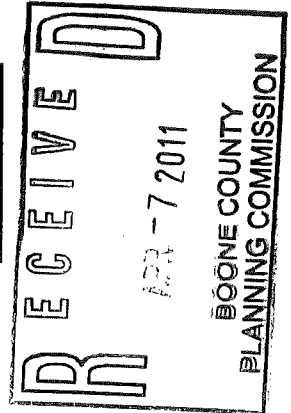


4/5/11

11-BCBoA-604-A

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)

(Check One)

1. XX Boone Florence Walton Union

(Check One)

2. Conditional Use Permit XX 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

4. Description of Request: Change 40' minimum front yard to 30' minimum front yard

5. Name of Development Triple Crown Country Club

6. Location of Development 11043 and 11051 War Admiral Drive, Union, Kentucky 41091

7. Acreage Under Review 1.10 Acres

8. Lot Number and Name of Subdivision (if part of a subdivision) Lot Nos. 108 & 110 Section No. 4 - Block "H", Triple Crown Country Club

9. Owner of Property Triple Crown Developers, LLC

Address of Property Owner 1671 Park Road, #1 Phone No. 331-9191 Ft. Wright, Kentucky 41011

11. Proposed Use(s) on Site Single Family Homes

12. Total Square Footage of Existing and/or Proposed Buildings N/A

13. Current Zoning on Property RS and SR-1

14. Deed Book 531 Page No. 106 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.

ORIGINAL Property Owner's Signature:

(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature:

(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

(over)

**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 4/7/11 Fee Received 632-00 clc 7407
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
5/11/11 **Approved**
_____ **Approved with Conditions** (See #6)
_____ **Denial** (See #7)
6. Conditions of Approval: NONE

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: James W. Berling

LOCATION: Section 4, Block H, Lots 108 and 110 of Triple Crown Country Club Subdivision, Boone County, Kentucky

ZONING: Rural Suburban (RS) and Suburban Residential One (SR-1)

DATE: May 11, 2011

Proposal

The applicant is requesting Variances to reduce the 40 foot front yard setback to 30 feet for two single-family residential lots. The subject properties are lots 108 and 110 of Section 4 of Triple Crown Country Club Subdivision.

Applicable Regulations

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.

Site Characteristics

The two lots are currently undeveloped and are located on the west side of War Admiral Drive. The lots are heavily wooded with mature deciduous trees. Boone County G.I.S. shows that the topography of the parcels falls from 876 feet above sea level at the northwest property line (lot 108) to 854 feet above sea level at the southeast property line (lot 110).

Pertinent Site History

6/18/1990 - Boone County Fiscal Court approves a Zoning Map Amendment for a future phase of Triple Crown Subdivision with conditions. 146.8 acres of property is rezoned to Suburban Residential One (SR-1) and 14.55 acres of property is rezoned to Rural Suburban (RS).

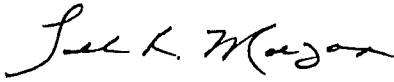
Staff Comments

1. The applicant informed Staff of the following:
 - A. In 1990, a private agreement was made between the zone change applicant and the adjoining property owners in Suburban Estates Subdivision (properties fronting on Killarney Drive and Kimberly Drive). One of the terms in the agreement states that the adjoining property owners in Suburban Estates Subdivision would not object to the zone change request if structures on the future residential lots were setback at least 80 feet from the rear property lines (see attachments).
 - B. On 3/21/11 a Zoning Permit was issued to allow the construction of a house on lot 108 (see attachments). The applicant decided not to build the house because it had a 63.1 foot rear yard setback and violated the private agreement. The potential buyer is now pursuing other properties.
 - C. The houses on the other side of the street are zoned SR-1 and are subject to a 30 foot front yard setback requirement per the zoning regulations. However, the developer decided to build these houses with a minimum 40 foot setback.
2. The Section 4, Block H, Final Plat shows that lots 108 and 110 are not as deep as the other lots on the west side of War Admiral Drive (see attachments).
3. Staff would like the applicant to address if any of the potential home builders have houses in their inventory that would meet the 40 foot front yard setback (zoning regulations requirement) and 80 foot rear yard setback (private agreement).
4. The Board needs to analyze the Variance criteria before acting on the request.

