

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2

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

1. Date Received 3-24-04 Fee Received \$120.00 ~~38299~~ ^{3/31/04}
2. Is application complete? _____ Yes _____ No 38204
3. Staff Reviewer _____ ~~38877~~
4. Scheduled Board Action Date _____
5. Board Action:
4-14-04 Approved
4-14-04 Approved with Conditions (See #6)
Denial (See #7).
6. Conditions of Approval: SEE 4-14-04 B.C.B.O.A.
MEETING MINUTES
7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
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: James W. Berling
LOCATION: Future Lots 11, 45, 46, and 60 of Section 21 of Triple Crown Country Club Subdivision, Boone County, Kentucky.
ZONING: Suburban Residential One (SR-1)
DATE: April 14, 2004

Proposal

The Applicant is requesting the following variances:

- (1) Allow a reduction in the 30 foot front yard setback requirement for four proposed flag lots (lots 11, 45, 46, and 60) in Section 21 of Triple Crown Country Club Subdivision. The request is to reduce the front yard setback requirement of these four lots to 10 feet.
- (2) Allow the road frontage requirement of the four lots to be reduced from 65 feet to 15 feet.

Applicable Regulations

Article 40, Section 4000 of the Boone County Zoning Regulations defines that the front yard of a flag lot "is measured from the rear lot line of the adjoining lot that is between the flag lot in question and the street."

Article 40, Section 4000 of the Boone County Zoning Regulations defines that lot frontage is "the distance between the side property lines as measured across the minimum front yard setback line."

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.

- A. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - B. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

Surrounding Land Uses and Zoning

The proposed lots are located within a future Section of Triple Crown and are zoned Suburban Residential One (SR-1). The Preliminary Plat that has been submitted to the Boone County Planning Commission (see attachments) indicates that 92 single-family residential lots are being proposed on the 56.5 acre tract. The following land uses adjoin the 56.5 acre tract:

North: Single-Family Dwellings Fronting on Frogtown Road (SR-1)

South: Triple Crown Country Club Golf Course Holes 11 & 12 (SR-2/R/PD), Single-Family Residential Dwellings Fronting on Silver Charm Lane (SR-2/R/PD), and Single-Family Residential Dwelling Fronting on Paddock Drive, and Filly Court (SR-1)

East: Future Section of Heritage Trails (SR-1) & Shed and Barn Fronting on Frogtown Road (SR-2)

West: Triple Crown Country Club Golf Course Hole 13 (SR-2/R/PD)

Staff Comments

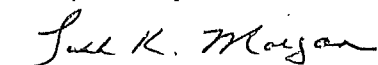
1. Staff wants the Applicant to explain if he wants the lots treated as flag lots or conventional lots. Single flag lots are required to have 20 feet of frontage along a public or private street and contiguous flag lots are required to have 15 feet of frontage along a public or private street (see flag lot regulations and diagram in attachments). Conventional lots in the Suburban Residential One (SR-1) zone are required to have at least 65' of road frontage measured at the front yard setback.

2. Staff believed that the Applicant was treating the four lots as flag lots because Waivers were issued by the Zoning Administrator when the Preliminary Plat was approved. These Waivers allowed each of the flag lots to have less than a 150 foot panhandle, 3 contiguous flag lots to exist (lots 44, 45, and 46), and some of the flag lots to have more than 20 feet of frontage along a public street. The Waivers did not reduce any of the required setback requirements.
3. Staff's understanding is that the first application is to reduce the front yard setback from 30' to 10' if the lots are being treated as flag lots and that the second request is to reduce the minimum road frontage requirement from 65 feet to 15 feet if the lots are being treated as conventional lots. Staff would like to note that the orientation of the setbacks (front, side, and rear) is determined by whether these lots are flag lots or conventional lots.
4. The buildable area of a flag lot is usually located behind another lot (see example in attachments). If the four lots are determined to be flag lots, Staff would like to note that they are not typical and do not lend themselves to being measured as the regulations require. The Zoning Administrator has determined that the front yard setback will be measured toward the street and where the panhandle ends if the lots are classified as flag lots (see attachments).
5. Staff recommends that the lots should be treated as flag lots because several Waivers were issued when the Preliminary Plat was approved. Although the lots do not meet all the requirements, they resemble flag lots much more than they resemble conventional lots.
6. If the lots are considered flag lots, Staff recommends the following conditions:
 - a) The side yard setback for lot 11 (between lot 11 & lot 12) will be 30 feet.
 - b) The side yard setback for lot 60 (between lot 60 and lot 61) will be 30 feet.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the requests.

