

04-UBOA-002-A

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

OCT - 5 1991

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
3. Applicant's Name DREES HOMES (ROGER HAWKINS - OPERATIONS MGR.)
Phone Number 859-426-2537 Fax No. 859-331-9231
Applicant's Address 211 GRANDVIEW DR. FT. MITCHELL KY 41017
4. Description of Request: VARIANCE FOR REAR SETBACK - DECK WAS NOT IN CONFORMANCE AFTER BUILT
5. Name of Development UNION BLUFFS
6. Location of Development MT. ZION RD - CLOSE TO GUNPOWDER
7. Acreage Under Review
8. Lot Number and Name of Subdivision (if part of a subdivision) #10 UNION BLUFF
9. Owner of Property BRENT HOFER
Phone Number of Owner 859-991-5116 CELL
10. Address of Property Owner 11007 UNION BLUFF DR. UNION KY 41091
11. Proposed Use(s) on Site RESIDENCE
12. Total Square Footage of Existing and/or Proposed Buildings 2100?
13. Current Zoning on Property RES.
14. Deed Book D 882 Page No. 561 Group No. 2047
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.

Applicant's Signature: [Signature]

Property Owner's Signature: [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 10-5-04 Fee Received \$ 511.00 P# 40417
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
11/10/04 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  
[www.boonecountyky.org](http://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: Drees Homes  
LOCATION: Lot 10, Union Bluffs Subdivision  
(11011 Union Bluffs Drive, Union, Kentucky)  
ZONING: Rural Suburban (RS)  
DATE: November 10, 2004

Proposal

Drees Homes is requesting a variance to allow an attached deck to encroach into the 40 foot rear yard setback. The subject property is located at 11011 Union Bluffs Drive, Union, Kentucky. The submitted Concept Development Plan shows that the deck is located 37.09 feet from the rear property line. The submitted application indicates that Drees Homes became aware of the setback encroachment after the deck was constructed onto the rear of a single-family residential dwelling.

Applicable Regulations

Article 31, Section 3123 of the Boone County Zoning Regulations states, "open structures such as porches, canopies, balconies, platforms, carports, covered patios, and similar architectural projections which occupy space three (3) or more feet above the general ground level of the yard shall be considered parts of the building to which attached and shall not project into the required minimum front, side or rear yard."

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

- Northeast: Vacant Lot in Union Bluffs Subdivision (RS)
- Northwest: Single-Family Residential Dwelling Fronting on Churchill Drive (A-2)
- Southeast: Single-Family Residential Lots Fronting on Union Bluffs Drive (RS)
- Southwest: Single-Family Residential Lots Fronting on Union Bluffs Drive (RS)

Staff Comments

1. On March 2, 2004, the Boone County Planning Commission issued a Zoning Permit to the Drees Company for a single-family residence to be constructed on the subject lot. The submitted plot plan did not indicate that an attached deck was going to be constructed onto the rear of the home (see attachments).

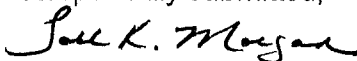
On September 1, 2004, the Boone County Planning received a Zoning Permit from Drees Homes which requested the attached deck on the rear of the single-family dwelling. A Zoning Enforcement Officer reviewed the application and determined that the deck did not meet the 40' rear yard setback requirement.

2. Staff would like the applicant to explain when the deck was constructed. This is important consideration because KRS 100.241 states that "the Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation."
3. If the Board approves the request, Staff recommends that the Board may want to consider a condition which requires some 6 foot tall evergreen trees to be planted between the deck and rear property line. Staff's only reservation with the proposed plantings is that it will take years for them to buffer the adjoining property to the northwest. The attached topographical map shows that the rear property line is located in a low lying area.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Union Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a rear yard setback variance.