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 act on the requests.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

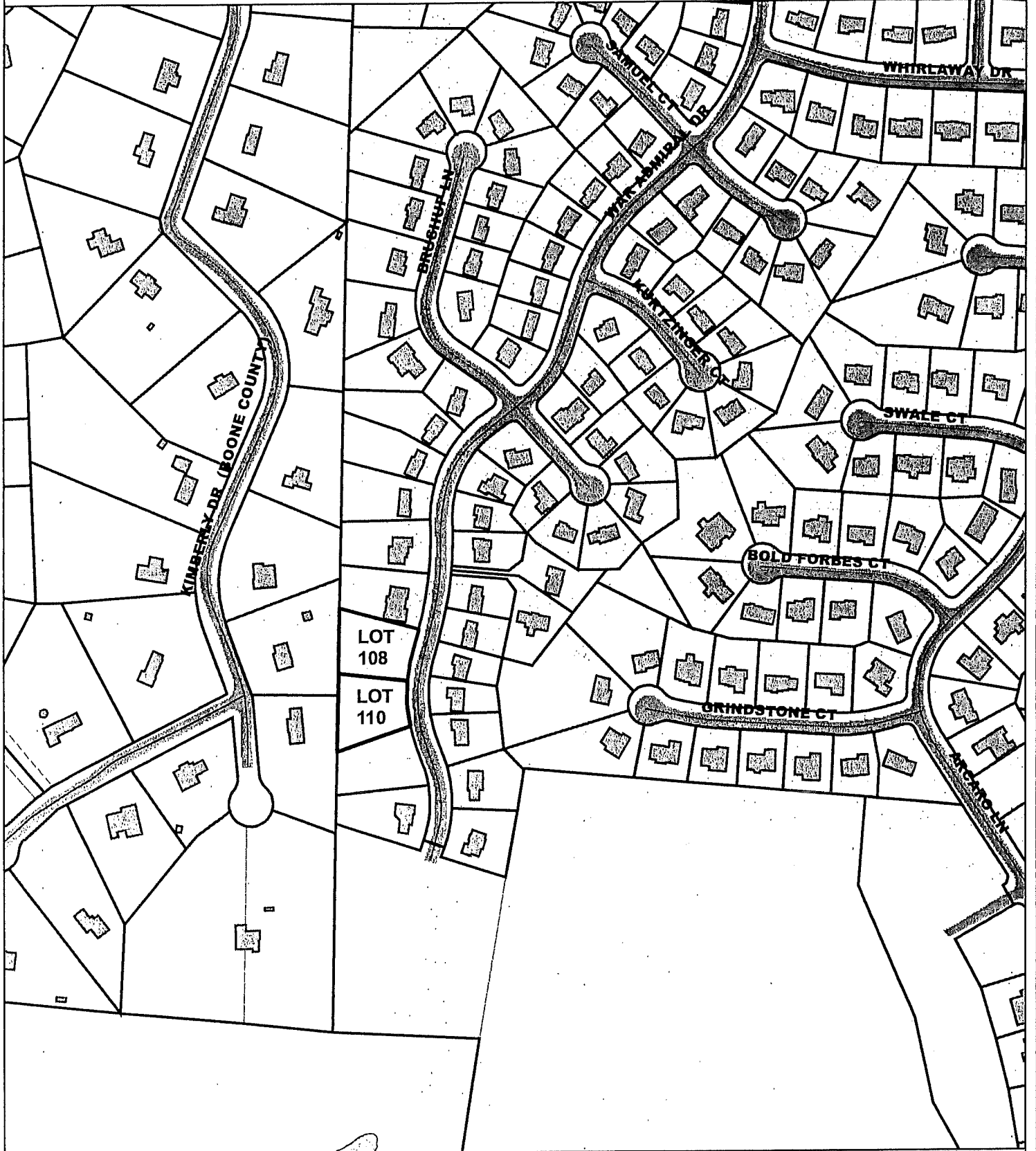
TKM/dw

Attachments

- *Site Vicinity Map
- *Section 4, Block H, Final Plat
- *2009 Aerial Map
- *Zoning Map
- *Topographical Map
- *1990 Private Agreement
- *3/21/11 Zoning Permit for Lot 108
- *Application

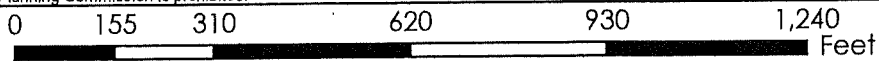
SITE VICINITY MAP

www.boonecountygis.com



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Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2008

