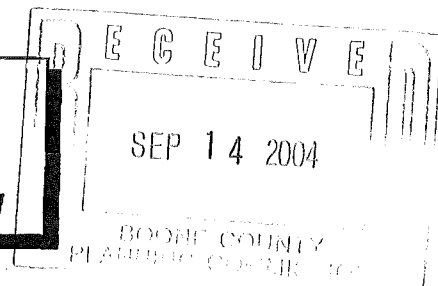


04BCBDA-033-A

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)

- 1. (Check One) Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) Conditional Use Permit [checked] Variance \_\_\_\_\_ Appeal \_\_\_\_\_
3. Applicant's Name STEVE CURLEY CONSTRUCTION Phone Number 356-3333 Fax No. 356-4532
4. Description of Request: REDUCE FRONT YARD SETBACK TO 30' (CURRENTLY 40') REDUCE REAR YARD SETBACK TO 25' (CURRENTLY 40')
5. Name of Development HOWE ACRES
6. Location of Development ROSEBUD CIRCLE
7. Acreage Under Review 30,534 S.F.
8. Lot Number and Name of Subdivision (if part of a subdivision) #34
9. Owner of Property S.A.
10. Address of Property Owner
11. Proposed Use(s) on Site SIABLE FAMILY RESIDENTIAL
12. Total Square Footage of Existing and/or Proposed Buildings N.A.
13. Current Zoning on Property RS
14. Deed Book [redacted] Page No. 982 Group No. [redacted] 2058
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.

872

Applicant's Signature: [Signature]
Property Owner's Signature: [Signature]

(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 9-14-04 Fee Received \$ 479.00 R# 40182
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No 9/17/04 #350.00 R#40228
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 34, 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 34 of Howe Acres Subdivision.

Although the submitted Concept Development Plan shows the proposed single-family residence 33.69 feet from the front property line and 28.98 feet from the rear property line, the Applicant's request is to reduce the front yard setback to 30 feet and the rear yard setback to 25 feet to allow small margins of error during construction.

### 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 0.7 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: Lot 35, Howe Acres (RS)  
East: Lot 33, Howe Acres (RS)  
West: FedEx Warehouse (I-2 & I-1)

#### 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

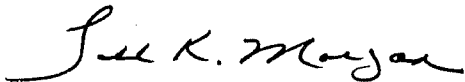
Based on the flag lot definition listed above, the submitted Concept Development Plan shows that the front and rear facades of the proposed dwelling are oriented toward the side property lines.

While the zoning regulations require the side yard setbacks to be 10', the submitted Concept Plan shows that the front of the house is 54' from the side property line and that the rear of the house is 77' 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,

