

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

JAN 18 2005

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 [] Change in Non-Conforming Use

- 3. Applicant's Name FINKE HOMES INC
Phone Number (859) 586-7583 Fax No. (859) 586-7589
Applicant's Address 3180 BURLINGTON PIKE
BURLINGTON KY 41005

- 4. Description of Request: VARIABLE OF FRONT SET-BACK FROM 30' TO 25'

- 5. Name of Development BURL PARK SUBDIVISION

- 6. Location of Development BURLINGTON KY - RT 18 TO CARLTON DRIVE TO REGAL RIDGE DR

- 7. Acreage Under Review APPROX 0.25 ACRES PER EACH OF 3 LOTS

- 8. Lot Number and Name of Subdivision (if part of a subdivision) LOTS 125, 138, & 141 BURL PARK

- 9. Owner of Property FINKE HOMES INC

- Phone Number of Owner (859) 586-7583

- 10. Address of Property Owner 3180 BURLINGTON PIKE
BURLINGTON KY 41005

- 11. Proposed Use(s) on Site CONSTRUCTION OF NEW SINGLE FAMILY DWELLING LOT 141 - 1409 SQF

- 12. Total Square Footage of Existing and/or Proposed Buildings LOT 125 - 1318 SQFT, LOT 138 - 1415 SQ

- 13. Current Zoning on Property SR1

- 14. Deed Book 985 Page No. 669 Group No. 2025

- 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]

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 1-18-05 Fee Received \$507.00 RA 41228
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
2/9/05 Approved
2/9/05 Approved with Conditions (See #6)
Denial (See #7).
6. Conditions of Approval: SEE STAFF COMMENT #3
IN THE 2/9/05 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: Finke Homes, Inc.

LOCATION: Lots 125, 138, and 141 of Burl Park Subdivision
(2535, 2567, and 2548 Samantha Drive, Boone County, Kentucky).

ZONING: Suburban Residential One (SR-1)

DATE: February 9, 2005

Proposal

Finke Homes is requesting three (3) variances to reduce the 30 foot front yard setback requirement to 25 feet for lots 125, 138, and 141 of Burl Park Subdivision. If approved, the requests will allow three existing houses to remain where they have been constructed (see attachments).

Site History

10/21/04 – The Boone County Planning Commission approved Zoning Permits for the three (3) lots. The Zoning Permits showed that single-family residential homes were being constructed and that all applicable building setbacks would be met (see attachments).

Applicable Regulations

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment 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.

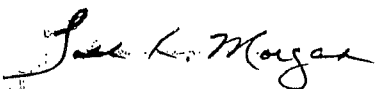
Staff Comments

1. The applicant provided a letter which indicates that the houses were constructed too close to the front property line unintentionally (see attachments).
2. The Board needs to analyze if the requests are in accord with Section 251 of the zoning regulations. Specifically, the Board must find that the requests will not alter the essential character of the general vicinity and that they did not result from willful violations.
3. If the Board approves the requests, Staff recommends a condition which requires two (2) small trees from Plant List C (see Article 37 of the Boone County Zoning Regulations) to be installed in the front yard of the three lots.

