

04-BCBOA-094-A
032

APPLICATION FORM

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

RECEIVED
SEP 17 2004
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 STEVE CURLEY CONSTRUCTION, INC.
Phone Number 356-3333 Fax No. 356-4532
Applicant's Address 7129 PRICE PIKE, STE B
FLORENCE KY. 41042
City State Zip
- 4. Description of Request: REDUCE FRONT YD. SETBACK TO 19.67' (CURRENTLY 40')
REDUCE REAR YD. SETBACK TO 19.67' (CURRENTLY 40')
- 5. Name of Development HOWE ACRES SUB. - PHASE 3
- 6. Location of Development ROSEBUD CIRCLE
- 7. Acreage Under Review 19,806 S.F.
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
LOT # 33 HOWE ACRES SUB. - PHASE 3
- 9. Owner of Property STEVE CURLEY CONSTRUCTION, INC.
Phone Number of Owner S.A.
- 10. Address of Property Owner _____
S.A.
City State Zip
- 11. Proposed Use(s) on Site SINGLE FAMILY HOME
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property RS
- 14. Deed Book 872 Page No. 982 Group No. 2058
- 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: STEVE CURLEY CONST. INC.
BY: Amy S. Curley, V.P.
Property Owner's Signature: STEVE CURLEY CONST. INC.
BY: Amy S. Curley, V.P.

(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 9-17-04 Fee Received \$89.00 R# 40227
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
10/13/04 **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
_____ - 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: Steve Curley Construction
LOCATION: Lot 33, Howe Acres Subdivision, Boone County, Kentucky
ZONING: Rural Suburban (RS)
DATE: October 13, 2004

Proposal

The Applicant is requesting Variances to reduce the 40 foot front yard and rear yard setback requirements of lot 33 of Howe Acres Subdivision. The submitted Concept Development Plan shows the proposed single-family residence will be located 19.67 feet from the front and rear property lines.

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 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 approximate 0.45 acre flag lot is located within Howe Acres and is zoned Rural Suburban(RS). The northern portion of the parcel is heavily wooded (see aerial map). The parcel adjoins the following land uses:

North: Lot 17, Howe Acres (RS)

South: Rosebud Circle & Lot 34 of Howe Acres (RS)

East: Lot 32 of Howe Acres (RS)

West: Lot 34 of Howe Acres

Staff Comments

1. Staff would like to point out that Article 40 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. As a result, the orientation of a house on a flag lot is not used in determining the front, rear, or side yard setbacks.
2. The setback requirements for the proposed single-family dwelling are as follows:

Front Yard: 40 feet
Rear Yard: 40 feet
Side Yards: 10 feet

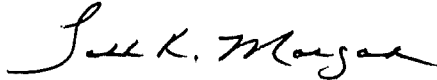
Based on the flag lot definition listed above, the submitted Concept Development Plan shows that the front and rear facades of the proposed dwelling are oriented toward the side property lines.

While the zoning regulations require the side yard setbacks to be 10', the submitted Concept Plan shows that the front of the house is 68' from the side property line and that the rear of the house is 67' from the side property line. Staff believes the Board should consider these increased side yard setbacks when analyzing 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 grant the Applicant's requests for front yard and rear yard setback Variances.

