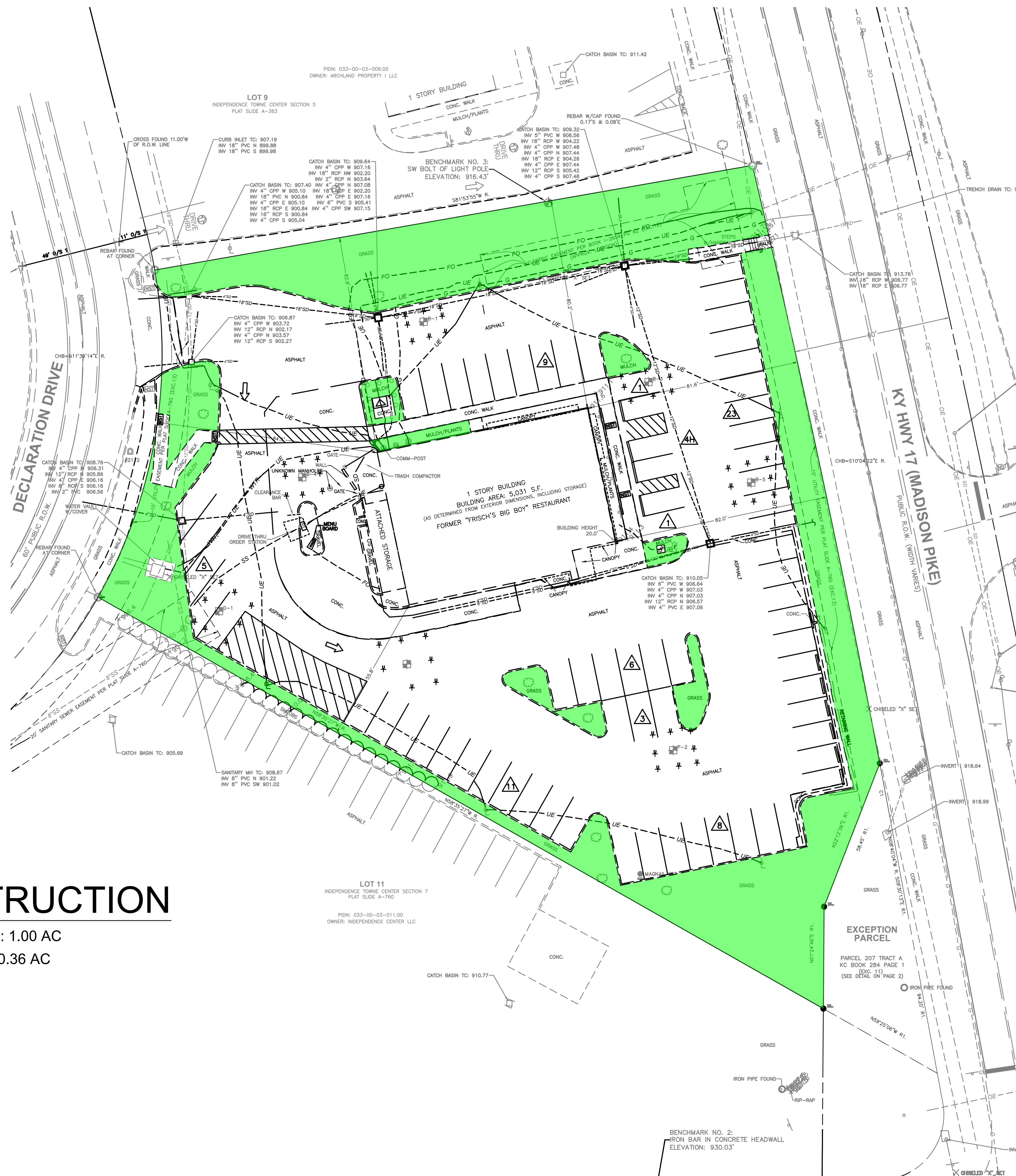
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C-401