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,

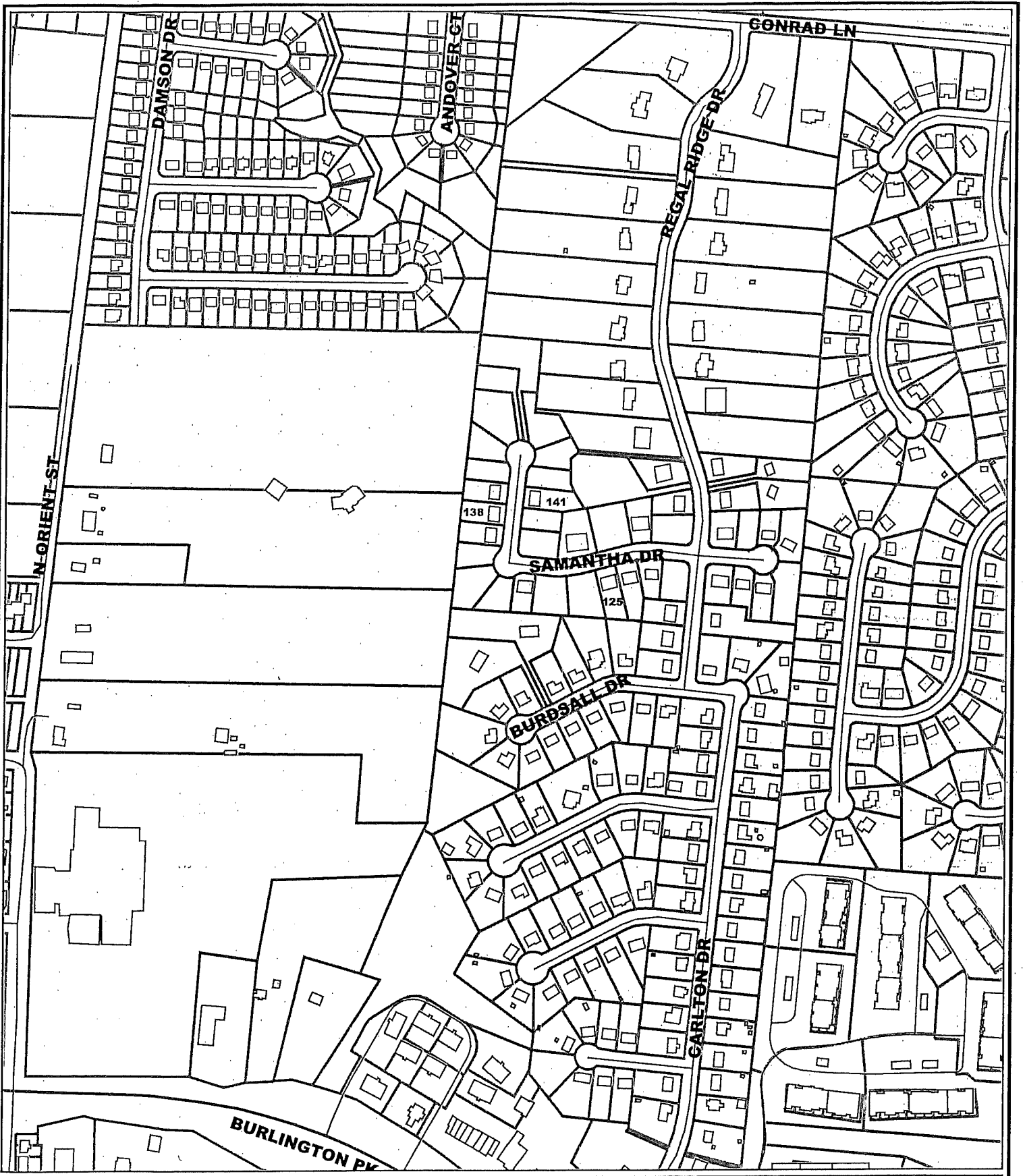


Todd K. Morgan, AICP
Planner, Zoning Services

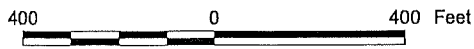
TKM/dw

Attachments

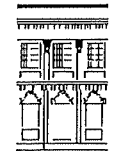
- Exhibit A – Site Vicinity Map
- Exhibit B – Letter from Finke Homes
- Exhibit C – Lot 125, 138, and 141 Concept Plans
- Exhibit D – Lot 125, 138, and 141 Zoning Permits
- Exhibit E – Zoning Map
- Exhibit F – Aerial Map
- Exhibit G – Final Plat, Burl Park
- Exhibit H – Application



**Lots 125, 138, and 141
Burl Park Subdivision
Site Vicinity Map**



1 inch equals 400 feet
Produced by the
Boone County Planning Commission
GIS Services Division
January 27, 2005

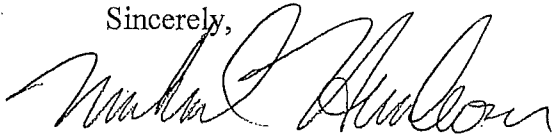


January 27, 2005

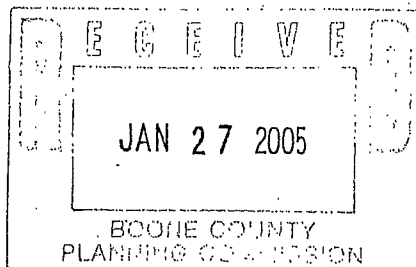
Boone County Planning Commission,

This is a short explanation regarding the variances requested by Finke Home Inc for lots 125, 138 & 141 Burl Park. The plat drawings clearly show a 50' right of way for Samantha Drive plus a 30' setback for these homes. Somehow the total measurement from center of right a way to front of house was misinterpreted to be 50'. The mistake was caught as Finke Homes Inc was placing another house. The mistakes were due in part to a misunderstanding of the overall setback of the houses and bad math. No other houses with one exception were next to these lots at the start of construction to visually compare to so the error was not caught immediately. In conclusion, the variance requests are due to honest mistakes made in measuring and laying out the houses on the lots. Finke Homes Inc. regrets these mistakes and has taken steps to both correct the mistakes and facilitate changes in policy to assure a similar error does not re-occur.