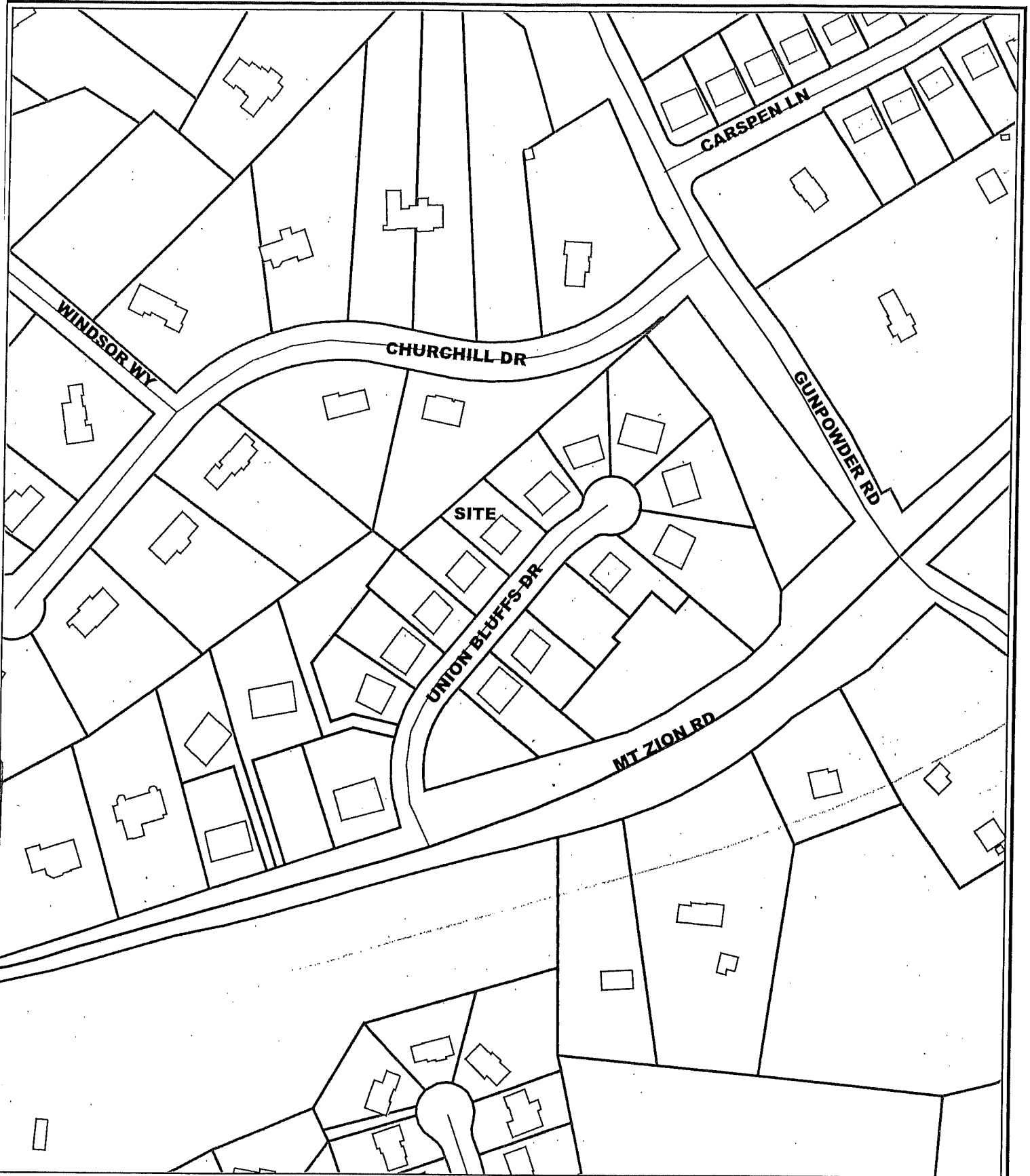
Respectfully submitted,



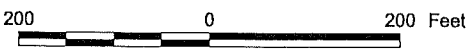
Todd K. Morgan, AICP  
Planner, Zoning Services

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Approved 3/2/04 Zoning Permit
- Exhibit D – Zoning Map
- Exhibit E – Topographical Map
- Exhibit F – Aerial Map
- Exhibit G – Application



