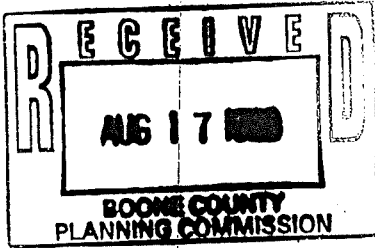


APPLICATION FORM



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 SUTTER HOMES, INC. Phone Number 606-586-7560 Fax No 606-586-7560
Applicant's Address 1855 COACHTRAIL DR. HEBRON KY 41048
Description of Request: CHANGE SET-BACK FROM 60' TO 40' - PROPERTY DROPS OFF QUICKLY - UNABLE TO SITUATE HOME WITHIN THE 60' SET-BACK
4. Name of Development RIVERSHORE FARMS
5. Location of Development OFF 237 - HEBRON KY.
7. Acreage Under Review APPROX 2.25 AC.
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT # 59 RIVERSHORE FARMS - SECTION 2
9. Owner of Property STEVE SIERVELD, TRUSTEE Phone Number of Owner 606-331-3734
Address of Property Owner EDGEWOOD KY 41017
11. Proposed Use(s) on Site SINGLE FAMILY RESIDENCE
12. Total Square Footage of Existing and/or Proposed Buildings 3,800 sq ft.
13. Current Zoning on Property SINGLE FAMILY
14. Deed Book 626 Page No. 168 Group No.
15. Is the site subject to a zone change? NO
If yes, give date of approval N/A
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: Thomas J. Sutter, Sutter Homes

Property Owner's Signature: Steven Sierweld, Trustee

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 Aug 17 98 Fee Received 426.⁰⁰ R# 17879

2. Is application complete? Yes _____ No _____

3. Staff Reviewer Edward Colman

4. Scheduled Board Action Date 9/19/98

5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)

6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

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: Sutter Homes, Inc.

LOCATION: Rivershore Farms Subdivision, Boone County, Kentucky

ZONING: Agricultural Estates/Suburban Residential One/
Recreation/Planned Development (A-2/SR-1/R/PD)

DATE: September 9, 1998

Proposal

The applicant is requesting a Variance to allow a reduction in the minimum front yard setback for Lot 59, within the Rivershore Farms subdivision. The subdivision is approximately one mile south of HWY 8 on the east side of North Bend Road (237). The property is zoned Agricultural Estates/Suburban Residential One/Recreation/Planned Development (A-2/SR-1/R/PD) as a result of a Zoning Map Amendment that was approved by the Boone County Fiscal Court in August of 1988. Each single family detached lot is required to have a minimum front yard setback of 60 feet from the street right-of-way/property line to the nearest side of a house.

The Boone County Board of Adjustment and Zoning Appeals approved the same request for a Variance for seven lots in the Rivershore Farms subdivision in November of 1997 and for one lot in July of 1998. Lot 59 has similar problems with severe topographic conditions as did Lots 58 and 60, the two lots immediately adjacent with the applicant's lot. Similar with Lots 58 and 60, if Lot 59 is constructed with a 60' front yard setback, an extensive sub foundation would be required in order to compensate for the severely sloping topography. Lot 59 remains undisturbed and wooded with moderately steep slopes that comprise part of a drainage basin that flows directly into the Ohio River.

Dimensional Variances

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 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 K.R.S. 100.241 to 100.47.

Variances are appropriate by reason of exceptional narrowness, shallowness, or unusual shape of a site on the effective date of the zoning regulations or amendment thereof or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of the site. The literal enforcement of the above dimensional terms of the zoning regulation would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The dimensional terms pertaining to height, width and location involve such items as structures, parking space stalls, driveway aisles, and landscaped buffers and signs. Lot frontages, the size of yards and open spaces refer to minimum yard dimensions such as building setbacks.