From: Frank Whittaker, Version 9.0.0.0
ArcMap Document: *mxd

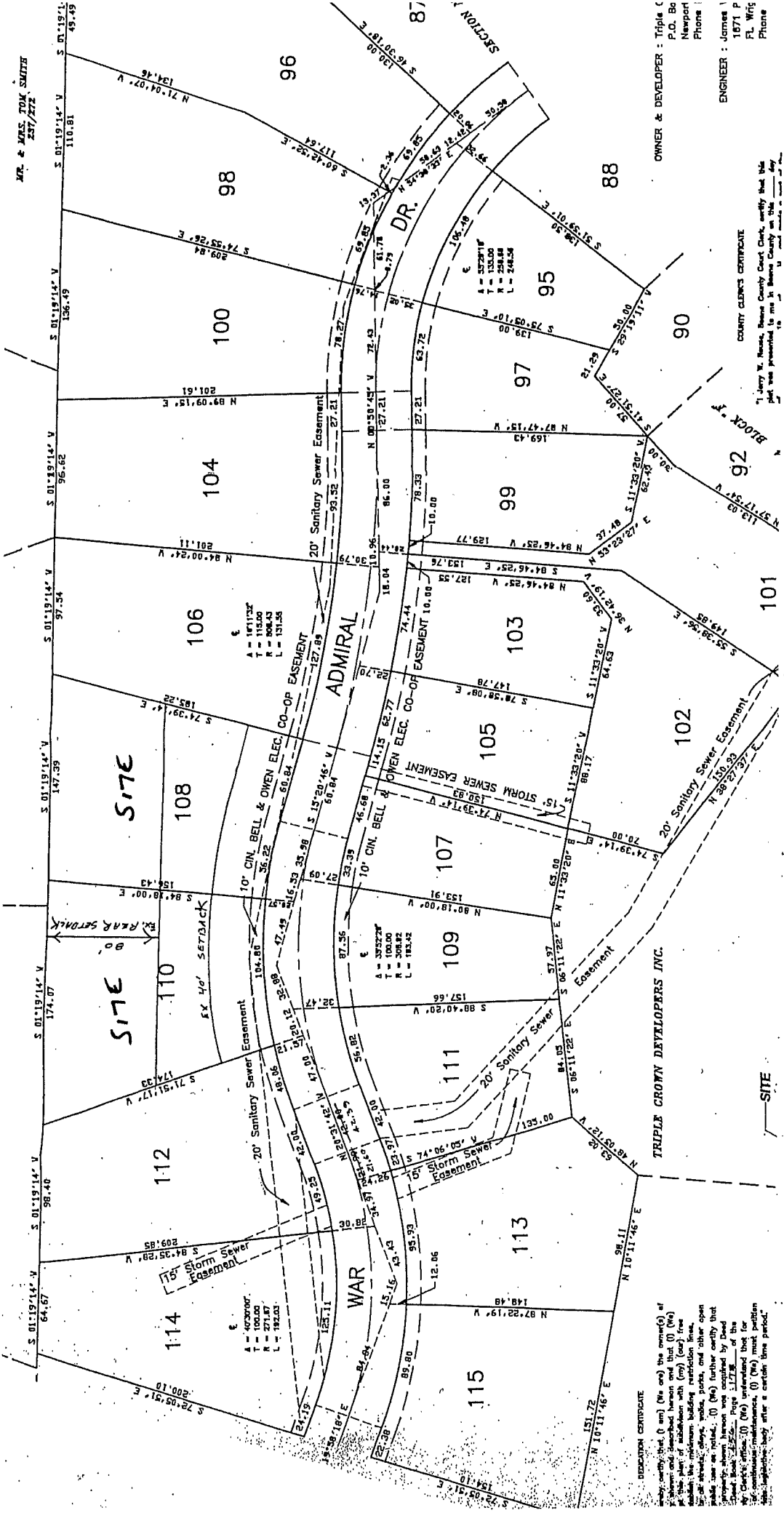
MR. & MRS. TOM SMITH
257/272

OWNER & DEVELOPER : Triple C
P.O. Box
Newport
Phone

ENGINEER : James I
1871 P
FL 105
Phone

COUNTY CLERK'S CERTIFICATE

"I, Jerry W. Nease, County Clerk, certify that this plat was presented to me in Meigs County on this day



