

2011-07298

03/15/2011 1:51:29 PM

*Lloyd J. Dowling*

REGISTER OF DEEDS



COUNTER *ah* S.E. *ah*  
VERIFY *ah* D.M. *ah*  
PROOF \_\_\_\_\_  
FEES \$ *113.50*  
CHECK# *15344*  
CHG \_\_\_\_\_ CASH *1.00*  
REFUND *50* CREDIT \_\_\_\_\_  
SHORT \_\_\_\_\_ NCR \_\_\_\_\_

*Stamped copy*

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions is made this 14 day of March, 2011 by SANITARY AND IMPROVEMENT DISTRICT NO. 138 OF SARPY COUNTY, NEBRASKA (herein "Declarant").

WITNESSETH THAT

WHEREAS, Declarant is a political subdivision of the State of Nebraska serving the Avery North Subdivision in Sarpy County, Nebraska; and

WHEREAS, Declarant is the owner of Lot 153 in Avery North, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, Declarant desires to impose certain limitations and restrictions on said Lot 153 for the benefit and protection of the residential lots contained within the Avery North Subdivision and legally described as follows:

Lots 1-139 and 154, in Avery North; Lots 1-18 and 21-26, in Avery North Replat I; and Lots 1 and 2, Avery North Replat II, subdivisions as surveyed, platted and recorded in Sarpy County, Nebraska (collectively "The Avery North Residential Lots").

NOW, THEREFORE, the Declarant declares that henceforth, Lot 153 of Avery North shall be held, sold and conveyed subject to the following limitations which shall run with the land and be binding in perpetuity on the owners of said Lot 153, Avery North and their successors and assigns.

1. The north thirty (30) feet in depth of said Lot 153, Avery North, together with the northern portion of Lot 153 connecting the balance of said lot to the right-of-way of Sycamore Street, all as shown cross-hatched on Exhibit "A" attached hereto, shall be maintained hereafter as a buffer area between the balance of Lot 153, Avery North and the single family residential lots in Avery North fronting on Sycamore Street. In the event the bufferyard requirement of the Bellevue Zoning Code is greater than thirty (30) feet, the greater number shall apply to the buffer area depth as set forth herein. No structure of any type or kind and no paving (other than the bike/pedestrian path as referenced in Section 2 hereof) shall be constructed within the said buffer area.

*RETURN TO:*

HILLMAN, FORMAN, NELSEN,  
CHILDERS & MC CORMACK  
7171 MERCY RD STE 650  
OMAHA, NE 68106-2670

2. No motorized vehicular traffic shall be permitted to traverse the buffer area of Lot 153, Avery North, referenced in Section 1 above. A bike/pedestrian path not exceeding ten (10) feet in width may traverse the buffer area so long as access thereto is partially controlled with a concrete-filled steel bollard not less than five (5) inches in diameter situated in the center of said path to limit unrestricted entry to the path to a width not greater than five (5) feet and by concrete-filled steel bollards not less than five (5) inches in diameter abutting both sides of the path, with signage at the point where the path abuts the south right-of-way line of Sycamore Street stating "no motorized vehicles permitted on path", with chain link fencing four (4) feet in height installed from the west edge of the said path to the northeast corner of Lot 139, Avery North and from the east edge of the path to the northwest corner of Lot 26, Avery North Replat, all as depicted on Exhibit "B" attached hereto.

3. Notwithstanding the prohibitions set forth in Sections 1 and 2 above with respect to paving upon and motorized vehicle traffic across the buffer area, such prohibitions shall be subject to removal or modification upon compliance by the then-owner of Lot 153, Avery North, with the following procedure:

- (a) The owner shall provide written notice of the proposal to remove or modify the prohibitions by certified mail, return receipt requested, to the record owners of all Avery North Residential Lots located south of Thurston Street who, according to the then-current records of the Sarpy County Assessor, are residents of their respective lots in Avery North and the Replats thereto, apprising said owners of such proposal and advising said owners that such restrictions shall be removed or modified as provided in said notice unless the owners of 51% or more of said lots located south of Thurston Street shall, within thirty (30) days of the date of mailing of such notice, submit to the owner of Lot 153 written objections to such proposal. Written objections may be filed by hand delivery to the address provided in the notice or by sending by United States Mail, postage prepaid, to the address specified in the notice. Any objections filed by mail service shall be considered filed with the owner of Lot 153 on the date of mailing as evidenced by the postmark appearing thereon.
- (b) If the requisite number of objections are timely filed with the owner of Lot 153, the subject restrictions shall continue in full force and effect, and the owner shall be prohibited from pursuing such matter within a period of two (2) years of the date of mailing of the aforesaid certified mail notices.
- (c) If the requisite number of objections are not timely filed with the owner of Lot 153, the restrictions shall be removed or modified to the extent provided in the notice upon the filing by the owner of Lot 153 with the Sarpy County Register of Deeds of an affidavit averring compliance with the provisions herein and averring that the owners entitled to object failed to meet the criteria set forth herein. Such affidavit shall set forth the identity of all owners filing written objections to the proposed changes, and a copy of such