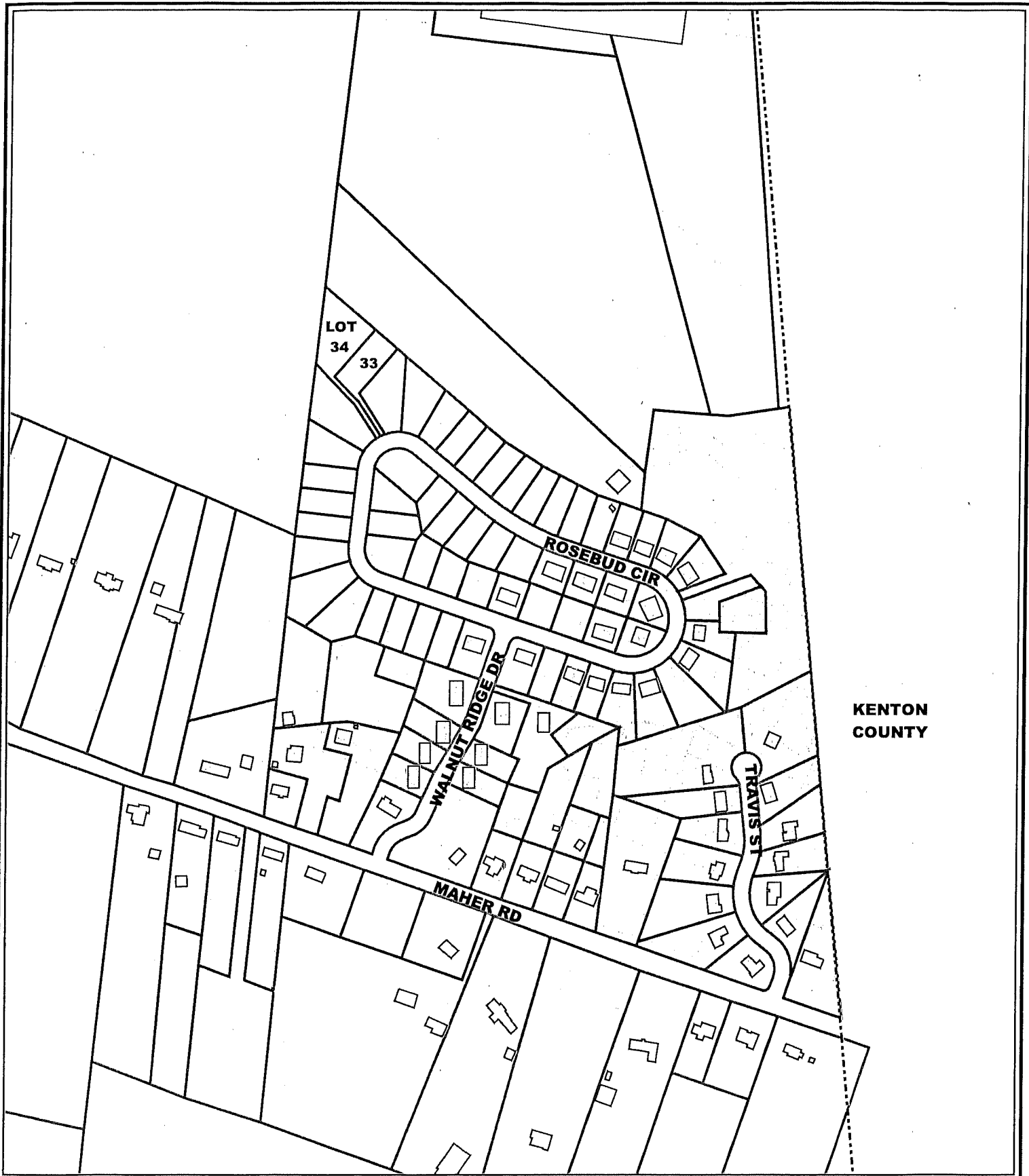


Todd K. Morgan, AICP  
Planner, Zoning Services

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 #34 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:** 30,534 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.