Respectfully submitted,

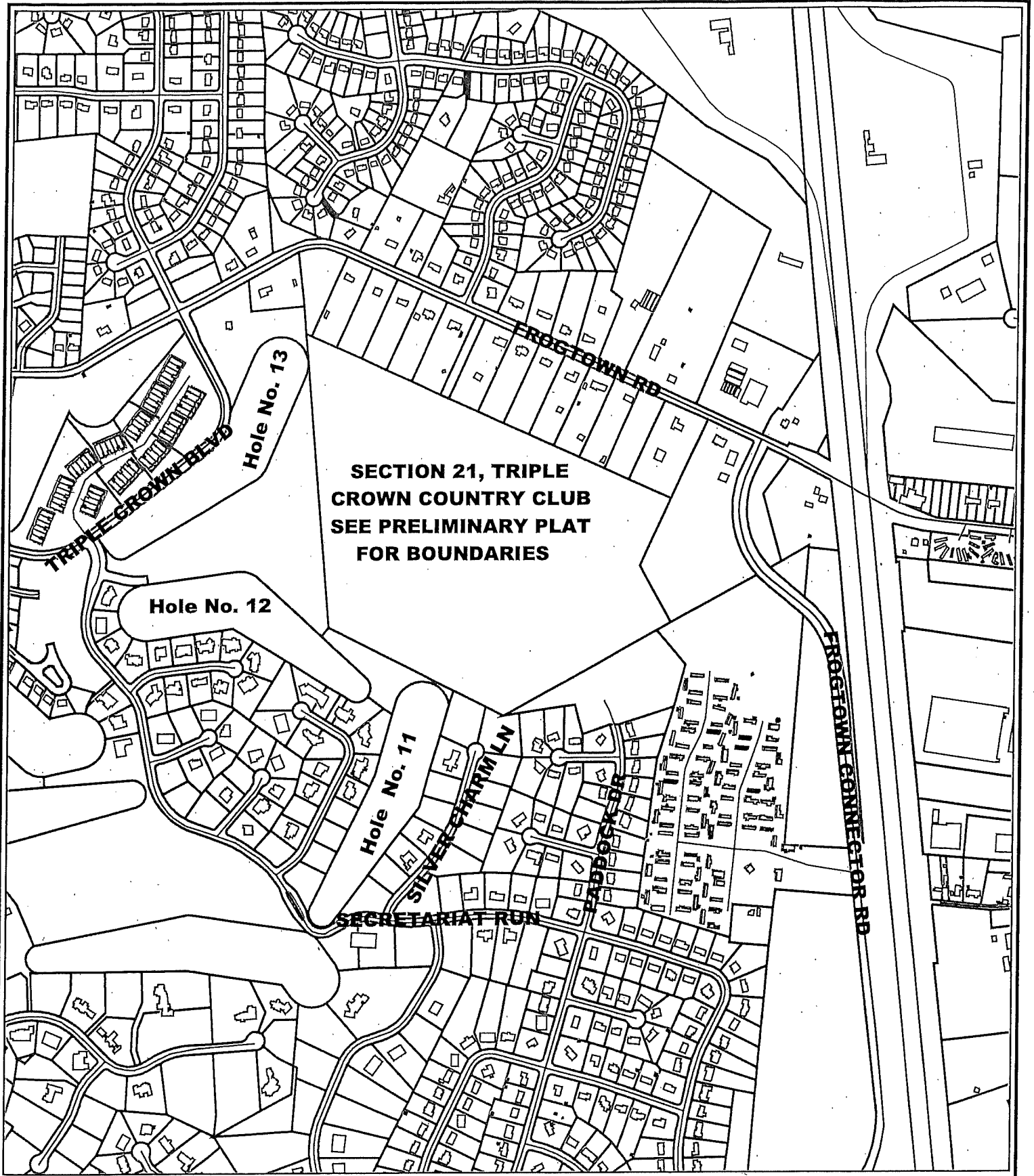


Todd K. Morgan, AICP
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Letter From Applicant
- Exhibit C – Concept Plan (Preliminary Plat)
- Exhibit D – Zoning Map
- Exhibit E – Aerial Map
- Exhibit F – Flag Lot Regulations
- Exhibit G – Setback Determination For 4 Flag Lots
- Exhibit H – Application

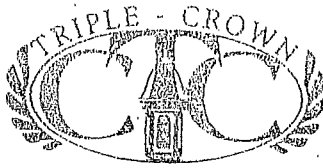


**Triple Crown Country Club
Section 21
Site Vicinity Map**

700 0 700 Feet

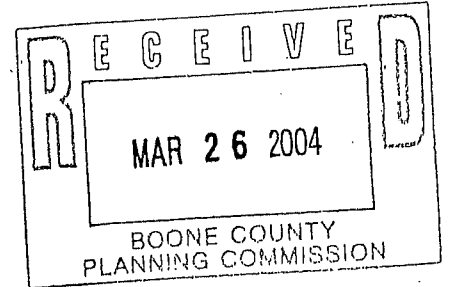
1 inch equals 700 feet





A Country Club Community Created In Championship Tradition

March 26, 2004



Boone County Board of Adjustments
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

Re: Triple Crown Country Club - Section No. 21
Lot Nos. 11, 45, 46 and 60

Dear Chairman:

We have recently submitted the preliminary plat for Section No. 21 of Triple Crown Country Club. During their review the Boone County Planning Commission staff determined that Lot Nos. 11, 45, 46 and 60 do not meet the design standards for a normal lot or for a flag lot.

They do not meet the design standards for a normal lot because the normal lot requires a minimum of 65 feet width at the minimum building setback line which is 30 feet from the street right of way (Boone County Zoning Ordinance Page 40.13). They do not meet the design standards for a flag lot because a flag lot requires a minimum of 150 feet length in the panhandle portion of the lot. The standard flag lot design anticipates that a lot will set directly behind another lot and the 150 feet would then be the minimum lot depth of the front lot.

When we design a custom home section at Triple Crown, we have always used the same basic design criteria. We work as closely with the contour of the land as possible, save as many trees as possible, position the house to take advantage of the golf course, woods or lake views, and make sure that the lot sizes and restrictions are done in a way that makes the new section of development compatible with the existing neighborhood.

When designing the proposed Section No. 21 we studied the western portion of it very carefully. This area lies along an existing creek, it has many large trees and it slopes sharply from east to west. Because it is adjacent to golf hole nos. 12 and 13, it will be a very popular location for custom housing.

Triple Crown Developers, LLC

1671 Park Rd., Suite One • Fort Wright, KY 41011 • Tel. (859) 331-9191 • Fax (859) 344-7422

Email: tberling@fuse.net

Web Site: www.triplecrowncc.com

Boone County Board of Adjustments
March 26, 2004
Page Two

To develop the best home sites with the least amount of clearing and excavation, we examined the contours and placed typical homes in the area. Lot lines were then scribed around the homes to give each house a generous portion of land with frontage on a public street. It was also necessary to orient the homes to provide the best visibility to the golf course and woods.

Our design produced a few lots which do not meet the regulations because the panhandle portion of the lot is less than 150 feet. Please consider allowing us to develop Section No. 21 as we have it designed. We believe it is the best use of the land with the least amount of disturbance.

Enclosed please find a copy of the development plan for Section No. 21. You can see that there is a definite development pattern with the rear of the homes facing the woods and the golf course.

