

IN RE: DEVELOPMENT PLAN HEARING AND PETITION FOR ZONING VARIANCE W/S of Rolling Road, S/S of Clays Lane, E/S of Fairbrook Rd. "Clay Brooke" (f/k/a Benellaton) 2nd Election District 1st Councilmanic District Applicant/Developer Fairwinds Development, LLC Petitioner

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case Nos. II-517 & 94-222-A (Project No. II-517)

AMENDED HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN/VARIANCE ORDER

WHEREAS, this matter came before the Deputy Zoning Commissioner/Hearing Officer as a combined Development Plan Hearing/Petition for Variance for the subject property located at Clays Lane and Fairbrook Road. The owners of the property, W. Benton Sauter, et al, and the Contract Purchaser, Fairwinds Development, LLC, propose to develop the site with a mix of townhouse and single family dwelling units in accordance with the development plan prepared by Patton Consultants LTD, which was entered into evidence as Developer's Exhibit 1 in the Development Plan case and Petitioner's Exhibit 2 in the Petition for Variance case.

By Order issued January 26, 1994, the development plan was approved and the variances were granted, subject to restrictions.

Subsequent to the issuance of said Order, Counsel for the Owners/Developer advised this Office of certain minor discrepancies in the Order and requested an amendment thereof to clarify same.

Specifically, Counsel for the Developer noted that Townhouse Unit 2771 was incorrectly identified as Townhouse Unit 2769 in the Order. In addition, appropriate language as to the granting of the variances requested was omitted. A review of the case files and exhibits submitted support that an amended Order is necessary.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 14th day of February, 1994 that the Order issued January 26, 1994 be and the same is hereby AMENDED as follows:

1) That any reference to end Townhouse Unit 2769 Claybrooke Drive shall be corrected to read Townhouse Unit 2771 Claybrooke Drive; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1801.2.C.1.c to permit a minimum rear yard setback of 26 feet in lieu of the required 30 feet for each of the single family attached units at 2700 and 2710 Claybrooke Drive, 2712 and 2722 Claybrooke Drive, 2724 and 2734 Claybrooke Drive, 2736 and 2746 Claybrooke Drive, and 2759 and 2771 Claybrooke Drive (the end units of each cluster), in accordance with revised Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1801.2.C.1.c to permit a minimum rear yard setback of 28 feet in lieu of the minimum required 30 feet to permit a 2-foot cantilever of the second floor (projection) for the full 18-foot width of the interior attached units at 2704, 2706, 2708, 2714, 2716, 2720, 2728, 2732, 2738, 2740, 2744, 2763 and 2767 Claybrooke Drive, in accordance with revised Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued January 26, 1994 shall remain in full force and effect.

*Timothy H. Kofrood*  
TIMOTHY H. KOFROOD  
Deputy Zoning Commissioner/  
Hearing Officer  
for Baltimore County

TMK:bjs

cc: E. Harrison Stone, Esquire  
Mr. James Patton  
Mr. Don Rascoe, Project Manager  
Development Plan File & Zoning Case File.

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IN RE: DEVELOPMENT PLAN HEARING AND PETITION FOR ZONING VARIANCE W/S of Rolling Road, S/S of Clays Lane, E/S of Fairbrook Rd. "Clay Brooke" (f/k/a Benellaton) 2nd Election District 1st Councilmanic District Applicant/Developer Fairwinds Development, LLC Petitioner

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. II-517 & 94-222-A (Project No. II-517)

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN/VARIANCE ORDER

This matter comes before the Hearing Officer/Deputy Zoning Commissioner as a combined development/zoning hearing for the subject property located at Clays Lane and Fairbrook Road. The property is proposed for development by the legal owners of the subject property, W. Benton Sauter, et al, and the contract purchaser, Fairwinds Development, LLC. The Developer proposes to develop the subject parcel with a mix of townhouse dwellings and single family dwellings. A development plan was prepared by Patton Consultants LTD., and was entered into evidence as Developer's Exhibit No. 1 in the development case and Petitioner's Exhibit No. 2 in the variance case.

In addition to the approval of the development that was submitted at the hearing, the Petitioner also requested variances for certain lots contained within this proposed development. The Developer/Petitioner requested some general variances, pursuant to the original Petition which was filed in case No. 94-222-A. However, at the hearing, the Developer/Petitioner amended their variance request to more specifically identify those lots which are in need of a variance. The Developer/Petitioner submitted as Petitioner's Exhibit No. 1 an amendment to the variance request identifying those specific lots as follows:

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Date 1/27/94

By Th. Hand

A variance from Section 1801.2.C.1.c to permit a minimum rear yard of 26 ft. in lieu of the required 30 ft. for each of the following single family attached units:

2700 and 2710 Claybrooke Drive  
2712 and 2722 Claybrooke Drive  
2724 and 2734 Claybrooke Drive  
2736 and 2746 Claybrooke Drive  
2759 and 2769 Claybrooke Drive  
(The end units of each cluster)

A variance from Section 1801.2.C.1.c to permit a 28 ft. minimum rear yard in lieu of the required 30 ft. minimum rear yard to permit a two ft. cantilever of the second floor (projection) for the full 18 ft. width of the following interior attached units:

2704, 2706, 2708, 2714, 2716, 2720, 2728, 2732, 2738, 2740, 2744, 2763 and 2767 Claybrooke Drive.

Appearing and testifying in support of the Petitioner/Developer were Robert S. Handzo, Esquire and E. Harrison Stone, Esquire, attorneys for the Developer. Also appearing was Jim Patton, Professional Engineer on behalf of Patton Consultants LTD., Mr. John Rohde, expert in the area of forestation appeared on behalf of the Petitioner/Developer, as well as other interested parties, all of whom signed in on the Petitioner's sign-in sheet. Appearing as interested citizens in the project were Charles and Catherine Sill, nearby property owners, and Christine Tebay. As is customary, a number of representatives of various reviewing agencies of Baltimore County participated in the hearing.

