

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) Boone Florence Walton Union
- 2. (Check One) Conditional Use Permit Variance Appeal Change in Non-Conforming Use
- 3. Applicant's Name GUNPOWDER POINTE SUBDIVISION LLC.
Phone Number (859) 647-9600 Fax No. (859) 647-9603
Applicant's Address 2430 US 42
FLORENCE KY 41014
City State Zip
- 4. Description of Request: VARIANCE FOR LOT SETBACKS FROM 25' TO 15' FEET
- 5. Name of Development GUNPOWDER POINTE
- 6. Location of Development GUNPOWDER ROAD BETWEEN US 42 AND MT ZION
- 7. Acreage Under Review _____
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
GUNPOWDER POINTE / #19-27, 30, 31
- 9. Owner of Property GUNPOWDER POINTE SUBDIVISION LLC.
Phone Number of Owner (859) 647-9600
- 10. Address of Property Owner 2430 US 42
FLORENCE KY 41042
City State Zip
- 11. Proposed Use(s) on Site SINGLE FAMILY RESIDENTIAL
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property SR-1
- 14. Deed Book 870 Page No. 519 Group No. 2048A
- 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: _____
Property Owner's Signature: _____

**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 5-18-05 Fee Received \$ 585.00 R# 42449
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
6/8/05 **Approved**
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: NONE

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: Gunpowder Pointe Subdivision, L.L.C.
LOCATION: Lots 19-27 & 30-31 of Gunpowder Pointe Subdivision, Florence, Kentucky
ZONING: Suburban Residential One (SR-1)
DATE: June 8, 2005

Proposal

The Applicant has requested variances to reduce the front yard setback of lots 19-27 and 30-31 of Gunpowder Pointe Subdivision. The request is to reduce the front yard setback from 25 feet to 15 feet for eleven (11) future patio homes.

Applicable Regulations

Table 31.1 of the Boone County Zoning Regulations lists the minimum front yard setback of a patio home in the Suburban Residential One (SR-1) district as 25 feet.

Article 40, Section 4000 of the Boone County Zoning Regulations defines a patio house as "a single-family dwelling unit, situated on a typically reduced lot width, with a reduced or no side yard setback on one side of the lot to facilitate better overall use of the lot, and to incorporate some aspects of cluster style developments within conventional subdivisions."

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.

Site Characteristics

The lots range in size between 0.19 and 0.44 acres in area and are zoned Suburban Residential One (SR-1). The Final Plat shows that the lots contain storm easements, drainage easements, and a lake which will affect the limits in which building construction can occur. The topography of the lots ranges from rolling to steep (see attached grading plan). There are some large deciduous trees near the lake and detention basin.

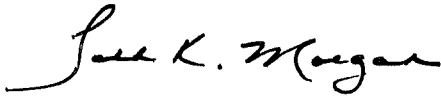
Staff Comments

1. Staff received a letter from the applicant which explains why they have proposed Variances for these eleven (11) lots (see attachments).
2. Staff believes that the location of the lake, storm easements, and drainage easements on the lots can be viewed as a special circumstance which does not generally apply to land in the general vicinity.
3. Staff does not believe the request will alter the essential character of the general vicinity because no single-family dwellings exist or are currently under construction on Lago Mar Court. The proposal gives the conventional lots on the east side of Lago Mar Court a uniform front yard setback.
4. Staff would like to make the applicant aware that each patio home must have two off-street parking spaces. This requirement will be analyzed when the Planning Commission receives Zoning Permit applications for the lots.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for front yard setback variances.