Sincerely,

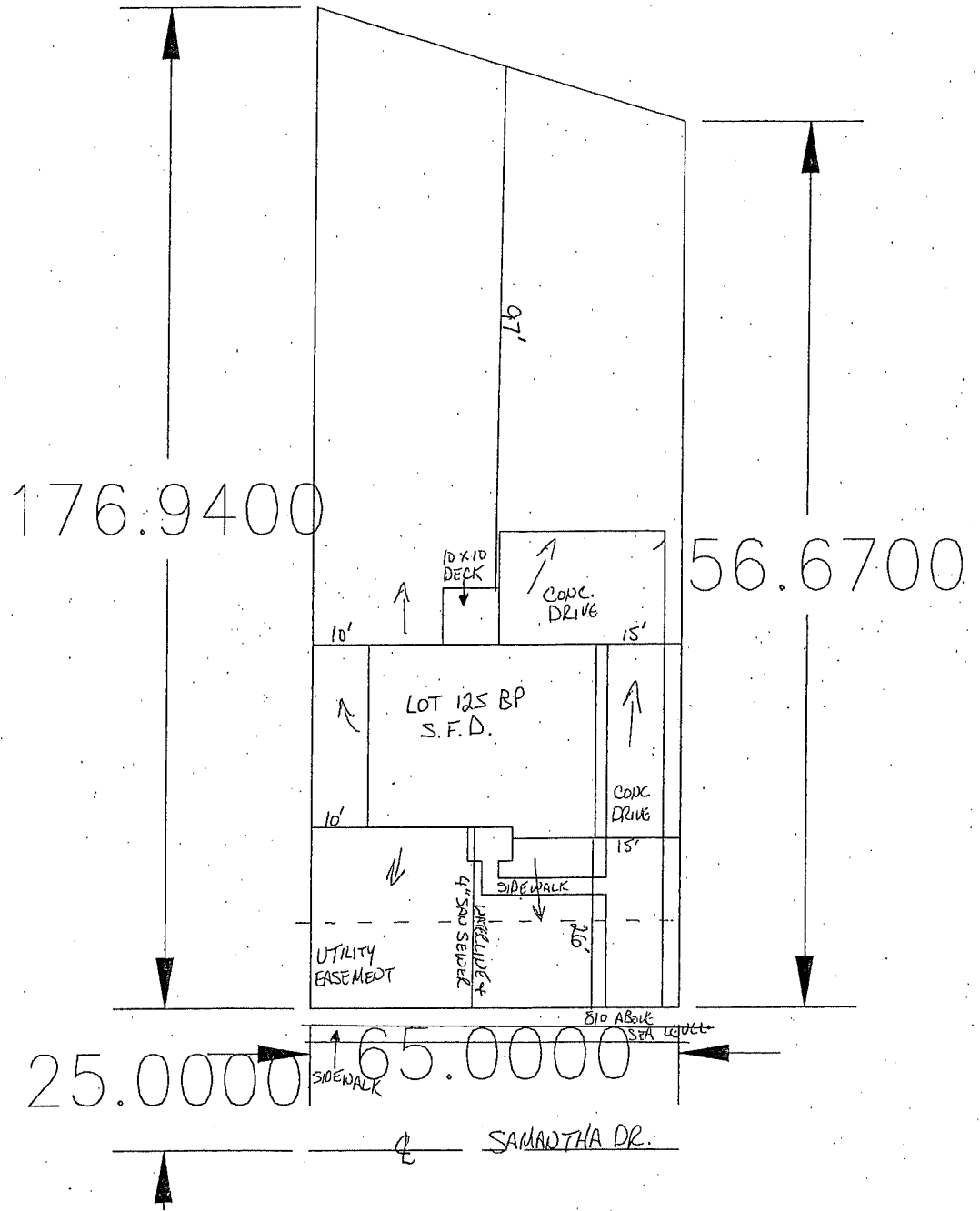


Michael Hardcorn
Estimator



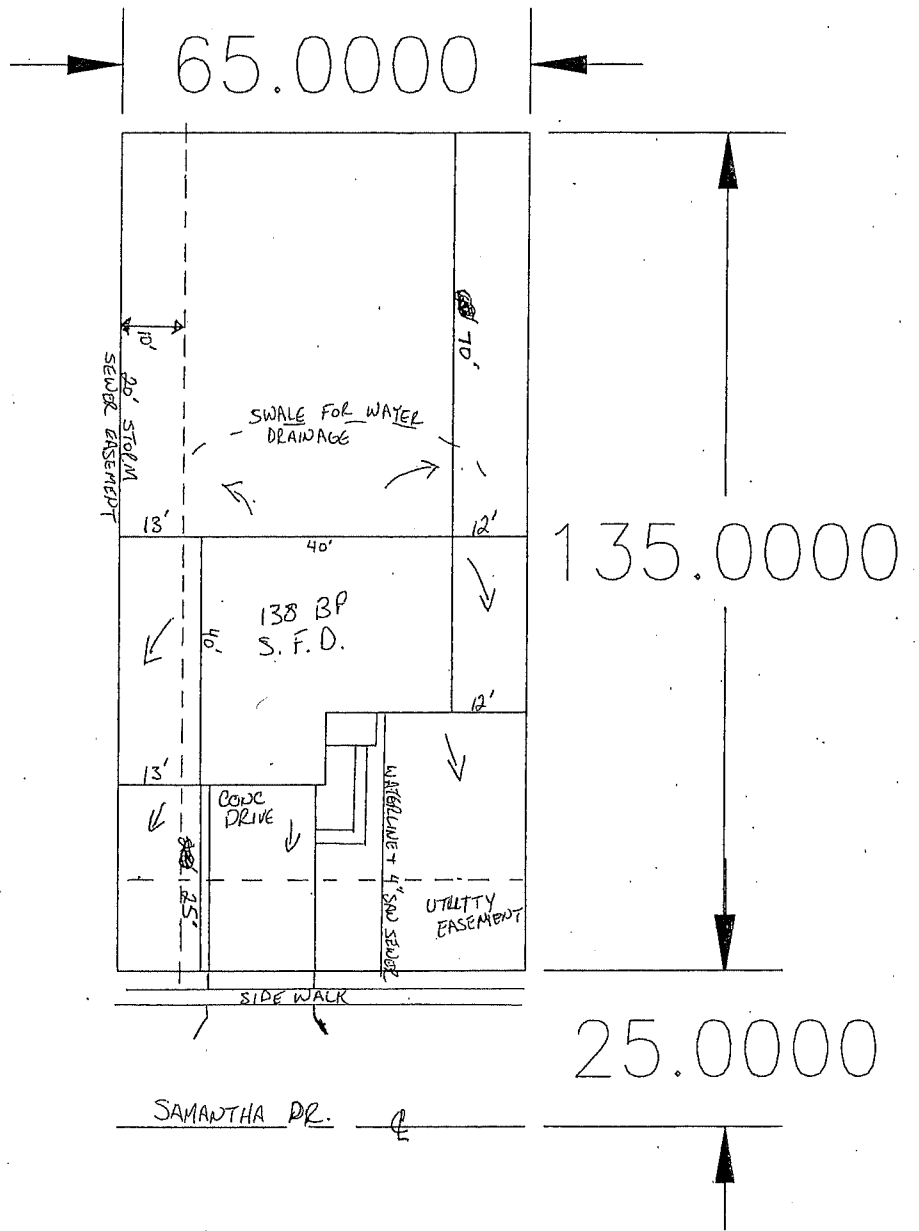
- CURB = 1' = 00"
- SILT FACE & EROSION CONTROL BY BUILDER
- TOP OF FOUNDATION WALL @ 4'-6" ABOVE CURB