Respectfully submitted,

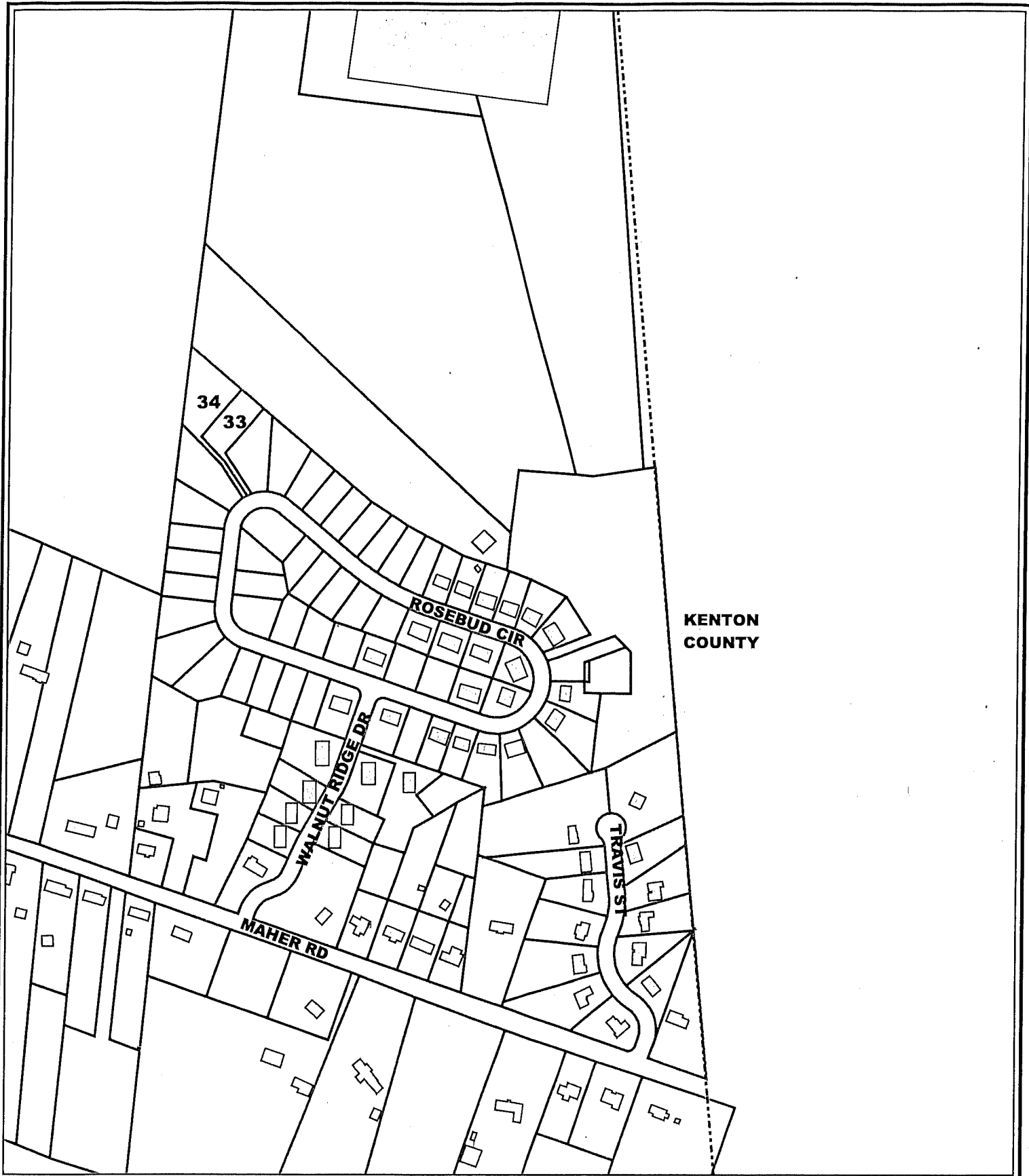


Todd K. Morgan, AICP
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Howe Acres, Section 3, Final Plat
- Exhibit D – Zoning Map
- Exhibit E – Aerial Map
- Exhibit F – Topographical Map
- Exhibit G – Application



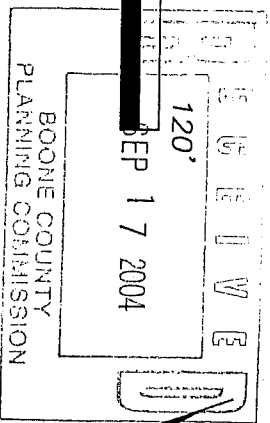
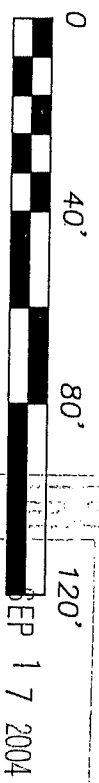
KENTON
COUNTY

Lots 33 & 34, Howe Acres Site Vicinity Map

400 0 400 Feet

1 inch equals 400 feet
Produced by the
Boone County Planning Commission
GIS Services Division
September 30, 2004





PROJECT SUMMARY:
BUILDER: STEVE CURLEY CONSTRUCTION
 7129 PRICE PIKE, SUITE B
 FLORENCE, KY 41042

PROJECT LOCATION: LOT #33 OF THE HOWE ACRES SUBDIVISION
 ROSEBUD CIRCLE
 BOONE COUNTY, KENTUCKY

EXISTING ZONING: RS
ZONING REQUIREMENTS:

MIN. LOT AREA: 12,000 S.F.
MIN. FRONT YARD SETBACK: 40'
MIN. LOT WIDTH @ FRONT SETBACK: 75'
MIN. SIDE YARD SETBACK: 10'
MIN. REAR YARD SETBACK: 40'

LOT AREA: 19,806 S.F.
EXISTING USE: VACANT
PROPOSED USE: SINGLE FAMILY RESIDENCE

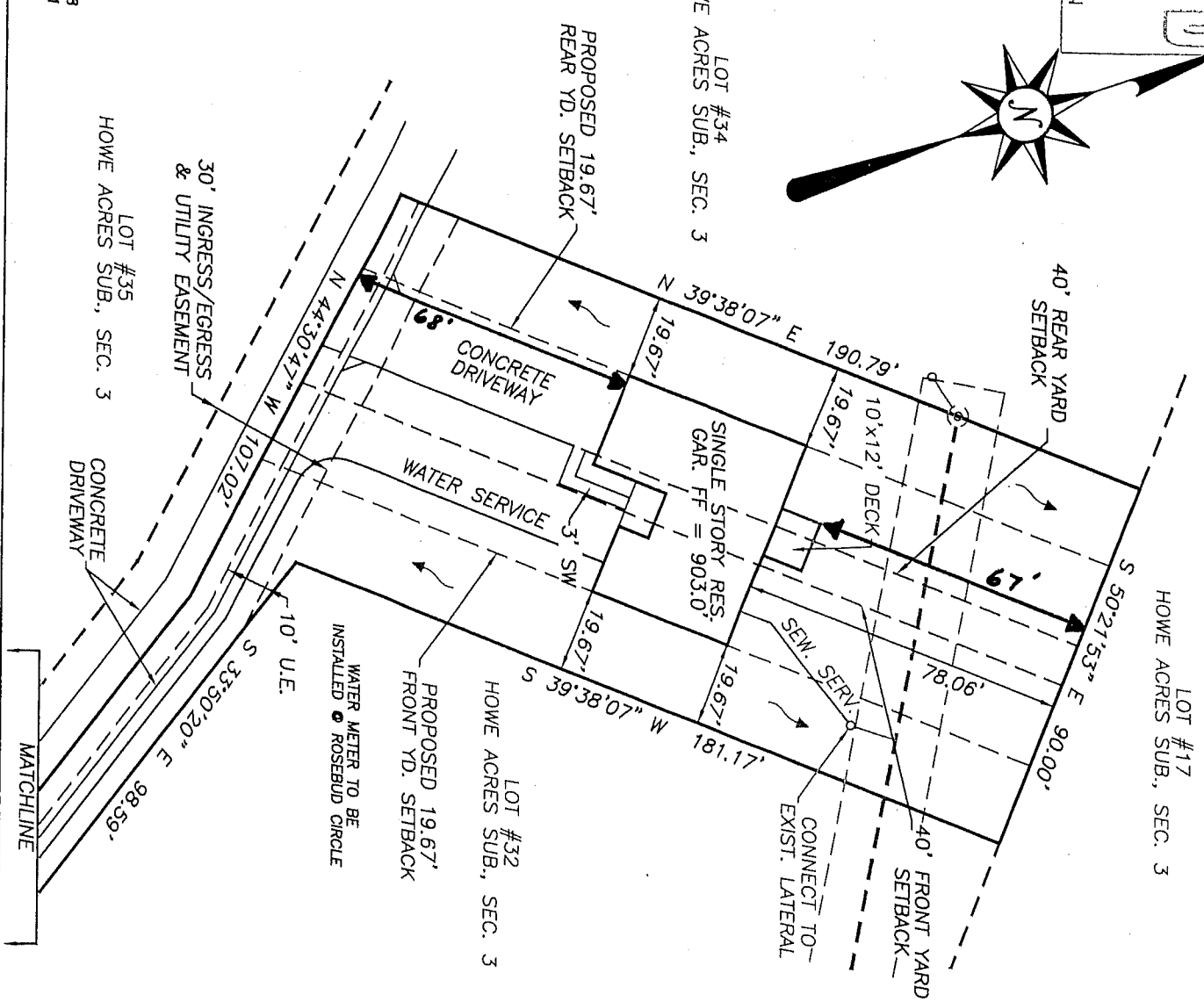
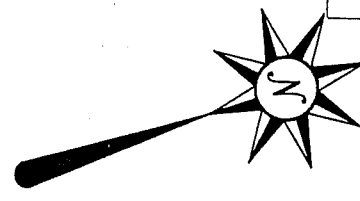
GENERAL NOTES:

- 1) THE PROPERTY BOUNDARY SHOWN HEREON HAS BEEN TAKEN FROM THE FINAL PLAT FOR THE HOWE ACRES SUBDIVISION.
- 2) EROSION CONTROL FOR THIS PROJECT IS TO BE INSTALLED AND MAINTAINED BY THE BUILDER.
- 3) ALL UTILITIES ARE TO BE INSTALLED IN A LOCATION AS SPECIFIED BY THE LOCAL UTILITY DISTRICT AND/OR THE OWNER/BUILDER.

Site Plan for Building Permit

Prepared by:

JFK
JERRY F. KEITH AND ASSOCIATES, P.S.C.
 1245 Violet Road
 Crittenden, KY 41030
 Telephone: (859) 428-0068
 Facsimile: (859) 428-0711



LAND SURVEYOR CERTIFICATE:

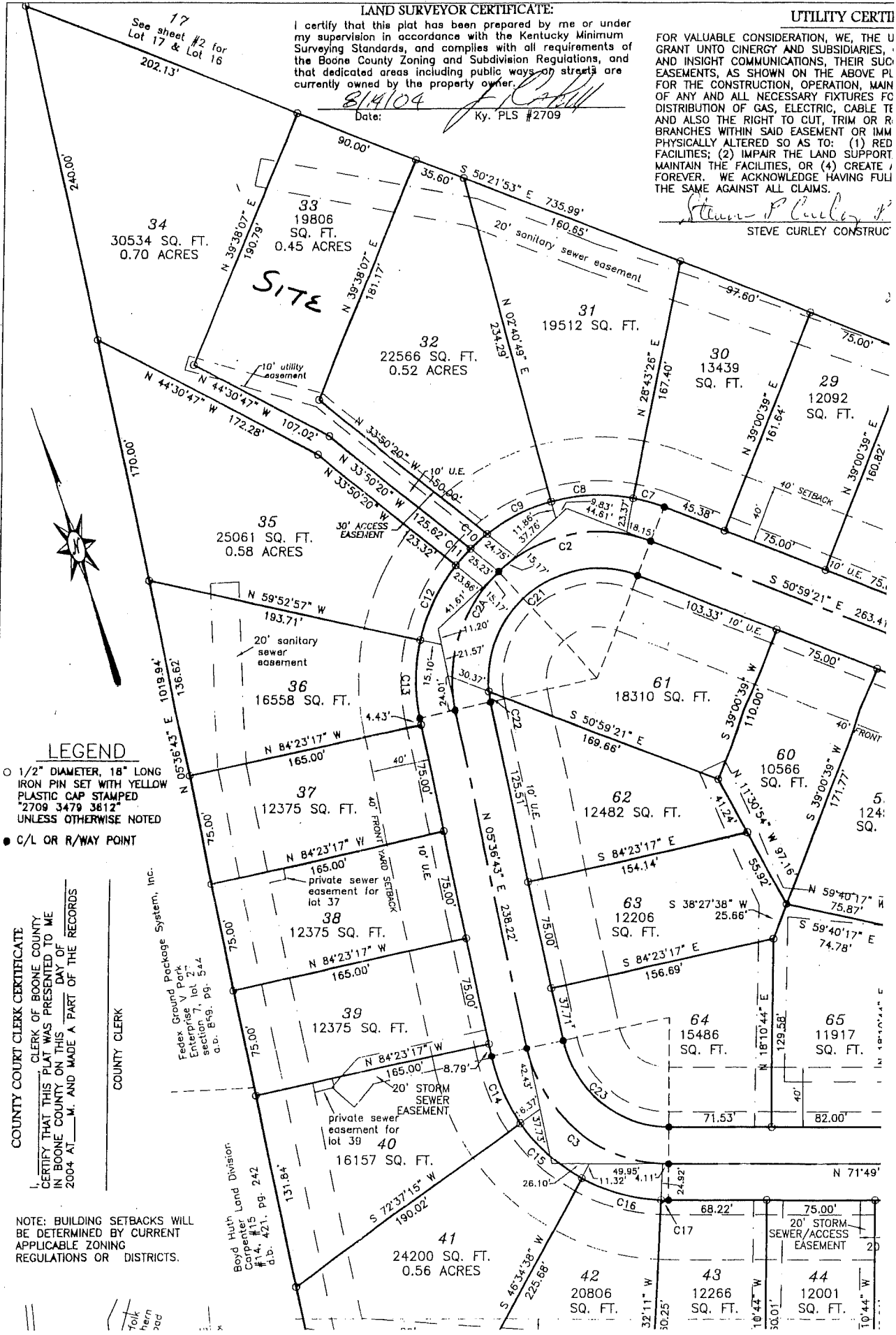
I certify that this plat has been prepared by me or under my supervision in accordance with the Kentucky Minimum Surveying Standards, and complies with all requirements of the Boone County Zoning and Subdivision Regulations, and that dedicated areas including public ways or streets are currently owned by the property owner.