PRE-CONSTRUCTION

****IMPERVIOUS: 1.00 AC**

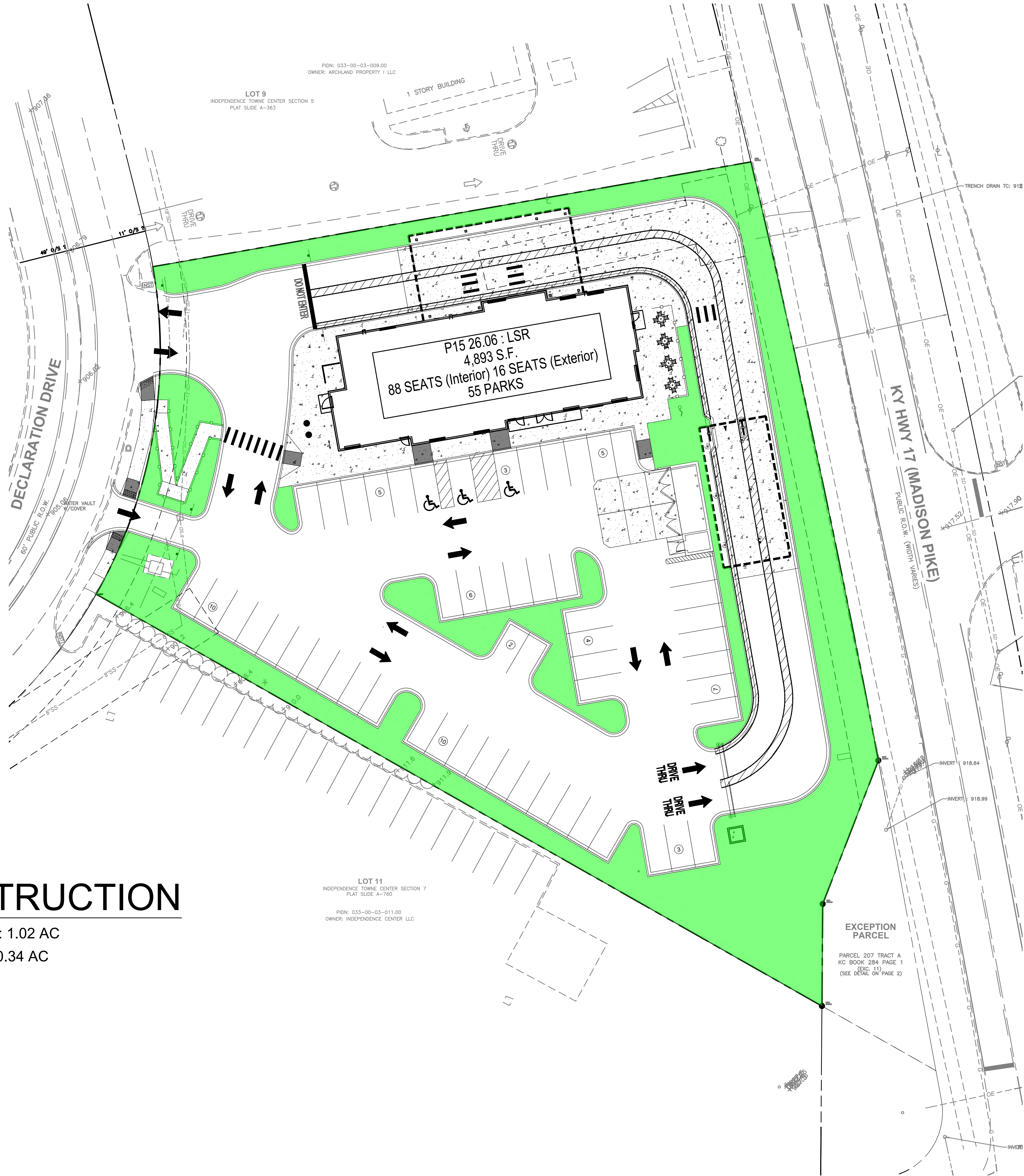
*PERVIOUS: 0.36 AC



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POST-CONSTRUCTION

**IMPERVIOUS: 1.02 AC
*PERVIOUS: 0.34 AC