affidavit shall be submitted by certified mail to each such objecting owner with fifteen (15) days of the date specified for filing objections.

4 In the event of construction of any type of structure on the balance of Lot 153, Avery North, south of the aforesaid buffer area, the owner shall plant and maintain coniferous trees with a minimum initial trunk diameter of two (2) inches, planted in two staggered rows ten (10) feet apart, with the trees being situated twenty-two and one-half (22.5) feet on center within the buffer area described in Section 1 above, all as shown on Exhibit "C" attached hereto.

5. No lighting fixtures shall be installed or maintained at any time on Lot 153, Avery North, which directly illuminate any portion of the residential lots in Avery North fronting on Sycamore Street.

6. The provisions of this Declaration may be enforced by the owner or owners of any of the Avery North Residential Lots located south of Thurston Street.

IN WITNESS WHEREOF, the Declarant has caused this declaration to be executed the date and year first above written at Bellevue, Nebraska.

SANITARY AND IMPROVEMENT DISTRICT NO. 138 OF SARPY COUNTY, NEBRASKA

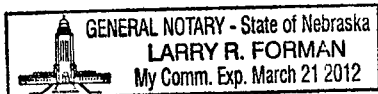
ATTEST:

By: [Signature]  
Mark Mireles, Chairman

[Signature]  
Frank Miratsky, Clerk

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF SARPY     )

The foregoing Declaration was acknowledged before me this 14 day of March, 2011 by Mark Mireles and Frank Miratsky, the Chairman and Clerk respectively of Sanitary and Improvement District No. 138 of Sarpy County, Nebraska.