LOT 125
CONCEPT PLAN



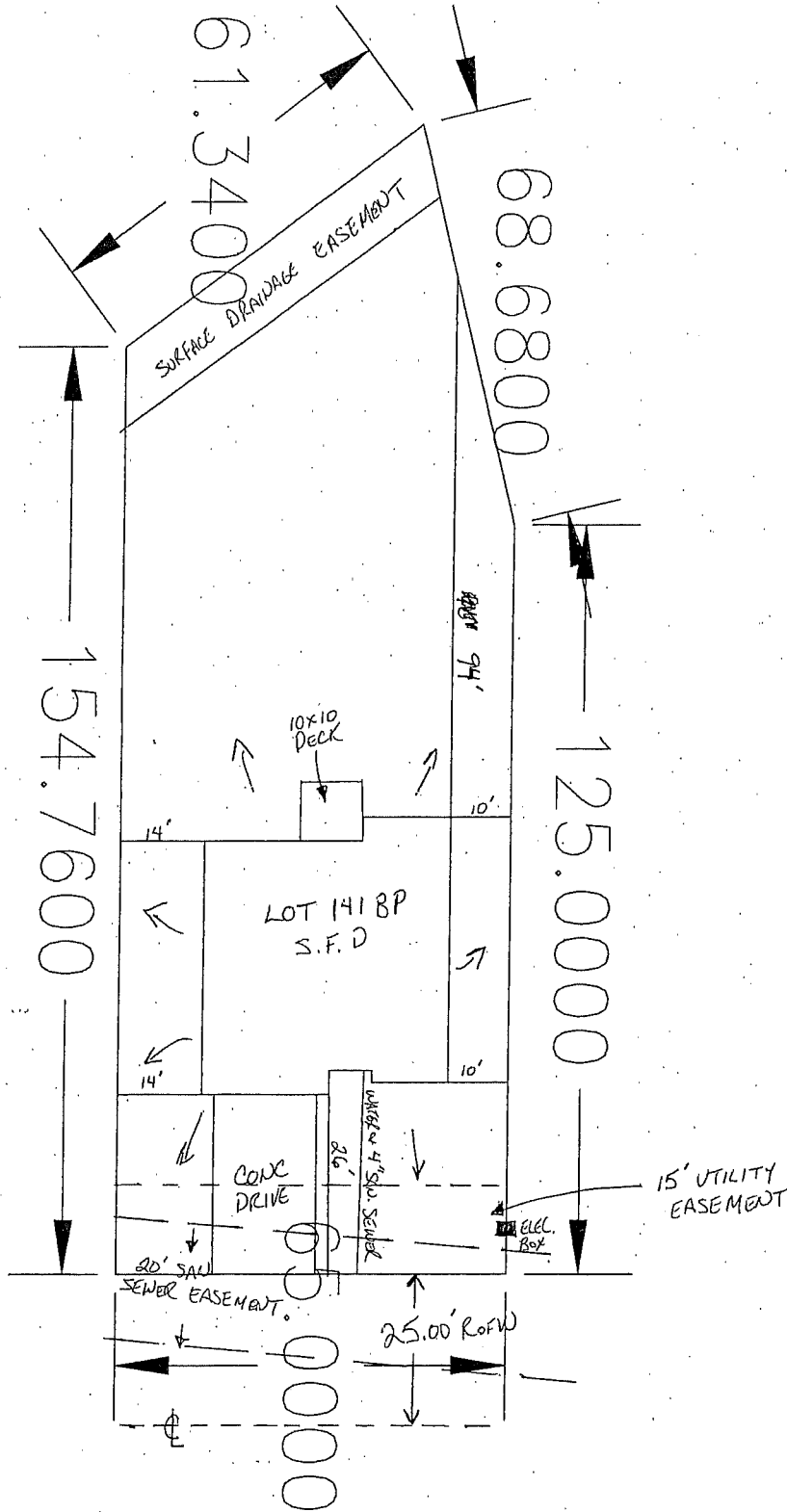
- SCALE - 1" = 20'
- SILT FENCE & EROSION CONTROL BY BUILDER
- GARAGE SLAB @ 2' ABOVE CURB