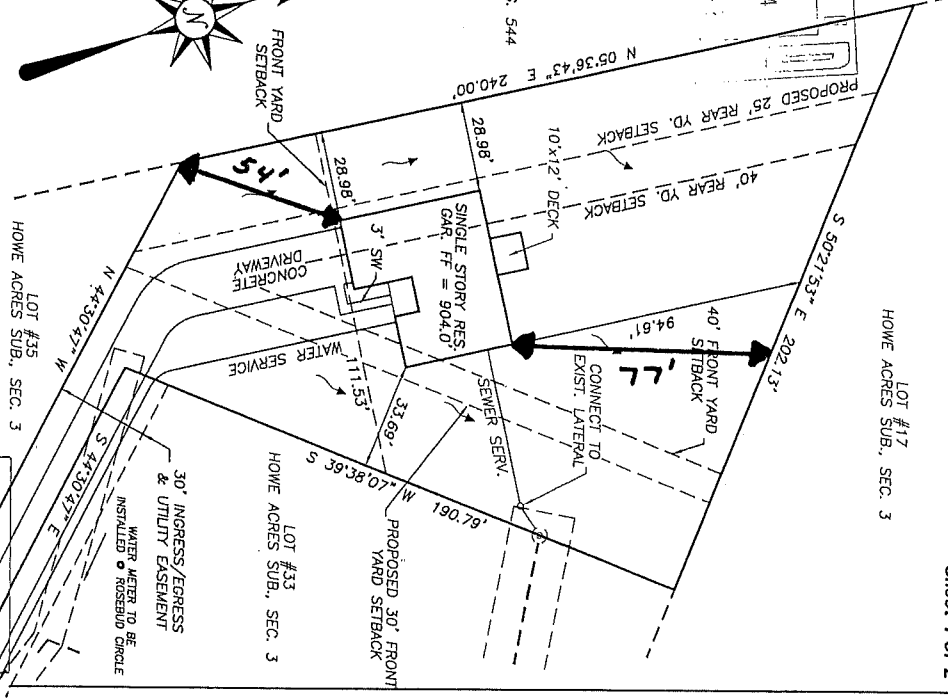
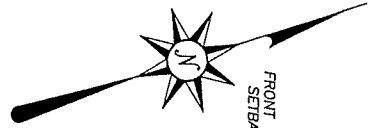
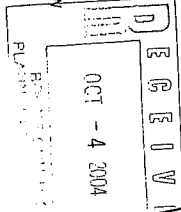
**Site Plan for Building Permit**

Prepared by:

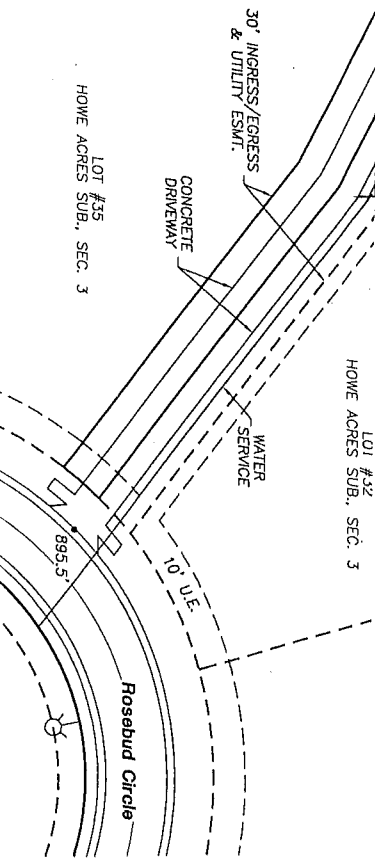
**JFK**  
**JERRY F. KEITH AND ASSOCIATES, P.S.C.**  
1245 Violet Road  
Crittenden, KY 41030