Date: 8/14/04 Ky. PLS #2709

UTILITY CERTI

FOR VALUABLE CONSIDERATION, WE, THE U GRANT UNTO CINERGY AND SUBSIDIARIES, AND INSIGHT COMMUNICATIONS, THEIR SUC EASEMENTS, AS SHOWN ON THE ABOVE PL FOR THE CONSTRUCTION, OPERATION, MAI OF ANY AND ALL NECESSARY FIXTURES FC DISTRIBUTION OF GAS, ELECTRIC, CABLE TE AND ALSO THE RIGHT TO CUT, TRIM OR R BRANCHES WITHIN SAID EASEMENT OR IMM PHYSICALLY ALTERED SO AS TO: (1) RED FACILITIES; (2) IMPAIR THE LAND SUPPORT MAINTAIN THE FACILITIES, OR (4) CREATE / FOREVER. WE ACKNOWLEDGE HAVING FULL THE SAME AGAINST ALL CLAIMS.

Steve Curley
STEVE CURLEY CONSTRUCT



LEGEND

- 1/2" DIAMETER, 18" LONG IRON PIN SET WITH YELLOW PLASTIC CAP STAMPED 2709 3479 3812 UNLESS OTHERWISE NOTED
- C/L OR R/WAY POINT

COUNTY COURT CLERK CERTIFICATE

CERTIFY THAT THIS PLAT WAS PRESENTED TO ME IN BOONE COUNTY ON THIS DAY OF 2004 AT _____ M. AND MADE A PART OF THE RECORDS