Respectfully submitted,

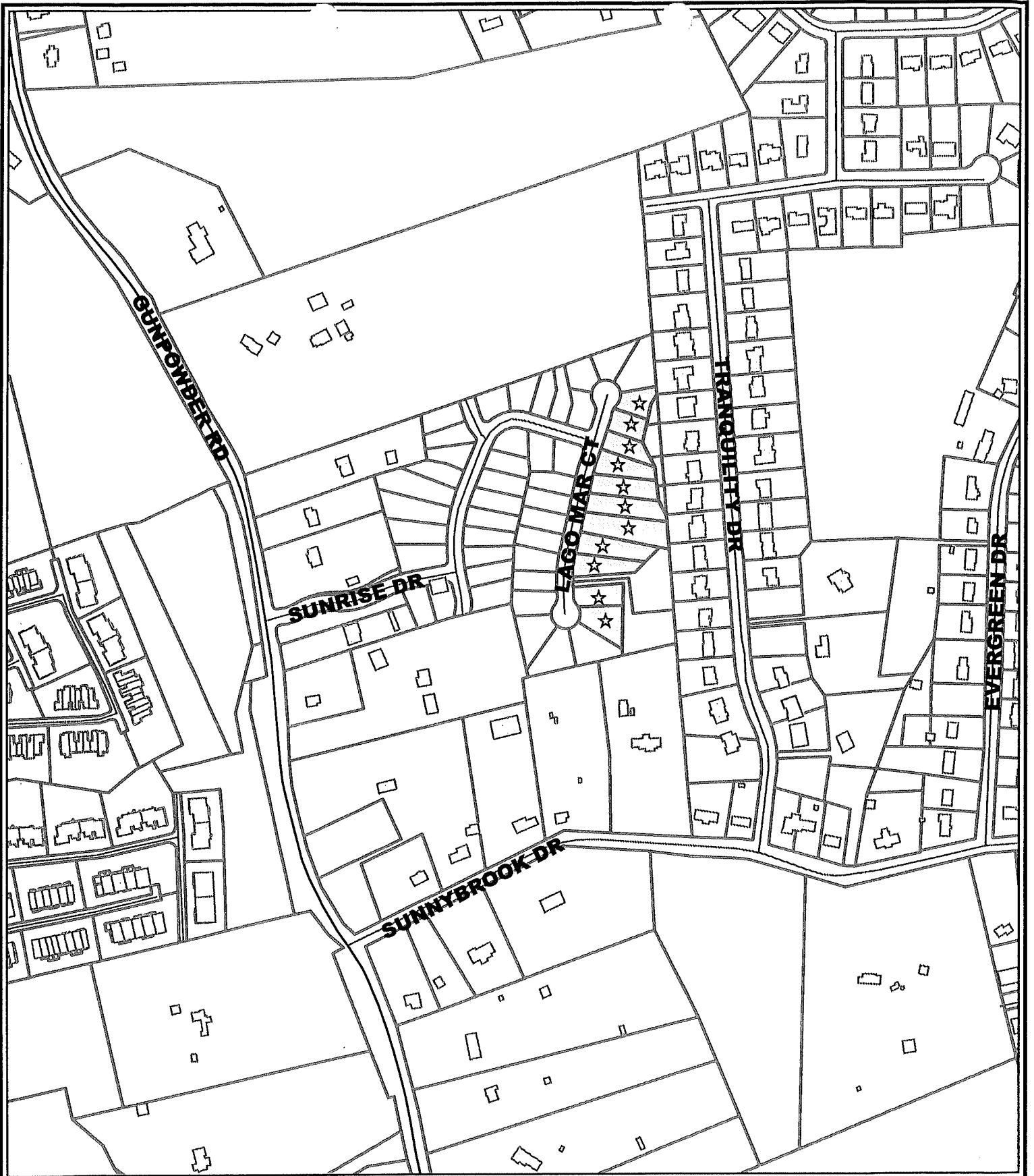


Todd K. Morgan, AICP
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Letter From Applicant
- Exhibit C – Concept Plan
- Exhibit D – Aerial Map
- Exhibit E – Zoning Map
- Exhibit F – Approved Grading Plan
- Exhibit G – Application



Gunpowder Pointe Site Vicinity Map

400 0 400 Feet

1 inch equals 400 feet

Produced by the
Boone County Planning Commission
GIS Services Division
May 19, 2005



GUNPOWDER POINTE

Upscale Patio Home Living

A SIGNATURE GROUP DEVELOPMENT

7430 U.S. 42 Florence, KY 41042 (859) 647-9600 fax (859) 647-9603

May 14, 2005

Mr. Todd Morgan
Boone County

Re: Gunpowder Pointe
Front setback waiver
Lots 19 through 27, 30,31

Dear Todd,

Attached please find the formal application for the Board of Adjustment regarding the above mentioned project. In discussions with The City of Florence, it seems they have no problems with the request, and will await your comments.