# Lot 10, Union Bluffs Site Vicinity Map

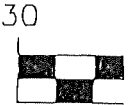


1 inch equals 200 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 October 25, 2004

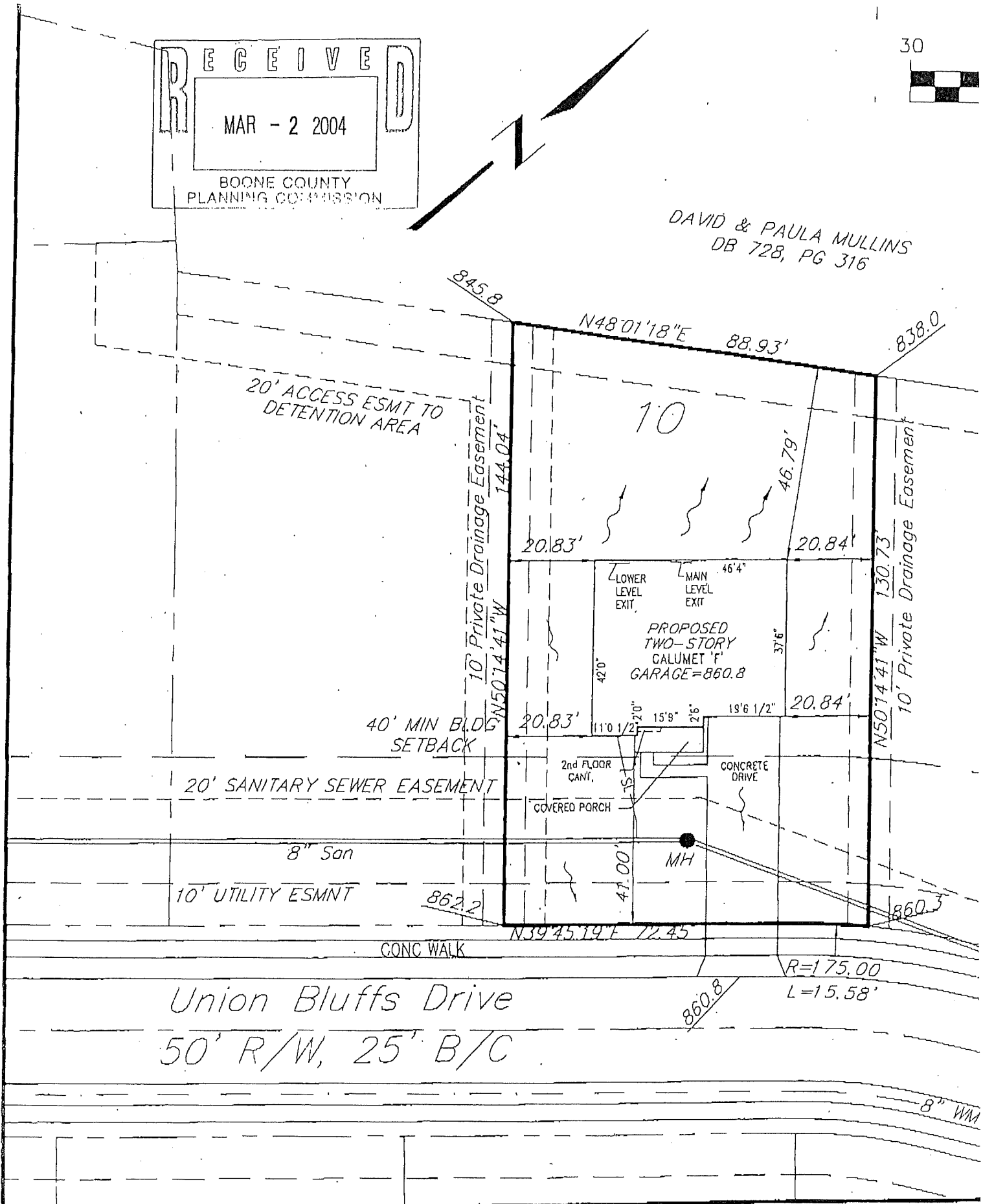




**RECEIVED**  
 MAR - 2 2004  
 BOONE COUNTY  
 PLANNING COMMISSION



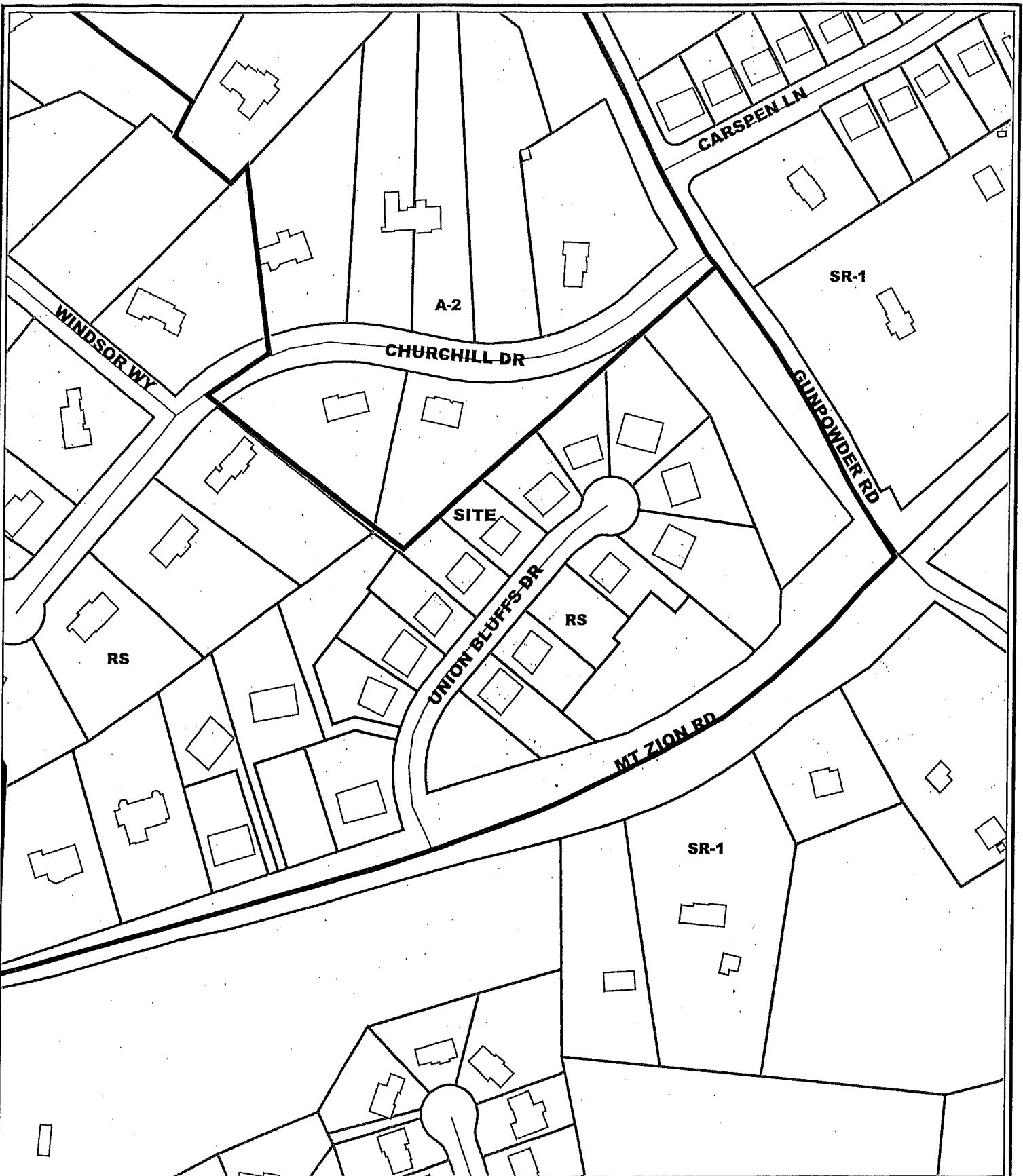
DAVID & PAULA MULLINS  
 DB 728, PG 316



The Drees Company

211 Grandview Drive Fort Mitchell, Kentucky 41017 PH: (858) 378-4200  
 Copyright 2000 The Drees Company. All rights reserved. These plans are protected by Copyright.  
 No part of these plans may be reproduced in any form or by any means, including photocopying, without the written permission from the Copyright owner.