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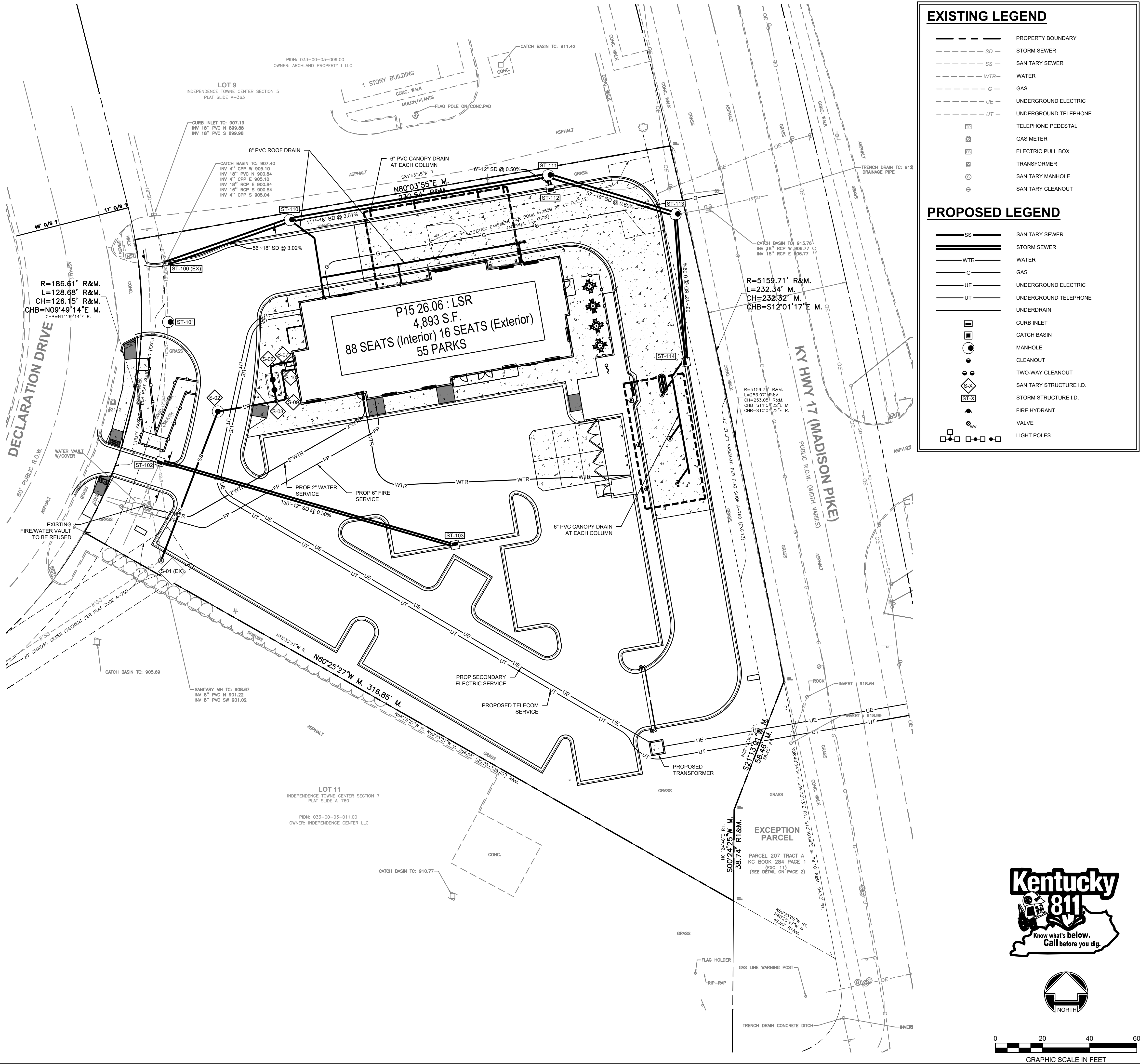
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SHEET		
POST LOT COVERAGE PLAN		
SHEET NUMBER		
C-402		

