

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

OCT 14 2005

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 \_\_\_\_\_
Change in Non-Conforming Use \_\_\_\_\_
3. Applicant's Name TRINITY HOMES OF KENTUCKY LLC
Phone Number 859-689-5722 Fax No. 859-689-5722
Applicant's Address 6520 EAST BEND ROAD B
Burlington Ky 41005
4. Description of Request: TO ALLOW FOR ENCROACHMENT ON MINIMUM 40 FEET YARD SET BACK
5. Name of Development BRENTWOOD
6. Location of Development BULLITTSVILLE RD BURLINGTON
7. Acreage Under Review ~ 1 AC.
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT #S 105 & 106
9. Owner of Property TRINITY HOMES OF KY LLC
Phone Number of Owner 689-5722
10. Address of Property Owner 6520 EAST BEND ROAD BURLINGTON
City State Zip
11. Proposed Use(s) on Site Single Family RESIDENTIAL
12. Total Square Footage of Existing and/or Proposed Buildings 2200 SQ FT EACH
13. Current Zoning on Property RS
14. Deed Book [redacted] Page No. [redacted] Group No. [redacted] 2018
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: [Signature]

Property Owner's Signature: [Signature]

18 896
6 348

**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 10-14-05 Fee Received \$ 567.00 Att # 44054
- 2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
- 3. Staff Reviewer \_\_\_\_\_
- 4. Scheduled Board Action Date \_\_\_\_\_
- 5. Board Action:  
\_\_\_\_\_ **Approved**  
12/14/05 **Approved with Conditions** (See #6)  
\_\_\_\_\_ **Denial** (See #7) SEE
- 6. Conditions of Approval: STAFF COMMENT # 5  
IN STAFF REPORT
- 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: Trinity Homes of Kentucky, LLC  
LOCATION: Lots 105 & 106, Brentwood Subdivision, Boone County, Kentucky  
ZONING: Rural Suburban (RS)  
DATE: November 9, 2005

### Proposal

The Applicant is requesting Variances to reduce the 40' front yard setback requirements of lots 105 and 106 of Brentwood Subdivision. The submitted Concept Development Plan shows the front yard setback of lot 105 is being reduced from 40' to 30' and that front yard setback of lot 106 is being reduced from 40' to 25'.

### 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.

#### Site Characteristics

The parcels are located in Brentwood Subdivision and are zoned Rural Suburban (RS). Lot 105 is 0.7135 acres in area and has flat to rolling topography. Lot 106 is 0.5884 acres in area and has rolling topography. The northeastern portion of lot 106 contains a 15' wide drainage easement which contains some pussy willows.

#### Surrounding Land Uses and Zoning

- North: Single-Family Dwellings Fronting on Trevor Lane (RS)
- South: Single-Family Dwellings Fronting on Brogan Court & Marden Court (RS)
- East: Single-Family Dwellings Fronting on Brogan Court & Brent's Way
- West: Single-Family Dwellings Fronting on Brogan Court

#### 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 dwellings 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 dwellings are oriented toward the side property lines.

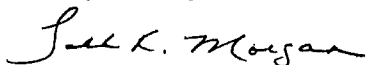
While the zoning regulations require 10' side yard setbacks, the Concept Plan shows that the dwelling on lot 105 will have 41' and 120' side yard setbacks and that the dwelling on lot 106 will have 42' and 85' side yard setbacks. The Board needs to analyze if these enlarged side yard setbacks minimize the impact of the reduced front yard setback.

3. Staff analyzed the building footprints and determined that the no Variances would be needed if the front of the houses were oriented toward Brogan Court. As a result, Staff is concerned that no hardship exist.
4. Staff has attached a copy of the approved Zoning Permit for lot 107 of Brentwood Subdivision (the adjoining 0.5870 acre flag lot to the east). The Zoning Permit shows that the house on this lot met all the applicable setbacks and that the front of the house is oriented toward Brogan Court. As a result, Staff is concerned that the request could alter the essential character of the area.
5. If the Board approves the request, Staff recommends that small trees should be required along the front property lines of lots 105 & 106 at the ratio of three (3) trees per 100 linear of frontage.