SECTION CERTIFICATE

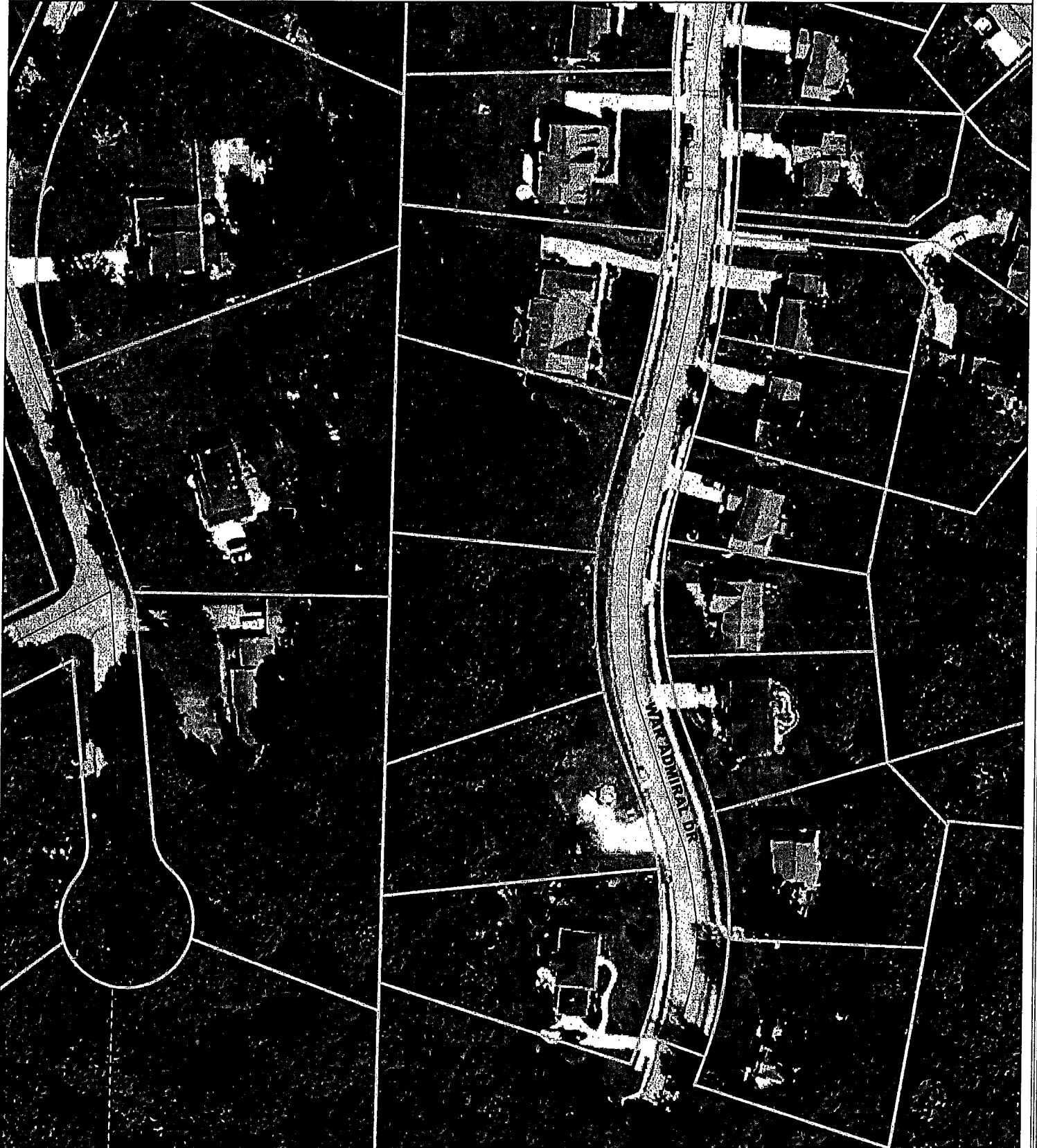
every party that () and () the owner(s) of
 the above and described herein and that () ()
 the owner(s) of the same, and that the
 plat was presented to me in Meigs County on this day

TRIPLE CROWY DEVELOPERS INC.