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STORM STRUCTURE TABLE			
STRUCTURE ID	DESCRIPTION	RIM/GRATE	INVERT
ST-100 (EX)	EXISTING CB	907.32	18" = 900.84 (E) 12" = 900.84 (S)
ST-101	MANHOLE	907.54	12" = 902.17 (N) 12" = 902.27 (S)
ST-102	CURB INLET	908.17	12" = 905.86 (E) 12" = 905.86 (N) 8" = 906.16 (S) 2" = 906.56 (SW)
ST-103	CURB INLET	909.74	12" = 906.51 (W)
ST-110	MANHOLE	911.30	18" = 902.52 (E) 18" = 902.52 (W) 8" = 902.52 (SE)
ST-111	MANHOLE	913.27	18" = 905.87 (E) 18" = 905.87 (W) 12" = 905.87 (S)
ST-112	CURB INLET	911.15	12" = 905.90 (N)
ST-113	MANHOLE	913.65	18" = 906.21 (W) 12" = 906.21 (S) 18" = 906.21 (E)
ST-114	CURB INLET	910.75	12" = 906.58 (N) 6" = 907.06 (W)
ST-115 (EX)	EXISTING CATCH BASIN	912.91	18" = 906.77 (W) 18" = 906.77 (E)

SANITARY STRUCTURE TABLE			
STRUCTURE ID	DESCRIPTION	RIM	INVERT
S-01 (EX)	MANHOLE	909.71	6" = 901.90 (N)
S-02	SANITARY CONC MH 48 DIA	911.12	6" = 906.83 (E) 6" = 905.20 (S)
S-03	TWO WAY CLEAN OUT	911.82	6" = 907.10 (N) 6" = 907.10 (W) 6" = 907.10 (E)
S-04	GREASE OUT	907.83	6" = 907.12 (N) 6" = 907.12 (S)
S-05	GREASE IN	908.07	6" = 907.37 (N) 6" = 907.37 (S)
S-06	CLEAN OUT	911.86	6" = 907.40 (E) 6" = 907.36 (SW)
S-07	TWO WAY CLEANOUT	911.92	6" = 907.44 (E) 6" = 907.44 (W)
S-08	BUILDING CONNECTION	908.21	6" = 907.50 (W)
S-09	CLEAN OUT	911.92	6" = 907.19 (N) 6" = 907.19 (SW)
S-10	TWO WAY CLEAN OUT	911.93	6" = 907.40 (E) 6" = 907.40 (SW)
S-11	BUILDING CONNECTION	908.21	6" = 907.50 (W)