Staff Comments

The 60 foot front yard setback required for the single family detached lots within Rivershore Farms is based on the minimum setback required for lots in an Agricultural Estates (A-2) zoning district. Rivershore Farms is zoned A-2/SR-1/R/PD. The Suburban Residential One (SR-1) zoning classification requires a minimum front yard setback of 30 feet. Although the front yard setback is based on the A-2 zoning district, the lot sizes are not. The minimum lot size required in an A-2 zoning district is 80,000 square feet, or approximately 2 acres. The average lot size within this development is approximately 1 acre, which happens to be the minimum permitted size of a lot within a Rural Suburban Estates (RSE) zoning district. The minimum front yard setback in an RSE zoning district is 40 feet.

It is Staffs' opinion that reducing the 60 foot front yard setback to 40 feet would be less of an impact on this site than maintaining a 60 foot setback and disturbing what the 1995 Boone County Comprehensive Plan considers to be "developmentally sensitive hillsides". Approving the Variance would also permit Lot 59 to have the same front yard setback as Lots 58 and 60.

Conclusion

K.R.S. 100.241 gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Variance to allow a reduction in the minimum front yard setback for Lot 59 of the Rivershore Farms subdivision.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Variance, stated in Article 2, Section 251 of the Boone County Zoning Regulations.

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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- 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 of 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 regulations from which relief is sought.

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 has concluded that the proposed 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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Approving the Variance will actually allow all the lots within the cul-de-sac to conform to the same front yard setback.