Jerry F. Keith, PE  
KY. PE #.: 21782

Telephone: (859) 428-0088  
Facsimile: (859) 428-0711



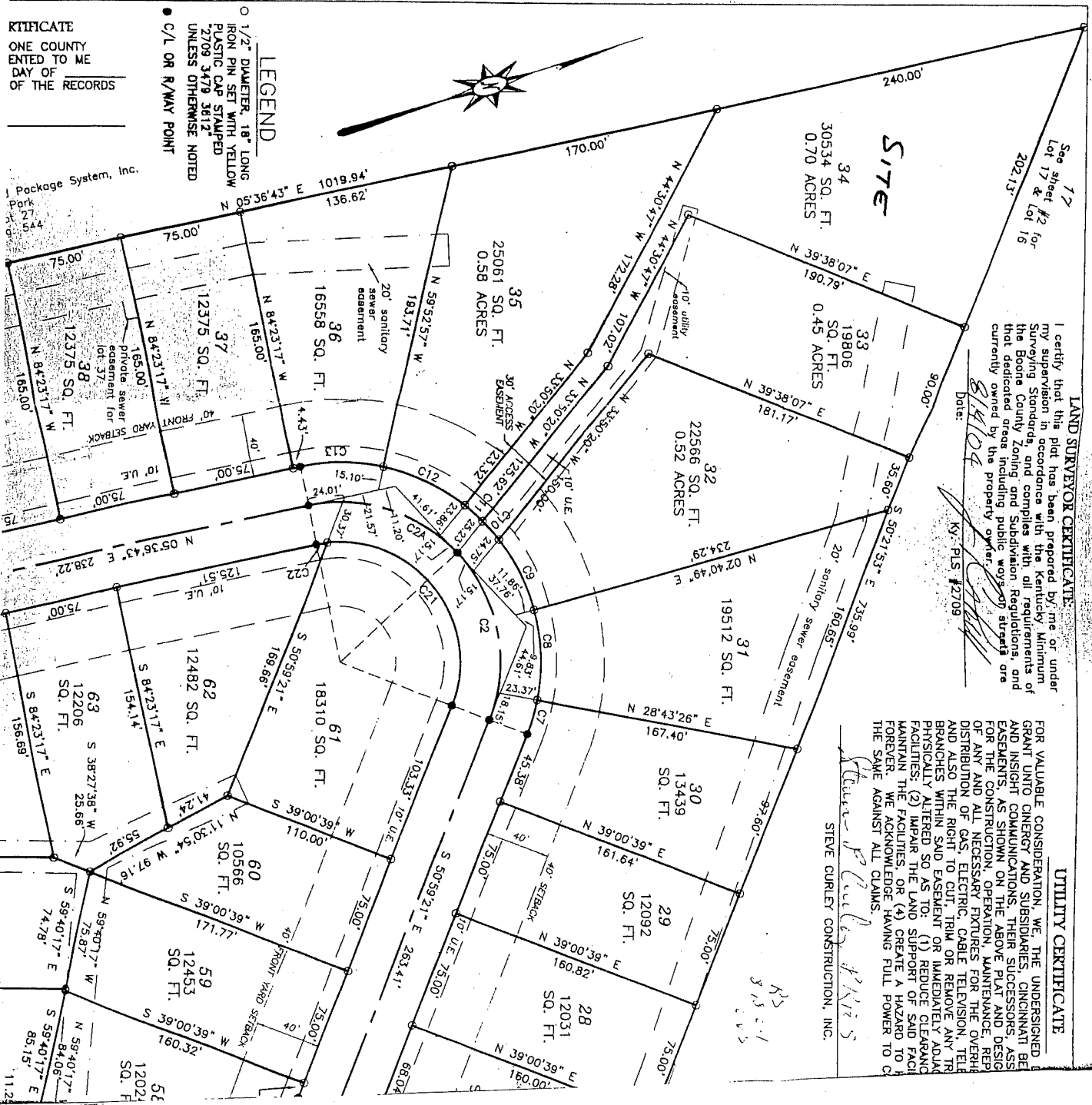
Sheet 1 of 2



CERTIFICATE  
 ONE COUNTY  
 ENTERED TO ME  
 DAY OF  
 OF THE RECORDS

LEGEND  
 ○ 1/2" DIAMETER, 18" LONG  
 IRON PIN SET WITH YELLOW  
 PLASTIC CAP STAMPED  
 2709 3479 3617  
 UNLESS OTHERWISE NOTED  
 ● C/L OR R/W/MAY POINT