In order to develop the lots as shown, we need the Board of Adjustments to grant the following variances for Lot Nos. 11, 45, 46 and 60.

- 1) The minimum lot width for Lot Nos. 11, 45, 46 and 60 shall be reduced from 65 feet to 15 feet.
- 2) The minimum front yard setback for Lot Nos. 11, 45, 46 and 60 shall be reduced from 30 feet to 10 feet.

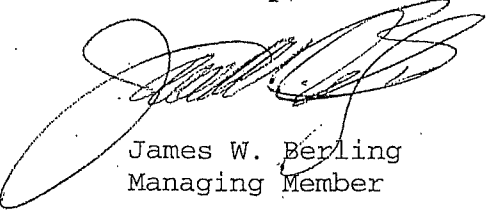
While the dimensional variances seem extreme, they are only the minimum values. All four building sites will be designed to provide the best location for the new homes.

All other minimum yard requirements will remain in effect and will be consistent with the SR-1 zone.

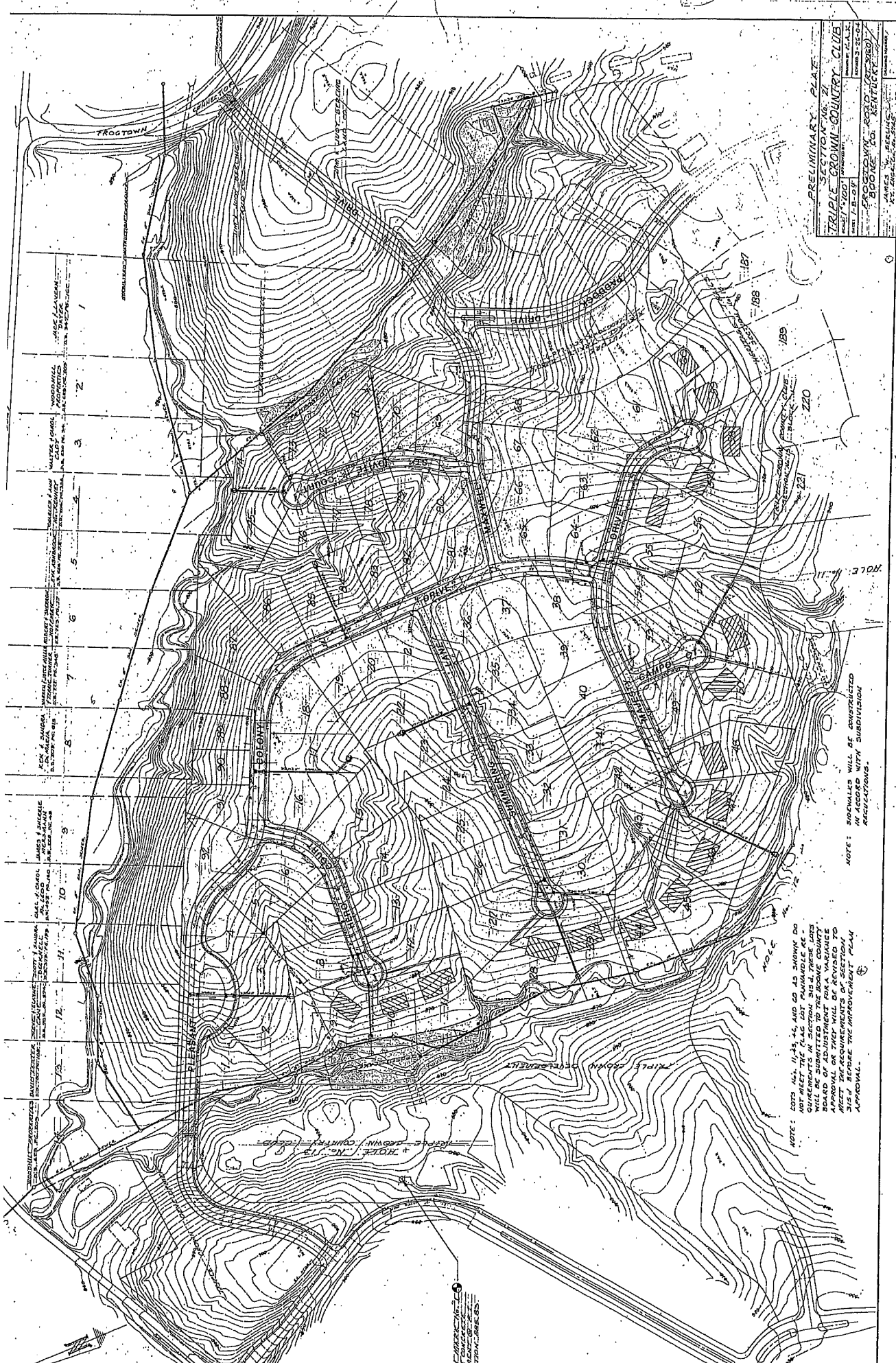
All four of these lots will meet the minimum frontage for flag lots on public street as described and shown in the Boone County Subdivision Regulations.

Thank you for your consideration of this matter.