LOT 138
CONCEPT PLAN



LOT 141
CONCEPT PLAN

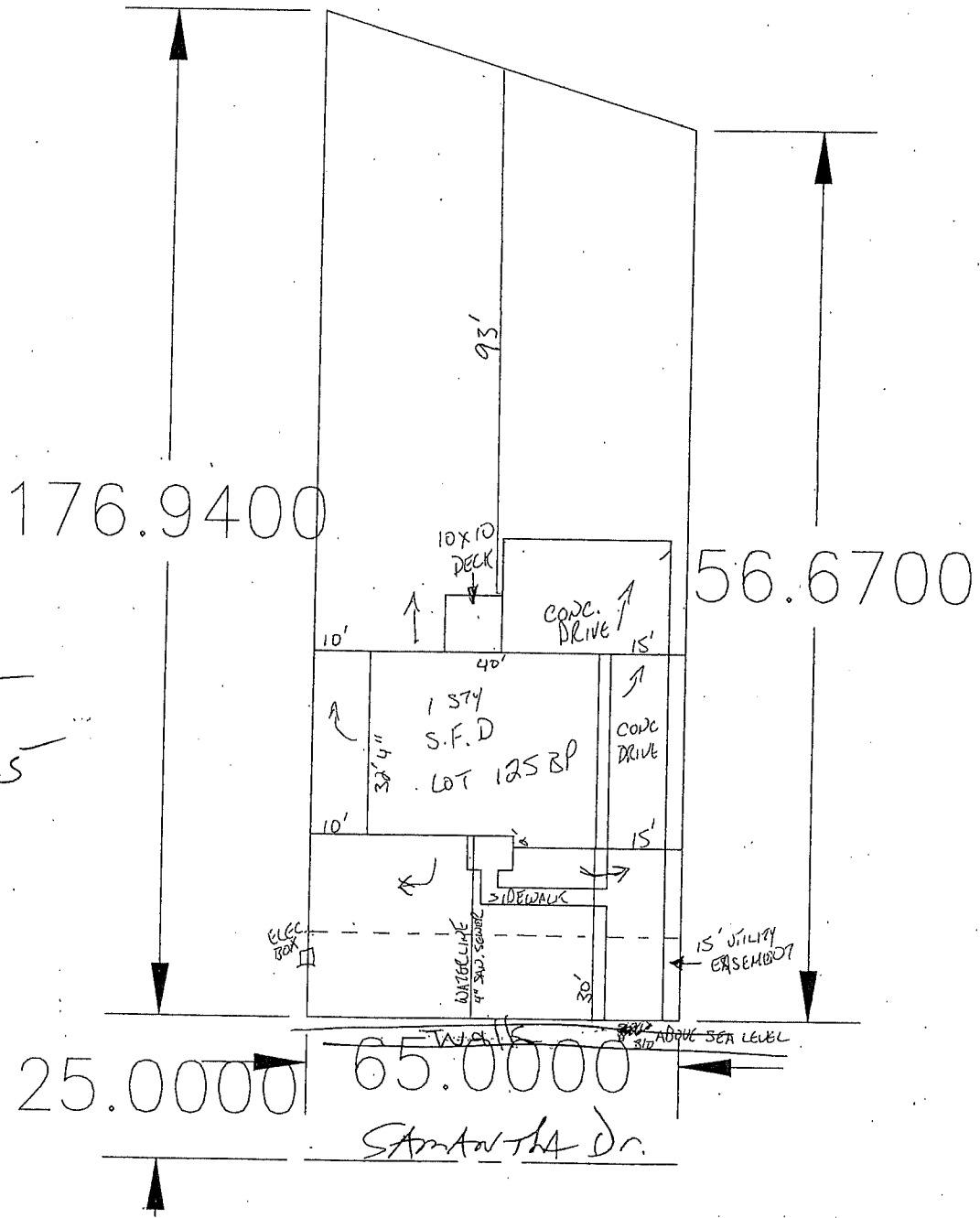
SCALE - 1" = 20'
SILT FENCE & EROSION
CONTROL BY BUILDER
GARAGE SLAB @ 3'
ABOVE CURB.