As to the procedural history of the development plan case, a Concept Plan Conference was held on October 12, 1993. A Community Input Meeting

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By Th. Hand

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was held at the Heboville Elementary School on Wednesday, November 10, 1993, and followed by a Development Plan Conference held on December 22, 1993. The Hearing Officer's hearing was scheduled and heard on January 12, 1994, along with the Petitioner's request for variance.

At the preliminary stage of the development plan hearing, I attempted to determine what, if any, issues remained unresolved at this time. I asked the attorney for the Developer/Petitioner whether they were aware of any unresolved issues or comments that needed to be addressed at the hearing. Mr. Stone, attorney for the Developer, identified an issue with the Department of Environmental Protection and Resource Management (DEPRM) over the forestation requirements for the proposed development. The issue identified by Mr. Stone involved two lots contained in the proposed development identified as lot No. 7518 and 7520 located on Fairbrook Drive. Mr. Stone stated the position of the Developer as wanting to allow these two lots to remain as shown on Developer's site plan. However, representatives from DEPRM argue that the two lots should be eliminated which would allow for more forest area to be protected.

Testimony was taken on this issue, however, the Developer and DEPRM asked that they be permitted to discuss this matter after the hearing to come to a final resolution of this issue. The parties were able to come to an agreement concerning these two lots and whether either lot should be eliminated. By letter dated January 18, 1994 from J. Lawrence Pilsen, Supervisor of the Environmental Impact Review Section of DEPRM, this Hearing Office was advised that the Developer and DEPRM were able to resolve the issue concerning these two lots and their effect upon the forest. It was agreed between the Developer and DEPRM that lot 7518 would be eliminated and 7520 would be permitted to remain.

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At the time of the hearing on this development plan, the issue regarding these two lots was not resolved. Therefore, this Hearing Officer took testimony on this issue not knowing at that time whether or not the parties would come to an agreement. However, inasmuch as the parties have resolved their differences over this issue, it is not necessary to review the testimony that was offered at the hearing in this Order. I will incorporate the agreement reached between the Developer and DEPRM as a condition and restriction of this Order.

The Developer did not identify any other issues that they were aware of concerning this proposed development. I then asked representatives of the various reviewing agencies, who were in attendance, whether they were aware of any issues that needed to be resolved. Mr. Les Schreiber, a representative of the Department of Public Works (DPW) had some last minute issues which, after reviewing the red line plan, was satisfied that all of his department's issues were resolved.

Mr. John Lewis, a representative of the Zoning Administration and Development Management (ZADM) also presented some issues to this Hearing Officer. Mr. Lewis requested that his comments covering his issues be incorporated into the final Order. The Developer had no objection to incorporating Mr. Lewis' comments into the Order and, therefore, Mr. Lewis' comments will be incorporated at the end of this Order pursuant to the conditions and restrictions.

Messrs Larry Pilsen and Michael Kulis, representatives of DEPRM identified some issues concerning the development of the site. The Developer agreed to modify some technical requirements on the plan that was requested by Mr. Pilsen and Mr. Kulis. The Developer being in agreement with DEPRM, it was not necessary to take any testimony. No other representa-

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By Th. Hand

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tives from the reviewing agencies had any issues; therefore, I asked the citizens, who were in attendance, whether there was any issue that they would like to discuss concerning this project. Mr. Charles L. Sill, Jr., nearby property owner, spoke concerning an issue that he had regarding this development plan. Mr. Sill stated that his property currently is affected by some storm water runoff that originates from the property which is proposed for development. Mr. Sill presented some photographs depicting storm water runoff on his property which he claims comes from the property proposed for development. He wants to know what, if any, effect this proposed development will have on this runoff situation and whether it will exacerbate this runoff. Inasmuch as this was an issue that was not resolved at the preliminary stage of the hearing, testimony was taken on this particular issue.

No other issues were identified by any other citizen in attendance at the hearing, or any representative from the County reviewing agencies. Therefore, it became necessary to take testimony on the issue of storm water runoff.

Mr. James Patton, professional engineer, was called to testify by the Developer. Mr. Patton testified concerning the storm water management proposed for this development. He identified two storm water management facilities located on the property. He testified that these two storm water management facilities will manage all runoff that will be generated by this proposed development. He testified at the present time that the property proposed for development is farm land. He stated that farm land generates a tremendous amount of runoff due to the barren nature of this type of property. He stated that once the property is developed and the appropriate storm water management facilities installed, the neighboring

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property owned by the Sills should enjoy a lesser impact of storm water runoff than what currently exists.

Mr. Patton also testified that their property is not the only property that contributes runoff to the Sill property. He identified Windsor Commons as a property which also directs water onto the Sill property. He stated that the proposed development of Clay Brooke would not and cannot deal with the Windsor Commons runoff but it will manage its own storm water runoff. Mr. Patton also testified regarding a culvert that has been proposed to be located on the northwest corner of the property crossing Fairbrook Road. Mr. Patton testified that this culvert was approved in 1987 and the design of this culvert could be upgraded and improved at this time to better handle any water runoff that might exist from this property. He stated that this Developer will be required to re-evaluate the design of that culvert and improvements could be made.

Mr. Patton also testified regarding lots 7518 and 7520. However, inasmuch as the parties reached an agreement over the issue regarding those lots, I believe that it is not necessary to summarize the testimony offered on that issue. The parties have, as previously stated, reached an agreement and that agreement will be incorporated into this Order.

Mr. Patton further testified regarding the requested variances for the lots previously identified. He testified that the variances requested to permit a 28 ft. minimum rear yard in lieu of the required 30 ft. minimum rear yard is requested to permit a 2 ft. cantilever of the second floor of these particular townhouses. He testified that the variance request is for the second floor only and would not be for the first floor of the townhouses. Mr. Patton also testified concerning the practical

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By Th. Hand

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difficulty necessary and that the requested variance satisfies Section 307.1 of the B.C.Z.R.

On the issue of the variance request, Andrea VanArsdale from the Office of Planning and Zoning (OPZ) supported the variance request on the condition that the variances would be granted for the second floor of these townhouses and not to permit the first floor to be situated within 28 ft. of the rear property line. The variance request was made clear that it is for the second floor only and not the first floor.