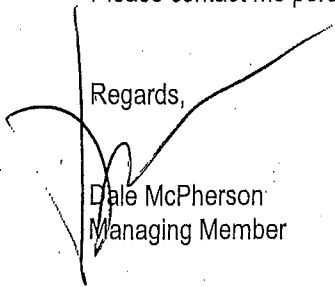
The reason for the setback request is due to the rather erroneous high water line shown on the plat for the detention basin/ lake. In hindsight we should have moved the location of any storage on the lake lengthwise. What has happened now is that the land remaining for the home construction prohibits our builders from constructing homes in the same price range as the rest of the community. There is simply not enough lot depth left to build the same product offered within the community. We feel that lowering the size of these homes and therefore the pricing structure will adversely affect the community as a whole. Our current pricing range is well over \$250,000 for these custom Patio Homes. We would end up near \$150,000 if we are forced to build homes so small as to fit the remaining land available for construction. Frankly this was an oversight at the time of plan design.

What we are asking is a 10'-0" front setback waiver on these lots. This moves the homes further away from all adjoining property owners, and would allow us to slowly stagger the first lots at each end closer to the street, until we reach the additional 10 feet we would need on the Lake lots. It would also allow the entire street to look cohesive within the development.

We feel that this request is in the best interest of the community, it would have virtually no adverse affects on the City, The County, or any other entity, and would provide an entire community of custom product with equity values protected by the similar pricing of neighbors homes.

Please contact me personally with any questions or comments.

Regards,


Dale McPherson
Managing Member



A SIGNATURE GROUP DEVELOPMENT

Homebuilding, Land Development, Office Properties, Property Management, Architectural Design, Rental Properties, Real Estate Sales