#### 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.

Respectfully submitted,



Todd K. Morgan, AICP  
Planner, Zoning Services

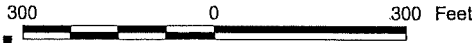
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#### Attachments

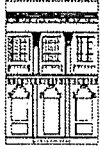
- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Brentwood Subdivision, Final Plat
- Exhibit D – Zoning Map
- Exhibit E – Aerial Map
- Exhibit F – Topographical Map
- Exhibit G – Zoning Permit, Lot 107 Brentwood Subdivision
- Exhibit H – Application



# Lots 105 & 106 Brentwood Site Vicinity Map



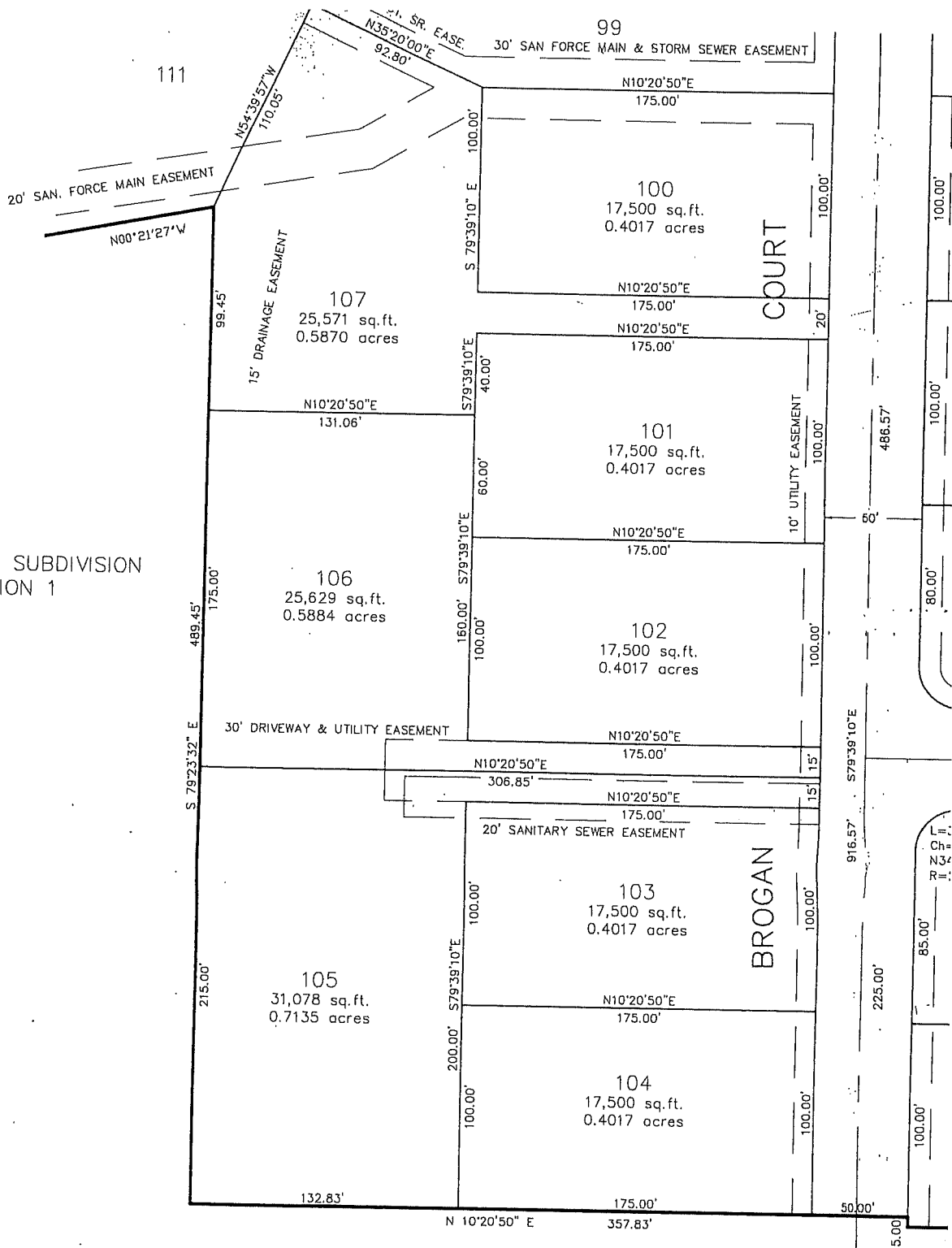
1 inch equals 300 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
October 17, 2005





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BRENTWOOD SUBDIVISION SECTION 1