Package System, Inc.  
 Park  
 St. 27  
 g. 544



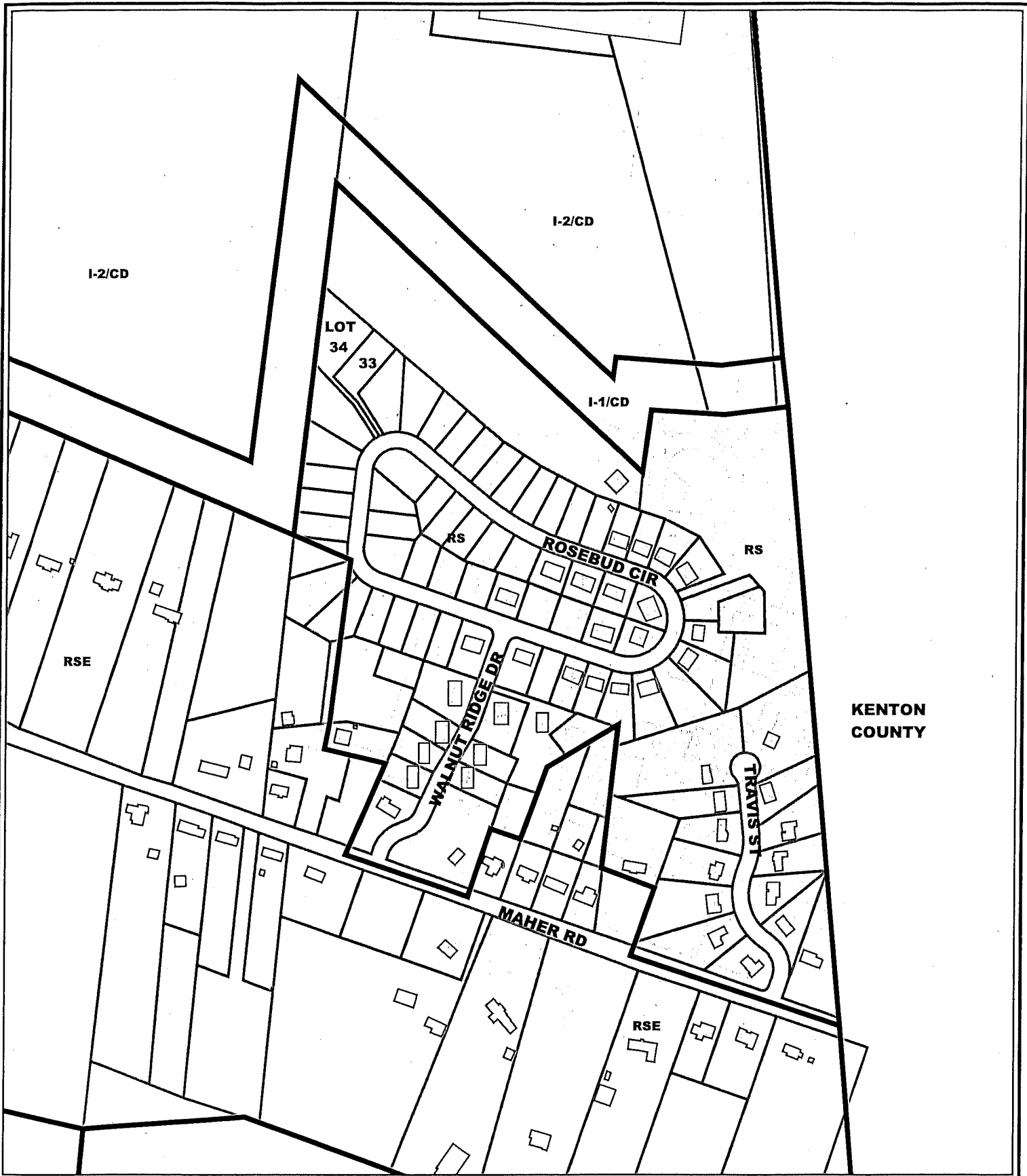
17  
 See sheet #2 for  
 Lot 17 & Lot 16  
 202.13'

**SITE**

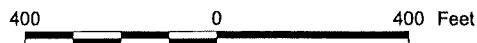
LAND SURVEYOR CERTIFICATE  
 I certify that this plat has been prepared by me or under  
 my supervision in accordance with the Kentucky Minimum  
 Surveying Standards, and complies with all requirements of  
 the Boone County Zoning and Subdivision Regulations, and  
 that dedicated areas including public ways and streets are  
 currently owned by the property owner.  
 Date: 5/10/04  
 KY: PLS #2709