[Signature]  
Notary Public  
My Commission Expires 3/21/12

Sycamore St

C

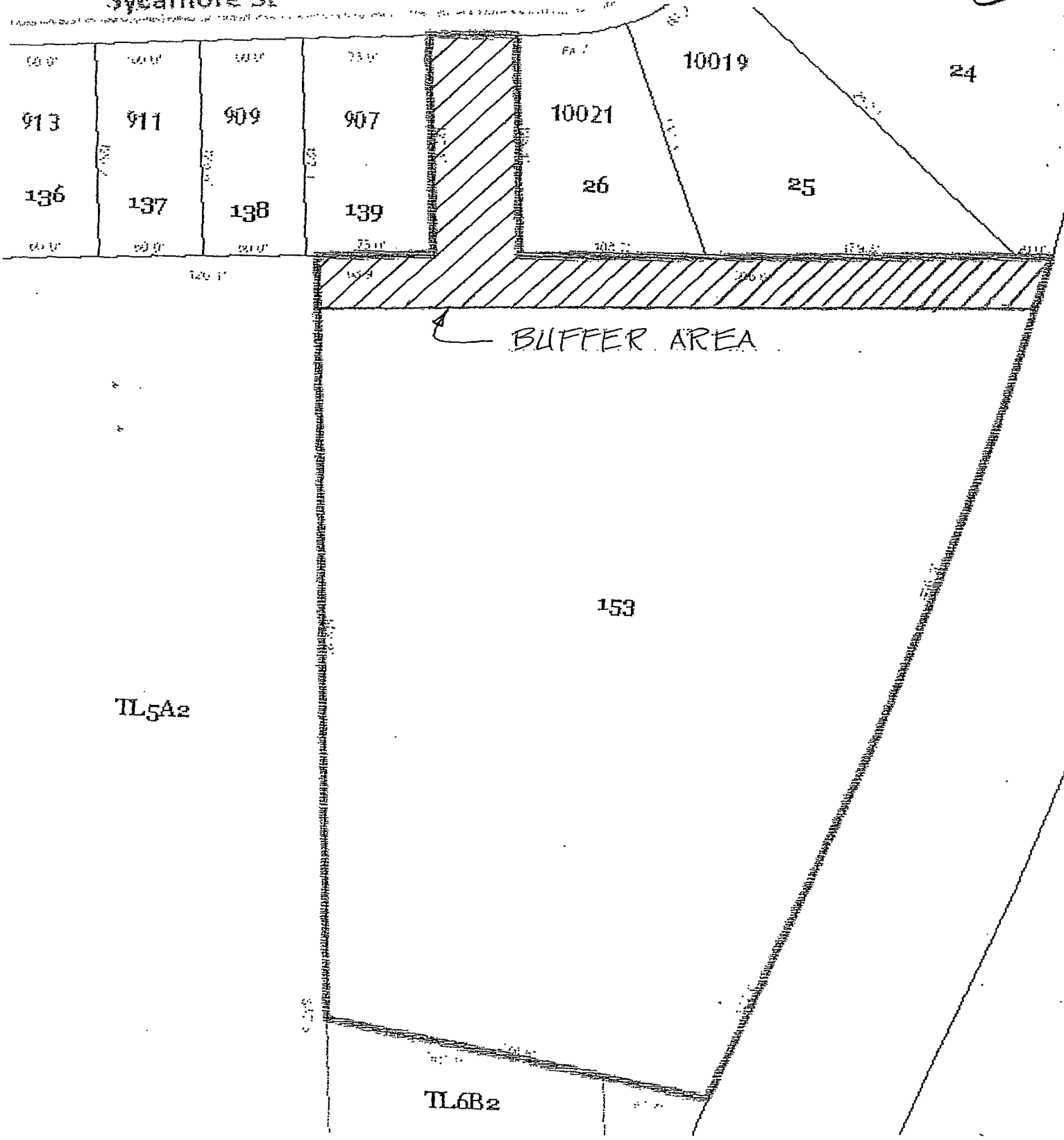
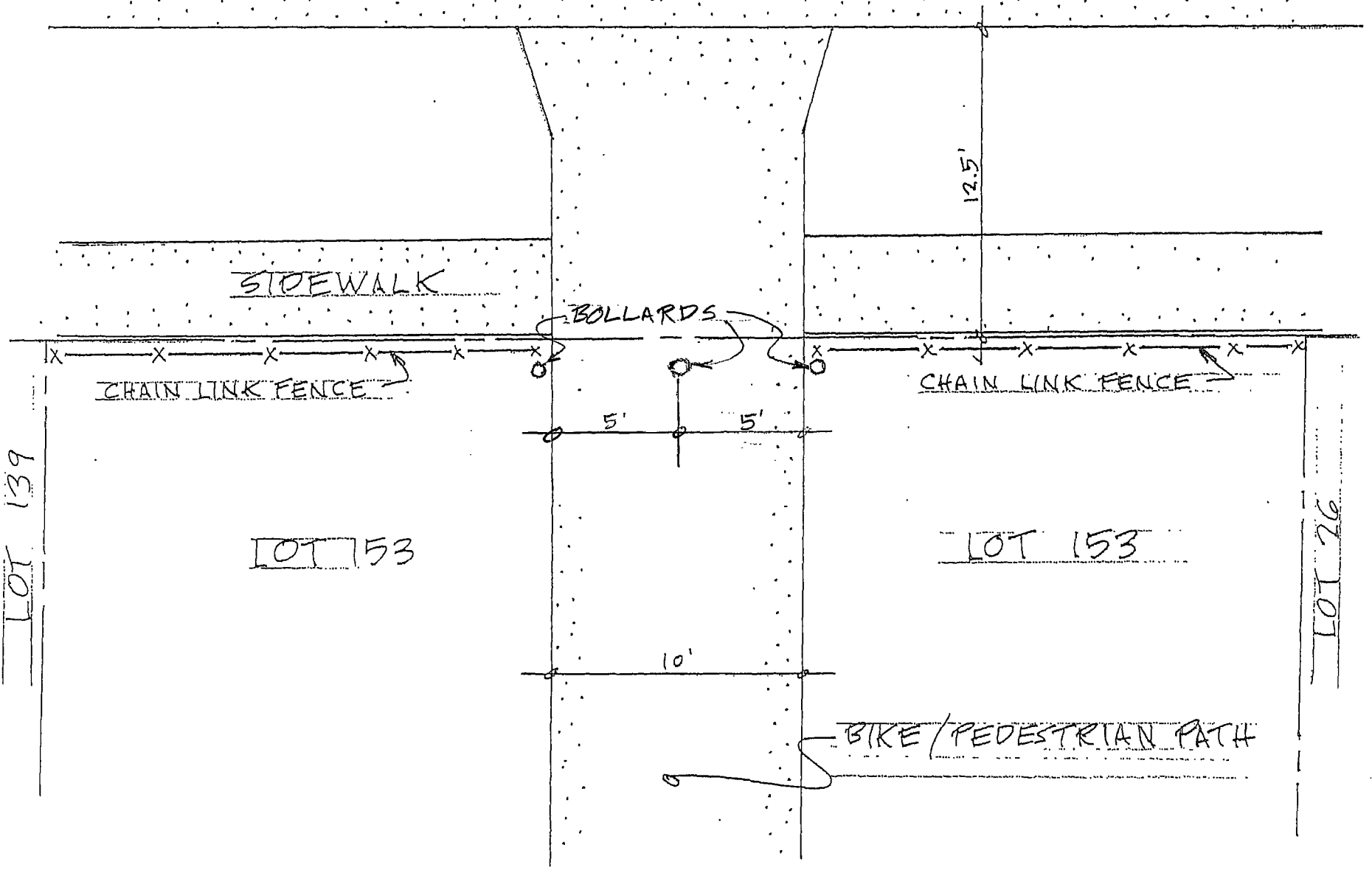