SCALE - 1" = 10'
ILT FENCE & EROSION
CONTROL BY BUILDER
P OF FOUNDATION WALL @
1/2" ABOVE CURB

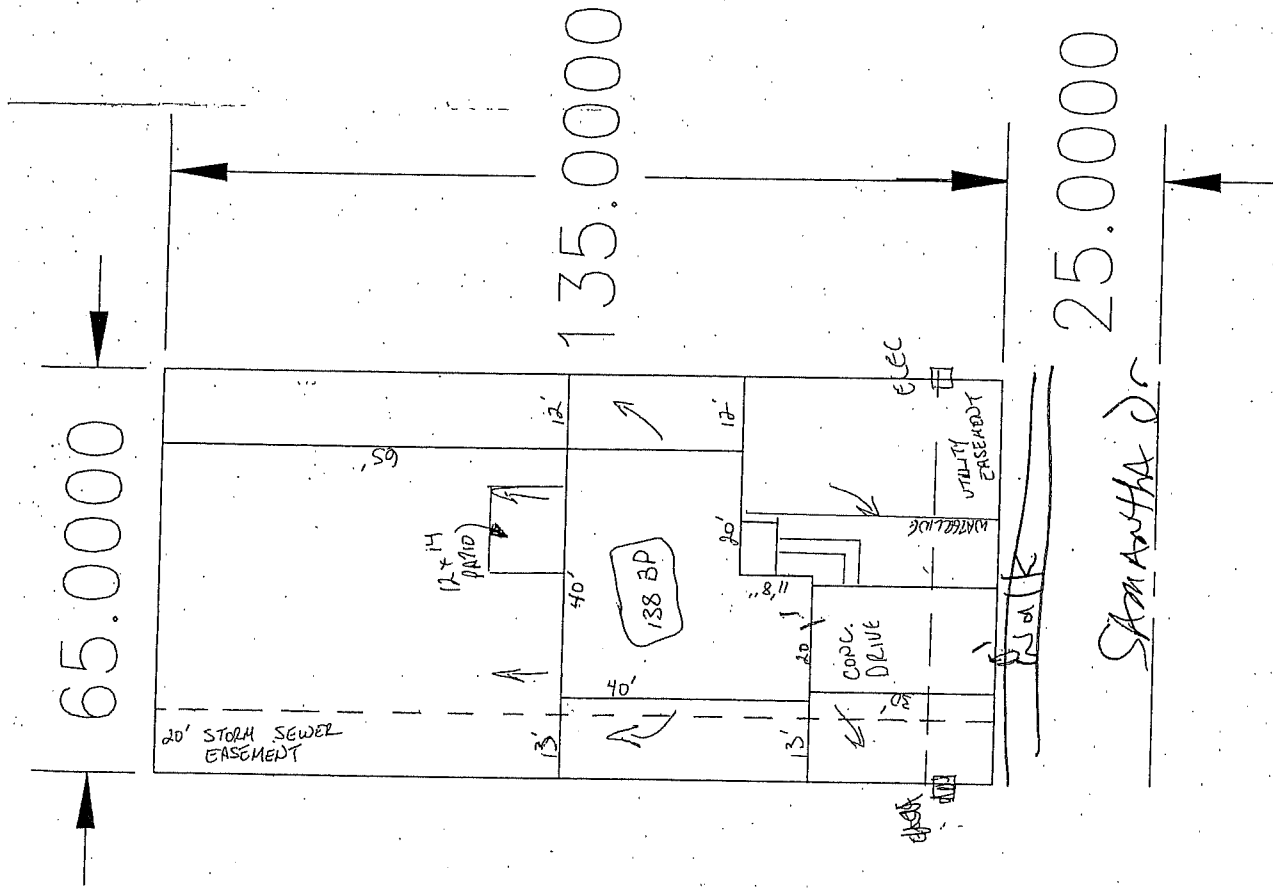
LOT 125
10/21/04
Zoning Permit

LOT
125