Sincerely,



James W. Berling
Managing Member



PRELIMINARY PLAN	
SECTION 31A	
TRIPLE COUNTRY CLUB	
DATE: 1-2-57	BY: JAMES W. BELLAS
PROJECT: BOONE CO. ROAD IMPROVEMENT	SCALE: AS SHOWN
JAMES W. BELLAS, ENGINEER	

1. JAMES W. BELLAS, ENGINEER, BOONE COUNTY, MISSOURI, HAS PREPARED THIS PLAN FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

2. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

3. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

4. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

5. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

6. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

7. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

8. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

9. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

10. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

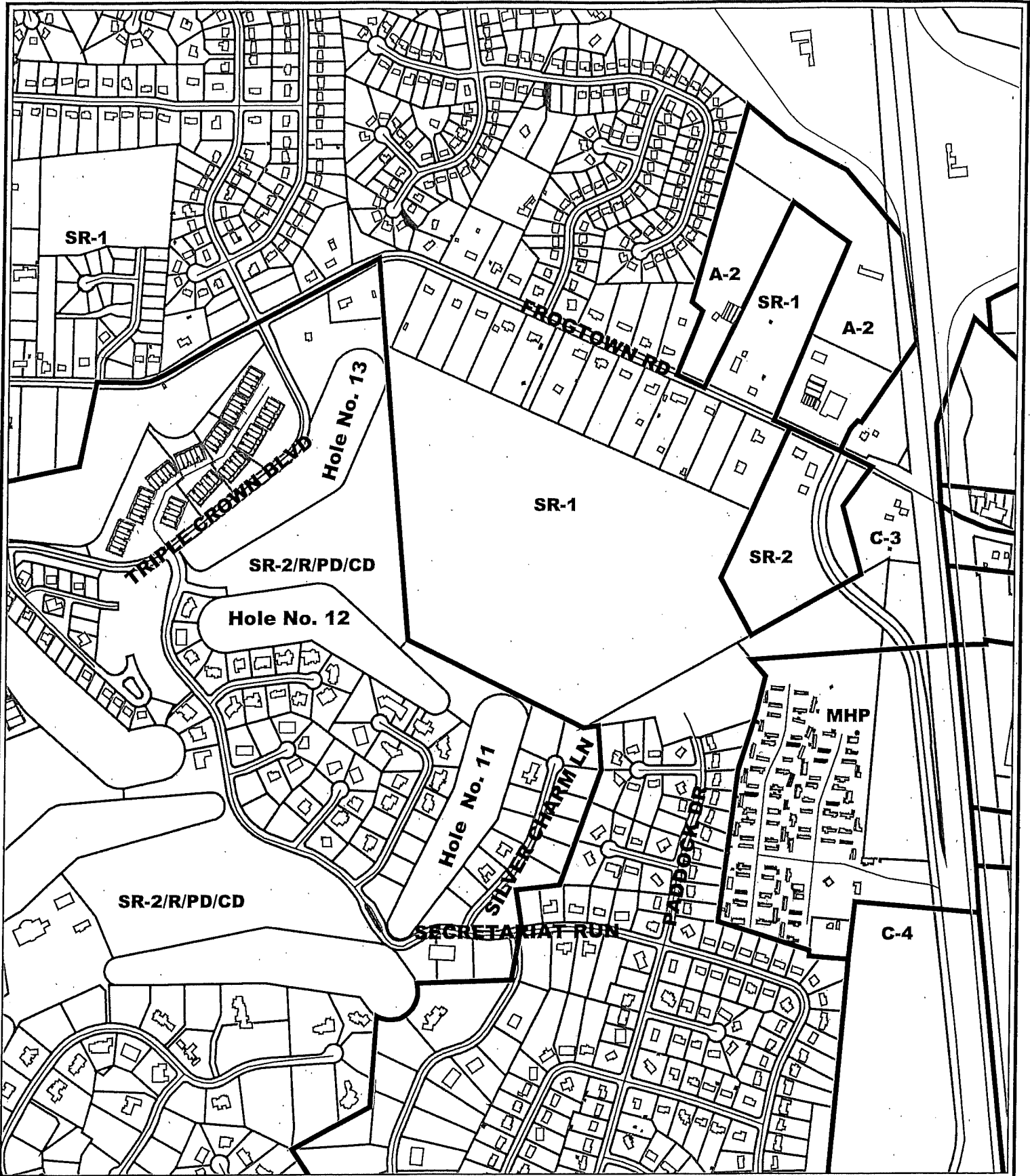
11. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

12. THE BOARD OF SUPERVISORS HAS REVIEWED THIS PLAN AND HAS APPROVED IT FOR THE PURPOSES OF THE BOONE COUNTY BOARD OF SUPERVISORS.

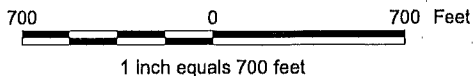
NOTE: LOTS 16, 17, 18, 19, AND 20 AS SHOWN DO NOT MEET THE REQUIREMENTS OF SECTION 31A AND WILL BE SUBMITTED TO THE BOONE COUNTY BOARD OF SUPERVISORS FOR A VARIANCE TO MEET THE REQUIREMENTS OF SECTION 31A BEFORE THE IMPROVEMENT PLAN IS APPROVED.