UTILITY CERTIFICATE  
 FOR VALUABLE CONSIDERATION, WE, THE UNDERSIGNED, BE  
 GRANT UNTO ENERGY AND SUBSIDIARIES, CINCINNATI, A  
 AND INSIGHT COMMUNICATIONS, THEIR SUCCESSORS, ASS  
 EASEMENTS, AS SHOWN ON THE ABOVE PLAT AND DESIG  
 FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPA  
 OF ANY AND ALL NECESSARY FIXTURES FOR THE OVERHA  
 DISTRIBUTION OF GAS, ELECTRIC, CABLE TELEVISION, TEL  
 AND ALSO THE RIGHT TO CUT, TRIM OR REMOVE ANY TR  
 BRANCHES WITHIN SAID EASEMENT OR IMMEDIATELY ADJAC  
 PHYSICALLY ALTERED SO AS TO: (1) REDUCE CLEARING  
 FACILITIES; (2) IMPAIR THE LAND SUPPORT OF SAID FACI  
 MAINTAIN THE FACILITIES; OR (4) CREATE A HAZARD TO I  
 FOREVER. WE ACKNOWLEDGE HAVING FULL POWER TO C  
 THE SAME AGAINST ALL CLAIMS.  
 Steve Curley Construction, Inc.  
 STEVE CURLEY CONSTRUCTION, INC.

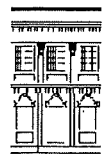
52  
 12024  
 SQ. FT.  
 85.15'  
 E  
 11.2'