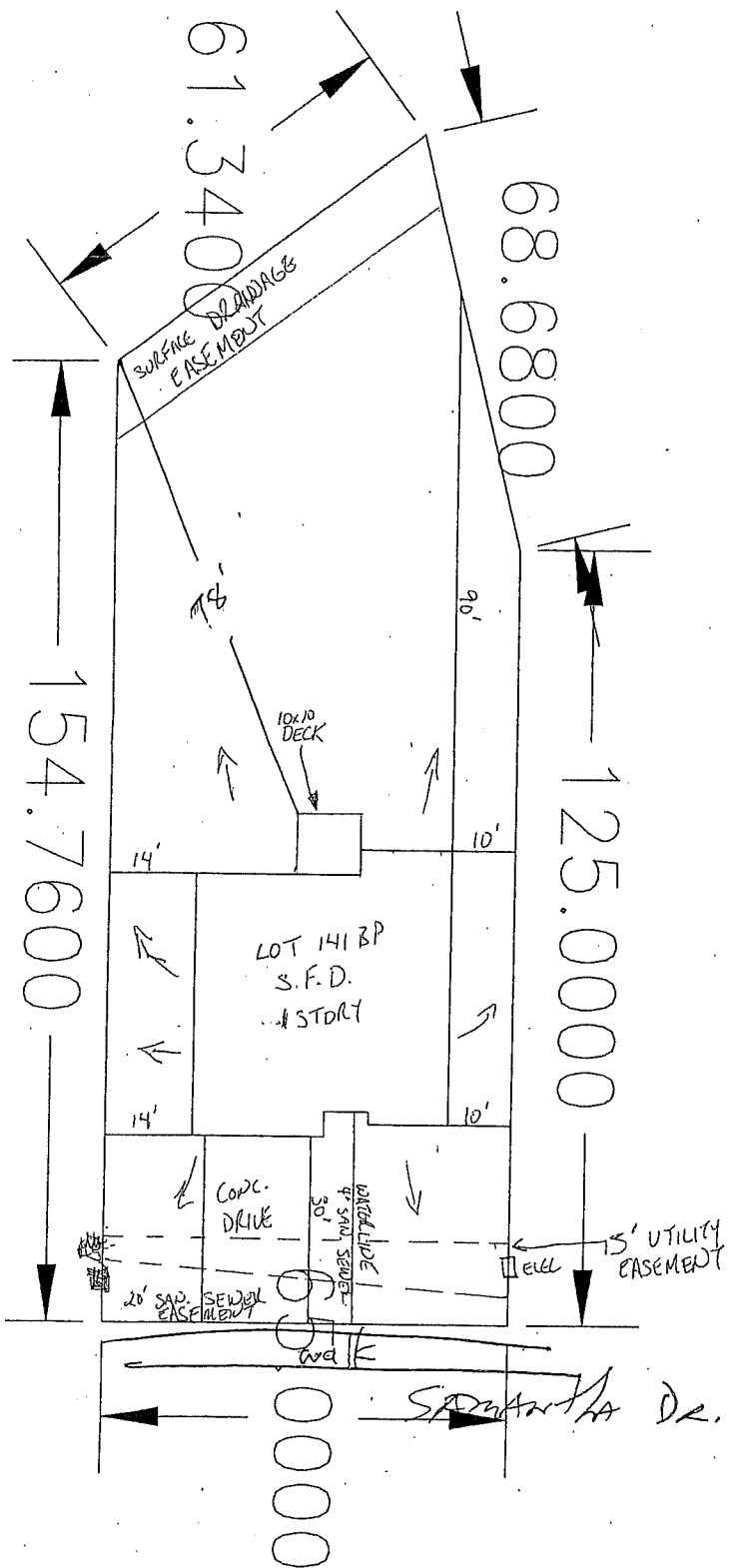
LOT 138
10/21/04
Zoning Permit

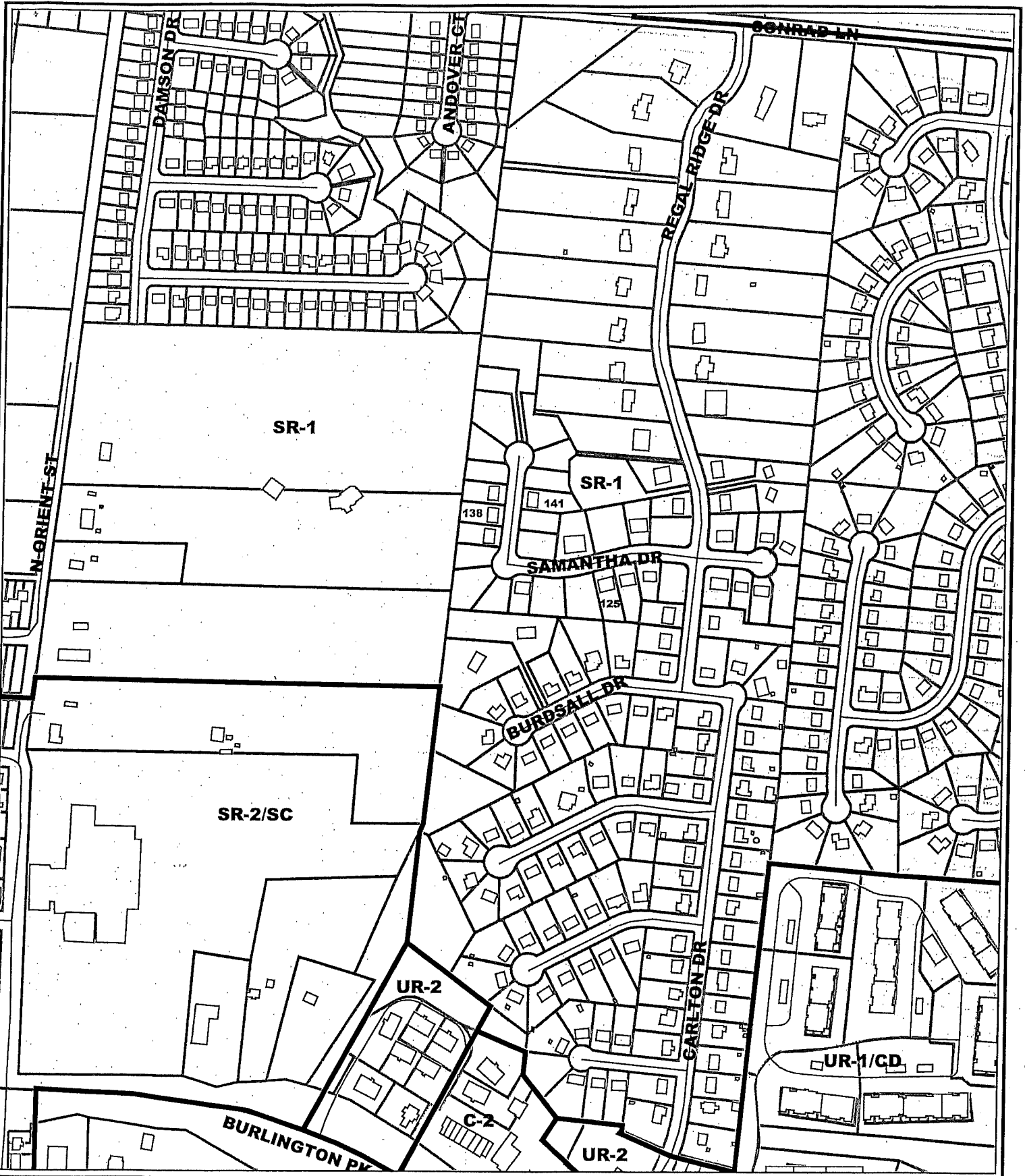
- SUNGLASS - M
- SILT FENCE & EROSION CONTROL BY BUILDING
- GARAGE SLAB @ 1' ABOVE CURB