On the issue of storm water runoff, Mr. Robert Wood, of Storm Water Management section of DEPRM, appeared and testified regarding the storm water management facilities for this proposed development. He testified that he was familiar with the development plan for Clay Brooke and testified that the storm water management plan for this site should handle all storm water runoff generated by this proposed development. He also testified that Baltimore County will follow up to ensure that the storm water management facilities are operating properly and then Baltimore County will eventually take over the operation of these facilities.

At this time of the hearing, Mr. and Mrs. Sill, who raised the issue of storm water runoff, had already left the hearing and did not offer any other testimony other than the photographs that were given to the Hearing Officer marked as Protestant's Exhibit No. 1.

Based on the testimony and evidence offered at the hearing by Mr. Robert Wood and Mr. James Patton regarding the storm water management proposed for this development, I am satisfied that the storm water management proposal will contain all storm water runoff from this proposed development. I also find that the development of this site will not exacerbate the current storm water runoff that is generated onto the neighboring

property owned by Mr. and Mrs. Charles Sill. Testimony revealed that the proposed development known as Clay Brooke should improve the runoff problem which will benefit the Sills as neighboring property owners. Therefore, I do not believe that the issue of storm water runoff is sufficient to deny approval of this development plan.

There were no other issues raised concerning the development plan and, therefore, the same shall be approved.

As stated previously, the Developer/Petitioner also requested variances for certain lots contained within this development.

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).

It is clear from the testimony that if the variances are 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 a practical difficulty or unreasonable hardship will result if the variances are 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 the variance requested, 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 and general welfare. Further, granting of the variances will be in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the zoning and development regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property, and public hearing held thereon, I will approve the development plan and variances requested herein consistent with the comments contained above and shall so order.

THEREFORE, IT IS ORDERED by the Hearing Officer/Deputy Zoning Commissioner for Baltimore County this 26<sup>th</sup> day of January, 1994 that approval of the development plan, pursuant to the development regulations codified in Section 26-166, et seq., of the Baltimore County Code, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petitioner/Developer shall prepare and submit to the Zoning Administration and Development Management (ZADM), within 10 days from the date of this Order, a development plan which reflects and incorporates the terms, conditions, and restrictions, if any, of this Order. The plan to be submitted shall reflect the conditions and restrictions referenced within this opinion, to wit:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. Pursuant to the correspondence dated January 18, 1994 from J. Lawrence Pilson of the Environmental Impact Review Section of DEPRM, the Developer/Petitioner shall eliminate lot No. 7519 from the proposed development. The Developer/Petitioner shall be permitted to keep lot No. 7520. The loss of this lot, No. 7518, was by agreement between the Developer and DEPRM.

3. The comments offered by John Lewis, Planner II, employed with ZADM, submitted to this Hearing Officer at the hearing containing paragraphs Nos. 1 thru 6 shall be incorporated into and enforceable as part of the Order. The Developer has agreed to meet the requirements contained in Mr. Lewis' comments and shall be required to do so as a condition of this Order.

4. The Developer/Petitioner shall be required to re-evaluate the design of the culvert situated on the property which traverses Fairbrook Road. Mr. Patton stated in his testimony that the culvert was designed in 1987 and improvements might need to be made to the design of this culvert at this time to better assist the flow of water runoff from the Clay Brooke site. The Developer shall be required to make any improvements to the culvert as is necessary to improve the storm water runoff.

5. The variances requested by the Developer/Petitioner for the townhouse units which have been identified as lots 2704, 2706, 2708, 2714, 2716, 2720, 2728, 2732, 2738, 2740, 2744, 2763 and 2767 Claybrooke Drive shall be for the second floor of those townhouse units only. No variance shall be granted for the first floor of those townhouse units. The second floor of those units shall be permitted to be situated as close as 28 ft. from the rear yard property line in lieu of the required 30 ft. The first floor of those townhouse dwellings shall maintain a 30 ft. distance from the rear property line.

ORDER RECEIVED FOR FILING  
Date 1/26/94  
By J. H. Patrick

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Date 1/26/94  
By J. H. Patrick

Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

*Timothy H. Rotrocc*  
TIMOTHY H. ROTROCC  
Deputy Zoning Commissioner/  
Hearing Officer for Baltimore  
County

TMK:mmm

Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

January 26, 1994

Robert Handzo, Esquire  
E. Harrison Stone, Esquire  
Royston, Mueller, McLean and Reid  
102 W. Pennsylvania Avenue, Suite 103  
Towson, Md. 21204

RE: Project No. II-517  
Development Plan Order  
"Clay Brooke"  
Case No. 94-222-A  
Petition for Zoning Variance  
Fairwinds Development, LLC., Petitioner/Contractor/Developer

Gentlemen:

Enclosed please find the decision rendered in the above captioned case. The Hearing Officer's Opinion and Development Plan Order have been approved.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,  
*Timothy H. Rotrocc*  
Timothy H. Rotrocc  
Deputy Zoning Commissioner

TMK:mmm  
att.  
cc: James Patton, 305 W. Chesapeake Avenue, Suite 118, Towson, Md. 21204  
W. Benton Sauter, 7529 Clays Lane, Baltimore, Md. 21244  
Mr. and Mrs. Charles L. Sill, Jr., 7520 Clays Lane, 21244  
Ms. Christine Tabay, Morris and Ritchie, 110 West Road, Towson, 21204  
cc: Don Rascoe, Project Manager, ZADM  
cc: All various County agencies

ORDER RECEIVED FOR FILING  
Date 1/26/94  
By J. H. Patrick

# Petition for Variance<sup>241</sup> to the Zoning Commissioner of Baltimore County

for the property located at Clays Lane & Fairbrook Road  
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate 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)

(SEE ATTACHED) **94-222-A**

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

As an element of the Development Plan, the individual dwellings to be constructed within each building envelope can not be determined at this time. The variances requested will permit variation in the final dwelling as it may be placed on a given lot, thus providing a variation in the final appearance of the completed development. Present dwelling design and construction of smaller dwellings require a greater square footage on the second floor than on the first.

