



### **City of La Porte Zoning Board of Adjustment Meeting Agenda**

Notice is hereby given of a **Special Called Meeting** of the La Porte Zoning Board of Adjustment to be held on **November 12, 2013**, at **6:00 P.M.** at City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, regarding the items of business according to the agenda listed below:

1. Call to order
2. Elect a Chairman
3. Consider approval of September 26, 2013, meeting minutes.
4. A public hearing will be held to consider Variance Request #13-93000006 for the property located at 2322 Eagle Lane, further described as Lot 53, Block 2, Lakes at Fairmont Greens, Section 1, W. P. Harris Survey, Abstract 30, La Porte, Harris County, Texas. The applicant seeks a variance to allow 3.8 feet encroachment into the rear 15' building setback line, which is prohibited by the Code of Ordinances. The variance is being sought under the terms of Section 106-192(b) (2) of the City's Code of Ordinances.
  - A. Staff Presentation
  - B. Applicant Presentation
  - C. Public Comments
  - D. Question and Answer
5. Administrative Reports
6. Board Comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy
7. Adjourn

A quorum of City Council members may be present and participate in discussions during this meeting; however, no action will be taken by Council.

In compliance with the Americans with Disabilities Act, the City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281.470.5019.

### **CERTIFICATION**

I certify that a copy of the November 12, 2013, agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the \_\_\_\_ day of \_\_\_\_\_ 2013.

\_\_\_\_\_ Title: \_\_\_\_\_

**Out of consideration for all attendees of the meeting, please turn off all cell phones and pagers, or place on inaudible signal. Thank you for your consideration.**

# **MINUTES**

**Zoning Board of Adjustment  
Minutes of September 26, 2013**

**Board Members Present:** Rod Rothermel, Chester Pool, Charles Schoppe, T.J. Walker, Sherman Moore, and Nettie Warren (Alt 1)

**Board Members Absent:** Lawrence McNeal (Alt 2)

**City Staff Present:** City Planner Masood Malik, Assistant City Attorney Clark Askins, and Office Coordinator Peggy Lee

**1. Call to Order.**

Vice-Chairman Rod Rothermel called the meeting to order at 6:00 p.m.

**2. Consider approval of the August 22, 2013, meeting minutes.**

With no objection presented, the August 22, 2013, minutes were approved as presented.

- 3. A public hearing will be held to consider Variance Request #13-93000005 for property located along Canada Road, further described as TRS 692C, 693B, 706 and 707, La Porte Outlots, as recorded in Volume 83, Page 344, of the Deed Records of Harris County, William M. Jones Survey, Abstract 482, La Porte, Harris County, Texas. The applicant, Mariposa Pecan Park, L.P., seeks a variance to reduce the off-street parking requirement for proposed "Mariposa at Pecan Park" along Canada Road. The variance is being sought under the terms of Section 106-192 (b) (2) (b) of the Code of Ordinances.**

**A. Staff Presentation**

City Planner Masood Malik presented the staff report for Variance Request #13-93000005. The applicant is requesting a reduction in the number of parking spaces required for a proposed 180-unit apartment complex for adults 55 years and older to be located along Canada Road. The applicant is requesting approval to provide 1.3 parking spaces per unit; staff is recommending 1.4 parking spaces per unit. Mr. Malik provided examples of the number of parking spaces allowed at other senior facilities in La Porte and in surrounding cities.

Public hearing notices were mailed to 21 property owners located within 200' of the subject tract. The City received two responses in favor of the variance, one of which was from the Pecan Crossing Homeowners' Association.

**B. Proponents**

Casey Bump, 901 Red River Apt. 1310, Austin, TX, was sworn in by Vice-Chairman Rothermel. Mr. Bump provided Board Members with a brochure about the company he represents - Bonner Carrington, who will own, maintain, and operate the apartments. Mr. Bump provided a brief summary of his request.

**C. Opponents**

There were no opponents.

**D. Proponents Rebuttal**

There were no rebuttals.

Motion by Sherman Moore to approve Variance Request #13-93000005, reducing the number of required off-street parking spaces to 1.3 parking spaces per unit for proposed Mariposa at Pecan Park along Canada Road. Second by Chester Pool. Motion carried.