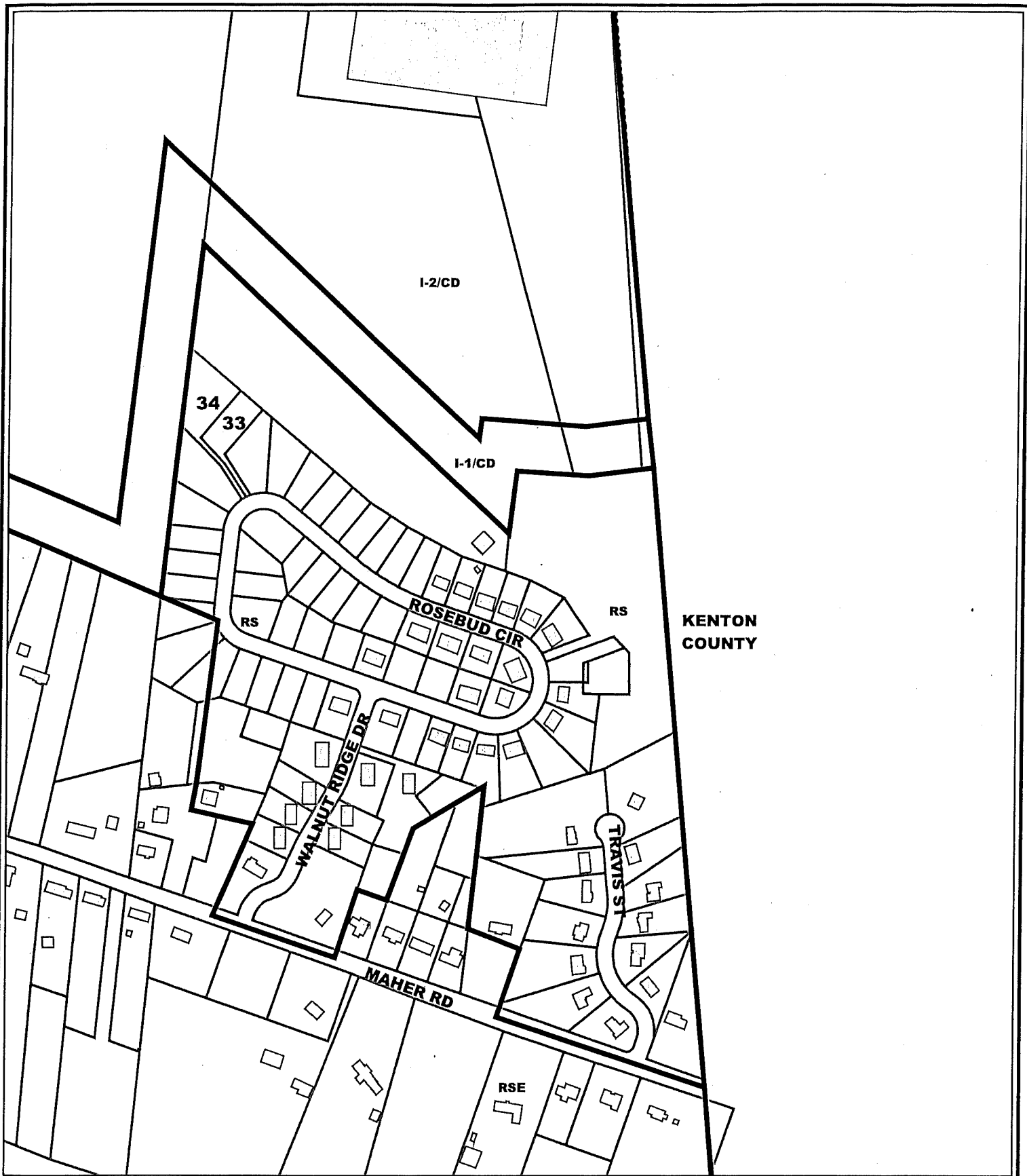
COUNTY CLERK

Fedex Ground Package System, Inc.
Enterprise V Park
section 7, lot 2,
a.b. 859, pg. 544

Boyd Hutch Land Division
Carpenter #14, #15
#14, #21, pg. 242
#14, #21, pg. 421

NOTE: BUILDING SETBACKS WILL BE DETERMINED BY CURRENT APPLICABLE ZONING REGULATIONS OR DISTRICTS.