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/Leasee:

Fairwinds Development, LLC.

*[Signature]*

305 W. Chesapeake Ave., Suite 118

Towson, Maryland 21204

City State Zip

Attorney for Petitioner:

Robert S. Handzo

*[Signature]*

Royston, Mueller, McLean & Reid

102 W. Pennsylvania Ave., Suite 102

Towson, Maryland 21204

City State Zip

Legal Owner(s):

W. Benton Sauter Et. Al

*[Signature]*

W. Benton Sauter, as per agreement

James S. Patton

7529 Clays Lane 944-4715

Address Phone No.

Baltimore Maryland 21244

City State Zip

Home, Address and phone number of legal owner, contract purchaser or lessee to be contacted.

James S. Patton

296-2140

Address Phone No.

ESTIMATED LENGTH OF HEARING

Applicable for Hearing

the following date: 12-9-93 12-9-93

ALL OTHER DATE

REVIEWED BY: WCR DATE

**94-222-A**

CLAYBROOKE  
CLAYS LANE & FAIRBROOK ROAD  
Petition For Variance From Section(s)

- A) 1B01.2C1b - For some lots permit single family detached sum of side yards of 16 feet for buildings up to 30 feet in height; for some buildings permit sum of side yards of 18 feet; and for some maintain sum of side yards of 20 feet as per BC2R.
- B) 1B01.2C1c - For no greater than sixty (60) percent of the group units (single family attached), permit a minimum rear yard of 25 feet.
- C) 1B01.2C2 - For those group units which have a rear yard of a minimum of 25 feet, permit a minimum of 450 square feet of rear yard area.
- D) 301.2 - For single family detached units, permit a two (2) foot projection up to the total width of second floor into the front yard and/or the rear yard. For only those single family attached units with out a rear yard variance permit a two (2) foot projection of up to the total width of second floor into the front yard or into the rear yard.

241  
REVISED  
12-9-93

CLAYBROOKE  
CLAYS LANE & FAIRBROOK ROAD

Petition For Variance(s) From the Following Sections:

94-222-A

A) 1801.2C1b - Permit sum of side yards of 16 feet for buildings up to 30 feet in height in lieu of the required 20 feet for fifty (50) single family detached lots.

Permit sum of side yards of 18 feet for buildings up to 30 feet in height in lieu of the required 20 feet for forty (40) single family detached lots.

B) 1801.2C1c - Permit a minimum rear yard of 25 feet in lieu of the required 30 feet for two (2) units in each of the following groups of single family attached units:

2700-02-04-06-08-10 Claybrooke Drive  
2724-26-28-30-32-34 Claybrooke Drive

Permit a minimum rear yard of 25 feet in lieu of the required 30 feet for three (3) units in each of the following groups of single family attached units:

2712-14-16-18-20-22 Claybrooke Drive  
2736-38-40-42-44-46 Claybrooke Drive  
2759-61-63-65-67-69-71 Claybrooke Drive

C) 1801.2C2 - Permit a minimum of 450 square foot private yard space in lieu of the required 500 square foot private yard space for those specific interior units identified as being variances from 1801.2C1c. (Item B).

D) 301.2 - Permit a 11 foot front yard in lieu of the required 13 foot front yard for second floor projections only for thirty (30) single family attached units; permit a 23 foot front yard in lieu of the required 25 foot front yard for second floor projections only for sixty (60) single family detached units.

All of the above subject to the following with a note being placed on the Development Plan for Claybrooke:

This plan shall be amended to indicate each and every one of the specific lots subject to the Zoning Commissioners order Case No. \_\_\_\_\_ Such Amended Development Plan shall be approved prior to filing of Building Permits for any lot utilizing a variance granted by said order.

# PATTON

Patton  
Consultants  
Ltd.  
Engineering  
& Site  
Planning

94-222-A

ZONING DESCRIPTION  
CLAYBROOKE

Beginning at a point on the south side of Clays Lane which is 30 feet wide at the distance of 185 feet west of the centerline of the nearest improved intersecting street, Rolling road, which is 80 feet wide. Thence the following courses and distances:

S 25° 50' 12" W - 1,357.44'
N 65° 04' 53" W - 964.28'
N 24° 33' 00" E - 1,048.88'
S 64° 52' 37" E - 304.20'
N 17° 51' 53" E - 311.13'
S 65° 08' 18" E - 726.79'

To the place of beginning. As recorded in Deed Liber 6323 Folio 832 and surveyed by Gerhold, Cross and Etzel of May 4, 1993 and revised, September 15, 1993.

305 West Chesapeake Avenue, Suite 118, Towson, Maryland 21284  
(410) 296-2140 Fax (410) 296-0419

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 2nd Date of Posting: 12/14/93

Posted for: Robert S. Sauter, et al

Petitioner: Clay Brooke

Location of property: W. Rolling Road - S. Clays Lane, S. Fairbrook Rd.

Location of Sign: Robert S. Sauter, et al

Remarks:

Posted by: [Signature] Date of return: 12/17/93

Number of Signs: 1

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 2nd Date of Posting: 12/10/93

Posted for: [Signature]

Petitioner: Robert S. Sauter, et al

Location of property: W. Rolling Rd, S. Clays Lane, S. Fairbrook Rd.