Ayes: Rod Rothermel, Chester Pool, Charles Schoppe, T.J. Walker, Sherman Moore  
Nays: None

Assistant City Attorney Clark Askins read from Section 106-196 of the Code of Ordinances: *Appeals from the Board of Adjustment.*

**4. Administrative Reports**

Mr. Malik reported on the following proposed developments:

- Lakes at Fairmont Greens - approximately 60% complete
- Retreat at Bay Forest North – construction underway
- 75-lot residential subdivision west of Sens Road and north of Spencer Highway is being proposed

**5. Board comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy.**

There were no comments from the Board.

**6. Adjourn**

Motion by Chester Pool to adjourn the meeting. Second by T.J. Walker. The meeting was adjourned at 6:35 p.m.

Respectfully submitted,

\_\_\_\_\_  
Peggy Lee  
Secretary, Zoning Board of Adjustment

Passed and Approved on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Rod Rothermel  
Vice-Chairman, Zoning Board of Adjustment

**VARIANCE REQUEST  
# 13-93000006**

**2322 Eagle Lane**

**EXHIBITS:**

STAFF REPORT

APPLICATION FOR VARIANCE

EXHIBIT A – AREA MAP

EXHIBIT B – PLOT PLAN

EXHIBIT C - SECTION 106-333, CODE OF ORDINANCES

EXHIBIT D – PUBLIC NOTICE RESPONSE (none received)

# Staff Report

November 12, 2013

## Variance Request #13-9300006

- Requested by:** D. R. Horton (Builder) c/o Lori Evans
- Requested for:** Waiver of 3.8' from the City's rear building setback requirement of 15' on Lot 53, Block 2, Lakes at Fairmont Greens, Section 1.
- Location:** Lakes at Fairmont Greens, Section 1, Lot 53, Block 2, Film Code No. 620028, M.R.H.C., W. P. Harris Survey, A-30, La Porte, Harris County, Texas. This property is further described as being located between State Highway 146 and the Bay Forest Golf Course, south of Wharton Weems Boulevard.
- Zoning:** Planned Unit Development (PUD)
- Land Use Plan:** Low-Density Residential

**Background:** Lakes at Fairmont Greens is a residential subdivision located along State Highway 146 South west of the Bay Forest Golf Course. Under the terms of Development Ordinance 1444, this development is classified as a major subdivision.

The subdivision consists of 92 lots, 2 blocks, 2 reserves, and two points of entry/exit along Wharton Weems Boulevard. A density of 2.70 dwelling units per acre conforms to the Code of Ordinances, Section 106-333, Table B, residential area requirements of the City.

The builder, D. R. Horton, began construction last year on ten lots in the subdivision. A model home was completed in September, 2012, and subsequently more lots were added to the inventory. Nearly, 65% of the subdivision is built-out.

The homeowner of lot 53 has selected Plan No. W464. The subject lot specifications are as follows:

Lot Area:	70'x115'
Depth of lot:	115'
Front building setback:	25'
Rear building setback:	15'
Side building setback:	5'
<b>Available building area depth:</b>	<b>75'</b>

The homeowner intends to build a house, which requires a buildable area depth of **78.8'** to accommodate bay window in the master bedroom. Using the City's setback standards for the rear building line, the submitted plan does not meet the requirements. Staff discussed the following options with the applicant:

- re-arrange the building layout within the existing lot area to comply with setback requirements; or
- submit a variance to the Board of Adjustment seeking relief of the rear building setback.

Citing Section 106-192 B (2) b, the applicant is seeking a variance to reduce the required rear setback from 15' to 11.2'.

The applicant has stated that reducing the rear building setback will allow the builder to honor the executed sales contract with the prospective buyer and subsequently improve sales of the remainder of lots in the subdivision.

**Analysis:**

Section 106-192 B(1), in the Code of Ordinances, defines a *variance as deviation from the literal provisions of the chapter which is granted by the Board when strict conformity to the chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.*

*Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement when the board finds that all of the following conditions have been met.*

- ❖ *That the granting of the variance will not be contrary to the best public interest.*
- ❖ *That literal enforcement of the chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions; and*
- ❖ *That by granting the variance, the spirit of the chapter will be observed.*

The Board is charged with deciding if the applicant's request to have rear building setbacks at 11.2' instead of 15' per Code of Ordinances is reasonable and whether all of the above conditions have been met.