SECTION 4  
 BRENTWOOD SUBDIVISION  
 BOONE COUNTY  
 KENTUCKY  
 MAY 2001

BRENTWOOD SUBDIVISION SECTION 1

OWNER AND DEVELOPER

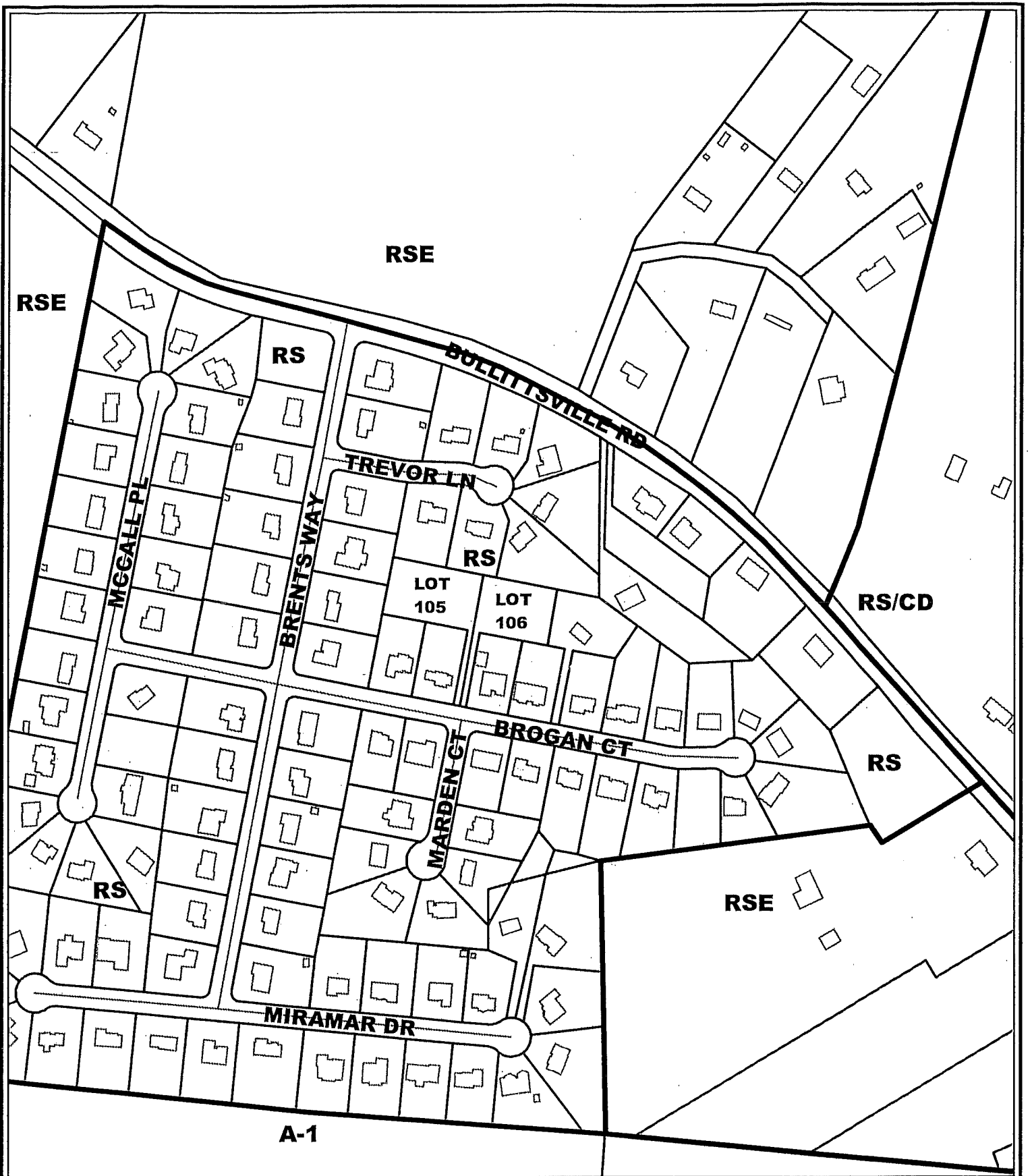
BRENT'S

MILLER DEVELOPERS

10847 OMAHA TRACE

UNION, KENTUCKY 41091

TOTAL SITE AREA - 21.1157 ACRES



# Lots 105 & 106 Brentwood Zoning Map

300 0 300 Feet

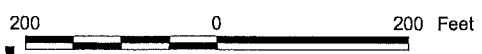
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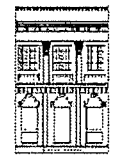