Location of Sign: Robert S. Sauter, et al

Remarks:

Posted by: [Signature] Date of return: 12/10/93

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 12/16, 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 12/16, 1993

THE JEFFERSONIAN,  
A. Hennehan  
LEGISLATOR TOWSON

NOTICE OF HEARING: The Zoning Commission of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 400 Washington Avenue, Towson, Maryland 21284 as follows: Case Number 94-222-A W/S of Rolling Road, S/S of Clays Lane and S/S of Fairbrook Road 2nd Election District 1st Councilmanic District. W. Benton Sauter, et al Contract Purchaser, LLC FAIRWINDS DEVELOPMENT, LLC JANUARY 12, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

receipt

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

Account: R001-6190

12/9/93 94-222-A Number 241 (WCR)

PROF - VARIANCE \$250.00  
#080 - SIGN POSTING \$ 35.00  
TOTAL \$285.00

Legal Owner - W. Benton Sauter, et al  
Contract Purchaser - Fairwinds Development, LLC  
Clay Brooke  
Clays Lane & Fairbrook Road  
District: 2c1  
Attorney: Robert Handzo - Royston, Mueller, McLean & Reid

01A01#0213M1C8RC \$285.00  
SA C012119PM12-10-93

Please Make Checks Payable To: Baltimore County

241  
TRANSMITTAL

PATTON CONSULTANTS, LTD.  
305 W. Chesapeake Avenue, Suite 118  
Towson, Maryland 21204  
(410) 296-2140  
Fax (410) 296-0419

Date: 12/3/93 Proj. No.: 9134  
RE: Claybrooke

94-222-A

TO: Baltimore County Zoning Dept.

ATTN: Zoning Commissioner

WE ARE PLEASED TO SEND YOU:  
 Attached  Under separate cover

THE FOLLOWING ITEMS:  
 Sketch Drawings  Plans  Reports   
 Prints  Specifications  Copy of Letter

COPIES	DATE	DESCRIPTION	DWG. NO.
12		Development Plan Sh. 1 of 2	
1		Zoning Map	1 of 2
3		Zoning/Survey Descriptions	4G
3		Petitions	
1	12/4/93	CHECK # 1026 - \$250	

THIS TRANSMITTAL IS  
 For your approval  Approved with exceptions noted  
 For your use  Your documents returned after loan  Returned for corrections  
 At your request  Approved as submitted

FURTHER ACTION REQUIRED  
 Resubmit \_\_\_ copies for approval  Submit \_\_\_ copies for distribution  Return \_\_\_ corrected prints

REMARKS:

COPY TO: [Signature] SIGNED: [Signature]  
Robert S. Sauter, P.E.

241  
REVISED  
12/9/93  
TRANSMITTAL

PATTON CONSULTANTS, LTD.  
305 W. Chesapeake Avenue, Suite 118  
Towson, Maryland 21204  
(410) 296-2140  
Fax (410) 296-0419

Date: DEC 9 1993 Proj. No.: 9134  
RE: CLAYBROOKE  
VARIANCE PETITION

94-222-A

TO: ZADM

ATTN: GUDEN

WE ARE PLEASED TO SEND YOU:  
 Attached  Under separate cover

THE FOLLOWING ITEMS:  
 Sketch Drawings  Plans  Reports  PETITION  
 Prints  Specifications  Copy of Letter

COPIES	DATE	DESCRIPTION	DWG. NO.
3		AMENDED VARIANCE PETITION REQUEST (VARIANCE REVISION ONLY) CHECK # 1028 - \$100	

THIS TRANSMITTAL IS  
 For your approval  Approved with exceptions noted  
 For your use  Your documents returned after loan  Returned for corrections  
 At your request  Approved as submitted

FURTHER ACTION REQUIRED  
 Resubmit \_\_\_ copies for approval  Submit \_\_\_ copies for distribution  Return \_\_\_ corrected prints

REMARKS:

COPY TO: [Signature] SIGNED: [Signature]  
Robert S. Sauter, P.E.

receipt

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

Account: R001-6190

12/9/93 94-222-A Number 241 (WCR)

#110 - REVISIONS \$100.00

Legal Owner - W. Benton Sauter, et al  
Contract Purchaser - Fairwinds Development, LLC  
Clay Brooke  
Clays Lane & Fairbrook Road  
District: 2c1  
Attorney: Robert Handzo - Royston, Mueller, McLean & Reid

01A01#0213M1C8RC \$100.00  
SA C012119PM12-10-93

Please Make Checks Payable To: Baltimore County

NOTICE OF HEARING

The Zoning Commission 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 as follows:

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

CASE NUMBER: 94-222-A  
W/S of Rolling Road, S/S of Clays Lane, and S/S of Fairbrook Road  
2nd Election District - 1st Councilmanic  
Legal Owner(s): W. Benton Sauter, et al  
Contract Purchaser(s): Fairwinds Development, LLC

Variance for some lots permit single family detached sum of side yards of 16 feet for buildings up to 30 feet in height; for some buildings to permit sum of side yards of 18 feet; and for some detached units to permit a minimum rear yard of 25 feet; for those group units which have a minimum rear yard of 25 feet, to permit a minimum of 450 square foot of rear yard area; for single family detached units, permit a two foot projection up the total width of second floor, into the front yard and/or the rear yard. For only those single family attached units with out a rear yard, to permit a two foot projection of up to the total width of second floor into the front yard or into the rear yard.

HEARING: MONDAY, JANUARY 12, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) IF PRINTING ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.  
(2) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, PLEASE CALL 867-3351.

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

DECEMBER 8, 1993 (410) 887-3353

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

**ITEM - DEVELOPMENT PLAN HEARING**  
Project Name: Clay Brooke (A/A) Benelitan  
Project Number: 115317  
Location: W/S of Rolling Road, S/S of Clays Lane, and E/S of Fairbrook Road  
Applicant/Developer: Fairwinds Development, LLC

Proposal: 97 detached single family dwelling and 60 townhouses.

AND

**CASE NUMBER: 94-222-A**  
W/S of Rolling Road, S/S of Clays Lane, and E/S of Fairbrook Road  
2nd Election District - 1st Councilmanic  
Legal Owner(s): W. Benton Sauter, et al  
Contract Purchaser(s): Fairwinds Development, LLC

Variance to permit max of side yards of 16 feet for buildings up to 30 feet in height; in lieu of the required 20 feet for fifty single family detached lots; to permit max of side yards of 18 feet for buildings up to 30 feet in height in lieu of the required 20 feet for forty single family detached lots; to permit a minimum rear yard of 25 feet in lieu of the required 30 feet for two units in each of the following groups of single family attached units: 2700-02-04-06-08-10 Claybrook Drive and 2724-26-28-30-32-34 Claybrook Drive; to permit a minimum rear yard of 25 feet in lieu of the required 30 feet for three units in each of the following groups of single family attached units: 2712-14-16-18-20-22 Claybrook Drive and 2736-38-40-42-44-46 Claybrook Drive, and 2759-61-63-65-67-69-71 Claybrook Drive; to permit a minimum of 450 square foot private yard space in lieu of the required 500 square foot private yard space for those specific lotwise units identified as being varnosed above; to permit a 11 foot front yard in lieu of the required 13 foot front yard for second floor projections only for thirty single family attached units; and to permit a 23 foot front yard for second floor projections only for sixty single family detached units.