The applicant believes that imposing current setbacks will void the contract and may cause potential loss of these homes in the subdivision. The applicant requests that the Board recognize this as a hardship.

**Conclusion:**

Variance Request seeks reduction of 3.8' rear building setback for Lots 53, Block 2, Lakes at Fairmont Greens, Section 1, contrary to the City's Code of Ordinances. The circumstances, however, for the requested variance is due to the property owner's own action. Physical shape, width and depth of these lots do not present any situation unique to the property. The applicant's variance request does not appear to meet the spirit of the Zoning Ordinance.

The Board may consider:

- *Granting the variance and allow a reduction of 3.8' on the rear building setback line.*
- *Denying the variance thereby denying construction of the building encroaching upon the rear building setback.*

**Appeals:**

*As per Section 106-196 of the Code of Ordinances of the City of La Porte: Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code Section 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the Board of Adjustment.*

CITY OF LA PORTE  
ZONING BOARD OF ADJUSTMENT  
VARIANCE REQUEST

OFFICE USE ONLY: Fee: \$150.00

Application No.: 13-9300006  
Date Received: 10-1-13  
Receipt No.: 720

Note: This Fee is Non-Refundable Regardless of the Board's Decision

Applicant: DR Horton Builders  
Name  
56 Sugar Creek Blvd 281-566-2100  
Address Phone  
Sugar Land TX 77478

I am the owner of the herein described property. I have authorized \_\_\_\_\_  
to act on my behalf in this matter.

Owner\*: Same As Above  
Name  
Address Phone

I am requesting a variance to Sect. \_\_\_\_\_ of the City Zoning regulations Chapter 106 of the  
Code of Ordinance.  
I am requesting this variance for property located at 2322 Eagle Lane  
Street Address  
Lot 53, Block 2 Sec 2 of Lakes at Fairmont  
Legal Description  
Greens

Site Plan  
 Major Development Site Plan  
 Minor Development Site Plan  
 General Plan

A Site Plan of the property is attached. Also, I have listed the information requested below on the  
following pages of this form.

- a) All facts concerning the matter that has led up to this request.
- b) The type of relief I am seeking (setbacks, lot coverage, etc.).
- c) The grounds upon which I am making this request.

If applicant is NOT the owner, he must provide Authorization to act on the Owner's behalf.  
10/1/13 ~~10/1/13~~ Date  
John Evans Applicant's Signature

Office Use Only  
Site Plan and Authorization (if applicable) attached? Yes ( ) No ( )  
Date transmitted to the Board of Adjustments: \_\_\_\_\_  
Meeting Date: \_\_\_\_\_ Applicant Notified of Date: \_\_\_\_\_  
Notice to surrounding property owners- Date: \_\_\_\_\_  
Board's Decision: Approved ( ) Denied ( )  
Notice of Boards Decision mailed to Applicant/Owner: \_\_\_\_\_