Tolk
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2004

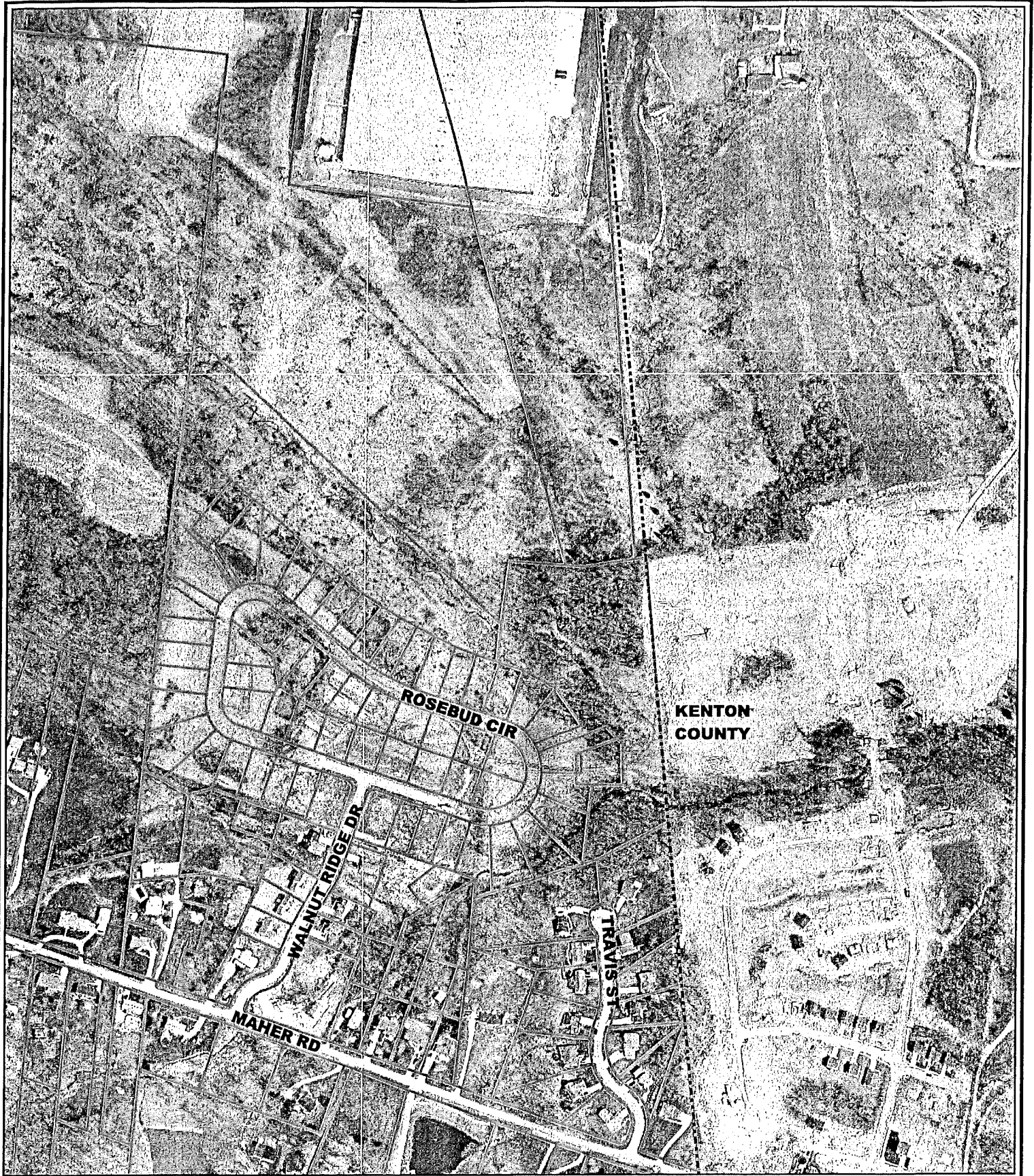


Lots 33 & 34, Howe Acres Zoning Map

400 0 400 Feet

1 inch equals 400 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 September 30, 2004