SECTION CERTIFICATE

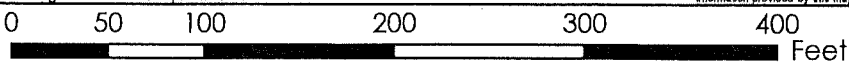
2009 AERIAL MAP

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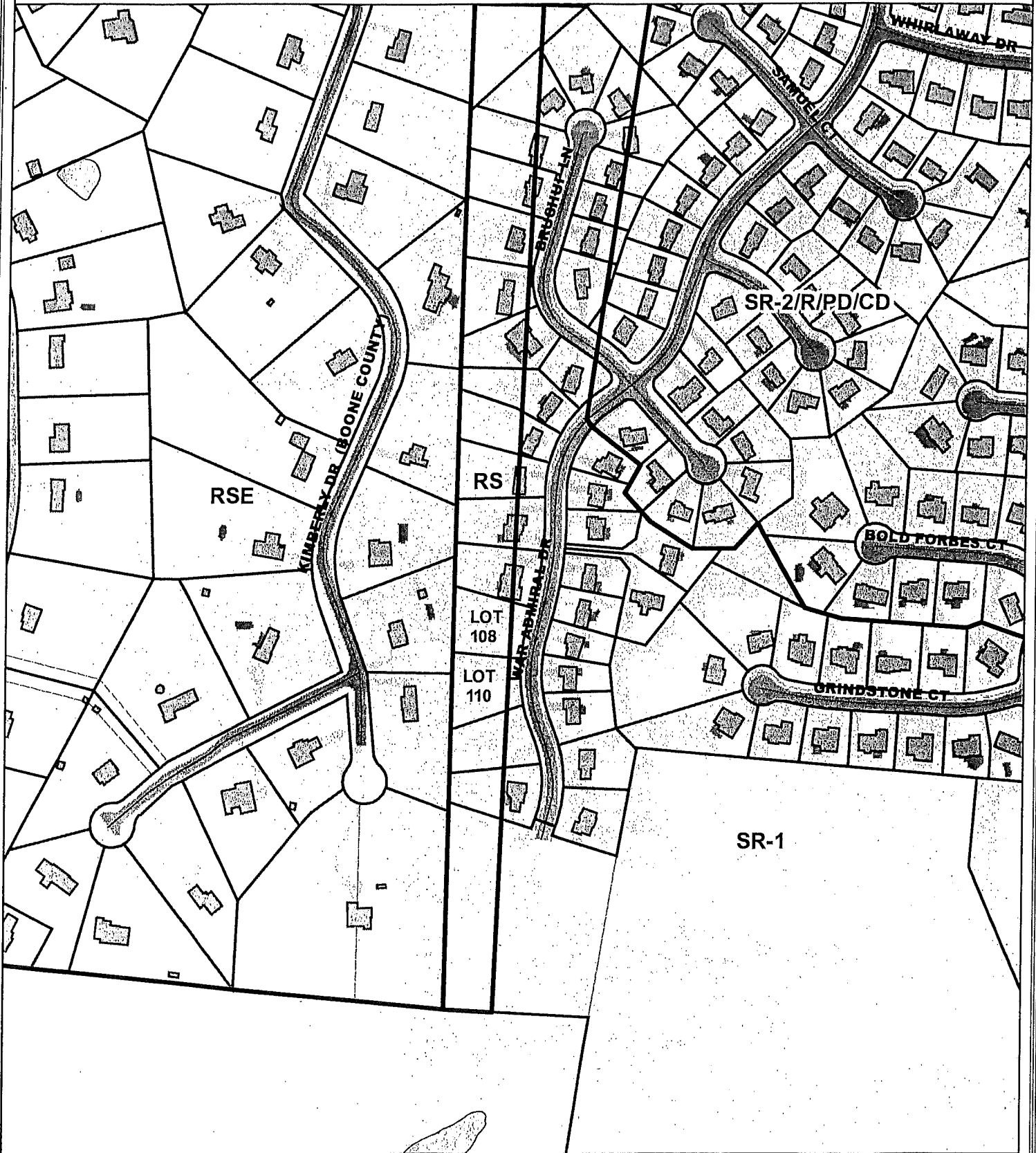
Boone County GIS - Putting Northern Kentucky on the Map