Exhibit "A"

# SYCAMORE ST.

Exhibit "B"



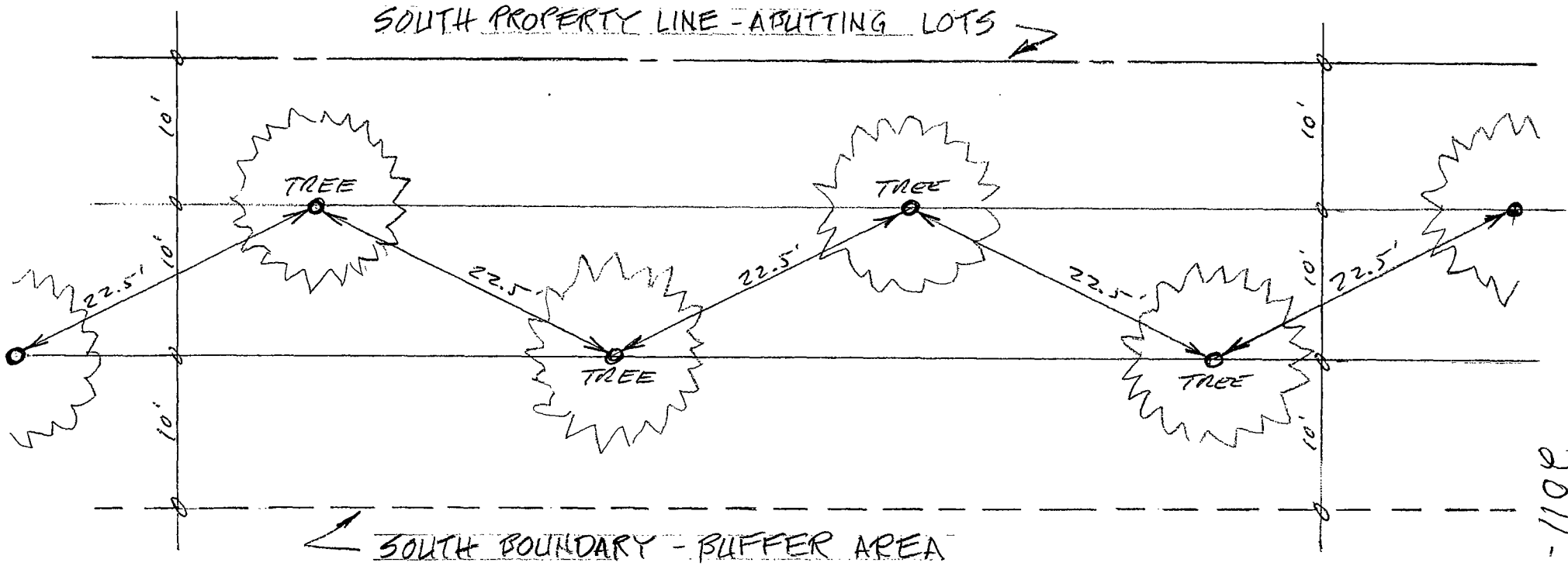
LOT 139

LOT 153

LOT 153

LOT 26

BIKE / PEDESTRIAN PATH



BUFFER AREA TREE SPACING