signaturegroupnky.com

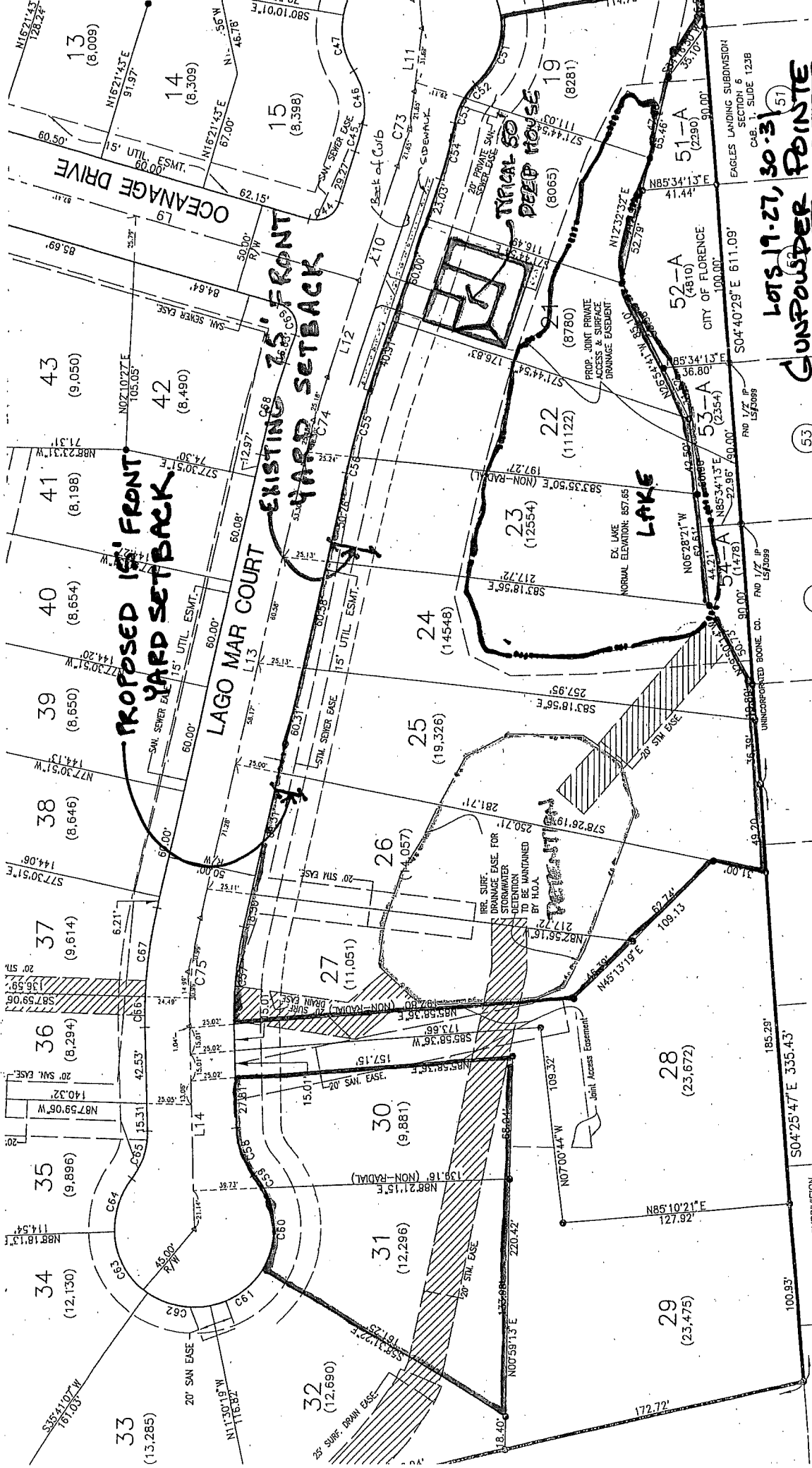


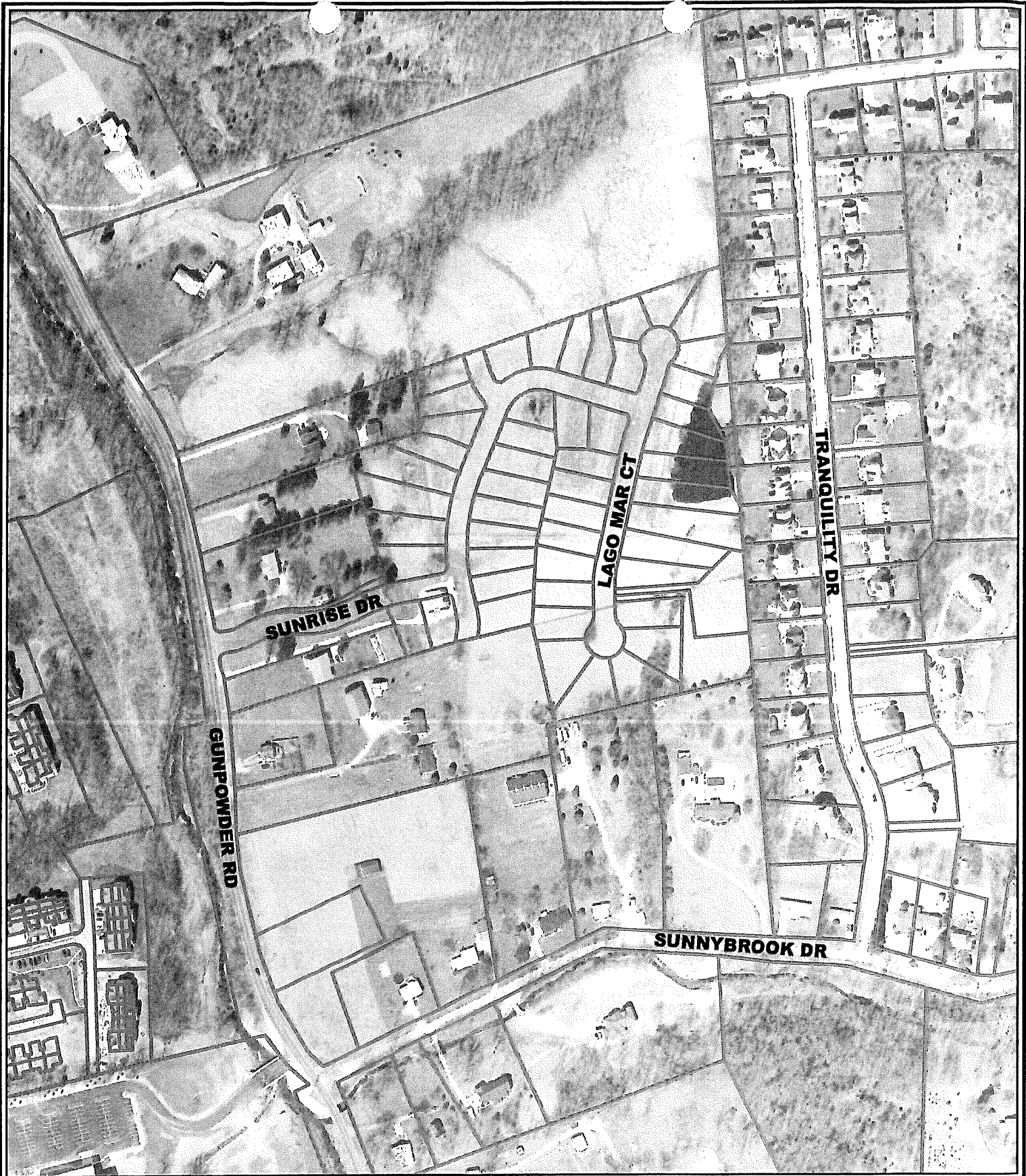
EXHIBIT DRAWING 5-17-05
GUNPOUNDER POINTE
 LOTS 19-27, 30-31
 SECTION 6
 CAB. 1, SLIDE 123B
 EAGLES LANDING SUBDIVISION