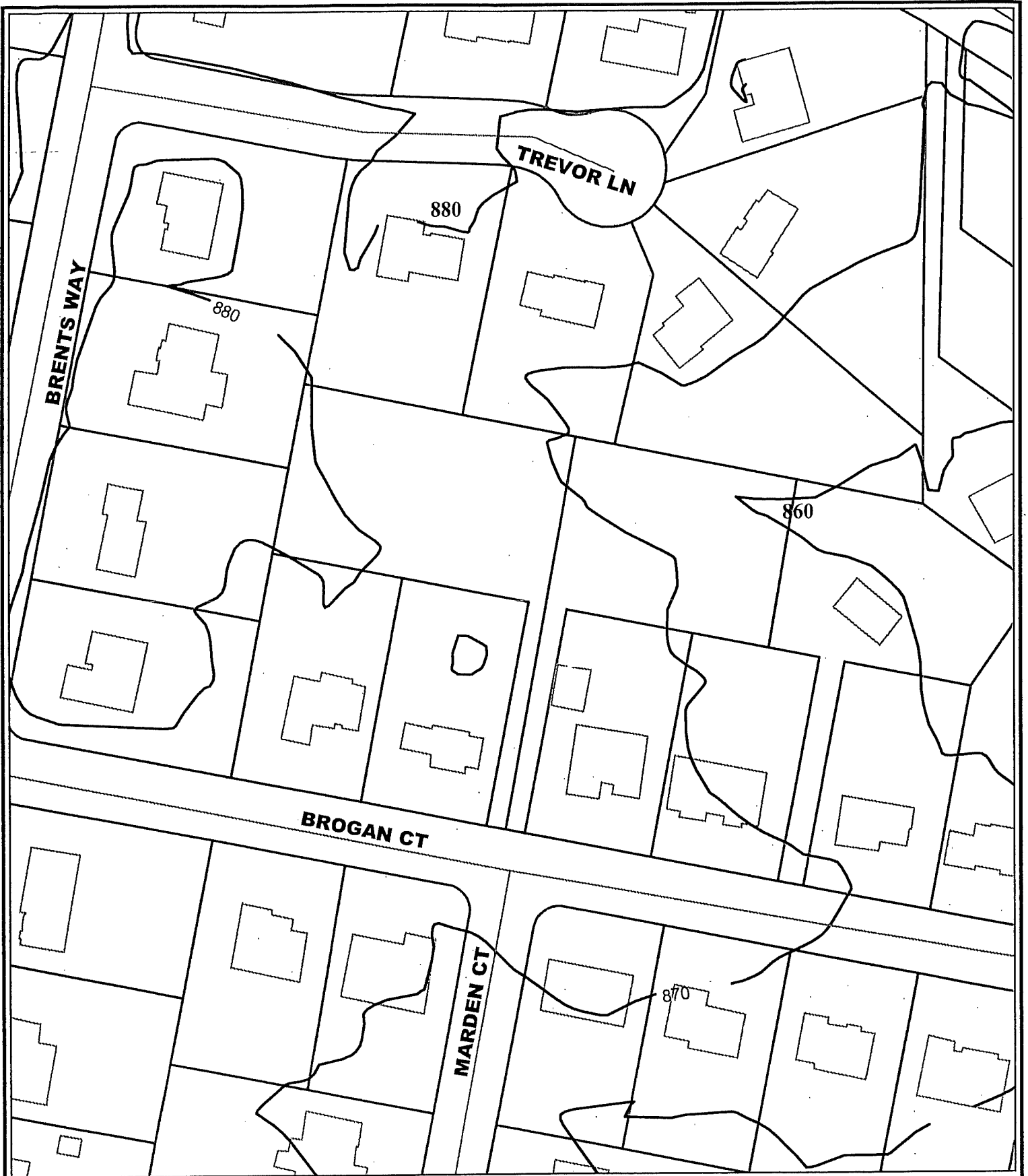


# Lots 105 & 106 Brentwood Aerial Map



1 inch equals 200 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
October 17, 2005





**Lots 105 & 106 Brentwood  
Topographical Map**

100 0 100 Feet

1 inch equals 100 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
October 19, 2005





APPLICATION FORM

BOARD OF ADJUSTMENT  
AND  
ZONING APPEALS ACTION  
BOONE COUNTY PLANNING COMMISSION

OCT 14 2005  
BOONE COUNTY  
PLANNING COMMISSION

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

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\_\_\_\_\_ Conditional Use Permit  Variance \_\_\_\_\_ Appeal \_\_\_\_\_  
\_\_\_\_\_ Change in Non-Conforming Use
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- 14. Deed Book ██████████ Page No. ██████████ Group No. ██████████ 2018
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Applicant's Signature: Frank Hamann Member

Property Owner's Signature: Frank Hamann Member

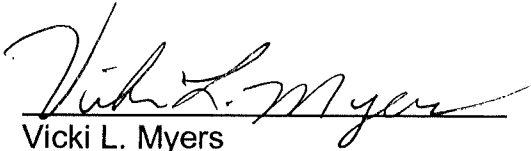
DB 896  
PG 348



COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

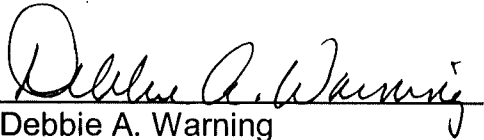
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 21 day of December, 2005.



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 Boone County Board of Adjustments and in accordance with the current zoning in effect as of December 14, 2005 Certificate of Land Use Restriction (#05-BCBOA-025-A), for Trinity Homes of Kentucky LLC, Property Owner(s).

The following conditions will apply:

- 1) Small trees are required along the front property lines of Lots 105 and 106 at the ratio of three trees per one hundred linear feet of frontage

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

DEED BOOK 896

PAGE NO. 348

GROUP NO. 2018