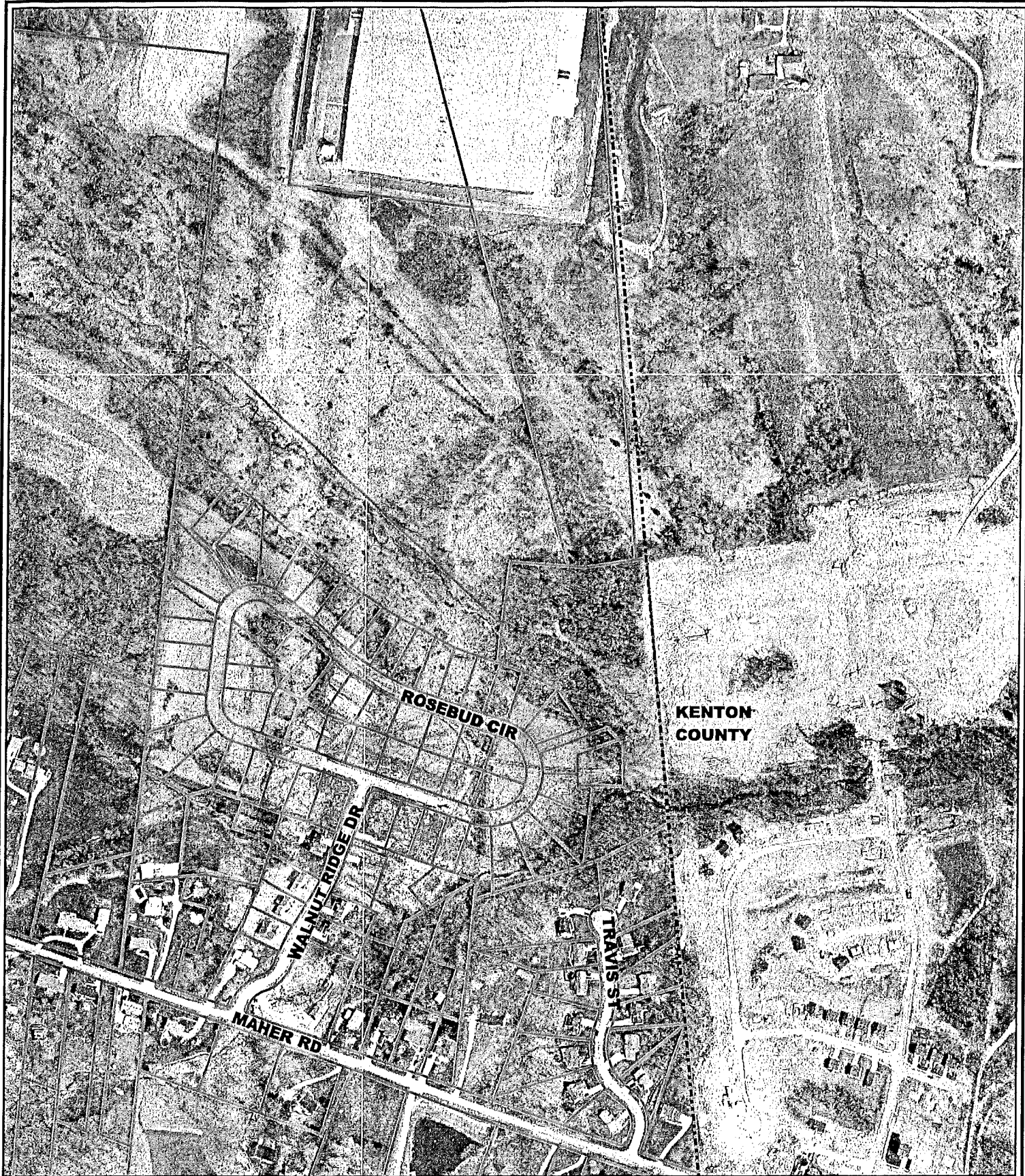


# Lots 33 & 34, Howe Acres Zoning Map



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





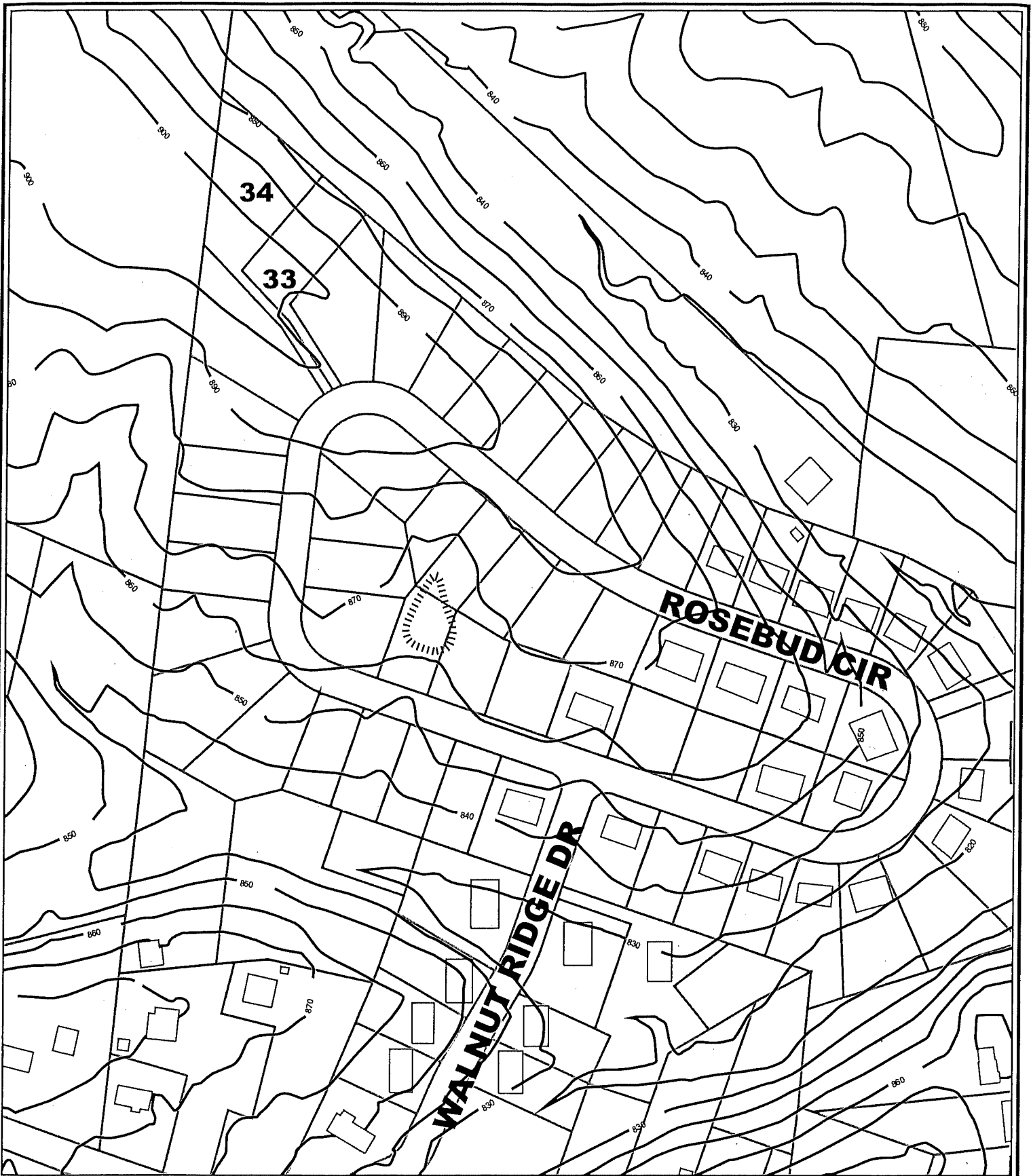
# Lots 33 & 34, Howe Acres Aerial Map

400 0 400 Feet



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





# Howe Acres Topographical Map

200 0 200 Feet

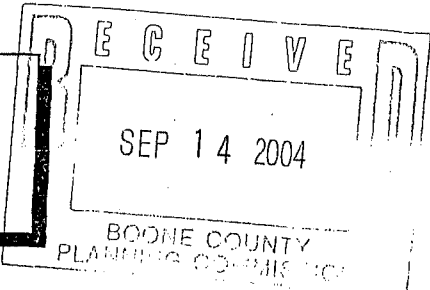


1 inch equals 200 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
September 30, 2004



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. [X] Boone [ ] Florence [ ] Walton [ ] Union

(Check One)

- 2. [ ] Conditional Use Permit [X] Variance [ ] Appeal

3. Applicant's Name STEVE CURLEY CONSTRUCTION

Phone Number 356-3333

Fax No. 356-4532

Applicant's Address 7129 PALE PIKE, SUITE B

FLORENCE

KY

41042

City

State

Zip

- 4. Description of Request: REDUCE FRONT YARD SETBACK TO 30' (CURRENTLY 40') REDUCE REAR YARD SETBACK TO 25' (CURRENTLY 40')

5. Name of Development HOUSE LACES

6. Location of Development ROSEBUD CIRCLE

7. Acreage Under Review 30,534 S.F.

8. Lot Number and Name of Subdivision (if part of a subdivision) #34

9. Owner of Property S.A.

Phone Number of Owner

10. Address of Property Owner

City

State

Zip

11. Proposed Use(s) on Site SINGLE FAMILY RESIDENTIAL

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

13. Current Zoning on Property RS

872 14. Deed Book [redacted] Page No. 982 Group No. [redacted] 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: BY: STEVE CURLEY CONSTRUCTION, INC. Amy S. Curley, V.P.

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

(over)

COPY

CLUR #04-BCBOA-033-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 34, 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

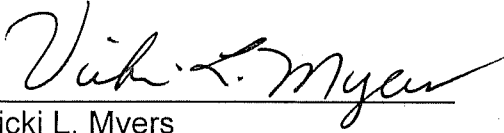
*Todd K. Morgan*  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

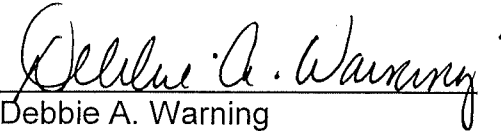
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 15 day of October, 2004.



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-033-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