NOTE: LOTS 51-A, 52-A, 53-A AND 54-A ARE NON-BUILDABLE ADDITIONS TO LOTS 51-54 OF EAGLES LANDING SUBDIVISION, SECTION 6 (CAB. 1, SLIDE 123B)

□ DENOTES LOTS UNDER CONSIDERATION

NUMBER	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD DIRECTION	CHORD LENGTH
C44	14.00	21.53	10.47	N62°18'25"E	
C45	40.00	28.04			

222

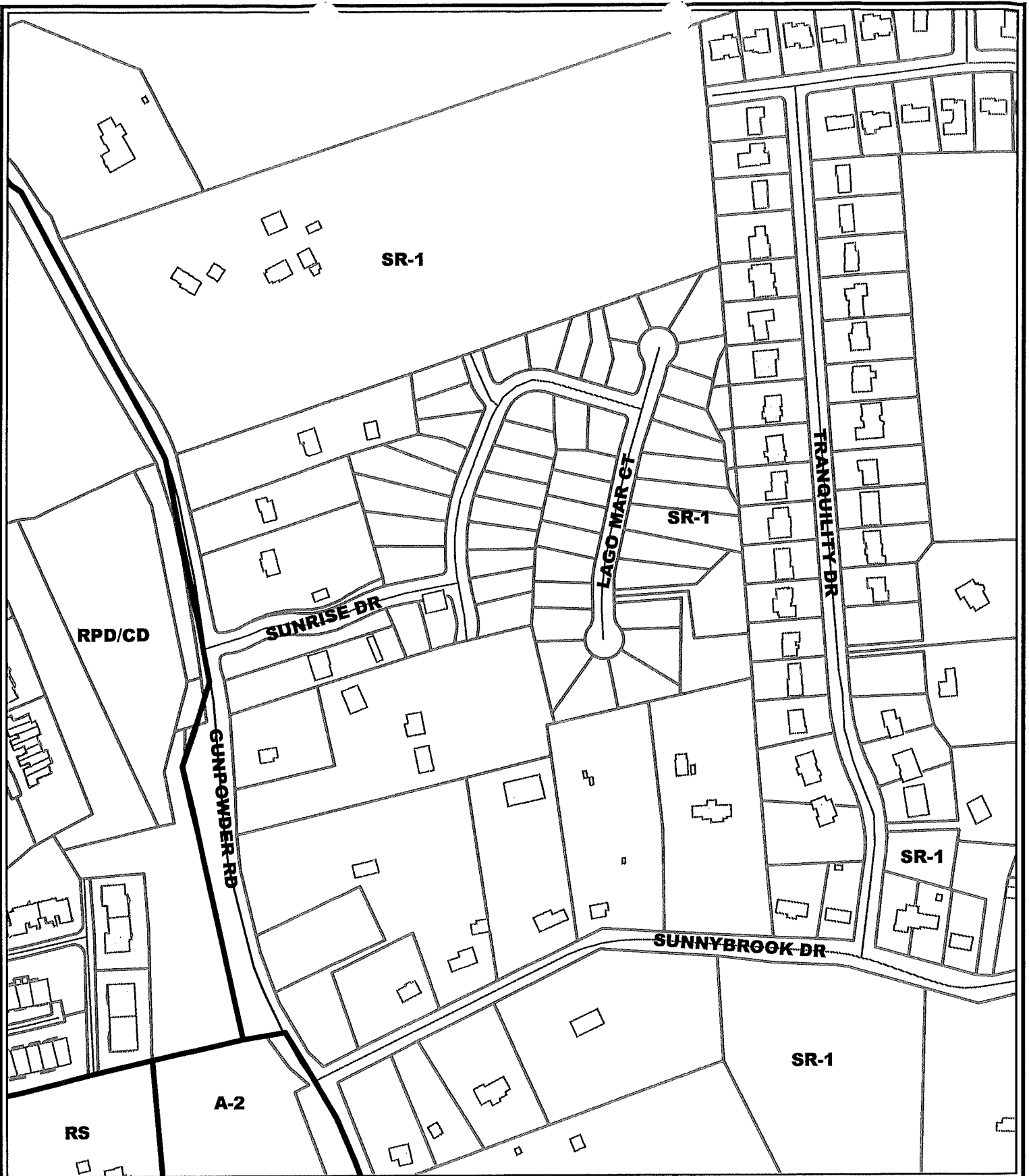


Gunpowder Point Aerial Map

300 0 300 Feet

1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 23, 2005



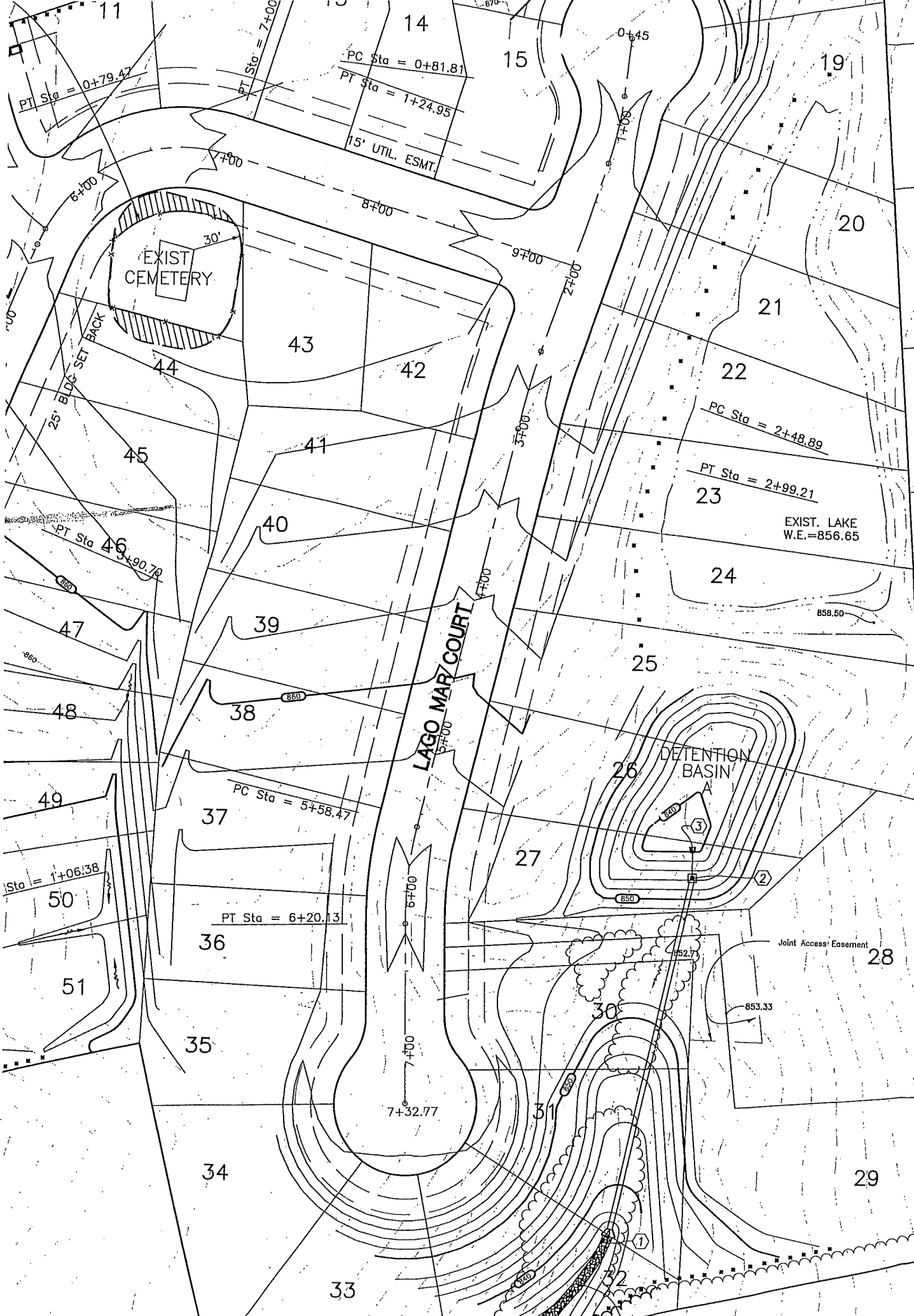


Gunpowder Point Zoning Map

300 0 300 Feet

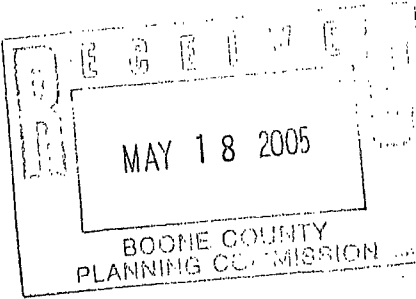
1 Inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
May 23, 2005





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. Boone Florence Walton Union
- (Check One)
2. Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
3. Applicant's Name GUNPOWDER POINTE SUBDIVISION LLC.
Phone Number (859) 647-9600 Fax No. (859) 647-9603
Applicant's Address 2430 US 42
FLORENCE KY 41014
City State Zip
4. Description of Request: VARIANCE FOR LOT SETBACKS
FROM 25' TO 15' FEET
5. Name of Development GUNPOWDER POINTE
6. Location of Development GUNPOWDER ROAD BETWEEN
US 42 AND MT ZION
7. Acreage Under Review _____
8. Lot Number and Name of Subdivision (if part of a subdivision)
GUNPOWDER POINTE / #19-27, 30, 31
9. Owner of Property GUNPOWDER POINTE SUBDIVISION LLC.
Phone Number of Owner (859) 647-9600
10. Address of Property Owner 2430 US 42
FLORENCE KY 41042
City State Zip
11. Proposed Use(s) on Site SINGLE FAMILY RESIDENTIAL
12. Total Square Footage of Existing and/or Proposed Buildings _____
13. Current Zoning on Property SR-1
14. Deed Book 870 Page No. 519 Group No. 2048A
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: _____

Property Owner's Signature: _____

COPY

CLUR #05-FBOA-006A-A

CERTIFICATE OF LAND USE RESTRICTION