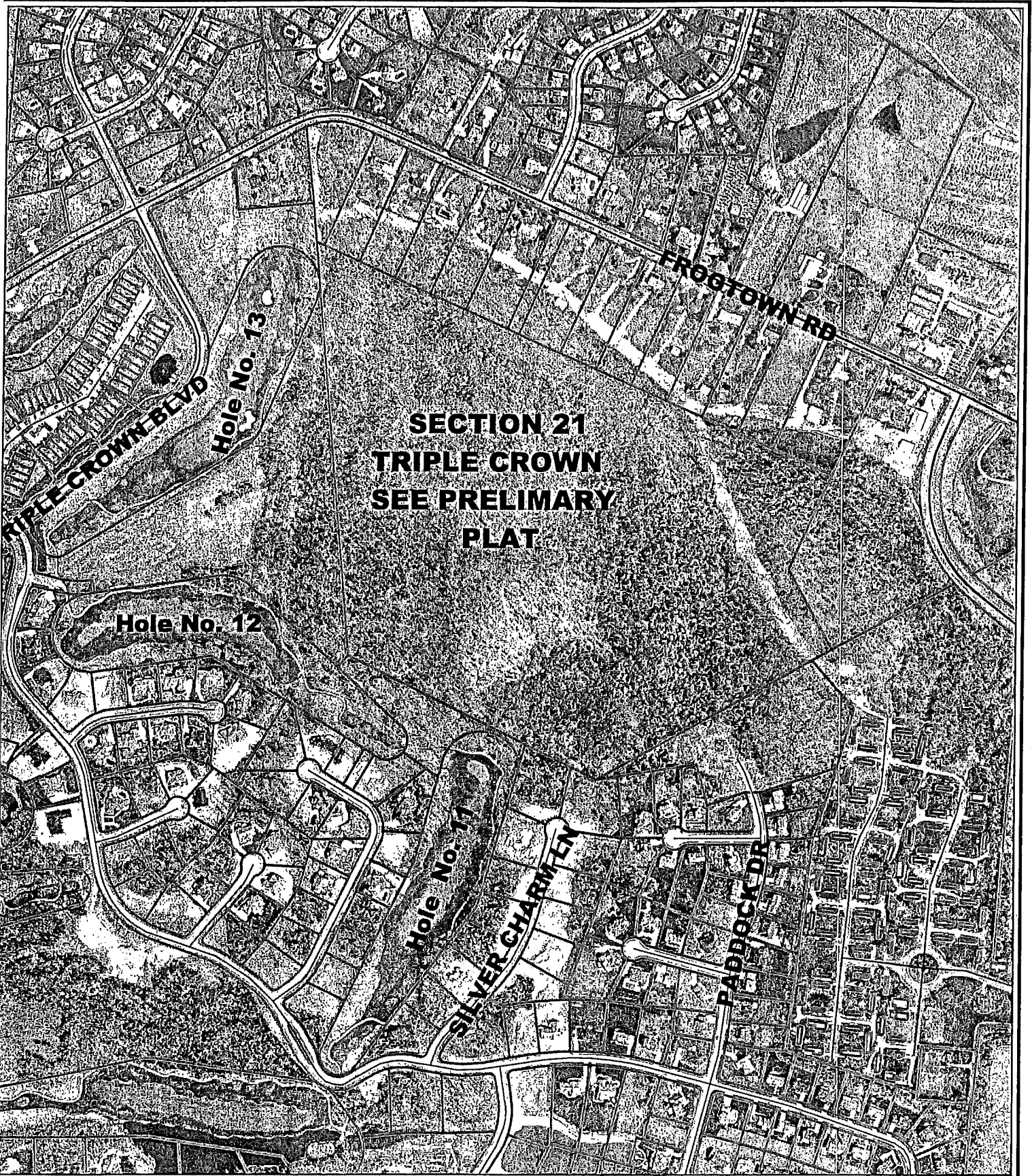
NOTE: DETAILS WILL BE CONSTRUCTED ACCORDING TO SUBDIVISION REGULATIONS.

BOONE COUNTY, MISSOURI
 DEPARTMENT OF PUBLIC WORKS
 BOONE COUNTY COURTHOUSE
 FROGTOWN, MISSOURI



**Triple Crown Country Club
Section 21
Zoning Map**





**SECTION 21
TRIPLE CROWN
SEE PRELIMINARY
PLAT**

Hole No. 12

Hole No. 13

Hole No. 11

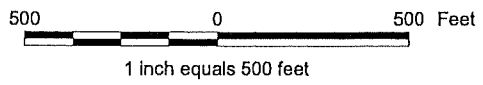
SILVER CHARM LN

FROGTOWN RD

TRIPLE CROWN BLVD

PADDOCK DR

**Triple Crown Country Club
Section 21
Aerial Map**





Flag lots in agricultural and residential subdivisions shall meet the following standards:

Single flag lots shall have twenty feet (20') of frontage on a publicly dedicated street. In the case of two contiguous flag lots, there shall be thirty feet (30') of frontage on a publicly dedicated street with a common driveway. With two contiguous flag lots, a deeded 15 foot (15') strip of land for each lot is required with a common unobstructed access easement for a shared driveway to the public street.

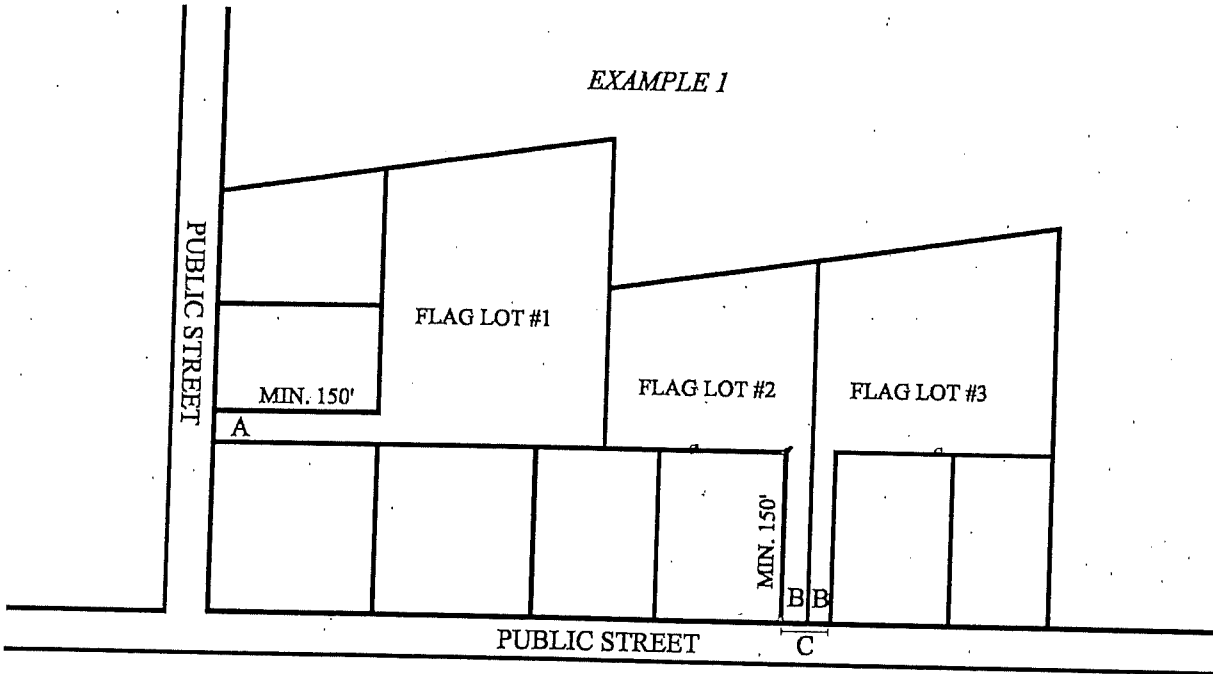
Flag lots in commercial and industrial subdivisions shall meet the following standards:

Flag lots shall have a minimum of thirty feet (30') of frontage and a maximum of fifty (50') of frontage on a publicly dedicated street. In the case of two contiguous flag lots, there shall be a minimum of thirty feet (30') of frontage and a maximum of fifty feet (50') of frontage, for both lots combined, on a publicly dedicated street with a common driveway. With two contiguous flag lots, a deeded strip of land that is at least 15 feet (15') wide, but not greater than twenty five feet (25') in width, is required for each lot with a common unobstructed access easement for a shared driveway to the public street.

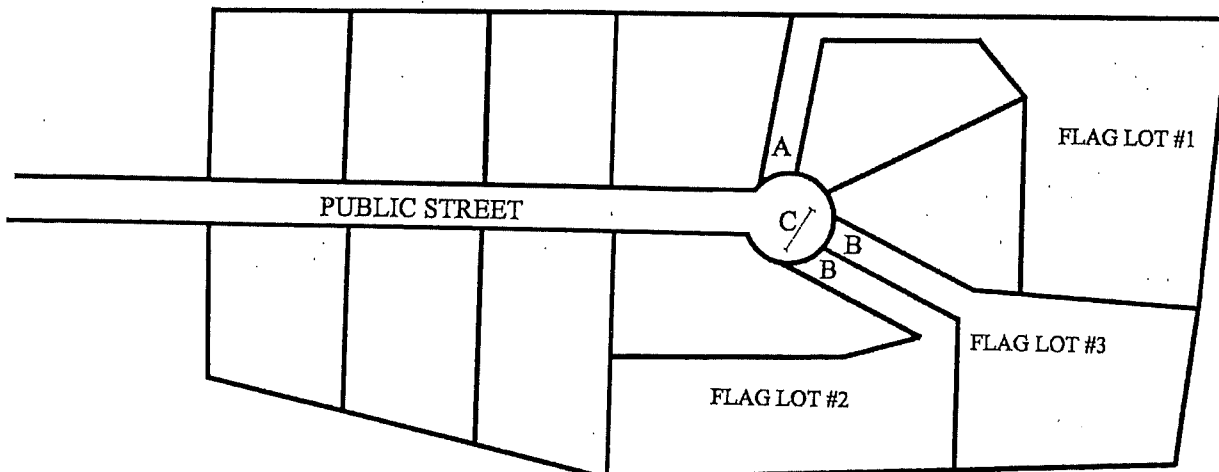
PROPER USE OF FLAG LOTS

<u>TYPE OF SUBDIVISION</u>	<u>A</u>	<u>B</u>	<u>C</u>
* AGRICULTURAL/RESIDENTIAL	20'	15'	30'
COMMERCIAL/INDUSTRIAL	30' MIN 50' MAX	15' MIN 25' MAX	30' MIN 50' MAX

EXAMPLE 1



EXAMPLE 2



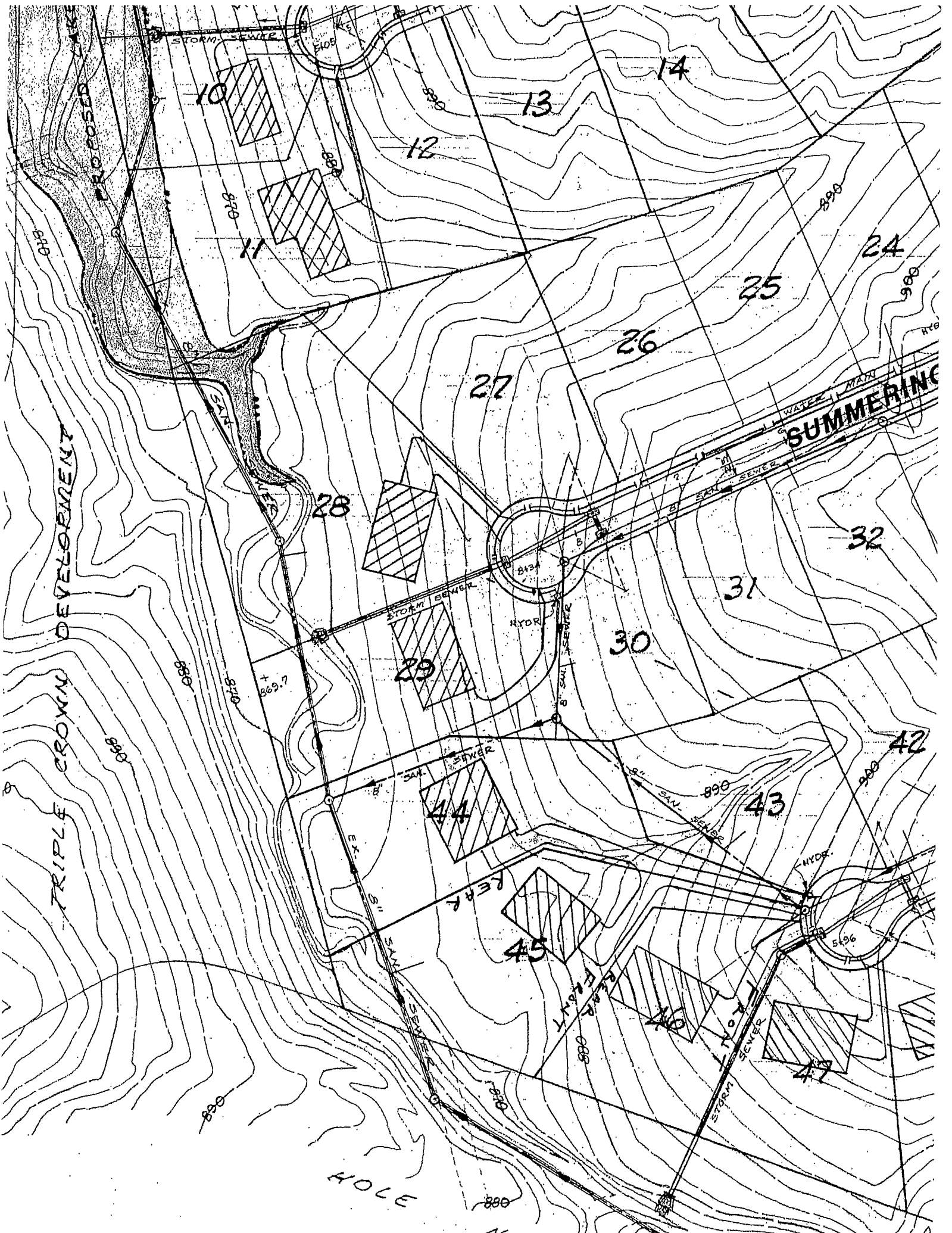
All flag lots shall meet the following standards:

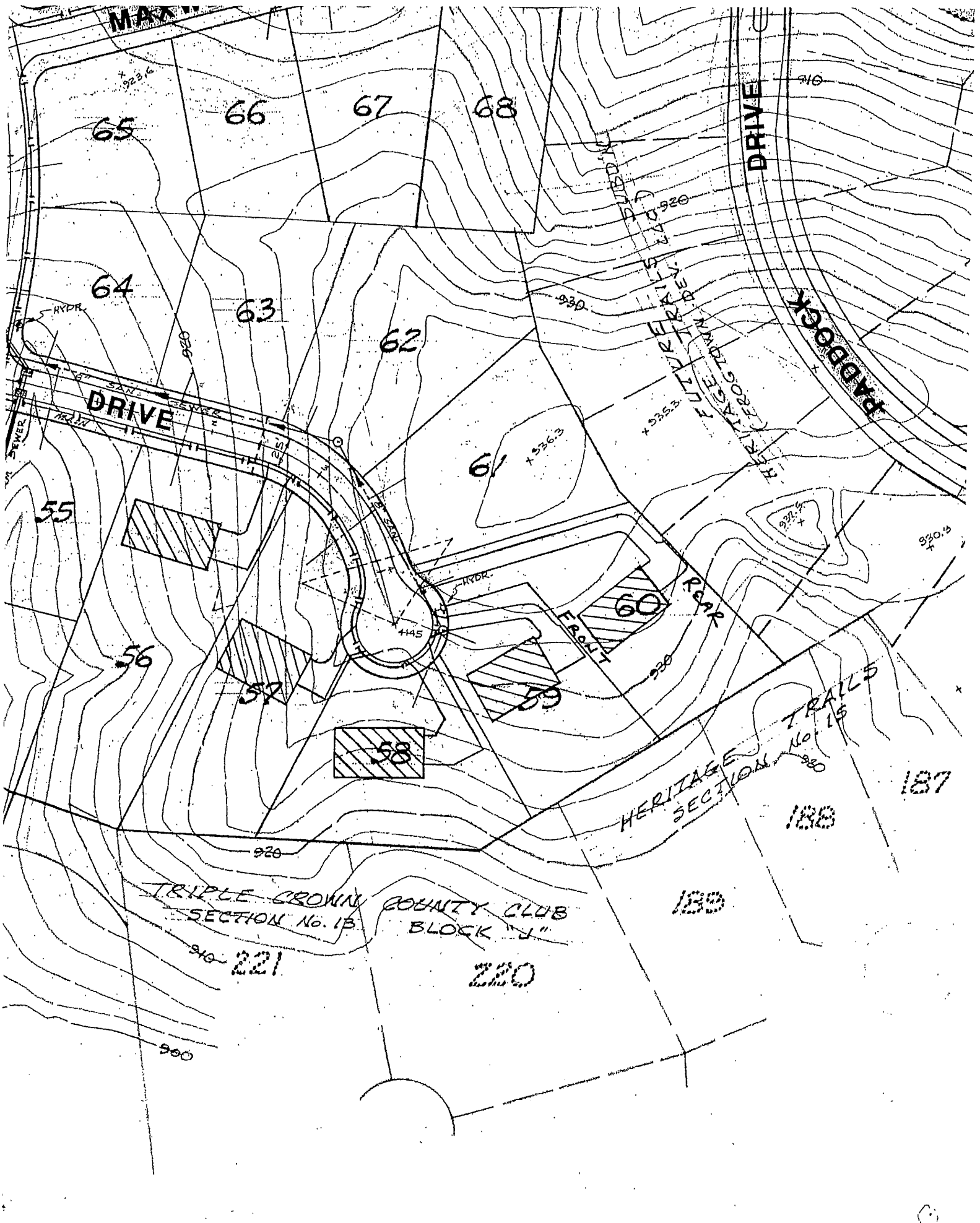
Flag lots shall have a panhandle for a minimum distance of 150 feet from a publicly dedicated street. In no case shall more than two flag lots be contiguous to each other at the publicly dedicated street. The maximum number of flag lots permitted for each phase of a subdivision (Improvement Plan submittal) shall not exceed 15%. A driveway must be located within the panhandle of the deeded property for a flag lot. Also, the driveway for a flag lot shall be located at a minimum of five (5) feet from each lot line, unless approved by the Boone County Planning Commission. For two contiguous flag lots with a common driveway, a joint access easement shall be shown across the entire width of both panhandles containing the common driveway on the Final Plat. On the proceeding pages are two examples of a flag lot and two examples of the improper use of a flag lot. Flag lots are not permitted in the City of Walton.

