

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE - 342 Bond Avenue, opposite Paternal Court, (The Preserve at Bond Avenue) 4th Election District 1st Councilmanic District

BY: *John E. Bittner*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitioner for Special Hearing and Variance for that property known as The Preserve at Bond Avenue, located near the Glyndon area of Northern Baltimore County. The Petitions were filed by the owners of the property, The Preserve Limited Partnership, by John E. Bittner, Vice President of Pulte Home Corporation, a General Partner, through their attorney Newton A. Williams, Esquire. The Petitioners request a special hearing to approve a refinement of the PUD-R-1 Authorization Plan, Development Plan, to permit a series of minor, previously overlooked variances on five (5) of the 47 lots approved as a PUD-R-1, known as The Preserve, and to amend the Final Development Plan for the Preserve, accordingly. In addition to the special hearing relief sought, the Petitioners seek relief from the Baltimore County Zoning Regulations (B.C.Z.R.), and the Comprehensive Manual of Development Policies (C.M.D.P.), pursuant to Section 504 of the B.C.Z.R. as follows: From Section 1801.2.C.b of the B.C.Z.R. (Residential Standards 4, 5 and 6 of the C.M.D.P.) to permit rear building faces to be within 15 feet of the rear property line in lieu of the required 25 feet for Lots 6, 19 and 33; to permit the rear building face to be within 25 feet of a rear property line in lieu of the required 30 feet for Lot 47; and to permit the front building face to be within 20 feet of the street right-of-way

line in lieu of the required 25 feet for Lot 36. The subject property and relief sought are more particularly described on the PUD-R-1 Authorization Plan submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petitioners were Jim Dean and James Grande with Pulte Home Corporation, Dick Baumer with Deft-McCune-Walker, Inc., and Newton A. Williams, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony presented revealed that the subject property consists of 15.09 acres, more or less, split zoned D.R. 2, D.R. 3.5 and D.R. 5/5. The property is located on Bond Avenue across from its intersection with Paternal Court in the Glyndon area of northern Baltimore County. This matter originally came before Zoning Commissioner Lawrence R. Schmidt for approval of a development plan and variances for the proposed development of the subject property by the then owner, The Southern Land Company. By Order issued April 22, 1993, the development plan was approved as a PUD-R-1 Authorization Plan. Following thereafter, The Preserve Limited Partnership, through Pulte Home Corporation, purchased the subject property. Testimony indicated that Pulte Home Corporation proposes to develop the site with 47 single family dwellings, although the Petitioner has a maximum density of 55.92 units. A choice of two house plans will be offered, namely the Jefferson and the Chequer, the elevations of which were entered into evidence as Petitioner's Exhibits 34 and 38. Testimony indicated that neither of the two designs will fit on any of the lots which are the subject of this variance request and thus, the requested modifications are necessary.

The originally approved development plan allowed houses in this development to be located as close as 6 feet to one another. The houses proposed by Pulte Home Corporation will result in a distance of no less

than 20 feet between each house, and thus, a more open layout will be provided. However, as a result of the proposed changes, the requested variances will be necessary for five of the lots, due to the irregular shape of the lots in question and the type of home proposed by Pulte to be consistent throughout the development. These variances are minor in nature and have the full support of the Office of Planning and Zoning.

Due to the requested variances and modifications to the development plan, the Petitioner finds it necessary to alter the forest conservation easement previously provided on the Final Development Plan. Specifically, the forest conservation easement on Lots 13, 14 and 39 will be slightly reduced. The developer has reached an agreement with the Department of Environmental Protection and Resources Management (DEPRM) that a fee in lieu of will be paid as a result of this minor reduction. This modification to the previously approved Final Development Plan will also be granted.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *Wilson v. Boley*, 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 practical difficulty or unreasonable hardship will result if the special hearing and 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 these requests 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 relief requested will cause no injury to the public health, safety or general welfare. Further, the granting of the Petitioner's requests 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 these Petitions held, and for the reasons given above, the special hearing and variance relief sought should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 10th day of May, 1994 that the Petition for Special Hearing to approve a refinement of the PUD-R-1 Authorization Plan, Development Plan, to permit a series of minor, previously overlooked variances on five (5) of the 47 lots approved as a PUD-R-1, known as The Preserve, and to amend the Final Development Plan for The Preserve, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

ORDER RECEIVED FOR FILING
Date *5/11/94*
By *John E. Bittner*

ORDER RECEIVED FOR FILING
Date *5/11/94*
By *John E. Bittner*

ORDER RECEIVED FOR FILING
Date *5/11/94*
By *John E. Bittner*



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

May 10, 1994

(410) 887-4386

Newton A. Williams, Esquire
210 W. Pennsylvania Avenue, Suite 700
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
342 Bond Avenue, opposite Paternal Court
(The Preserve at Bond Avenue)
4th Election District - 3rd Councilmanic District
The Preserve Ltd. Part., Pulte Home Corp. - Petitioners
Case No. 94-360-SRHA

Dear Mr. Williams:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have 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,

John E. Bittner
John E. Bittner, Deputy Zoning Commissioner
for Baltimore County

TWK:js

cc: Mr. John E. Bittner, Vice President, Pulte Home Corporation
1501 South Edgewood Street, Suite 8, Baltimore, MD 21227
Messrs. James Grande and Jim Dean, Pulte Home Corporation
1501 South Edgewood Street, Suite 8, Baltimore, MD 21227
People's Counsel

File



Petition for Special Hearing to the Zoning Commissioner of Baltimore County

For the property located at The Preserve at Bond Avenue, which is presently zoned D.R. 2, 3.5 and 5/5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner of the property, desires to request a Special Hearing and Variance to amend and modify the Final Development Plan, to permit a series of minor, previously overlooked variances, on five (5) lots of the PUD-R-1, known as The Preserve, and amend the Final Development Plan.

Property is to be posted and advertised as prescribed by Zoning Regulations. A Petitioner, upon the expiration of 10 days following advertisement, posting, etc., appearing at the public hearing, and further agrees to and is to be bound by the zoning regulations and modifications of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Current Petitioner:

Future Petitioner:

Signature:

Address:

City:

State:

Zip:

Phone:

Attorney:

Address:

City:

State:

Zip:

Phone:

Signature:

Date:

ORDER RECEIVED FOR FILING
Date *5/11/94*
By *John E. Bittner*



Petition for Variance to the Zoning Commissioner of Baltimore County

For the property located at The Preserve at Bond Avenue, which is presently zoned D.R. 2, 3.5 and 5/5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner of the property, desires to request a Special Hearing and Variance to amend and modify the Final Development Plan, to permit a series of minor, previously overlooked variances, on five (5) lots of the PUD-R-1, known as The Preserve, and amend the Final Development Plan.

See attached Exhibit A hereto.

of the Zoning Regulations and modifications of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

See attached Exhibit B hereto.

Property is to be posted and advertised as prescribed by Zoning Regulations. A Petitioner, upon the expiration of 10 days following advertisement, posting, etc., appearing at the public hearing, and further agrees to and is to be bound by the zoning regulations and modifications of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Current Petitioner:

Future Petitioner:

Signature:

Address:

City:

State:

Zip:

Phone:

Attorney:

Address:

City:

State:

Zip:

Phone:

Signature:

Date:

ORDER RECEIVED FOR FILING
Date *5/11/94*
By *John E. Bittner*

ORDER RECEIVED FOR FILING
Date *5/11/94*
By *John E. Bittner*

TWK:js

EXHIBIT A REQUESTED VARIANCES

- Section 1801.2.C.b. BCER and CDP Residential Standards 4, 5 and 6 pursuant to Section 504 to permit rear building face to be within 15 feet of a rear property line in lieu of the required 30 feet. (Lots 6, 19, 33).
- Section 1801.2.C.b. BCER and CDP Residential (Standards 4, 5, and 6 pursuant to Section 504 to permit the front building faces to be within 25 feet of a rear property line in lieu of the required 30 feet. (Lot 47).
- Section 1801.2.C.b. BCER and CDP Residential Standards 4, 5, and 6 pursuant to Section 504 to permit the front building faces to be within 20 feet of the street right-of-way line in lieu of the required 35 feet. (Lot 36).

EXHIBIT B JUSTIFICATION FOR OVERLOOKED VARIANCES

- In Project No. 92-285-Z, Case No. IV-443, the Hearing Officer/Zoning Commissioner approved a PUD-R-1 for the fifteen (15) acre property known as The Preserve, by Commissioner Schmidt's Hearing Officer's Opinion and Development Plan/Variance Order of April 22, 1992.
- That this Project has been purchased by Pulte Home Corporation, and Pulte wishes to develop this property with single family homes with attached garages as originally approved.
- That in the course of review by Pulte, it has been discovered that a series of minor variances were overlooked during the original case by all involved, including the Baltimore County reviewing agencies.
- That these overlooked variances include Lots 6, 19, 33, 36 and 47, only.
- That these five lots are all of an irregular shape, and all provide significant set-backs in actuality, but if set backs are measured perpendicular to the face of the buildings in question, then set back variances are needed to utilize these five lots for a single family home with attached garage as originally called for by the PUD R-1 Plan.
- That no lot lines are to be changed, and the requested variances are by way of refinement only.
- That the requested variances will not harm the health, safety and welfare of the area, but will actually foster the original intent of the Preserve PUD R-1 Plan.
- That without the requested variances, the Petitioner will sustain practical difficulty and unreasonable hardship.

IMW

IMW Associates, Inc.
200 East Development Avenue
Towson, Maryland 21204
410-296-1333
Fax: 296-1335

A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals

Description
In Accompany Petition for Zoning Variance,
15.031 Acre Parcel, Land of The Preserve Limited Partnership,
Southeast Side of Bond Avenue near Patowall Court,
Fourth Election District, Baltimore County, Maryland

Beginning for the same at a point located South 43 degrees 30 minutes 21 seconds East 12 feet, more or less, from a point on the centerline of Bond Avenue, said last mentioned point being at the distance of 56 feet, more or less, as measured northeasterly along said centerline from its intersection with the centerline of Patowall Court, 50 feet wide, running from the aforementioned beginning point eight courses: (1) South 43 degrees 30 minutes 21 seconds East 1030.06 feet, (2) South 46 degrees 03 minutes 09 seconds West 325.25 feet, (3) South 74 degrees 14 minutes 10 seconds West 374.55 feet, (4) North 62 degrees 09 minutes 39 seconds West 396.00 feet, (5) North 02 degrees 58 minutes 23 seconds West 810.15 feet, (6) North 79 degrees 31 minutes 37 seconds East 198.00 feet, (7) North 72 degrees 01 minute 37 seconds East 66.00 feet, and (8) North 63 degrees 46 minutes 37 seconds East 26.25 feet to the point of beginning, containing 15.031 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY
AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.
March 10, 1994
Project No. 92055 (L92055)



Page 1 of 1

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 4th Date of Posting: 4/8/94
Posted for: Special Hearing, Variance
Petitioner: The Preserve Limited Partnership
Location of property: 15.031 Acre Parcel, Bond Avenue near Patowall Ct.
Location of Sign: Along street on property being zoned
Remarks: None
Posted by: [Signature] Date of return: 4/8/94
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD. March 24, 1994
THIS IS TO CERTIFY, that the enclosed 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 March 24, 1994.

THE JEFFERSONIAN,
A. Henkelson
LEGAL AD. - TOWSON



6522C

6522C



receipt
94-360-SPHA

Account: R-001-6150

Number: 344
Taken on: 4/8/94

Date: 3/11/94
The Mayor, Mr. Pulte Home Corp.
Bond Avenue
010 - See Inventory - 5 lots - \$ 250.00
040 - Special Hearing - \$ 750.00
080 - 2 signs (\$125.00 each) - \$ 250.00
\$ 1,250.00

6520/9017467088 \$270.00
04015312003-11-94

Cashier Validation

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DUE DATE: CLOSING DATE OF HEARING DATE

INVOICE

Horton A. Williams, Esq.
210 W. Pennsylvania Avenue, #700
Towson, Maryland 21204

CASE NUMBER/PROJECT NAME: 94-360-SPHA
(2) Zoning Notice Sign and Post Set(s) @ \$60.00/set = \$120.00 Due*

THIS IS A PENALTY CHARGE. IN LIEU OF PAYMENT, WE WOULD PREFER THAT YOU RETURN THE SIGN/POST SET(S) AND USE OF THE INVOICE WAIVER BELOW.

INVOICE WAIVER

CASE NUMBER/PROJECT NAME: 94-360-SPHA
Returned _____ Zoning Notice Sign and Post Set(s).

DATE _____ For SIGN

*Amount Due waived upon return of the complete sign and post set(s).
When you return same, bring this form with you.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

NOTING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbors 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:

- Posting fees will be assessed and paid to this office at the time of filing.
- 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 ORDERS.

[Signature]
ARNOLD JENSEN, Director

For newspaper advertising:

File No.: 344

Petitioner: The Preserve Ltd Partnership (Pulte Home Corp)
Location: South Side of Bond Avenue near Patowall Court
Location: 15.031 Acre Parcel, Bond Avenue near Patowall Court

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Horton A. Williams (Horton, Pulte Home & Williams)
ADDRESS: 210 W. Pennsylvania Ave
Towson, MD 21204

PHONE NUMBER: 823-7801

*MUST BE SUPPLIED

Item Number: 344
Planner: NAK
Date Filed: 3-11-94

PETITION PROCESSING FLAG

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the filing. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney

- The following information is missing:
- ☐ Descriptions, including accurate beginning point
 - ☐ Actual address of property
 - ☐ Zoning
 - ☐ Acreage
 - ☐ Plats (need 12, only 1 submitted)
 - ☐ 200 scale zoning map with property outlined
 - ☐ Election district
 - ☐ Councilmanic district
 - ☐ BCER section information and/or wording
 - ☐ Non-policy/practical difficulty information
 - ☒ Owner's signature (need address and telephone number)
 - ☒ Petitioner's signature (need address and telephone number)
 - ☒ Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address
 - ☒ Signature (need minimum 1 original signature) and/or printed name and/or title of person signing for legal owner/contract purchaser
 - ☐ Power of attorney or authorization for person signing for legal owner and/or contract purchaser
 - ☐ Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
 - ☐ Notary Public's section is incomplete and/or incorrect and/or commission has expired

PET-FLAG (TOWSON)
1/17/93

TO: POTENTIAL PUBLISHERS COMPANY

March 28, 1994 Issue - Information

Please forward billing to:

Newton A. Williams, Esq.
Helen, Plumbhoff & Williams, Chartered
700 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204
822-7800

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 to hear the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 610 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-360-SPHA (Item 344)
RE: 700 Court Towers, opposite Federal Court
The Preserve
4th Election District - 3rd Councilmember
Petitioner(s): The Preserve Limited Partnership, Pulse Home Corporation
HEARING: MONDAY, APRIL 25, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Special hearing to approve a refinement of the PUD-B-1 Authorization Plan, Development Plan, to permit a series of minor, previously unreviewed variances, on 5 lots of the 47 lots approved and PUD-B-1 home as the Preserve and amend the Final Development Plan.
Variance to permit rear building face to be within 15 feet of a rear property line in lots of the required 30 feet for lots 4, 19, and 20 to permit rear building face to be within 25 feet of a rear property line in lots of the required 30 feet for lot 47 and to permit the front building face to be within 30 feet of the street right-of-way line in lots of the required 25 feet for lot 36.

LAURENCE L. SCHMITZ
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTE: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3393.
(2) FOR INFORMATION CONCERNING THE FILE NUMBER HEARING, CONTACT THE OFFICE OF 867-3393.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

MARCH 18, 1994

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 to hear the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 610 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-360-SPHA (Item 344)
RE: 700 Court Towers, opposite Federal Court
The Preserve
4th Election District - 3rd Councilmember
Petitioner(s): The Preserve Limited Partnership, Pulse Home Corporation
HEARING: MONDAY, APRIL 25, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Special hearing to approve a refinement of the PUD-B-1 Authorization Plan, Development Plan, to permit a series of minor, previously unreviewed variances, on 5 lots of the 47 lots approved and PUD-B-1 home as the Preserve and amend the Final Development Plan.
Variance to permit rear building face to be within 15 feet of a rear property line in lots of the required 30 feet for lots 4, 19, and 20 to permit rear building face to be within 25 feet of a rear property line in lots of the required 30 feet for lot 47 and to permit the front building face to be within 30 feet of the street right-of-way line in lots of the required 25 feet for lot 36.

Carl J. Jahn
Arnold Jablon
Director

RE: The Preserve Limited Partnership
Newton A. Williams, Esq.

NOTE: (1) HEARING IS OPEN FOR 15 MINUTES TO BE RETURNED TO THE 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3393.
(3) FOR INFORMATION CONCERNING THE FILE NUMBER HEARING, CONTACT THE OFFICE OF 867-3393.

Printed with Recycled Paper
and Soy-Based Inks

(410) 867-3353

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

April 8, 1994

(410) 867-3353

Newton A. Williams, Esquire
Helen, Plumbhoff & Williams, Chartered
700 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Case No. 94-360-SPHA, Item No. 344
Petitioner: The Preserve Limited Partnership/
Pulse Home Corporation
Petitions for Special Hearing and Variance

Dear Mr. Williams:

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 commission, 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 March 11, 1994, 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.



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

3-17-94

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

Re: Baltimore County
Item No. 7344 (MTR)

Dear Ms. Minion:

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 410-333-1550 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for *PAUL H. SANCY, ACTING CHIEF*
John Combs, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
800-735-2296 Statewide Toll Free
Mailing Address: P.O. Box 217 - Baltimore, MD 21203-0217
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

111 West Chesapeake Avenue
Towson, MD 21204

April 11, 1994

(410) 867-3353

Newton A. Williams, Esquire
Helen, Plumbhoff & Williams, Chartered
700 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Case No. 94-360-SPHA, Item No. 344
Petitions for Special Hearing and Variance

Dear Mr. Williams:

Enclosed are copies of comments received from the Office of Planning and Zoning on April 11, 1994 for the above-referenced case. If there are any questions, please do not hesitate to call me at 867-3393.

Sincerely,

Charlotte Minion
Charlotte Minion

Enclosure

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

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

DATE: April 5, 1994

SUBJECT: The Preserve

INFORMATION:

Item Number: 344

Petitioner: The Preserve Ltd/Pulse Home Corp

Property Size:

Zoning: DE 2, 3.5, and S-5

Requested Action:

Hearing Date:

JOURNALS OF RECOMMENDATIONS:

The Office of Planning and Zoning has reviewed the variance request for The Preserve and offers the following comments:

1. This project was reviewed and approved under the PUD-B1 regulations that permit flexibility in the application of land use regulations to encourage a higher degree of design than would be obtained through conventional application of the regulations. This flexibility, which generally results in variance requests, is to be allowed in exchange for better designed projects, not to ensure a developer maximum density.
2. Accurately drawing and measuring the setbacks on a Development Plan is not the responsibility of the County, but rather the developer's engineers. Please note that the building envelopes for lots 19 and 47 were redrawn for the variance request and differ from the approved Development Plan and the measurements for lots 36 and 53 that are the subject of the variance request were not shown on the Plan.
3. The conditions generating these particular variance requests are self created. Quite simply, the developer created a number of oddly shaped lots of insufficient size to accommodate the different house types the builder would now like to use in this development.

ZAC 344/PZ006/ZAC1

Page 1

SEND TO: Arnold Jablon, Director, ZACM
FROM: Pat Baller, Deputy Director, OPZ
SUBJECT: The Preserve ZAC #344

DATE: April 5, 1994

4. It has become the practice among some in the development community to request variances after the concentrated public and governmental review process rather than appropriately designing and siting the lots in the beginning. The PUD process was created to allow developers/builders to customize site plans for a particular house style or site plan layout. Changing the house style can often significantly change the Plan as approved.

5. The flexibility needed to accommodate different house styles and sizes should be enabled through good site design with adequately sized lots and not by petitioning the County for variances AFTER final review and approval.

Under most circumstances, this Office would not support these types of variance requests. However, in this situation, it appears that smaller and possibly conspicuously different houses would be placed on these five lots if the variances are not granted. Except for Lot 36, the variances are for rear yard setbacks and except for lots 19 and 47, these rear lots into open space. The Office requests that there be additional landscaping between lots 47 and 43 and between lots 19 and 21 to mitigate the visual impact of the smaller rear yards.

Prepared by:

Division Chief: *Arnold Jablon*

PR: Available

ZAC 344/PZ006/ZAC1

Page 2

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 867-4500

DATE: 03/28/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW
LOCATION: SEE BELOW

Item No. 1: SEE BELOW

Zoning Agenda:

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.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 1987 MID 344.

REVIEWER: LT. ROBERT P. SAUERHAUD
Fire Prevention, PHONE 867-4681, MS-1108F

cc: File

Printed with Recycled Paper
and Soy-Based Inks

FAX COVER SHEET

Date: 4/20/84
To: Underwriters
From: NP-W
Fax No.: 286-2165
Total Number of Pages including Cover Sheet: 5
Project Name: Dick-Bauer
Project No.: 92055-DK
Remarks: Tuesday, November

Testimony Outline - Dick Bauer
The Preserve Variance (Hearing April 26, 1984)
DMW Project No. 128803

1 Introduction
My name is Richard Bauer. My address is 200 E. Pennsylvania Ave. in Towson. I am a Professional Engineer and Senior Associate with Duff-McCune-Walker, Inc. and have been with DMW since 1982. I possess a Bachelor's Degree from the University of Maryland and a Master's Degree in Urban Planning from the Johns Hopkins University. I have appeared before the County Zoning Commission on several occasions, including the original hearing for The Preserve held on April 14, 1983. At that time I appeared before you, Mr. Schmidt as the project manager for DMW handling the design and preparation of plans for this project, which at the time was being developed by The Southern Land Company.

As you will recall, Mr. Commissioner, this project was approved by your order dated April 26, 1983 as a PUD R1 development with a number of variances. The purpose of the PUD was to create a consistent project design for a 15 acre tract that is divided roughly into thirds by three different zoning districts DR2, DR 5.5, and DR 5.5. The site is a gently sloping tract that was used as a residence and the agriculture. Its characteristic features is the presence of several large specimen trees, around which the project was designed. This project was one of the first PUD R1 developments in the county and was the first project in the county subject to the county's Forest Conservation Regulations. The site is surrounded by the following:

- Existing development on the west
- Existing single family dwellings on small lots (1/4 acre or less) to the South and southeast.
- Existing single family dwellings on larger lots (1/4 acre or larger) across Bond Avenue to the north.
- Agricultural land to the east.

The Preserve was developed with 47 single family dwelling lots in lots of the 36 lots which the existing would otherwise permit. This was done in order to provide a design which can be termed transitional in density between the

townhouses and small single family lots to the south and west and the larger single family lots to the north and in other developments to the northwest; and a project that is consistent with existing development to the east.

It also allowed us to design a project which has a larger amount of Open Space than would otherwise have been provided had the project been developed in strict conformance with the Zoning Regulations without the PUD designation.

This Open Space serves a variety of functions:

- Preserve most of the significant existing trees on the property
- Provide an area for development of common open space improvements for the residents, including a pathway, picnic area, and pet lot.
- Provide an area to provide a regional drainage management facility for the watershed. This facility not only manages this property, but is designed to alleviate some existing problems with the capacity of existing storm drains in the Glen Oaks Development.
- Accommodate a Forest Plantation for the site and for the watershed in a way that integrity includes this function in the design of the project.
- Provide a central area for placement of most of the Forest Conservation plantings and easements.

2 Variances

As I mentioned earlier, and as stated in your order of April 22, 1983, there were a number of issues addressed during the original hearing. Specifically as to the reasons we are here today, there were a number of setback variances granted at that time. These variances were granted to provide consistency of design in the PUD, and to grant some relief also related considering the large amount of open space being provided in this development. As it has turned out, with Public taking over this project as the developer and builder, the Public wants to do the maximum of what the relief granted during the original hearing. Specifically, Public's units contain garages which are integral to the two story structure, as opposed to the single story attached garage which was anticipated at the time. Refer to the elevation and the Builder's Plot.

As a result of this different unit type, while there is no longer a need to take advantage of the side yard variances on 46 of the 47 lots, there has developed a need to seek consistent rear yard relief for 5 lots. Each of these 5 requests is a result of specific unusual lot configurations or circumstances which we could not have anticipated at the time of the original hearing. They were discovered in December, 1983, as we worked with Public to complete final detailed design of the subdivision for their units. This request is as follows:

- 15' rear building face to property line instead of 30' for lots 6, 17, and 33. Each of these lots are unusually shaped and the need for the variance addresses only a portion of each rear, not the entire building.
- 25' rear building face instead of 30' for lot 47. This variance is needed because the unit for this lot is constrained by lot width and an extra front yard depth to maintain depth on Bond Avenue. This smaller rear yard does not cause any amount of overcrowding because the lot backs up to two of the largest rear yards in the Development. There are also forest conservation plantings planned between these houses. There will be supplemented by additional plantings as requested by Zoning Office. I should also like to note that Public has elected to place a smaller unit on this lot than is planned for the rest of the subdivision. This is why only five feet of relief is being requested. The front elevation of this unit is similar to the others. It is narrower than the others, but in so doing, provides an appropriate transition to the existing houses to the west on Bond Avenue.
- Front building face 25' to R/W line rather than 25' for lot 36. The unusual configuration of the front of this lot is seen on the plan. The variance compensates for this configuration in a way that allows placement of the unit on this lot in a manner that allows us to meet all other setback requirements.

3 FDP Revisions

The final design of this project also requires a slight modification to the Forest Conservation Easement on three lots. As I mentioned earlier, this was the first plan in Baltimore County subject to the Forest Conservation Regulations. As such, it became a trial run for several items, including placement of forest conservation easements on private lots. At the time of the original design, we did not anticipate that a hardship would be created for a homeowner in these cases. We discovered in December, however, that this would not be the case. We discovered a hard to reduce the size of the

easement on three lots (3, 14, and 39) in order to give the owner adequate space for building driveways, and some minimal amount of private space. We have discussed these easement with DEPRM, and shown the revisions on the Final Development Plan. Assuming these changes are approved today, the easement revisions will then be made on an amended subdivision plan.

Conclusion
These easement changes and variances essentially complete the PUD R1 case from last year. They require no significant changes to the design of the subdivision and its lots. In my opinion, without these changes, the builder would experience practical difficulty, as would the future homeowners, because we would not otherwise be able to meet the PUD R1 design goal of providing consistent house types and streetscape design which were elements of careful consideration in the original design.

In our exhaustive consideration of the design of this project, we have come forward with this request for minimal modifications to the original design, and we have developed a final design which provides greater distance between sides of units than was originally possible with the development. More wholesale consideration of additional variances was given and rejected.

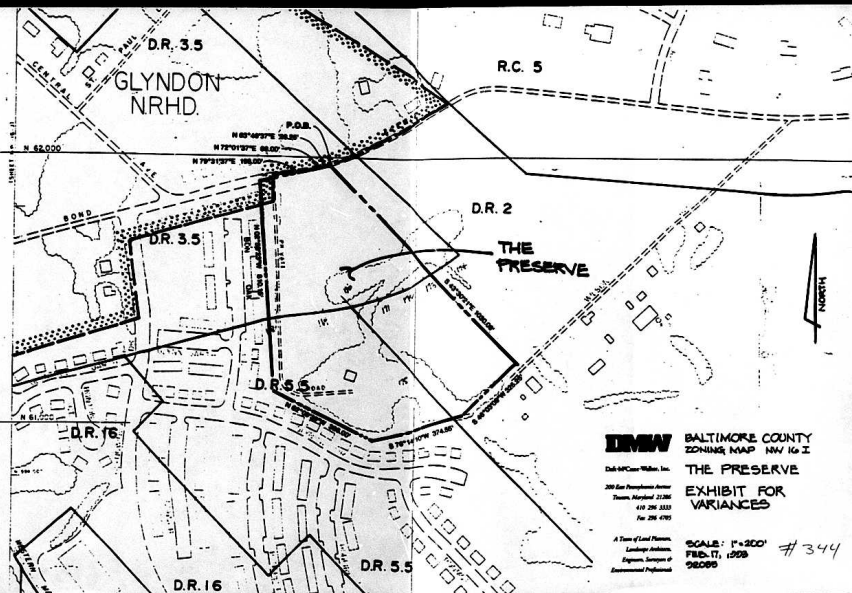
Also, in my opinion, and in my capacity as a Professional Engineer registered in the state of Maryland, the granting of these changes, and specifically the new variances, will not be injurious to public health, safety and general welfare; the requested relief will not increase residential density beyond that allowed by the Zoning Regulations; and the requested relief is in keeping with spirit and intent of the Zoning Regulations and the original design of the subdivision.

PLEASE PRINT CLEARLY

PROTESTIONER'S SIGN-IN SHEET

94-360-SPHA

NAME: Walter A. Williams 7000 East Towson, Towson, Md.
Dick Bauer DMW, 200 East Pennsylvania Ave., Towson, Md.
Jim Over Baltimore, Md. & Glen Ridge, N.J.
James Hunt 2nd St. Baltimore, Md.

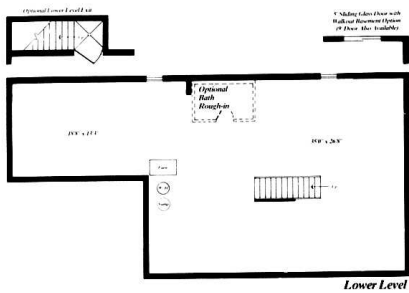


The Jefferson III



Pkt 3B

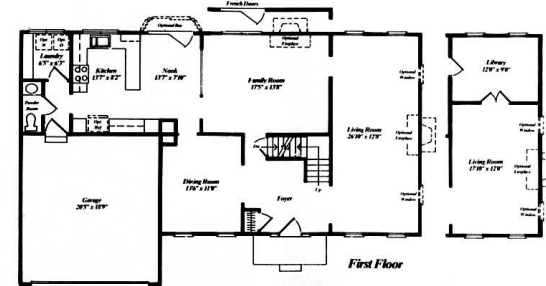
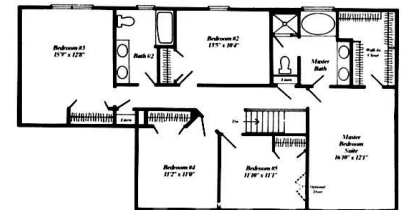
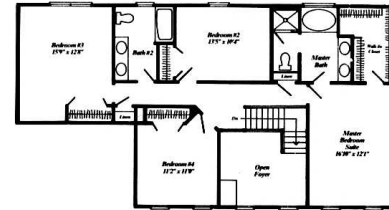
PULTE
Master Builder



Options and floor plans may vary from comments to comments. Illustrations and dimensions are approximate. We are prohibited by the Fair Housing Act from making any statement or implication of racial housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.



The Jefferson III

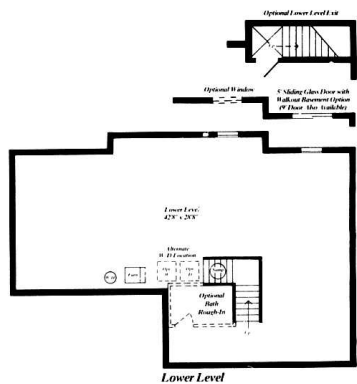


The Chaucer



Pkt 3A

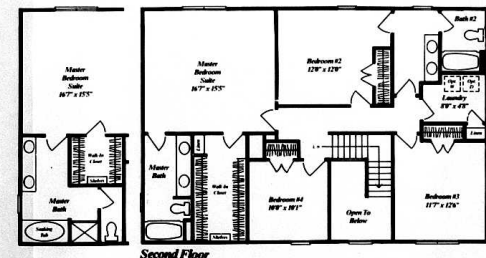
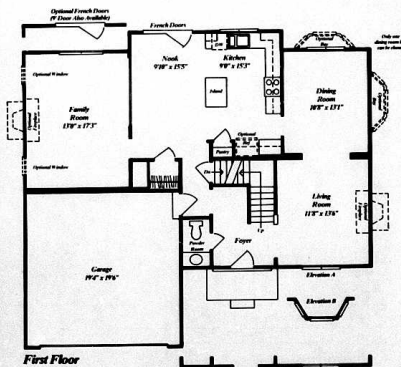
PULTE
Master Builder

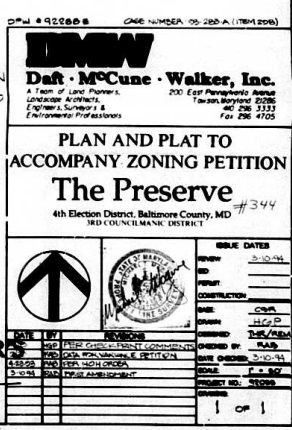


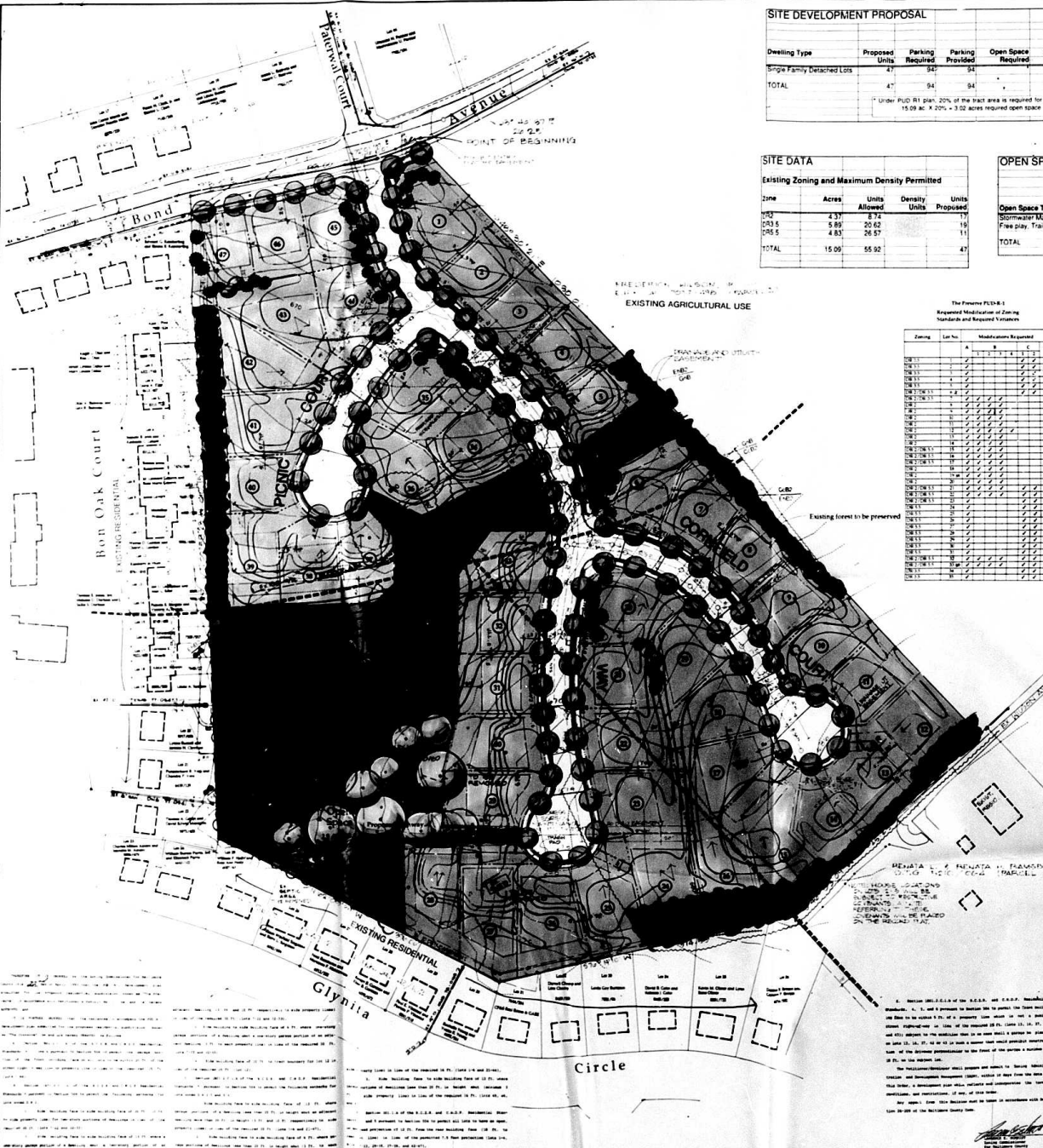
Options and floor plans may vary from comments to comments. Illustrations and dimensions are approximate. We are prohibited by the Fair Housing Act from making any statement or implication of racial housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.



The Chaucer





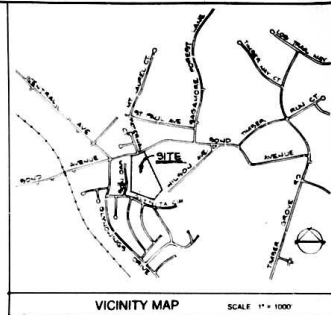


SITE DEVELOPMENT PROPOSAL						
Dwelling Type	Proposed Units	Parking Required	Parking Provided	Open Space Required	Open Space Proposed	Phase Development Schedule (Years)
Single Family Detached Lots	47	94	94		3.14 ac	1
TOTAL	47	94	94			

* Under PUD #11 plan: 20% of the tract area is required for open space
 15.09 ac ÷ 4.20% = 3.52 acres required open space

SITE DATA				
Existing Zoning and Maximum Density Permitted				
Zone	Acres	Units Allowed	Density Units	Units Proposed
DR2	4.37	8.74		17
DR3.5	5.89	20.62		16
DR5	4.83	26.57		16
TOTAL	15.09	55.92		49

OPEN SPACE PROPOSAL	
Open Space Type	Acres
Stormwater Management Drainage	2.32
Free play, Trails & Natural areas	0.78
TOTAL	3.1

[illegible][illegible]

3-10-94 REASON FOR FIRST AMENDMENT
TO ADD VARIANCES F, G AND H, REQUESTING RELIEF WHICH
WAS NOT ANTICIPATED AT TIME OF THE ORIGINAL HEARING
AND MODIFY FOREST CONSERVATION EASEMENT ON LOTS
13, 14, & 39.

DMW
Draft • McCune • Walker, Inc.
 A Division of Draft Associates, Inc. 200 East Maryland Avenue
 Lexington, A.C. 21702 The University Center
 1200 North University Blvd. Lexington, KY 40506
 Telephone: (606) 251-1111 Fax: (606) 251-4705
 Engineering Professionals

**PLAN AND PLAT TO
 ACCOMPANY ZONING PETITION**

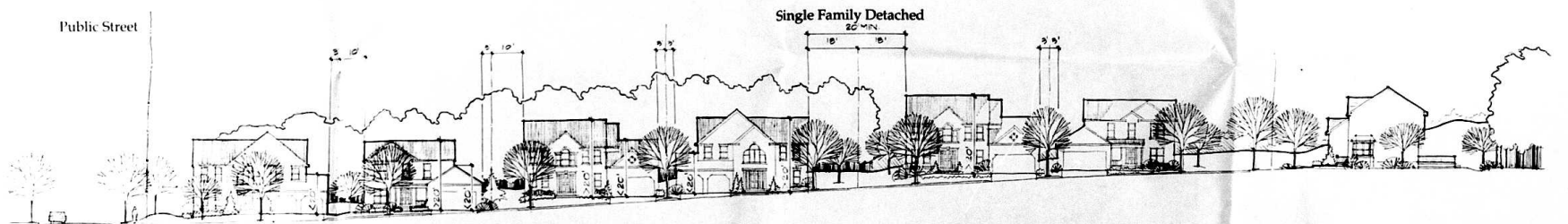
The Preserve
 4th Election District, Baltimore County, MD
 3RD OF NORTHMANE DISTRICT

 *John McCune*

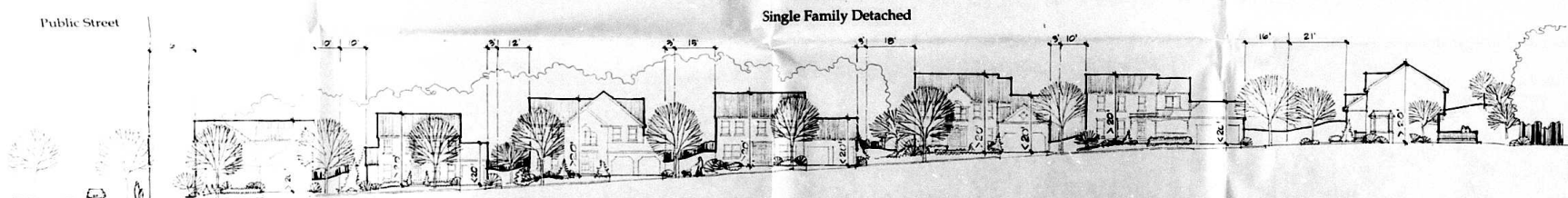
DATE		BY		REVISIONS	
DATE	BY	DATE	BY	DATE	BY
4/25/82	DMW				
5/24/82	DMW				

REVIEW	DATE
DESIGNED	4/25/82
DRAWN	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	4/25/82
DESIGNED BY	DMW
DATE	4/25/82
DRAWN BY	DMW
DATE	4/25/82
CHECKED BY	DMW
DATE	

Pkt. #4



A-1



A-2

Concept Plan Site Sections The Preserve

Baltimore County, MD

Prepared for: Southern Land Company, Inc.
Prepared by: Delf McCune Walker, Inc.

Project No. 92055.X
Scale: 1/16" = 1'-0"
Date: January 4, 1993

Note: Dimension added March 26, 1993

BOND

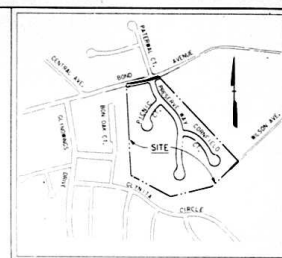
AVENUE

PALENTAL CT.

PICNIC WAY

PRESERVE WAY

MATCH LINE SEE SHEET 2 OF 2



LOCATION MAP

BENCHMARK

DESCRIPTION
 H.B. NO. 1728 ELEV. 41.24
 TALL PINE N. 1/2 SEC. 10E TOW. 11N
 DESCRIPTION
 H.B. NO. 442 ELEV. 40.21
 TALL PINE N. 1/2 SEC. 10E TOW. 11N

Red #5

DATA SOURCES
 ROAD AND UTILITY LAYOUT SHOWN HEREON ARE AS SHOWN ON PUBLIC ROAD
 AND UTILITY PLANS NOS. 93-0869 TO 93-0871

EXISTING CONTOURS SHOWN HEREON ARE TAKEN FROM MASS GRADING PLAN
 DATED 7-6-60 PREPARED BY DMV INC.

ROAD RIGHT-OF-WAY AND LOT LINES SHOWN HEREON ARE TAKEN
 FROM THE PLAT OF THE PREVIOUS RECORDING, THE LAND RECORDS
 OF BALTIMORE COUNTY IN PLAT BOOK 181, PAGE 183.

DMV
 DeMunnick Walker, Inc.
 300 East Pennsylvania Avenue
 Towson, Maryland 21206
 (410) 296-3333
 Fax 296-4706

A Team of Land Planners,
 Landscape Architects,
 Engineers, Surveyors &
 Environmental Professionals

BUILDER'S PLAT

THE PRESERVE

4TH ELECTION DISTRICT

BALTIMORE COUNTY, MD



ISSUE DATES

REVIEW

DESIGNED

CONSTRUCTION

BASE

DRAWN

CHECKED

DATE CHECKED

SCALE

PROJECT NO.

DRAWN

1 OF 2

Check Restrictions

Section 301.1.A of the Baltimore County Zoning Regulations allows a one-story open porch, open on three sides (i.e. a deck) with a roof to extend into the required rear yard (which is 30 feet deep except for lots 6, 19, 33, and 47 by not more than 7.5 feet. A variance from Section 301.1.A was granted allowing units on lots 14, 16-18, 17-23, 25-35, 37-39 and 42-46 to have a deck extending up to 12 feet from the house, in cases in which Section 301.1.A would otherwise prohibit this width.

The width of decks may be further restricted by the presence of Forest Conservation Easements. See the Comments for further detail.

Lots 6, 19, 33 and 47 are special cases due to the shape of these lots and other variances which have been requested. Decks for these lots should be reviewed by the builder's engineer or the Zoning Office prior to permit application.



DATA SOURCES:
 ROAD AND UTILITY LAYOUT SHOWN HEREON ARE AS SHOWN ON PUBLIC ROAD
 AND UTILITY PLANS NOS 85-0659 TO 85-0871
 EXISTING CONTOURS SHOWN HEREON ARE TAKEN FROM MASS GRADING PLAN
 DATED 7-6-90 PREPARED BY DAVI INC.
 ROAD RIGHTS EASEMENTS AND LOT LINES SHOWN HEREON ARE TAKEN
 FROM THE PLAT OF THE PRESERVE RECORDED AMONG THE LAND RECORDS
 OF BALTIMORE COUNTY IN PLAT BOOK 164-40 PAGES 153.

DMW
 Dan McCune Builders, Inc.
 200 East Pennsylvania Avenue
 Towson, Maryland 21286
 (410) 296-3323
 Fax 296-4705

A Team of Land Planners,
 Landscape Architects,
 Engineers, Surveyors &
 Environmental Professionals

BUILDER'S PLAT THE PRESERVE

4TH ELECTION DISTRICT

BALTIMORE COUNTY, MD.



REVISION	DATE
NO.	1-16-94
PERMIT	
CONSTRUCTION	
BASE	1/24
DRAWN	JDA
CHECKED	JDA
DATE CHECKED	2/2/94
SCALE	1" = 30'
PROJECT NO.	200358
DRAWING	

Deck Restrictions
 Section 301.1A of the Baltimore County Zoning Regulations allows a one-story open porch, open on three sides, i.e. a deck with an end wall, to extend into the required rear yard (which is 30 feet deep except for lots 6, 18, 23, and 47) by not more than 7.5 feet. A variance from Section 301.1A may be granted allowing entry on lots 14, 8-14, 17-23, 29-35, 37-39 and 42-48 to have a deck extending up to 12 feet from the house, in cases in which Section 301.1A would otherwise prohibit this use.
 The width of decks may be further restricted by the presence of Forest Conservation Easements. See the Commission for further details.
 Lots 6, 18, 33 and 47 are special cases due to the shape of these lots and other variances which have been requested. Decks for these lots also should be reviewed by the builder's engineer or the Zoning Office prior to permit application.