PER ITEM #1 OF DREES CO. GENERAL SPECS:  
 THIS IS NOT A LEGAL SURVEY. FOR PERMIT PURPOSES ONLY.  
 HOUSE MAY BE FIELD ADJUSTED FOR LOT CONDITIONS WITHIN LEGAL SIDEYARDS & SETBACKS OF LOCAL ZONING.

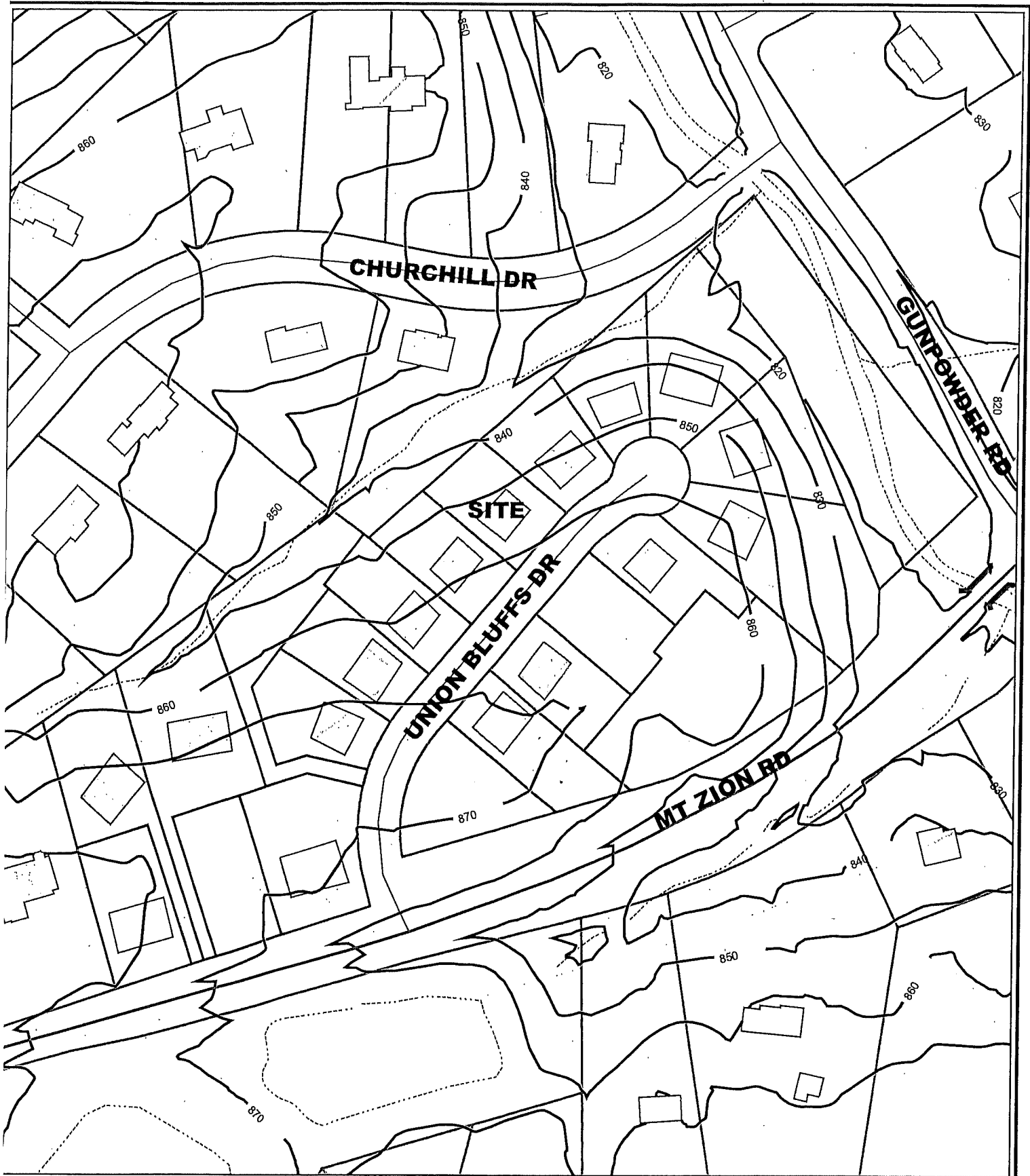


# Lot 10, Union Bluffs Zoning Map

200 0 200 Feet

1 inch equals 200 feet  
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 October 25, 2004