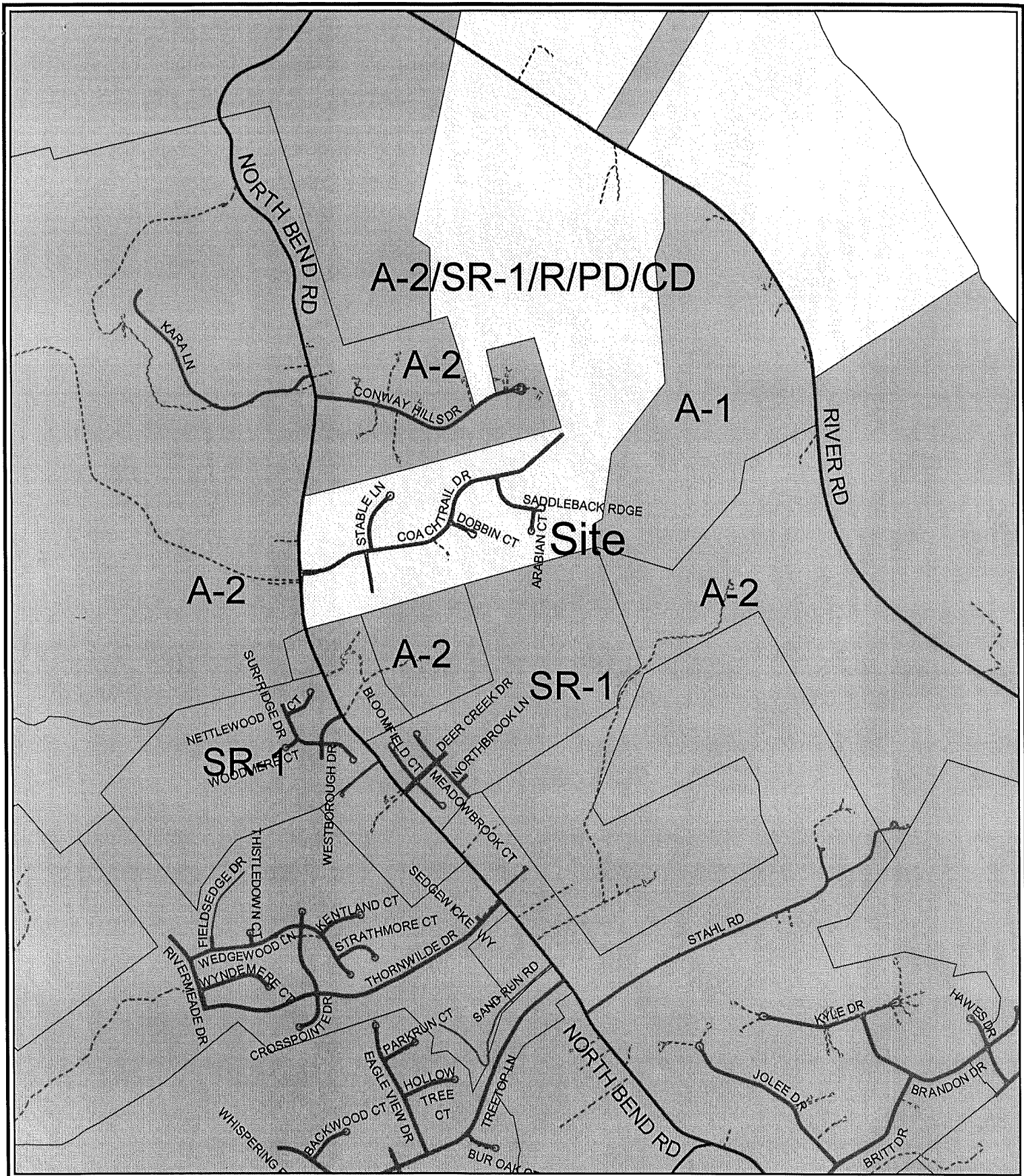
Respectfully Submitted,

Edward Coleman
Planner

EC\pr

Attachments

- Location Map
- Site Map
- Proposed Building Location



Rivershore Farms

Lot 59-Arabian Court

1400 0 1400 Feet

1 inch equals 1400 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 November 5, 1997