HEARING: WEDNESDAY, JANUARY 12, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Arnold Jablon, Director

cc: M. Benton Sauter, et al  
Fairwinds Development, LLC  
Robert S. Handzo, Esq.

Printed with Soybean Ink on Recycled Paper

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

DECEMBER 8, 1993 (410) 887-3353

**NOTICE OF HEARING**

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Proposal: 97 detached single family dwelling and 60 townhouses.

AND

**CASE NUMBER: 94-222-A**  
W/S of Rolling Road, S/S of Clays Lane, and E/S of Fairbrook Road  
2nd Election District - 1st Councilmanic  
Legal Owner(s): W. Benton Sauter, et al  
Contract Purchaser(s): Fairwinds Development, LLC

Variance for some lots permit single family detached max of side yards of 16 feet for buildings up to 30 feet in height; for some buildings to permit max of side yards of 18 feet; and for some maintain max of side yards of 20 feet; for no greater than sixty percent of the group units (single family attached) permit a minimum rear yard of 25 feet; for those group units which have a rear yard of a minimum of 25 feet, permit a minimum of 450 square feet of rear yard area; for single family detached units, permit a two foot projection up the total width of second floor, into the front yard and/or the rear yard. For only those single family attached units with out a rear yard variance permit a two foot projection of up to the total width of second floor into the front yard or into the rear yard.

HEARING: WEDNESDAY, JANUARY 12, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

*Carl Jablon*  
Arnold Jablon, Director

cc: M. Benton Sauter, et al  
Fairwinds Development, LLC  
Robert S. Handzo, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

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Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

January 3, 1994 (410) 887-3353

Robert S. Handzo  
Royston, Mueller, McLean & Reid  
102 Pennsylvania Avenue, Suite 102  
Towson, Maryland 21204

RE: Case No. 94-222-A, Item No. 241  
Petitioner: W. Benton Sauter, et al  
Petition for Variance

Dear Mr. Handzo:

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 December 9, 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.

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Maryland Department of Transportation  
State Highway Administration

O. James Lighthizer  
Secretary  
Hal Passoff  
Administrator

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

Re: Baltimore County  
Item No. 94-222-A, Item No. 241

Dear Ms. Minton:

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 project.

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*  
John Contestabile, Chief  
Engineering Access Permits  
Division

BS/

My telephone number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free  
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: December 27, 1993  
Zoning Administration and Development Management

FROM: Robert W. Bowling, Senior Engineer  
Developers Engineering Section

RE: Zoning Advisory Committee Meeting  
for December 27, 1993  
Item No. 241

The Developers Engineering Section has reviewed the subject zoning item. If the variance is granted, we recommend requiring buffer plantings not required by the Landscape Manual in order to mitigate the increased density. These plantings would be determined by the Landscape Coordinator at the final landscape plan stage.

RWB:sp

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

December 29, 1993

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management

FROM: J. Lawrence Pilsion *JLP/MS*  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #241 - Clay Brooke  
Clays Lane & Fairbrook Road  
Zoning Advisory Committee Meeting of December 20, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

1. Development of the property must comply with the Regulations with the Protection of Water Quality, Streams, Wetlands and Floodplains.

2. This site must comply with the Forest Conservation Act (Article X).

3. Also see Development Plan Comments.

JLP:sp  
CLAYBROO/DEPRM/TXTSBP

Baltimore County Government  
Fire Department

700 East Joppa Road Suite 901  
Towson, MD 21286-5500 (410) 887-4500

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: W. BENTON SAUTER, ET AL  
LOCATION: SW/S CLAYS LANE, W OF ROLLING RD. (CLAYBROOKE DEVELOPMENT)  
Item No.: 241 (WCR) Zoning Agenda: VARIANCE

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

RECEIVED  
DEC 28 1993  
ZADM

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Prevention, PHONE 887-4881, MS-1102F

cc: File

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Baltimore County Government  
Office of Zoning Administration  
and Development Management

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

January 5, 1994

Robert S. Handzo, Esquire  
Royston, Mueller, McLean & Reid  
102 West Pennsylvania Avenue  
Suite 102  
Towson, MD 21204

RE: Preliminary Petition Review (Item #241)  
Legal Owner: W. Benton Sauter, et al  
Clay Brooke (formerly Benelitan)  
2nd Election District

Dear Mr. Handzo:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

In an informal discussion with the developer's engineer prior to this review, this office indicated that the variance requests were too general and also not clear. Revised plans and variance petition requests were subsequently received and are the subject of these comments:

1. The contract purchaser/lessee is signed for on the petitions by the engineer whose name is not printed and for whom no letter of authorization in this matter has been received.