## TYPE OF RELIEF BEING SOUGHT:

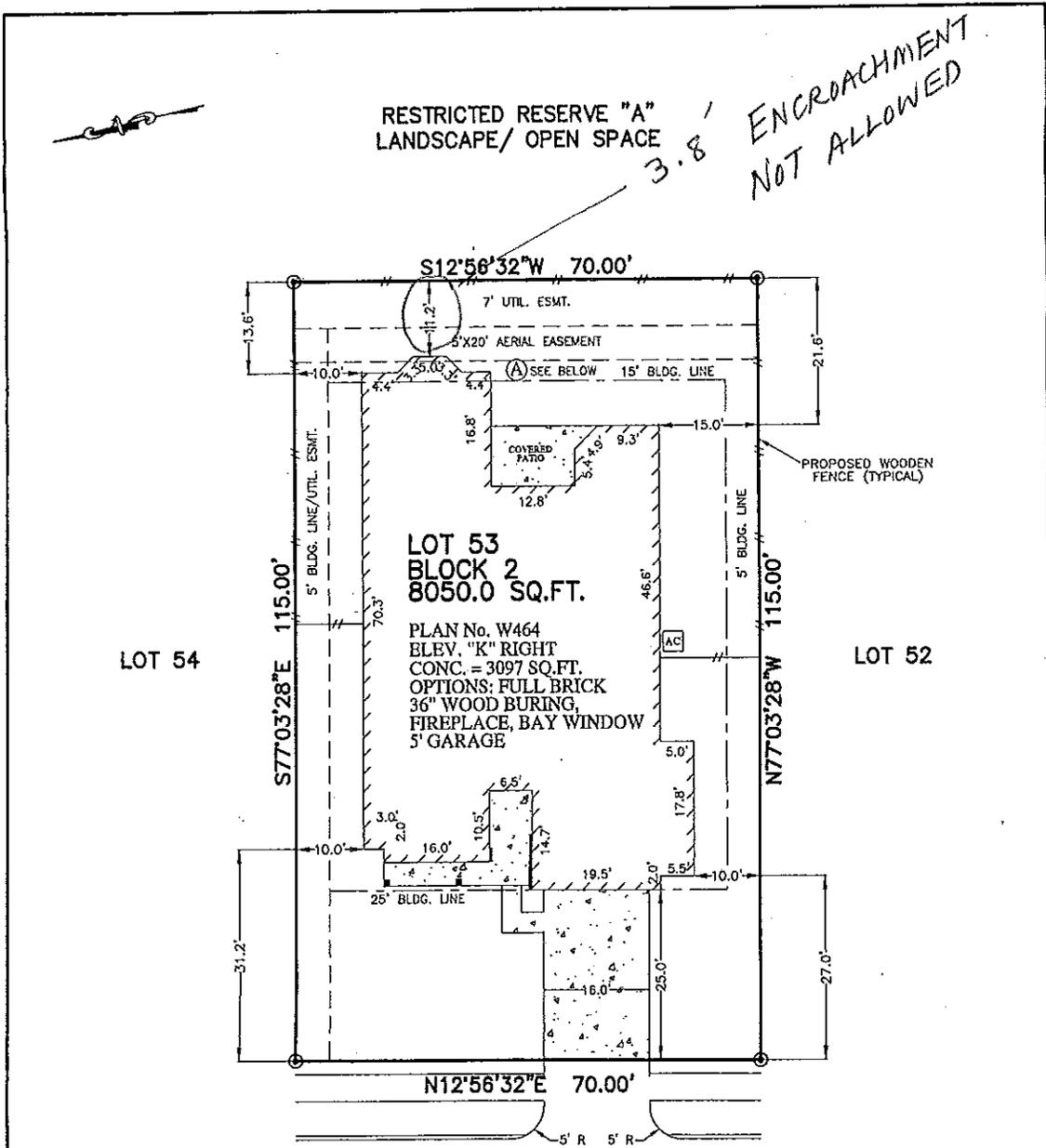
Please allow for a 3.8' Variance  
in the rear building line area  
for placement of our plan No. W464.

## THE GROUNDS FOR THE REQUESTS:

Need spacious bedroom w/ Bay window  
Keeping 25' front building line clear  
require additional depth to accommodate  
desired plan.  
will add to the aesthetic of the site.

# VARIANCE REQUEST #13-93000006





RESTRICTED RESERVE "A"  
LANDSCAPE/ OPEN SPACE

3.8' ENCROACHMENT  
NOT ALLOWED

LOT 54

LOT 52

**LOT 53  
BLOCK 2  
8050.0 SQ.FT.**

PLAN No. W464  
ELEV. "K" RIGHT  
CONC. = 3097 SQ.FT.  
OPTIONS: FULL BRICK  
36" WOOD BURING,  
FIREPLACE, BAY WINDOW  
5' GARAGE

**2322 EAGLE LANE**  
(50' R.O.W.)  
**28' CONCRETE PAVEMENT**

(A) BUILDER TO REQUEST FOR VARIANCE FOR  
15' REAR BUILDING LINE ENCROACHMENT

- NOTES:  
1. ALL BEARINGS SHOWN HEREON ARE BASED ON THE RECORDED PLAT.  
2. THIS LOT FIT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT. THERE MAY BE EASEMENTS, BUILDING LINES & OTHER MATTERS OF RECORD NOT SHOWN HEREON. SURVEYOR OR ALLPOINTS SERVICES CORP. IS NOT LIABLE FOR ANY DAMAGES THAT MAY INCUR IN ANY EVENT THE BUILDER BUILDS ANY IMPROVEMENTS CLOSER THAN 5.0' OR WITHIN AN EASEMENT.