- e) Lot Frontage - All lots in a subdivision shall have the minimum frontage on a public or private street as stated for their respective zone under the current Boone County Zoning Regulations.
- f) Cemeteries - An applicant, property owner or developer has the option either to relocate an existing private family cemetery or preserve it and develop around an existing cemetery. In relocating a private family cemetery, an applicant, property owner or developer shall be required to follow applicable local and state laws. In preserving a cemetery, while at the same time developing a parcel, an applicant, property owner or developer has the following options:
 1. Transfer the existing cemetery as part of a buildable lot. Ownership and maintenance of the cemetery would be left to the individual lot owner.
 2. Make the existing cemetery a separate lot. Ownership and maintenance of the cemetery would be assigned by written agreement with either of subdivision Homeowners Association, the developer of a subdivision, a local legislative unit, or an historical organization.

Cemeteries - If a private family cemetery exists on a parcel of land and the exact location of gravesites is not determined, a developer or property owner is advised to follow the procedures and guidelines stated in the Boone County Cemetery Preservation Plan (pgs 23-26). Specifically, these requirements shall be followed if a developer or property owner wishes to preserve an existing cemetery, while at the same time subdivide their property. These regulations mentioned below apply only to private family cemeteries and not to active cemeteries where gravesites are clearly identified by Staff. Any waiver of these regulations is permitted under the authority of the Zoning Administrator.

1. No new structure or building addition shall be built within 30 feet of an existing private family cemetery regardless of adjoining property lines or land ownership. This 30 foot building limitation is also required regardless of whether the cemetery is part of a building lot and is being conveyed as a separate lot. Also, this setback limitation may result in combining lots or making larger lots in the area where the cemetery is located. The 30 foot limitation is in the form of an exclusive cemetery easement. Cemetery boundaries shall be determined by an applicant's Kentucky registered archaeologist. The Boone County Historic Preservation Review Board shall review the work and information of the registered archaeologist. The professional archaeologist shall be responsible for determining the approximate





MAX

65

66

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68

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63

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57

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59

60

DRIVE

DRIVE

PADDOCK DRIVE

HERITAGE TRAILS SECTION No. 15

TRIPLE CROWN COUNTY CLUB SECTION No. 13 BLOCK "J"

910-221

220

189

188

187

960

920

930

930

926

923.6

936.3

938.3

940

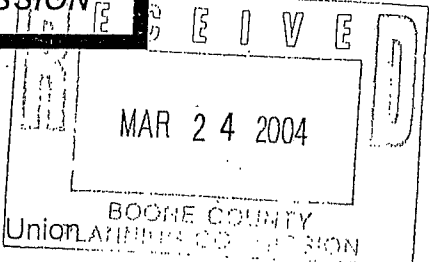
445

950.5

950.5

910

**BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION**



See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

- (Check One)
1. Boone Florence Walton
(Check One)
 2. Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
 3. Applicant's Name James W. Berling
Phone Number 859-331-9191 Fax No. 859-344-7422
Applicant's Address 1671 Park Road, Suite One
Ft. Wright, Kentucky 41011
City State Zip
 4. Description of Request: Variance on the design of four lots and building position in Section No. 21, Triple Crown Country Club
 5. Name of Development Triple Crown Country Club - Section No. 21
 6. Location of Development South of Frogtown Road, east of Triple Crown Boulevard, west of Frogtown Connector Road
 7. Acreage Under Review _____
 8. Lot Number and Name of Subdivision (if part of a subdivision)
Lot Nos. 11, 45, 46 and 60
 9. Owner of Property Triple Crown Developers, LLC
Phone Number of Owner 859-331-9191
 10. Address of Property Owner 1671 Park Road, Suite One
Ft. Wright, Kentucky 41011
City State Zip
 11. Proposed Use(s) on Site Residential large lot development
 12. Total Square Footage of Existing and/or Proposed Buildings: 20,000 Sq./Ft. ±
 13. Current Zoning on Property SR-1
 14. Deed Book 436 Page No. 11 Group No. 2064
 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: *James W. Berling*

Property Owner's Signature: *Julian B. Zimmerman*

COPY

CLUR #04-BCBOA-009-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Triple Crown Developers, LLC
1671 Park Road, Suite One
Ft. Wright, KY 41011

2. ADDRESS OF PROPERTY
Boone County, KY 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Triple Crown Country Club, Lots 11, 45, 46, & 60

4. DEED BOOK 436 PAGE NO. 11 GROUP NO. 2064

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)
 Variances

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
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005

Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

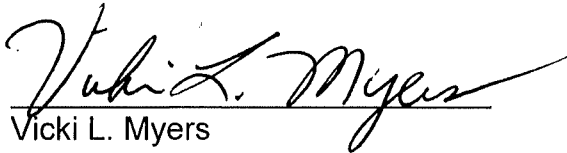
Todd K. Morgan, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the

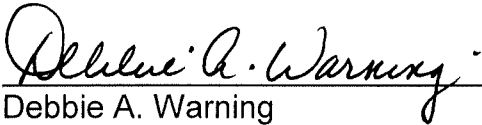
Boone County Planning Commission this 22 day of April, 2004.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2007

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2995 Washington Street
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 Variances approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of April 14, 2004 Certificate of Land Use Restriction (#04-BCBOA-009-A), for Triple Crown Developers, LLC, Property Owner(s).

The following conditions will apply if the lots are determined to be flag lots:

- 1) The side yard setback for lot 11 (between lot 11 and lot 12) will be 30 feet.
- 2) The side yard setback for lot 60 (between lot 60 and lot 61) will be 30 feet.

The following condition will apply if the lots are determined to be conventional lots.

- 1) The road frontage requirement of the four lots (11, 45, 46, and 60) will be reduced from 65 feet to 15 feet in the event that the Zoning Administrator determines prior Waivers did not allow necessary reductions in the flag lot standards.

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

DEED BOOK 436

PAGE NO. 11

GROUP NO. 2064