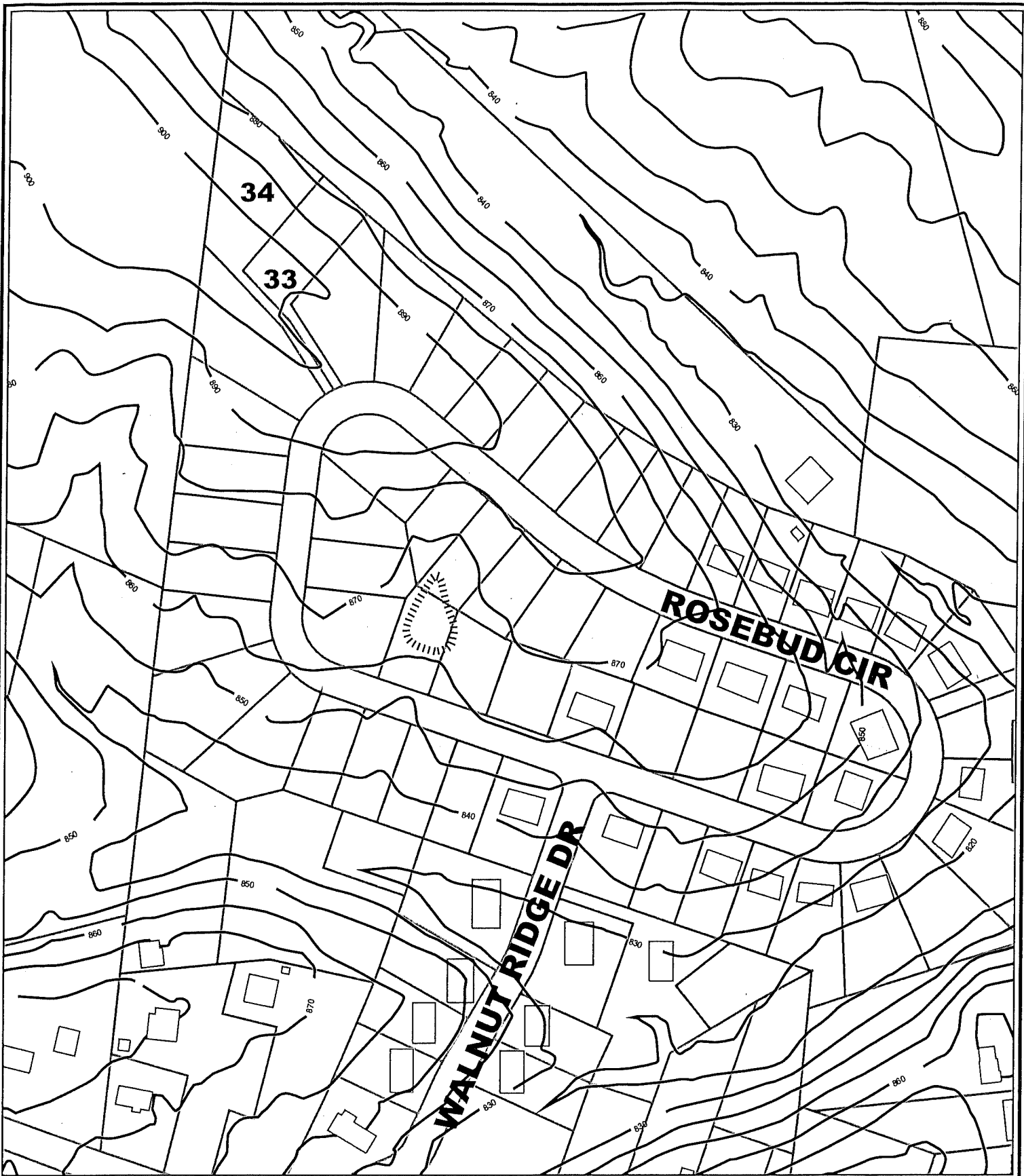


Lots 33 & 34, Howe Acres Aerial Map

400 0 400 Feet

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Boone County Planning Commission
GIS Services Division
September 30, 2004





200 0 200 Feet

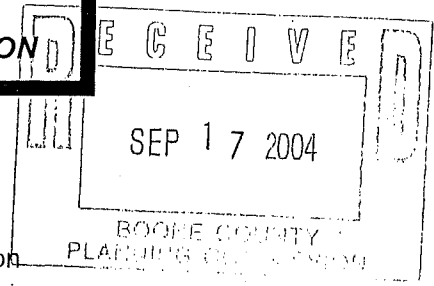
1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
September 30, 2004



Howe Acres Topographical Map

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations

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BY: Amy S. Curley, V.P.

Property Owner's Signature: STEVE CURLEY CONST. INC.
BY: Amy S. Curley, V.P.

(over)

COPY

CLUR #04-BCBOA-032-A

CERTIFICATE OF LAND USE RESTRICTION

- 1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Steve Curley Construction, Inc.
7129 Price Pike, Suite B
Florence, KY 41042

- 2. ADDRESS OF PROPERTY
Rosebud Circle
Walton, KY 41094
- 3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Lot 33, Howe Acres

- 4. DEED BOOK 872 PAGE NO. 982 GROUP NO. 2058

- 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

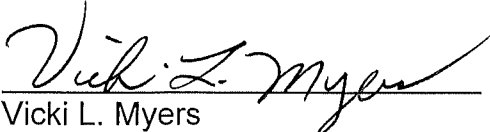
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

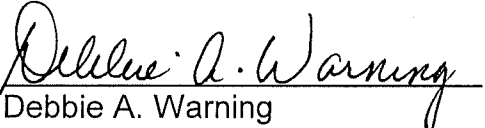
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 15 day of October, 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 October 13, 2004 Certificate of Land Use Restriction (#04-BCBOA-032-A), for Steve Curley Construction, Inc., Property Owner(s).

The following conditions will apply:

No conditions.

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

DEED BOOK 872

PAGE NO. 982

GROUP NO. 2058