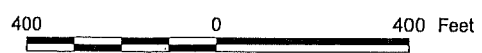
LOT 141
10/21/04 Zoning Permit

SCALE - 1" = 20'
SILT FENCE & EROSION
CONTROL BY BUILDER
GARAGE SLABS @ 2' ABOVE
GULL



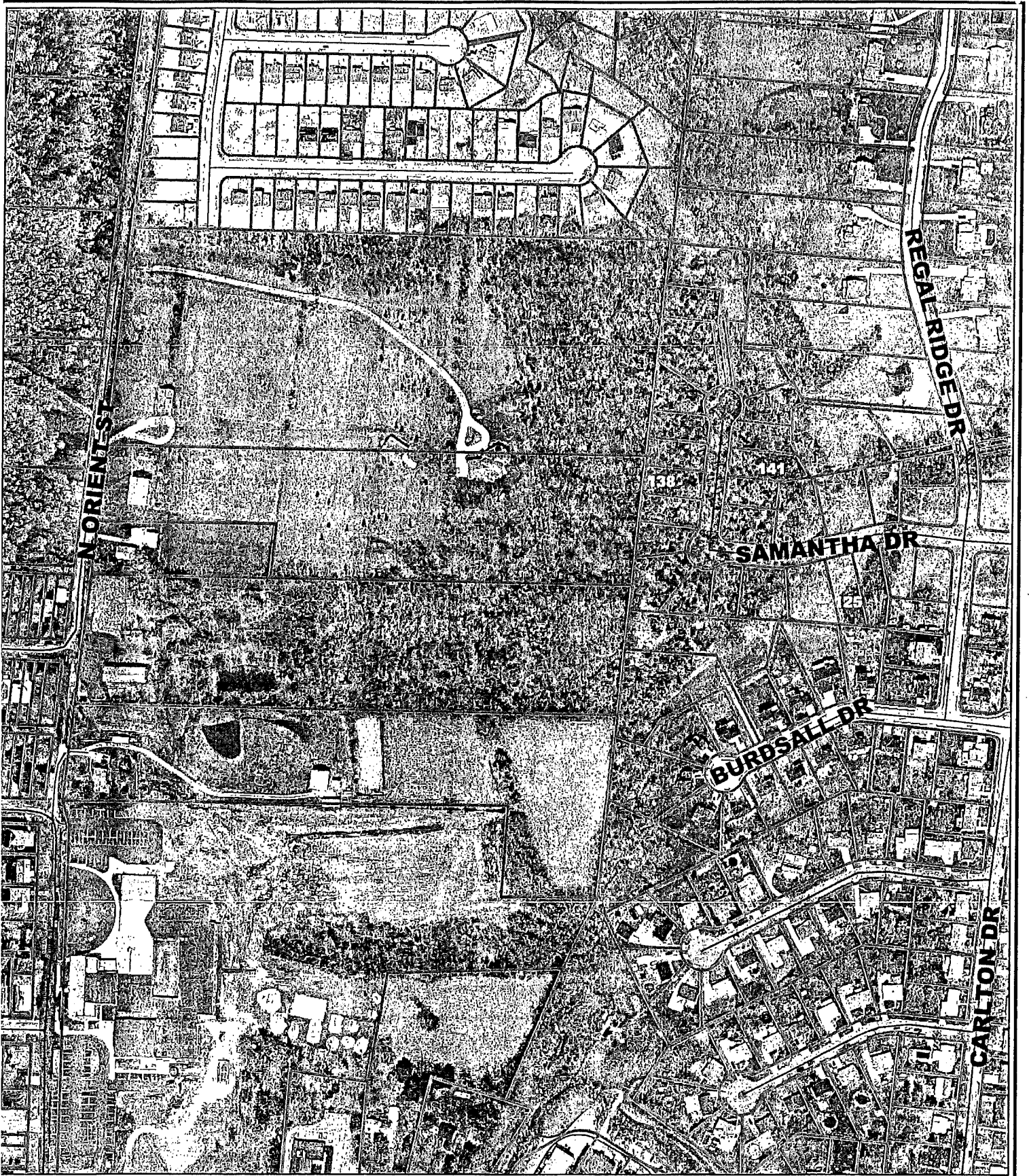


**Lots 125, 138, and 141
Burl Park Subdivision
Zoning Map**



1 inch equals 400 feet
Produced by the
Boone County Planning Commission
GIS Services Division
January 27, 2005





**Lots 125, 138, and 141
Burl Park Subdivision
Aerial Map**

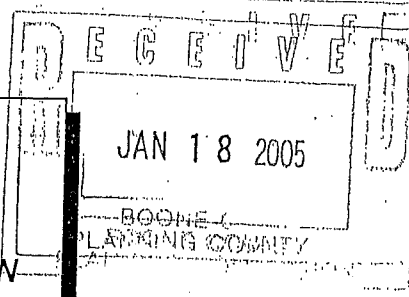
300 0 300 Feet

1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
January 27, 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)
- Boone _____ Florence _____ Walton _____ Union _____
 - (Check One)
 Conditional Use Permit Variance _____ Appeal _____
 Change in Non-Conforming Use _____
 - Applicant's Name FINKE HOMES INC
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 Applicant's Address 3180 BURLINGTON PIKE
BURLINGTON KY 41005
 City State Zip
 - Description of Request: VARIABLE OF FRONT SET-BACK FROM 30'
TO 25'
 - Name of Development BURL PARK SUBDIVISION
 - Location of Development BURLINGTON KY - RT 18 TO CARLTON DRIVE
TO REGAL RIDGE DR
 - Acreage Under Review APPROX 0.25 ACRES PER EACH OF 3 LOTS
 - Lot Number and Name of Subdivision (if part of a subdivision)
LOTS 125, 138, & 141 BURL PARK
 - Owner of Property FINKE HOMES INC
 Phone Number of Owner (859) 586-7583
 - Address of Property Owner 3180 BURLINGTON PIKE
BURLINGTON KY 41005
 City State Zip
 - Proposed Use(s) on Site CONSTRUCTION OF NEW SINGLE FAMILY
DWELLING
 - Total Square Footage of Existing and/or Proposed Buildings LOT 141 - 1409 SQFT, LOT 125 - 1318 SQFT, LOT 138 - 1415 SQFT
 - Current Zoning on Property SR1
 - Deed Book 885 Page No. 669 Group No. 4634
 - Is the site subject to a zone change? NO
 If yes, give date of approval _____
 - Have you submitted a Site Plan with this request? YES
 - Have you submitted a list of adjoining property owners with this request? YES
 - 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-BCBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Finke Homes, Inc.
3180 Burlington Pike
Burlington, KY 41005

2. ADDRESS OF PROPERTY
2535, 2567, & 2548 Samantha Drive
Burlington, KY 41005

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Burl Park, Lots 125, 138, & 141

4. DEED BOOK885 PAGE NO. 669 GROUP NO. 2025

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:

Variances (3)

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



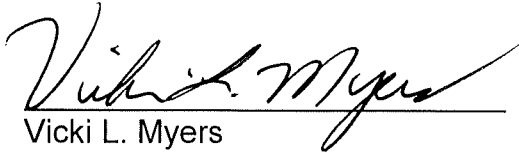
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

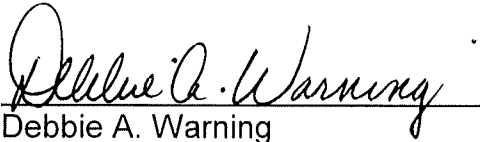
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 14 day of February, 2005.



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 February 9, 2005 Certificate of Land Use Restriction (#05-BCBOA-001-A), for Finke Homes, Inc., Property Owner(s).

The following conditions will apply:

- 1) Two small trees from Plant List C (Article 37 of the *Boone County Zoning Regulations*) are to be installed in the front yards of the three lots.

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

DEED BOOK 885

PAGE NO. 669

GROUP NO. 2025