**PLOT PLAN**  
SCALE: 1 = 20'

LOT AREA	
FENCE:	LINEAR FT.
BACK:	70
LEFT:	51
RIGHT:	56
FRONT LT.	13
FRONT RT.	13
CONC. PATIO	126 SQ. FT.
PRIVATE WALK	31 SQ. FT.
PUBLIC WALK	216 SQ. FT.
DRIVEWAY	402 SQ. FT.
IN-TURN	196 SQ. FT.
FRONT SOD:	160 SQ. YD.
BACK SOD:	238 SQ. YD.
LEFT SOD:	46 SQ. YD.
RIGHT SOD:	37 SQ. YD.
LOT COVERAGE	38.47 %

©2013, ALLPOINTS SERVICES CORP., ALL RIGHTS RESERVED

FOR: DRHORTON  
ADDRESS:  
2322 EAGLE LANE  
ALLPOINTS JOB #: DR56589 WB  
G.F.:

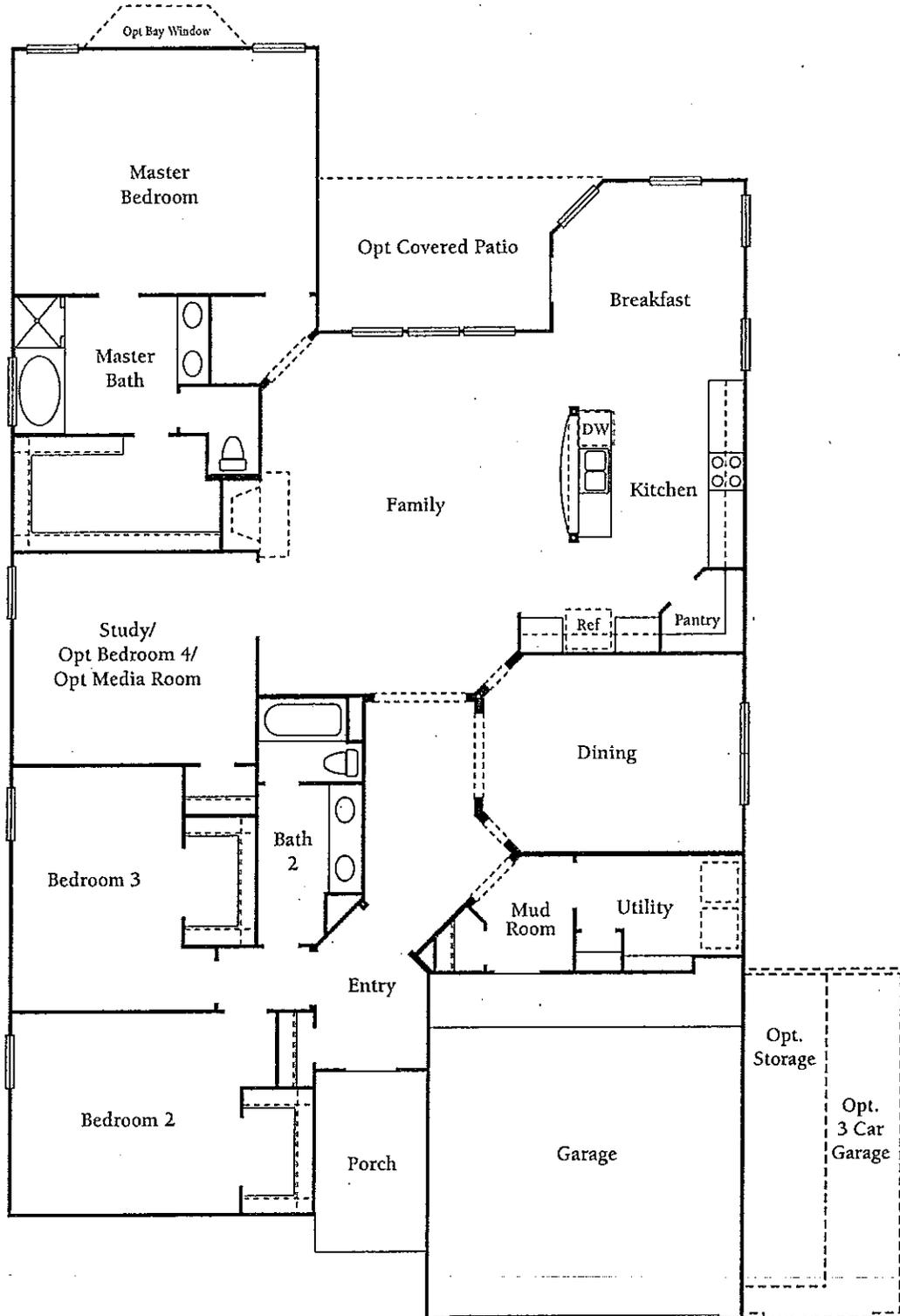
CP  
GM  
ARM  
AM

**ALLPOINTS  
SERVICES CORP**  
PHONE: 713-468-7707  
FAX: 713-827-1861

**LOT 53, BLOCK 2,  
LAKES AT FAIRMONT GREENS, SECTION 1,  
FILM CODE No. 620028, MAP RECORDS,  
HARRIS COUNTY, TEXAS**

- ISSUE DATE: 9/6/2013
- ISSUE DATE: 7/5/2013
- ISSUE DATE: 6/21/2013
- ISSUE DATE: 4/25/2013
- ISSUE DATE: 3/18/2013
- ISSUE DATE: 3/15/2013

**D-R-HORTON**  
*America's Builder*



## W464 Plan

*Prices, products and specifications are subject to change without notice.*

ZONING

§ 106-333

Sec. 106-333. Table B, residential area requirements.

(a) Table B, residential area requirements.