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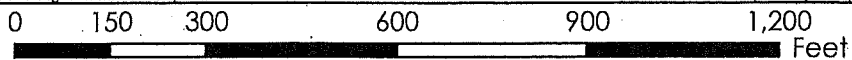
ZONING MAP

www.boonecountygis.com



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1 Inch = 300 feet



Boone County GIS - Putting Northern Kentucky on the Map



1990 PRIVATE AGREEMENT

1. No property shall be disturbed within 50 feet of the property line where homes in the Suburban Estates Subdivision abuts the property of the Developer.
2. No structure shall be erected within 80 feet of the property line where homes in the Suburban Estates Subdivision abuts the property of the Developer.
3. No zone change application shall be filed for a period of 10 years which would allow the use of the property within 200 feet of the rear property line of the Suburban Estates Subdivision for non-residential purposes or which would allow a density of greater than 2 dwelling units per acre.
4. The minimum sale price for homes constructed within 200 feet of the Suburban Estates Subdivision shall be \$150,000.00.
5. A roadway shall be constructed which would terminate at a mutually agreeable point in the east property line of the ten acre parcel described in Deed Book 198, Page 351 so as to provide access to this parcel for development in accordance with normally accepted development practices.
6. Property owners in the Suburban Estates Subdivision who abut the proposed development shall have the option to purchase lots adjoining their property at builders cost. This option shall be exercised within 60 days of notification in writing by the Developer that said Section (where lots are contained) is being offered to Builders for immediate construction of homes or shall be null and void. The lots shall be sold with the restriction that no home shall be constructed on such lot by anyone other than the builder in that section of the subdivision until that section is completed.
7. That portion of the Developer's property which adjoins that of Edward Smith and which is proposed to be rezoned SR-1 (shown in red on the attached diagram) shall nevertheless be developed so as to permit no more than 2 dwelling units per acre, and those provisions of paragraph's 1, 2, 4 and 6 above shall apply as applicable. This restriction as to the property described in this paragraph shall be rendered null and void at such time as Developer acquires title to the property owned by Edward Smith.

Subject to the above conditions the undersigned agree that they will not oppose the proposed zone change application by Investors Ten before the Boone County Planning Commission.

Thomas C. Smith

David C. Schadler

Sheila Smith

Brenda S. Schadler

Paul S. Koger

Paul F. Bernier

Patricia A. Koger

Barbara J. Bernier

Don B. Koger

Guoqun Hancock

Kimberly C. Koger

Helen C. Hancock

Ed Koger

Tony D'Amico

Nancy A. Frost

Melinda K. D'Amico

Lauren E. Hardin

[Signature]

Quinn M. Hardin

Glynda F. Fisher

INVESTORS 10

BY: [Signature]

TITLE: Vice President

BUILDING ADDRESS OR LOCATION: Lot # 108 Triple Crown

NOTICE

I certify that what is submitted is true and accurate and I or we understand and agree that all construction work will be performed in accordance with this Zoning Permit Application, the Boone County Zoning Regulations and the Boone County Subdivision Regulations.

NAME AND ADDRESS OF APPLICANT (PLEASE PRINT): Fischer Single Family Homes II, LLC
2670 Chancellor Drive, Crestview Hills KY 41017

APPLICANT'S SIGNATURE: [Signature]
 As Authorized by Property Owner

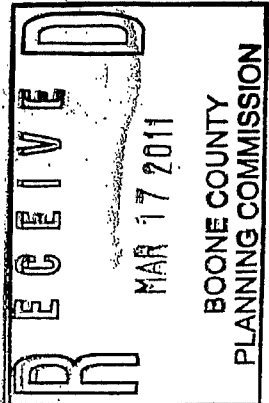
DATE _____ PHONE NUMBER: 859-341-4709

This Portion of the Application to be Completed
 the Boone County Planning Commission

Zoning <u>SR-1 & RS</u>	Date <u>3-21-11</u>	Fees	<input checked="" type="checkbox"/> \$90.00	Farm Exempt
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied		<input type="checkbox"/> \$45.00	(No Fee)
Staff Reviewer <u>RAJuman</u>	Address: <u>11043 War Admiral DR</u>			
Subdivision <u>Triple Crown</u>				
Lot # <u>108</u>	Section # <u>4</u>	Block/Phase # <u>H</u>		