2. The plan scale is incorrect.

*Don P. Handzo*

ZONING COMMISSIONER

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Robert S. Handzo, Esquire  
January 5, 1993  
Page 2

- The plan does not agree with the revisions on the latest red-lined development plan reviewed by this office. The zoning commissioner must accept these differences for the zoning/development hearings or revised variance plans must be submitted. In any case, the plans must agree.
- Since the Baltimore County Zoning Regulations do not allow for the "banking" of variances for unspecified locations, this office can only support these variances subject to their being granted for specific lot locations. See the development plan comments (attached) from this office dated 12/29/93 concerning this issue.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

  
John L. Lewis  
Planner II

JLL:scj

Enclosure

cc: Zoning Commissioner

BALTIMORE COUNTY, MARYLAND

COPY FOR  
ZONING PETITION  
FILING COMMENTS

SUBJECT: DEVELOPMENT PLAN COMMENTS DPC DATE: 12/22/93  
10:30 a.m., Room 123  
FROM: ZADM - DEVELOPMENT CONTROL HOH DATE: 1/12/94  
2:00 p.m., Room 118

PROJECT NAME: Clay Brooke (Formerly Benellaton) PLAN DATE: 11/24/93  
REV.: REV.:

LOCATION: W of Rolling Road,  
S of Clays Lane,  
E of Fairbrook Road

DISTRICT: 2c1  
PROPOSAL: 97 Single Family Dwellings,  
60 Group Houses -- A Total of  
157 Dwelling Units in a  
D.R.-5.5 Zone

REVISED PLAN KEY:  
(X) COMPLIANCE WITH COMMENT CHECKED  
(O) NON-COMPLIANCE IS CIRCLED  
(BA) BE ADVISED (NOT NECESSARY FOR CONCEPT  
PLAN APPROVAL, BUT MUST BE ADDRESSED  
PRIOR TO FINAL ZONING APPROVAL)  
ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

The plan has been reviewed by the staff at this level of detail for general compliance with the Baltimore County Zoning Regulations. The following comments are generalized for the development plan and they do not identify all details and inherent technical zoning requirements necessary in order to determine final compliance with these regulations. To avoid any possible delays in the development review and zoning approval process, when these details and final technical information are identified or changed, this office should be contacted and it should be the responsibility of the owner, developer or developer's engineer to rectify any zoning conflicts well in advance of any expected final approvals. The intent of the developer must be clear on the plan, including any previous and proposed zoning hearing requests. Only if necessary, will the following comments be up-dated and/or supplemented during review of the hearing officer hearing.

The zoning variance public hearing plan for this development was dropped off without a filing review for minimum acceptable standards and, as of the date of these comments, has not yet been reviewed for filing by this office. Once a detailed zoning review can be undertaken, a set of formal zoning comments will be made. However, for the sake of a timely review of this development plan, a brief comparison was made between the two plans (which must be in agreement for the development plan hearing and the zoning variance hearing, which are to occur on the same day).

The scale on the zoning variance plan appears to be 1" = 100', not 1" = 50' as indicated.

Remember all lots as shown on the site plan.

(OVER)

DEVELOPMENT PLAN COMMENTS  
PROJECT NAME: Clay Brooke  
DPC DATE: 12/22/93  
PAGE 2

- Single family dwellings are permitted as of right in the D.R.-5.5 zone. Townhouses (single family attached dwellings) are permitted as of right in the D.R.-5.5 zone subject to findings of compatibility by the hearing officer per Section 1801.1.A.1 (BCZR). Zoning variances and modifications are being requested under zoning case #94-222-A. A copy of these variances as provided and revised for the zoning hearing accompany these comments. Also see zoning variance comments, which follow:
- The zoning variance requests should also reference the CMDP where applicable. The section cited in "D" (i.e., 301.2) is for certain types of projections which do not exceed 4 feet into the required yard area and not over 10 feet in length. Compliance with this section is not clear on the plan. A more appropriate variance request may be per the principal building setbacks as referenced under Section 1801.2.C (BCZR). The fact that multiple variances at unspecified locations are being requested indicates possible conflict with CMDP, Section II.A., p.33, which specifically limits the use of blanket variances to "unusual circumstances". This office will only support these non-specific variances with the understanding that the variance petition reference to required amended variance and development plans be followed. Specific lots must be clearly indicated on these revised plans for the variances as granted by the zoning commissioner and must be submitted for final zoning approval. Otherwise, these variances are not site specific and cannot be supported by this office.
- Provide a typical height distance chart and scaled representation on the plan per zoning policy 1802.3.C.2.C (attached). Place orientation arrows on all corner lots and lots adjacent to tract boundaries. Note the ownership of all interior and adjacent roads and show appropriate setbacks. Also indicate if they are arterial streets. If so, increase setbacks on adjacent lots by 20 feet per BCZR and CMDP or request a zoning variance. Be aware that most townhouse units do not have the required rear yard setbacks of 30 feet (see 1801.2.C.1.C, BCZR). Indicate access to the rear of lot addresses 2702-2744. Indicate private yard space on the lot setback detail (500 feet) per CMDP Section II.A, page 27. Clearly indicate how the lots proposed at the existing Clays Lane will comply with the BCZR and CMDP requirements for setback and how the lot overlapping Clays Lane and actually shown off-site can be approved as in compliance with zoning regulations. Until this is documented, this situation cannot be approved for zoning. (This situation was discussed with the developer's engineer but resolution to the problem must be clear on the plans.)

(OVER)

DEVELOPMENT PLAN COMMENTS  
PROJECT NAME: Clay Brooke  
DPC DATE: 12/22/93  
PAGE 3

- Parking: Note that all paving and parking areas will be a durable, dustless surface (state type) and permanently striped. Show method of parking calculations per the chart in Section II.A, page 20 (CMDP).
- Signs: Provide an engineering scale elevation on the plan of all existing and proposed free-standing signs clearly indicating the type, height, dimensions, square footage, single or double-face and illumination. All signs must be keyed to their existing or proposed location on the plan print and enough detail must be shown to determine compliance with Section 413.1.E (BCZR) and all zoning sign policies or a zoning variance is required. Also warned of Section 102.5 (corner residential lots).
- Final zoning approval is contingent first, upon all plan comments being addressed on the development plan; and secondly, upon the final resolution of all comments, the outcome of any requested zoning hearings and finally, the inclusion of the FDP checklist information being included on the Final Development Plan.