Uses <sup>8</sup>	Minimum Lot Area/D.U. S.F.	Minimum Lot Width L.F.	Minimum Yard Setbacks L.F. F.R.S. 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15	Maximum Height	Minimum Site Area/Unit S.F. <sup>7</sup>	Minimum Development Open Space/Unit S.F.	Maximum Lot Coverage/Minimum Landscaping Required <sup>9, 19</sup>
Single-family detached	6000	50	25-15-5	35 Ft.	9100 4.8 DU/A	—	40%/N/A
Single-family large lot	43560	90	25-15-5	45 Ft.	43560 1.0 DU/A	—	40%/N/A
Single-family special lot line, 0 lot line	4500	40	20-10-0	35 Ft.	7300 6.0 DU/A	Footnote # 1	60%/N/A
Duplexes	6000	60	25-20-20	45 Ft.	8.0 DU/A	Footnote # 1	60%/N/A
Single-family converted to multifamily	6000	50	20-10-5	35 Ft.	N/A	N/A	50%/N/A
Townhouses, quadraplexes (10,000 s.f of site area 100 ft. wide)	2000	20	25-20-20	45 Ft.	4400 10.0 DU/A	Footnote # 1	75%/25%
Multifamily	20000	100	25-20-20	45 Ft.	1600 14 DU/A	Footnote # 1	60%/25%
Manufactured housing	4500	40	20-10-5	25 Ft.	7300 6.0 DU/A	Footnote # 1	60%/6%
Manufactured housing subdivision or parks (5 acre min.)		100 of front road frontage	N/A	N/A	N/A	N/A	N/A/N/A
Group care facilities (less than 6) and day care homes			25-20-10	25 Ft.	N/A	N/A	N/A/6%
Public or private educational and religious institutions, large group care facilities, daycare centers, recreational buildings, boarding, and nursing homes			30-20-10	45 Ft.	N/A	N/A	N/A/6%