RAJ
62424

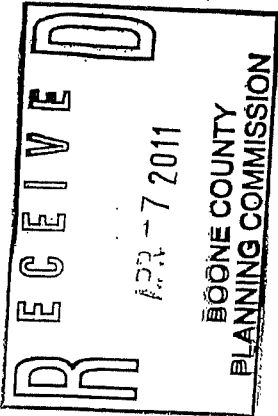
Type of Improvement			
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<input type="checkbox"/>	Duplex	<input type="checkbox"/>	Garage Addition
<input type="checkbox"/>	Three Family	<input type="checkbox"/>	Porch or Deck
<input type="checkbox"/>	Apartment (# units _____)	<input type="checkbox"/>	Barn or Shed
<input type="checkbox"/>	Townhouse (# units _____)	<input type="checkbox"/>	Swimming Pool
<input type="checkbox"/>	Mobile Home	<input type="checkbox"/>	Tenant Finish
<input type="checkbox"/>	Residential Addition	<input type="checkbox"/>	Other:
Jurisdiction			
<input checked="" type="checkbox"/>	Boone County	<input type="checkbox"/>	Florence
<input type="checkbox"/>	Walton	<input type="checkbox"/>	Union
Post Office			
<input type="checkbox"/>	Burlington (41005)	<input type="checkbox"/>	Florence (41042)
<input type="checkbox"/>	Walton (41094)	<input checked="" type="checkbox"/>	Union (41091)
<input type="checkbox"/>	Hebron (41048)	<input type="checkbox"/>	Verona (41092)
<input type="checkbox"/>	Petersburg (41080)	<input type="checkbox"/>	Erlanger (41018)
<input type="checkbox"/>	Crittenden (41030)	<input type="checkbox"/>	Independence (41051)
Group # <u>2064</u>		Census Tract # <u>706-03</u>	



4/5/11

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)

- 1. (Check One) XX Boone Florence Walton Union
2. (Check One) Conditional Use Permit XX Variance Appeal
3. Applicant's Name James W. Berling
4. Description of Request: Change 40' minimum front yard to 30' minimum front yard
5. Name of Development Triple Crown Country Club
6. Location of Development 11043 and 11051 War Admiral Drive, Union, Kentucky 41091
7. Acreage Under Review 1.10 Acres
8. Lot Number and Name of Subdivision (if part of a subdivision) Lot Nos. 108 & 110 Section No. 4 - Block "H", Triple Crown Country Club
9. Owner of Property Triple Crown Developers, LLC
10. Address of Property Owner 1671 Park Road, #1 Phone No. 331-9191 Ft. Wright, Kentucky 41011
11. Proposed Use(s) on Site Single Family Homes
12. Total Square Footage of Existing and/or Proposed Buildings N/A
13. Current Zoning on Property RS and SR-1
14. Deed Book 531 Page No. 106 Group No. 2064
15. Is the site subject to a zone change? No
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.

ORIGINAL Property Owner's Signature: (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

(over)

COPY

CLUR #11-BCBOA-004-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Triple Crown Developers. LLC
1671 Park Road, #1
Ft. Wright, KY 41011
2. ADDRESS OF PROPERTY
War Admiral Drive
Union, KY 41091
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Triple Crown, Lots 108 & 110
Section 4, Block H
4. DEED BOOK 531 PAGE NO. 106 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)
- X 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

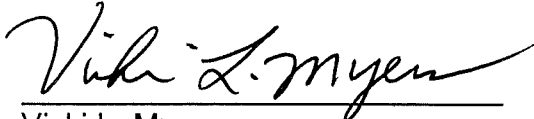
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

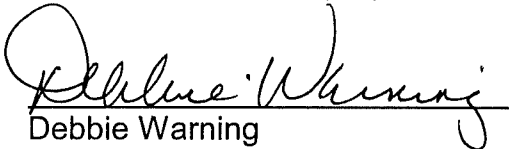
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 12 day of May, 2011.



Vicki L. Myers
Notary ID 438411
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2015

This instrument was prepared for recording purposes only by:



Debbie 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 Variance approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of May 11, 2011 Certificate of Land Use Restriction (#11-BCBOA-004-A), for Triple Crown Developers, LLC, Property Owner(s).

The following conditions will apply:

No conditions.

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

DEED BOOK 531

PAGE NO. 106 GROUP NO. 2064