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30349-2998



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INDEPENDENCE, KY

FSR# 06415

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SHEET
UTILITY TAGS

SHEET NUMBER

C-501



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FSR# 06415

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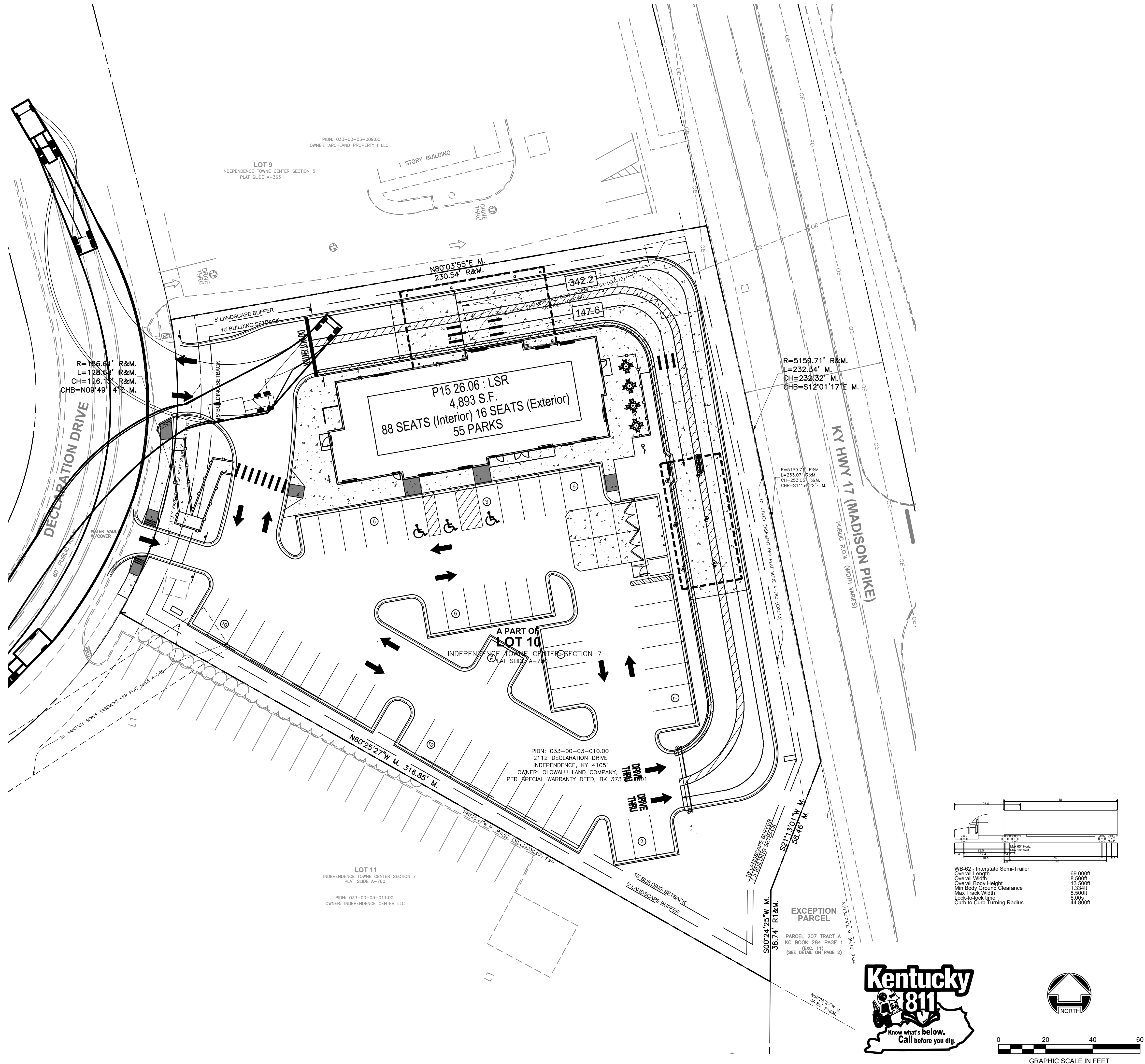
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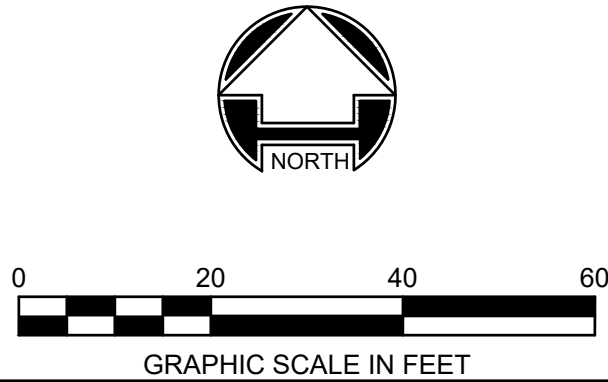
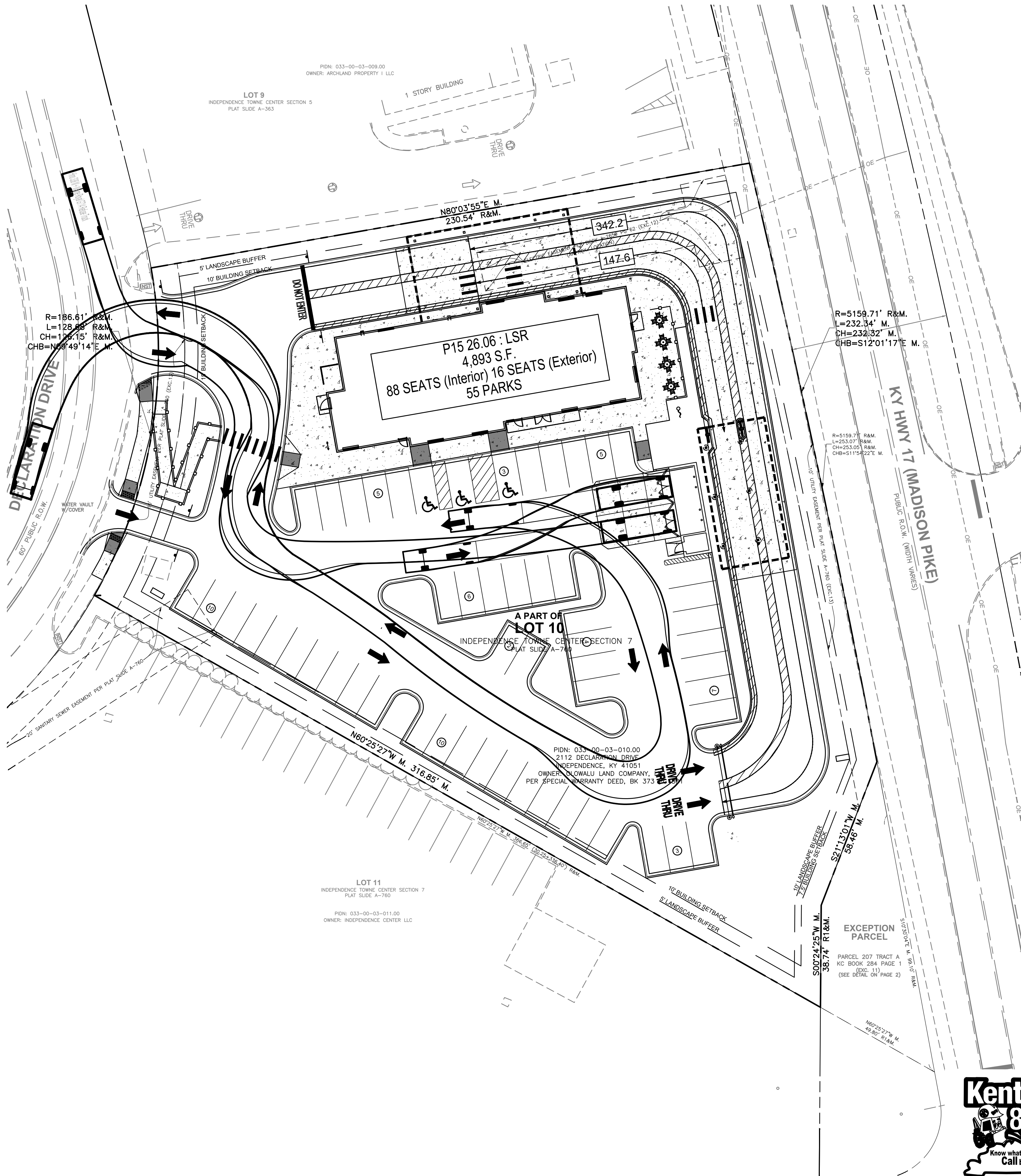
SHEET
TRUCK TURNING EXHIBIT

SHEET NUMBER

C



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SHEET	TRASH TRUCK TURNING EXHIBIT
SHEET NUMBER	D