  
John L. Lewis  
Planner II

JLL:scj

BALTIMORE COUNTY, MARYLAND

SUBJECT: HEARING OFFICER HEARING COMMENTS HOH DATE: 1/12/94  
2:00 p.m., Room 118

FROM: ZADM - DEVELOPMENT CONTROL

PROJECT NAME: Clay Brooke (Formerly Benellaton) PLAN DATE: 11/24/93  
REV.: Red-Lined Received  
in ZADM 12/29/93

LOCATION: W of Rolling Road,  
S of Clays Lane,  
E of Fairbrook Road

DISTRICT: 2c1  
PROPOSAL: 95 Single Family Dwellings,  
60 Group Houses & 2 Parcels -  
A Total of 155 Dwelling Units  
& 2 Parcels in a D.R.-5.5 Zone

REVISED PLAN KEY:  
(X) COMPLIANCE WITH COMMENT CHECKED  
(O) NON-COMPLIANCE IS CIRCLED  
(BA) BE ADVISED (NOT NECESSARY FOR CONCEPT  
PLAN APPROVAL, BUT MUST BE ADDRESSED  
PRIOR TO FINAL ZONING APPROVAL)  
ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

The plan has been reviewed by the staff at this level of detail and with the exception of comment #2 concerning multiple variance locations, has been found to be in general compliance with the Baltimore County Zoning Regulations. The following additional advisory comments are generalized for the development plan and identify all details and inherent technical zoning requirements necessary in order to determine final compliance with these regulations. To avoid any possible delays in the development review and zoning approval process, when these details and final technical information are identified or changed, this office should be contacted and it should be the responsibility of the owner, developer or developer's engineer to rectify any zoning conflicts well in advance of any expected final approvals. The intent of the developer must be clear on the plan, including all proposed zoning hearing requests. Only if necessary, will the following comments be up-dated and/or supplemented during review of the zoning final development plan.

- Single family dwellings are permitted as of right in the D.R.-5.5 zone. Townhouses (single family attached dwellings) are permitted as of right in the D.R.-5.5 zone subject to findings of compatibility by the hearing officer per Section 1801.1.A.1 (BCZR). Zoning variances and modifications are being requested under zoning case #94-222-A. A copy of these variances as provided and revised for the zoning hearing accompany these comments. Also see zoning variance comments, which follow:

(OVER)

HEARING OFFICER HEARING COMMENTS  
PROJECT NAME: Clay Brooke  
HOH DATE: 1/12/94  
PAGE 2

- The zoning variance requests should also reference the CMDP where applicable. The section cited in "D" (i.e., 301.2) is for certain types of projections which do not exceed 4 feet into the required yard area and not over 10 feet in length. Compliance with this section is not clear on the plans. A more appropriate variance request may be per the principal building setbacks as referenced under Section 1801.2.C (BCZR). The fact that multiple variances at unspecified locations are being requested indicates possible conflict with the CMDP, Section II.A., p.33, which specifically limits the use of blanket variances to "unusual circumstances". This office will only support these non-specific variances with the understanding that the variance petition reference to required amended variance and development plans be followed. Reference this note in bold letters on all future plans: "This plan shall be amended and re-approved to indicate each and every one of the specific lots subject to the zoning commissioner's order, case number 94-222-A. Such amended development plan shall be approved prior to filing of building permits for any lot utilizing a variance granted by said order." Specific lots must be clearly indicated on these revised plans for the variances and if granted by the zoning commissioner, must be submitted for final zoning approval. Otherwise, these variances are not site specific and cannot be supported by this office as the zoning regulations make no allowance for "banking" variances against unspecified locations.

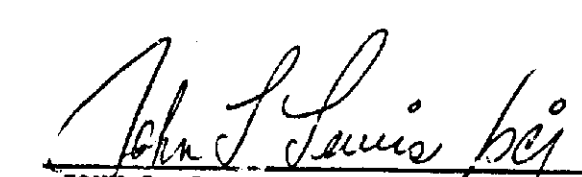
- Provide a typical height distance chart and scaled representation on the plan per zoning policy 1802.3.C.2.C (attached). Indicate, label, and dimension all tract boundary lines. Indicate all arterial streets and increase setbacks on adjacent lots by 20 feet per BCZR and CMDP or request a zoning variance. Clearly indicate how the parcels proposed at the existing Clays Lane will comply with the BCZR and CMDP requirements for setbacks. Also be aware that any zoning approval is only for those areas within the defined tract boundary. Include Parcels "A" and "B" shown reserved for future development as lots in the density calculations. Also note that no development of these parcels may not take place without further zoning review and possible zoning public hearings. Remove building envelope on Parcel "B", which will require a zoning variance to be approved. Clarify what use is intended for existing Clays Lane -- to be closed?, to remain?, ownership?, etc.

- Parking: Indicate method of parking calculations per the chart in Section II.A, page 20 (CMDP).

(OVER)

HEARING OFFICER HEARING COMMENTS  
PROJECT NAME: Clay Brooke  
HOH DATE: 1/12/94  
PAGE 3

- Signs: Provide an engineering scale elevation on the plan of all existing and proposed free-standing signs clearly indicating the type, height, dimensions, square footage, single or double-face and illumination. All signs must be keyed to their existing or proposed location on the plan print and enough detail must be shown to determine compliance with Section 413.1.E (BCZR) and all zoning sign policies or a zoning variance is required. Also warned of Section 102.5 (corner residential lots).
- Final zoning approval is contingent first, upon all plan comments being addressed on the development plan; and secondly, upon the final resolution of all comments, the outcome of any requested zoning hearings and finally, the inclusion of the FDP checklist information being included on the Final Development Plan.

  
John L. Lewis  
Planner II

JLL:scj

Attachment

## Blanket Variances

### Blanket Variances

The CMDP is a design driven document. It sets the building to building relationships and the location of a building in relation to lot-lines and rights-of-way. Consequently, the central element of a subdivision plan is the building footprint, which outlines a house's exterior perimeter, or in certain instances, building restriction lines which outline the building envelope. On development plans these footprints become the building restriction lines. Any change in these lines is a change in the spatial relationships established by the CMDP.

The redesign of a subdivision around a larger building than can be accommodated by the footprint on the development plan results in a request for a blanket variance. Since this would alter the spatial relationships established for each house type, the request for blanket variances should only be considered in unusual circumstances. In these cases the appropriate solution is to re-subdivide (re-design) the site to accommodate the larger buildings rather than approve blanket variances.