Rivershore Farms

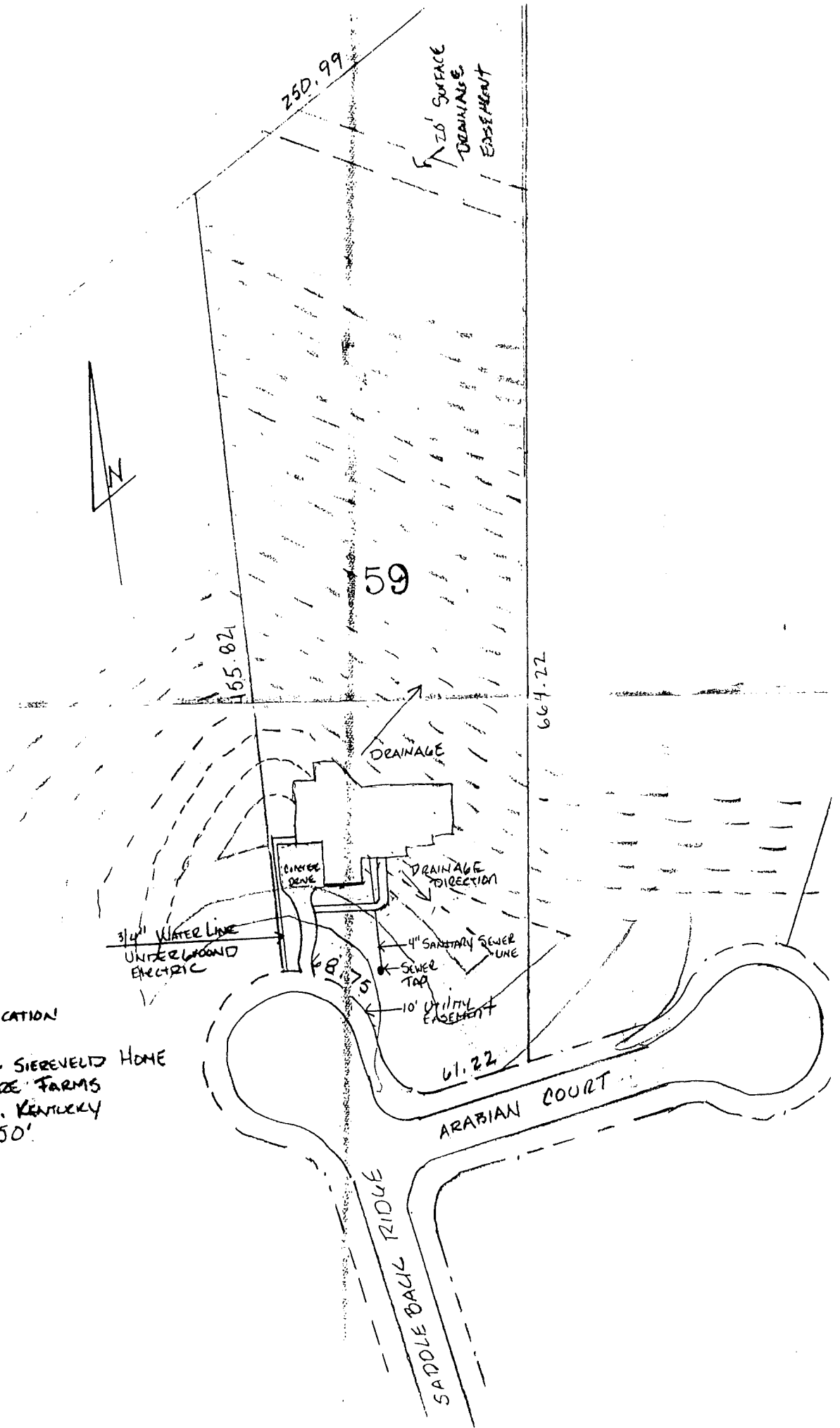
Lot 59-Arabian Court

200 0 200 Feet

1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
June 24, 1998



PERMITS APPLICATION
LOT PLAN FOR
TWO HOMES - SIERVELD HOME
ON 59 RIVERSHORE FARMS
BOONE COUNTY, KENTUCKY
SCALE 1" = 50'



59

TO SURFACE
DRAINAGE
EASEMENT

DRAINAGE

DRAINAGE
DIRECTION

3/4" WATER LINE
UNDERGROUND
ELECTRIC

4" SANITARY SEWER LINE
SEWER TAP

10' UTILITY
EASEMENT

ARABIAN COURT

SADDLE BACK RIDGE

9-9-98

COPY

CLUR # 98-BCBOA-016-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Steve Siereveld, Trustee
Edgewood, Kentucky 41017

ADDRESS OF PROPERTY
Lot # 59 Rivershore Farms
Boone County, Kentucky 41048

3. NAME OF SUBDIVISION OR
DEVELOPMENT (if applicable)
Sutter Homes, Inc.

DEED BOOK: 626

PAGE NO.: 168

GROUP NO.: 2002

4. TYPE OF RESTRICTION (S) (Check all that apply)

Zoning Map Amendment:
From to

Conditional Use Permit

Development Plan

Conditional Zoning

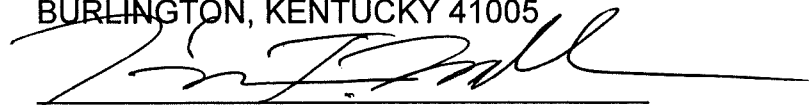
Subdivision Plat
(Not Recorded)

Other:

Variance

5. 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



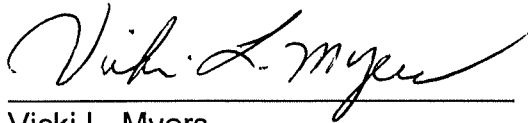
SIGNATURE OF COMPLETING OFFICIAL

Kevin T. Wall, AICP/CDT Director of Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

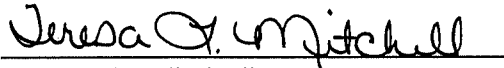
Subscribed, sworn to, and acknowledge before me by Kevin T. Wall, on behalf of the
Boone County Planning Commission this 7th day of October, 1998.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell
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 Boone County Board of Adjustments and in accordance with the current zoning in effect as of September 9, 1998 Certificate of Land Use Restriction (# 98 BCBOA -016-A), for Steve Siereveld, Property Owners

The following conditions will apply:

The approved Variance as well as the preceding conditions apply to the property described in: DEED BOOK 626 PAGE NO. 168 Group No. 2002