This CLUR replaces CLUR #05-FBOA-006-A filed in MC1026, Page No. 47 to add a condition.

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Gunpowder Pointe Subdivision, LLC
7430 U.S. 42
Florence, KY 41042

2. ADDRESS OF PROPERTY _____

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Gunpowder Pointe, Lots 19-27 & 30-31

4. DEED BOOK 870 PAGE NO. 519 GROUP NO. 2048A

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 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

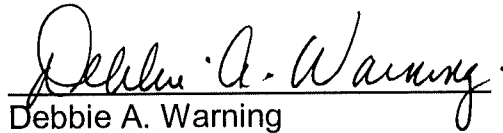
Boone County Planning Commission this 1 day of July, 2005.



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 Florence Board of Adjustments and in accordance with the current zoning in effect as of June 8, 2005 Certificate of Land Use Restriction (#05-FBOA-006A-A), for Gunpowder Pointe Subdivision LLC Property Owner(s).

The following conditions will apply:

- 1) Lots 19 - 27 and Lots 30 - 31 must all have the same setback and same typical type house.

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

DEED BOOK 870

PAGE NO. 519

GROUP NO. 2048A

TRANSACTION REPORT

Transmission
Transaction(s) completed

NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
699	JUL. 5 09:35	FLOR PUBLIC SVCS	0° 00' 52"	003	OK	N ECM

COPY

CLUR #05-FBOA-006A-A

CERTIFICATE OF LAND USE RESTRICTION

This CLUR replaces CLUR #05-FBOA-006-A filed in MC1026, Page No. 47 to add a condition.

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Gunpowder Pointe Subdivision, LLC
7430 U.S. 42
Florence, KY 41042

2. ADDRESS OF PROPERTY

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Gunpowder Pointe Lots 19-27 & 30-31

4. DEED BOOK 870

PAGE NO. 519

GROUP NO. 2048A

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:

X Variances

6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT.