

IN RE: PETITION FOR VARIANCE
 S/S Eastport Court, 225' W of
 the c/l of Marblehead Road
 (5 Eastport Court)
 8th Election District
 3rd Councilmanic District
 Sierra Homes, Inc.
 Petitioner

BEFORE THE
 DEPUTY ZONING COMMISSIONER
 OF BALTIMORE COUNTY
 Case No. 93-356-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Sierra Homes, Inc., and the Contract Purchasers, Deborah A. Feurer and Thomas J. McNamara. The Petitioners request relief from Section 1801.2.C.6 of the Baltimore County Zoning Regulations (Section V.B.3A of the Comprehensive Manual of Development Policies (C.M.D.P.)) to permit a building separation of 30 feet in lieu of the required 40 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Sandy Sperl-Eshelman, Vice President of Sierra Homes, Inc. Ms. Sperl-Eshelman was represented by David M. Meadows, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 5 Eastport Court, consists of .268 acres, more or less, zoned D.R. 2 and is improved with a partially completed single family dwelling. On behalf of the Petitioners, Ms. Sperl-Eshelman testified that the requested variance was necessitated as a result of relocating the subject dwelling further to the rear of the lot. Testimony indicated that the subject dwelling was originally proposed to be constructed closer to the front of the lot. However, due to the layout of Eastport Court, the subject dwelling would be out of alignment with the other dwellings on this street. Therefore,

it was decided that the dwelling should be moved further back on the lot. As a result of the relocation, the requested variance is necessary due to the close proximity of the subject dwelling to the adjacent dwelling known as 3 Eastport Court. It is to be noted that a provisional permit was issued by Arnold Jablon, Director of Zoning Administration and Development Management (ZADM) on April 14, 1993 and that the Petitioners are approximately half-way through construction of the subject dwelling. To deny the relief requested would result in unreasonable hardship and practical difficulty to the Petitioners. In support of their request, the Petitioners submitted a letter dated April 5, 1993 which had been signed by the various homeowners in the neighborhood indicating their support of the relocation of the dwelling to the rear of the subject property.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

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 Date 4/14/93
 By [Signature]

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of June, 1993 that the Petition for Variance requesting relief from Section 1801.2.C.6 of the Baltimore County Zoning Regulations (Section V.B.3A of the Comprehensive Manual of Development Policies (C.M.D.P.)) to permit a building separation of 30 feet in lieu of the required 40 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order

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 By [Signature]

has expired. If, for whatever reason, this Order is reversed, the relief requested shall be rescinded.

[Signature]
 TIMOTHY M. KOTROOD
 Deputy Zoning Commissioner
 for Baltimore County

THK:bjc

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 Date 4/14/93
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 4/14/93
 By [Signature]

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

Suite 113 Courthouse
 400 Washington Avenue
 Towson, MD 21204

June 14, 1993

(410) 887-4386

David M. Meadows, Esquire
 Harford County State's Attorney's Office
 Courthouse
 Bel Air, Maryland 21014

RE: PETITION FOR VARIANCE
 S/S Eastport Court, 225' W of the c/l of Marblehead Road
 (5 Eastport Court)
 8th Election District - 3rd Councilmanic District
 Sierra Homes, Inc. - Petitioners
 Case No. 93-356-A

Dear Mr. Meadows:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

[Signature]
 TIMOTHY M. KOTROOD
 Deputy Zoning Commissioner
 for Baltimore County

cc: Ms. Sandy Sperl-Eshelman, Vice President
 Sierra Homes, Inc., 9728 Red Clover Court, Baltimore, Md. 21234

Ms. Deborah A. Feurer and Mr. Thomas J. McNamara
 2712 Ordway, N.W., No. 1, Washington D.C. 20008

People's Counsel

File

Petition for Variance
 to the Zoning Commissioner of Baltimore County

for the property located at 5 EASTPORT COURT, LUTHERVILLE, MD. 21093
 which is presently zoned DR-2

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1801.2.C.6 (V.B.3.b) TO Permit A Bldg. separation of 30' in lieu of the Required 40'

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessor: DEBORAH A. FEURER/THOMAS J. MCNAMARA
 Legal Owner: SIERRA HOMES, INC.
Deborah A. Feurer/Thomas J. McNamara
Sandy Sperl-Eshelman, Vice President
 2712 ORDWAY, NW, NO. 1
 WASHINGTON, DC. 20008
 Address for Petitioner: 9728 RED CLOVER COURT (410) 882-6468
 City, Address and phone number of representative to be contacted: BALTIMORE, MD. 21234
Sandy Sperl-Eshelman
9728 Red Clover Ct. 882-6468

ORDER RECEIVED FOR FILING
 Date 4/14/93
 By [Signature]

93-356-A

ZONING DESCRIPTION

ZONING DESCRIPTION FOR 5 Eastport Court, Lutherville, Md. 21093

Election District 8 C3 Councilman District 7

Beginning at a point on the South side of Eastport Court which is Fifty Feet wide at a distance of 225' West of the centerline of the nearest improved intersecting street Marblehead Road which is Fifty Feet wide. Being lot # 8, Block n/a, Section II in the subdivision of The Fields at Seminary II as recorded in the Baltimore County Plat Book # 59, Folio # 113, containing .268 Acres, 11,674.08 Sq. Ft.

364

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

93-356-17

District: 8 C3 Date of Posting: 5/14/93
 Posted for: Variance
 Petitioner: Deborah Feurer & Thomas J. McNamara - Sierra Homes, Inc.
 Location of property: 5 Eastport Court, 225' W of Marblehead Rd.
 Location of Sign: Being on way, rear property of R.H. house
 Remarks: None
 Posted by: [Signature] Date of return: 5/17/93
 Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/29, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/29, 1993

THE JEFFERSONIAN,

S. Zake Olson
 Publisher

Baltimore County Zoning Administration & Development Management
 111 West Chesapeake Avenue
 Towson, Maryland 21284

Item # 36K
 93-356-A receipt

4-14-93

Part 12: SIERRA HOMES, INC.
 PETN FOR VARIANCE (012)
 POINT (012)

5 EASTPORT RD.
 LUTHERVILLE, Md. 21093

50.00
 35.00
 85.00

105.00

Please Make Checks Payable To Baltimore County

Cashier Validation

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Carl Jablon
 ARNOLD JABLON, DIRECTOR

For newspaper advertising:
 Item No.: 364
 Petitioner: SIERRA HOMES, INC.
 Location: _____
 PLEASE FORWARD ADVERTISING BILL TO:
 NAME: SIERRA HOMES, INC.
 ADDRESS: 9728 Red Clover Ct.
 ROLTO, Md. 21234
 PHONE NUMBER: 882-6468

Atty: _____ (Revised 04/09/93)

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

APRIL 23, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-356-A (Item 364)
 5 Eastport Court
 5/8 Eastport Court, 225' W of c/l Marlborough Road
 3rd Election District - 7th Councilmanic
 Legal Owner(s): Sierra Homes, Inc.
 Contract Purchase(s): Deborah A. Feaver and Thomas J. Schmeers
 HEARING: WEDNESDAY, MAY 26, 1993 at 11:00 a.m. in Room 106, Office Building.

Variance to permit a building separation of 30 feet in lieu of the required 40 feet.

Carl Jablon
 Arnold Jablon
 Director

cc: Sierra Homes, Inc.
 Deborah A. Feaver and Thomas J. Schmeers
 Sandy Sperl-Eshelman

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

May 20, 1993

Ms. Sandy Sperl-Eshelman
 Vice President
 Sierra Homes, Inc.
 9728 Red Clover Court
 Baltimore, MD 21234

RE: Case No. 93-356-A, Item No. 364
 Petitioner: Sierra Homes, Inc.
 Petition for Variance

Dear Ms. Sperl-Eshelman:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on April 14, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

SHA Maryland Department of Transportation
 State Highway Administration

O. James Lighthizer
 Secretary
 Hal Kassoff
 Administrator

4-22-93

Re: Baltimore County
 Item No. 364 (JCM)

Ms. Helene Kehring
 Zoning Administration and
 Development Management
 County Office Building
 Room 109
 111 W. Chesapeake Avenue
 Towson, Maryland 21204

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
 for John Contestable, Chief
 Engineering Access Permits
 Division

My telephone number is _____
 Telephone for Impaired Hearing or Speech
 303-7666 Baltimore Metro - 800-6401 D.C. Metro - 1-800-486-2222 Statewide Toll Free
 787 North Calvert St., Baltimore, Maryland 21202-6717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
 Zoning Administration and
 Development Management DATE: May 11, 1993

FROM: Pat Keller, Deputy Director
 Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
 Item Nos. 364, 366 and 385.
 13-354.
 If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey M. Long*
 Division Chief: *Carol L. Verna*

PK/JL:lw

364.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee
 Captain Jerry Pfeifer
 Fire Department Date: April 29, 1993

FROM: _____

SUBJECT: Comments for 05/03/93 Meeting

Item 361	No Comments
Item 362	No Comments
Item 363	No Comments
Item 364	No Comments
Item 365	No Comments
Item 366	No Comments
Item 367	No Comments
Item 368	No Comments
Item 369	No Comments
Item 370	Fire Hydrants are required on site. State law requires townhouses, where permit is issued after 07/01/92, to be sprinklered.
Item 371	No Comments
Item 372	No Comments
Item 373	Existing exits shall be maintained to a public way.

RECEIVED
 APR 30 1993
 ZADM

CPS-008

MOORE, CARNEY, RYAN & LATTANZI
 ATTORNEYS AT LAW
 411 E. JOPPA ROAD
 BALTIMORE, MARYLAND 21236
 (410) 529-4600
 FAX (410) 520-6146

ROBERT S. CARNEY, JR.
 RICHARD E. LATTANZI
 JUDITH L. MARLERGODE
 RONALD A. DECKER
 DAVID M. MEADOWS
 LISA M. EISEMANN

ROBERT J. RYAN
 OF COUNSEL
 E. SCOTT MOORE
 (1926-1992)

April 21, 1993

Ms. Gwen Stevens
 Baltimore County Office of Zoning
 Administration and Development Management
 111 West Chesapeake Avenue
 Towson, Maryland 21204

Re: Variance Petition - Sierra Homes, Inc.
 Lot 8 - Fields at Seminary II

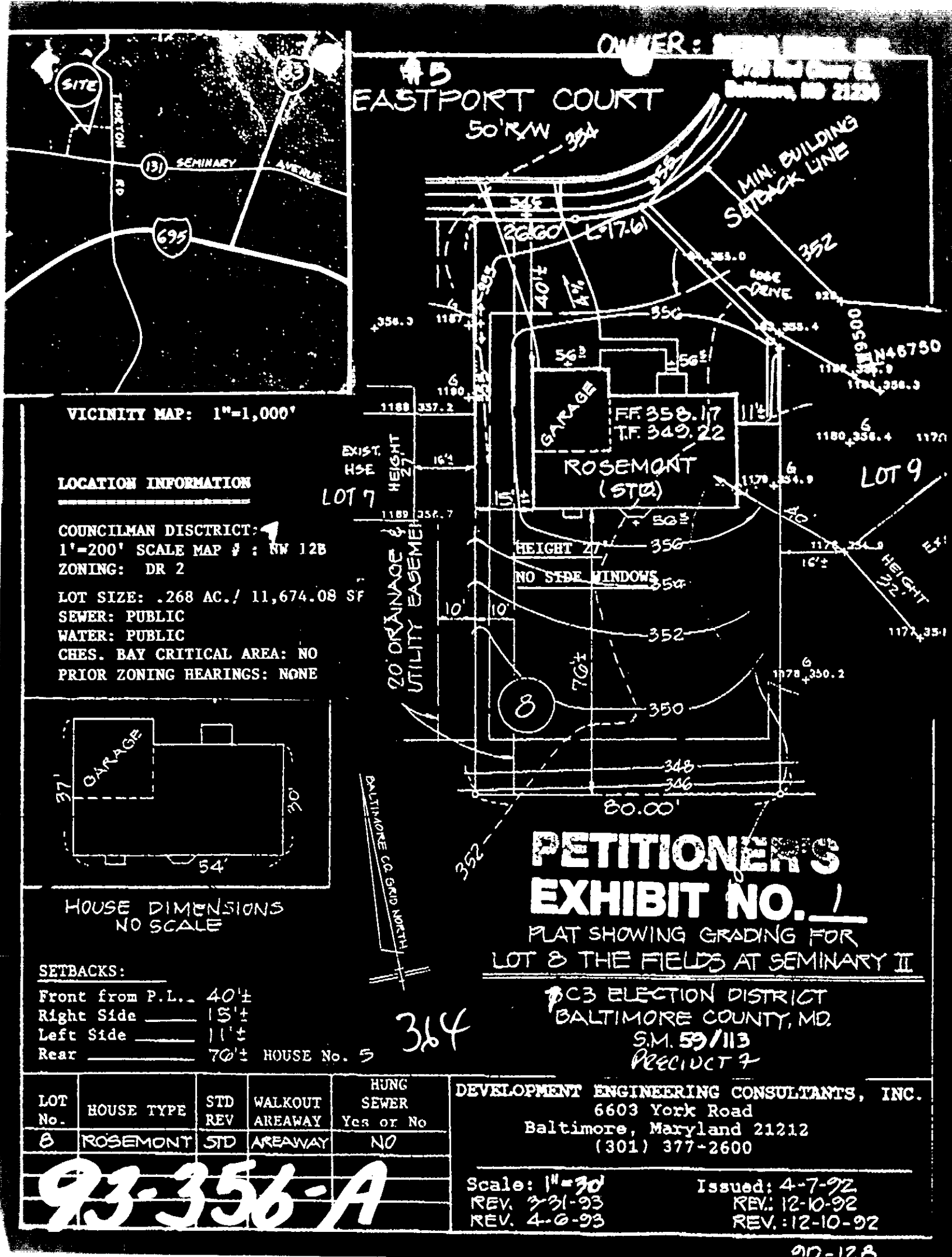
Dear Ms. Stevens:

Please enter the appearance of Moore, Carney, Ryan and Lattanzi and David M. Meadows on behalf of the Petitioner in the above-referenced matter. Please advise our office when the Petition for height variance has been scheduled before the Zoning Commissioner.

Sincerely,
David M. Meadows
 David M. Meadows

DMM:jej
 cc: Mrs. Sandy Sperl-Eshelman, Vice-President
 Sierra Homes, Inc.

RECEIVED
 APR 22 1993
 ZADM



April 5, 1993

Baltimore County, Md.
 Office of Zoning Enforcement
 111 W. Chesaapeake Avenue
 Towson, Md. 21284

PETITIONER'S EXHIBIT NO. 2

ATTN: Mr. Carl Richards
 Zoning Coordinator

RE: Relocation of New Home
 3 Eastport Court aka
 Lot 8 The Fields At Seminary II

Dear Mr. Richards,

It is our express wish to have the proposed home relocated on the aforesaid property from its present location. We understand that Sierra Homes, Inc. is the builder and furthermore realize that, due to zoning regulations currently imposed, a variance must be granted to the builder to allow the proposed home to be relocated on the property from its current position, and are in favor of any modifications which can be made to accomplish this, including, but not limited to the reduction of the required distance due to height regulations, between the existing home at 3 Eastport Court and the proposed home, from 40' to 30'. We understand that Sierra Homes, Inc. will cooperate with Baltimore County, Zoning Enforcement to comply with any requirements to achieve this.

Carol J. Jones
 Homeowner: Carol J. Jones
 Address: 3 Eastport Ct.
 Telephone: 331-6427

Richard J. Paul
 Homeowner: Richard J. Paul
 Address: 4 Eastport Ct.
 Telephone: 331-1421

Steve Frank
 Homeowner: Steve Frank
 Address: 2 Eastport Ct.
 Telephone: 331-8473

364

Baltimore County Government
 Office of Zoning Administration
 and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21284

887-3353

Provisional Approval
 Permit No: 8160176 DATE: 4-14-93

LOCATION: 3 Eastport Court, Lutherville, Md. 21093
 (aka) Lot 8 The Fields at Seminary II

The issuance of this permit in no way grants or implies approval of any matter relating to this property which is in conflict with the Baltimore County Zoning Regulations.

The issuance of this permit is subject to the following Conditions:
 (Please check appropriate box(es))

Owner has filed for a public hearing, Item # 364

Owner must file for a public hearing within ___ days before the Zoning Commission requesting relief from all conflicts with the Baltimore County Zoning Regulations.

Owner/contract purchaser must submit a complete revised site development plan and requested accompanying information within ___ days resolving all possible conflicts with the Baltimore County Zoning Regulations.

The owner/contract purchaser may proceed at his own risk with the construction indicated in the above-referenced permit.

However, in the event that any or all of the above conditions are not completed as stipulated, and/or the petition for relief has been denied, dismissed or withdrawn, this provisional approval is rescinded forthwith.

Immediately thereafter the owner/contract purchaser must return the property to the condition it was in prior to the beginning of said construction and accepts full financial liability in the matter.

Carol J. Jones
 DIRECTOR OF ZONING ADMINISTRATION
 AND DEVELOPMENT MANAGEMENT

I have read the above statement and I agree to abide by the decision of the Zoning Commission if applicable in this matter. I also hereby certify that I the undersigned am in fact the owner and if applicable the contract purchaser and not just an agent, agent.

Signed: *Carol J. Jones*
 Owner: Carol J. Jones, INC.

Signed: *James S. McQueen*
 Contract Purchaser

(Please print clearly)

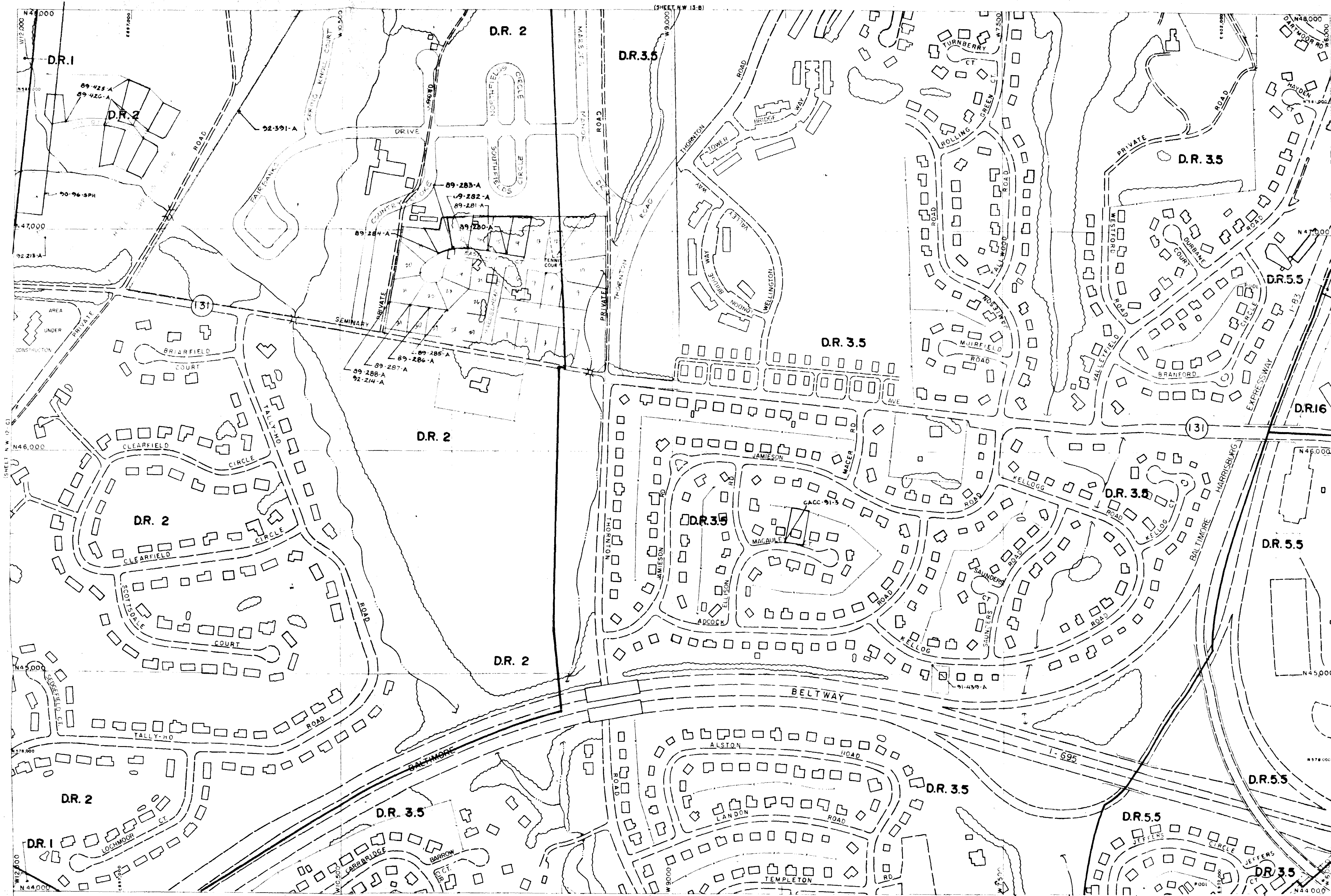
Name: Sierra Homes, Inc.
 Address: 11111 Red Chesapec
 Wilt, Md 21286
 Work Phone # 410-214-1500
 Home Phone # N/A

(Please print clearly)

Name: Deborah A. Fowler
 Address: 11111 Red Chesapec
 Wilt, Md 21286
 Work Phone # 410-214-1510
 Home Phone # 410-214-0547

UCR
 Zoning Office Staff

364



S - SE

1988 COMPREHENSIVE ZONING MAP
 Adopted by the Baltimore County Council
 Oct. 17, 1988

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
 TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
 BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
 OFFICE OF PLANNING AND ZONING
 OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
 Adopted by the Baltimore County Council
 Oct. 15, 1992

William Howard IV
 Chairman, County Council

SCALE 1" = 200' ±	LOCATION LUTHERVILLE
DATE OF PHOTOGRAPHY JANUARY 1986	SHEET N.W. 12-B

93-356-A