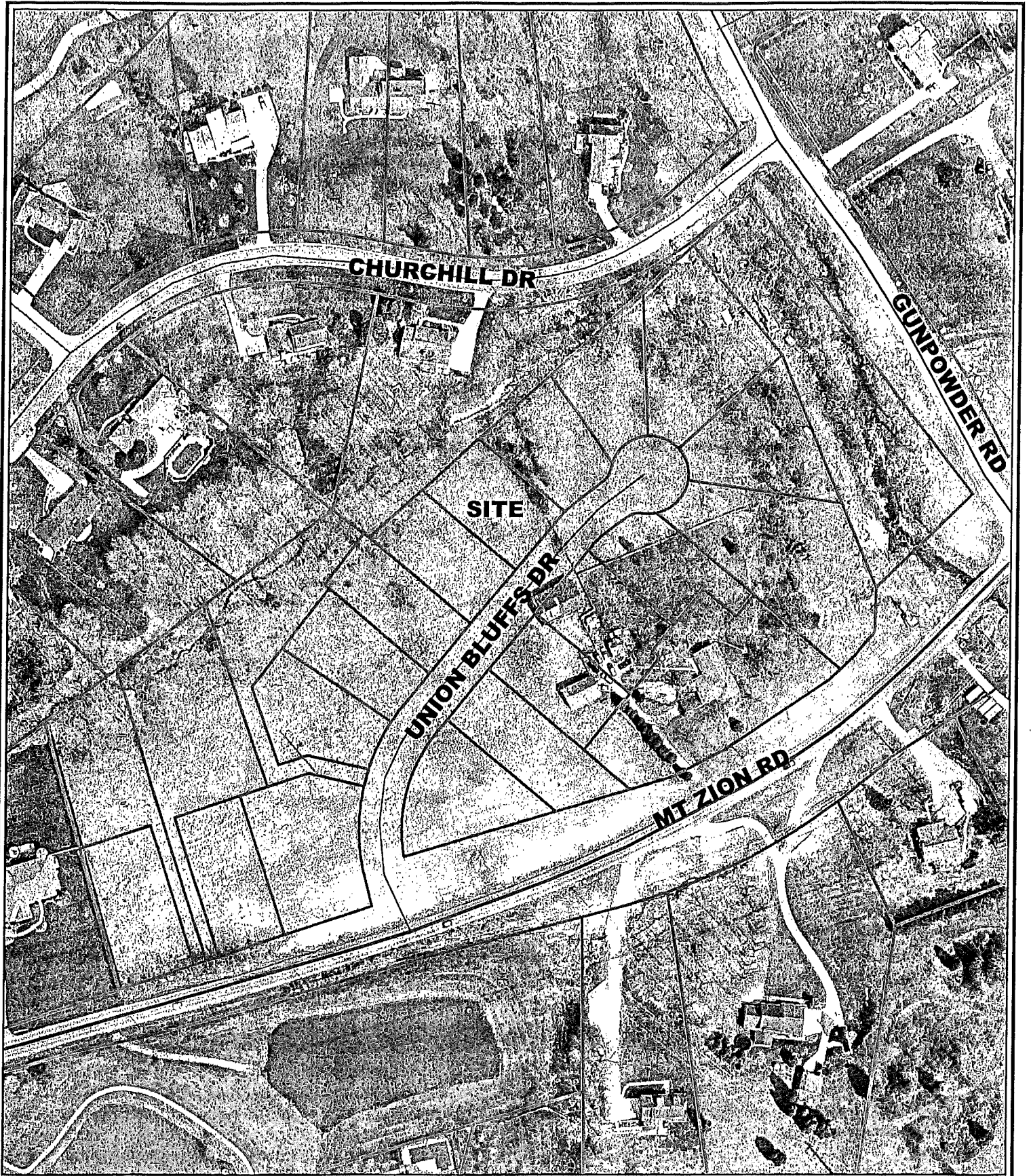


# Lot 10, Union Bluffs Topographical Map

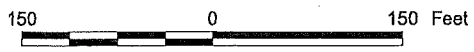


1 inch equals 150 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 October 25, 2004





# Lot 10, Union Bluffs Aerial Map

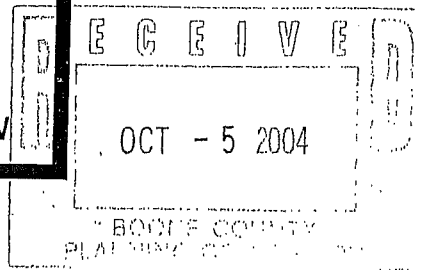


1 inch equals 150 feet  
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Boone County Planning Commission  
GIS Services Division  
October 25, 2004



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. \_\_\_\_\_ Boone \_\_\_\_\_ Florence \_\_\_\_\_ Walton  Union

(Check One)

2. \_\_\_\_\_ Conditional Use Permit  Variance \_\_\_\_\_ Appeal  
\_\_\_\_\_ Change in Non-Conforming Use

3. Applicant's Name DREES HOMES (ROGER HAWKINS - OPERATIONS MGR.)  
Phone Number 859-426-2537 Fax No. 859-331-9231  
Applicant's Address 211 GRANDVIEW DR.  
FT. MITCHELL KY 41017  
City State Zip

4. Description of Request: VARIANCE FOR REAR SETBACK - DECK  
WAS NOT IN CONFORMANCE AFTER BUILT

5. Name of Development UNION BLIFFS

6. Location of Development MT. ZION RD - CLOSE TO GUNPOWDER

7. Acreage Under Review \_\_\_\_\_

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

#10 UNION BLUFF

9. Owner of Property BRENT HOFER

Phone Number of Owner 859-991-5116 CELL

10. Address of Property Owner 11007 UNION BLUFF DR.

UNION KY 41091  
City State Zip

11. Proposed Use(s) on Site RESIDENCE

12. Total Square Footage of Existing and/or Proposed Buildings 2100 ?

13. Current Zoning on Property RES.

14. Deed Book D 882 Page No. 561 Group No. 2047

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]

COPY

CLUR #04-UBOA-002-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Brent Hofer  
11011 Union Bluffs Drive  
Union, KY 41091

2. ADDRESS OF PROPERTY

11011 Union Bluffs Drive  
Union, KY 41091

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Union Bluffs, Lot 10

4. DEED BOOK 882

PAGE NO. 561

GROUP NO. 2047

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:

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  
2995 WASHINGTON STREET  
BURLINGTON, KENTUCKY 41005

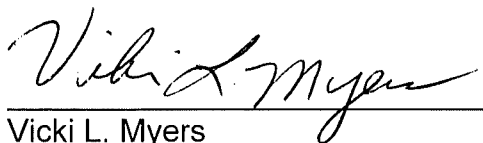
  
\_\_\_\_\_  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

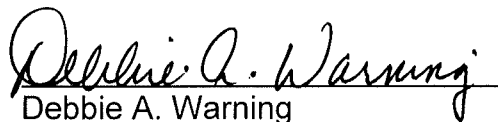
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 16 day of November, 2004.



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 Variance approved by the Union Board of Adjustments and in accordance with the current zoning in effect as of November 10, 2004 Certificate of Land Use Restriction (#04-UBOA-002-A), for Brent Hofer, 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 882

PAGE NO. 561

GROUP NO. 2047