

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

September 11, 2025

Case Number: 2025-CAP-841 / 2025-CVR-841

Property Address: 9700 Pentecost Road, 9705 – 9913 (odd) Palermo Avenue, 9706 and 9708 Palermo Avenue, 10012 – 10024 (even) Palermo Avenue, 4115 – 4141 (odd) Palermo Drive, 4142, 4143, 4146, 4147, 4150, 4151, 4154, and 4155 Palermo Court, 4121 – 4147 (odd), and 4120 – 4146 (even) Palermo Garden Drive, 4118, 4120, 4123, and 4125 Garden Way, 4007 – 4115 (odd), and 4104 – 4110 (even) Massimo Drive, 9704 – 9818 (even), and 9715 – 9805 Quattro Avenue

Location: Franklin Township, Council District #25

Petitioner: Ryan Homes, by Joseph D. Calderon

Current Zoning: D-5II (FF)

Request: Modification of Commitments related to petition 2021-CZN-831 to terminate Commitment 30 (current commitment prohibits the installation of playsets or similar play equipment designed for children anywhere in the development), and to modify Commitment 32 to replace the word “shall” with the word “may” in the first line in reference to the Homeowner’s Association providing maintenance services including yard work, snow removal, and leaf cleanup (current commitment states that the Homeowner’s Association *shall* offer to provide maintenance services including yard work, snow removal, and leaf cleanup).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for front-loaded garages to consist of 77.4% of the façade at the front building line (maximum 30% permitted).

Current Land Use: Under development for residential uses.

Staff Recommendations: No recommendation of the modification request.
Denial of the variance of development standards request.

Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

This is the first hearing on these petitions.

STAFF RECOMMENDATION

No recommendation of the modification of the commitments.

Denial of the variance of development standards.

PETITION OVERVIEW

This 46.46-acre site, zoned D-5II is under development for residential uses. It is surrounded by a single-family dwelling and agricultural uses to the north and east, zoned D-A; single-family dwellings to the south, across Pentecost Road, zoned D-3 and D-P; single-family dwellings to the west, zoned D-P and D-A.

Petition 2021-CZN-831 / 2021-CPL-831 rezoned this site to the to the D-5II district and approved a Subdivision Plat.

MODIFICATION

The request would modify commitments related to petition 2021-CZN-831 to terminate Commitment 30 prohibiting playgrounds and modify Commitment 32 to replace the word “shall” with the word “may” in the first line in reference to the Homeowner’s Association providing maintenance services including yard work, snow removal, and leaf cleanup.

The commitments prohibiting the installation of playsets or similar play equipment designed for children anywhere in the development and require the Homeowner’s Association to offer maintenance services including yard work, snow removal, and leaf cleanup were originally the result of negotiation between the petitioner and the neighborhood organization during the 2021 rezoning process. Because staff played no role in the negotiation of these subject commitments, staff would ordinarily provide no recommendation under such circumstances. Staff would note, however, that the neighborhood organization(s) negotiated in good faith with the petitioner during the petition process, and their agreement was contingent upon all commitments being included with the rezoning petition.

Floodway / Floodway Fringe

This site has a secondary zoning classification of a Floodway (FW) and Floodway Fringe (FF). The Floodway (FW) is the channel of a river or stream, and those portions of the floodplains adjoin the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream. The Floodway Fringe (FF) is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.

The purpose of the floodway district is to guide development in areas identified as a floodway. The Indiana Department of Natural Resources (IDNR) exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1.

The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (D-5II in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance and all other applicable City Ordinances.

VARIANCE OF DEVELOPMENT STANDARDS

This request would provide for the front-loaded garages to consist of 77.4 % of the façade at the front building line when the Ordinance limits the percentage to 30% of the façade.

Limiting the front-loaded garage to 30% of the façade minimizes the impact of conflicts between pedestrians and vehicles and improves the safety pedestrians. It also results in the architecture of the dwelling to maintain a visual balance between the living area and the garage.

Recent submittals of garage door elevations minimizes the dominating visual impact of garage doors, but staff continues to be concerned with the safety of pedestrians in the neighborhood as more residents move into this community.

GENERAL INFORMATION

Existing Zoning	D-5II	
Existing Land Use	Residential uses (under development)	
Comprehensive Plan	Rural or Estate Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	D-A	Single-family dwelling / agricultural uses
South:	D-3 / D/P	Single-family dwellings
East:	D-A	Agricultural uses
West:	D-P / D-A	Single-family dwellings
Thoroughfare Plan		
Pentecost Road	Local Street	Existing 70-foot right-of-way and proposed 50-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	Yes – 100-year floodplain of Springer McGaughey Ditch	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	July 29, 2025	
Site Plan (Amended)	N/A	
Elevations	August 13, 2025 / September 2, 2025	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	July 29, 2025	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Comprehensive Plan recommends Rural or Estate Neighborhood typology. “The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.”

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

Detached Housing

- Should preserve open space.
- In older, established historic areas, lots should be deep and narrow with deep setbacks. This allows for city services such as streets and sewer lines to be used more efficiently. Mature trees should be preserved whenever possible.
- In more rural areas, the protection of open space is even more critical. Lots should be both deep and wide.
- Denser development is appropriate only if the houses are clustered together and public open space is provided.
- “Flag lots” (lots that are behind other lots, buildings, or otherwise not visible from the road) should be avoided.
- Lots should be no larger than one and a half times the adjacent lots.

Red Line / Blue Line / Purple Line TOD Strategic Plan

Not Applicable to the Site.

Neighborhood / Area Specific Plan

Not Applicable to the Site.

Infill Housing Guidelines

Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW).
- Identify roadways for planned expansions or new terrain roadways.
- Coordinate modal plans into a single linear network through its GIS database.

ZONING HISTORY

2021-CZN-831 / 2025-CPL-831; 9700 and 10010 Pentecost Road, requested rezoning of six acres from the D-A (FF) district to the D-5II (FF) district to modify or terminate commitments related to 2004-ZON-830 and approval of a Subdivision Plat to be known as Palermo Gardens, dividing 46 acres into 180 single-family attached dwelling (90 two family lots), with a waiver to shorten the boulevard entry to partially waive the street connection requirement, **approved**.

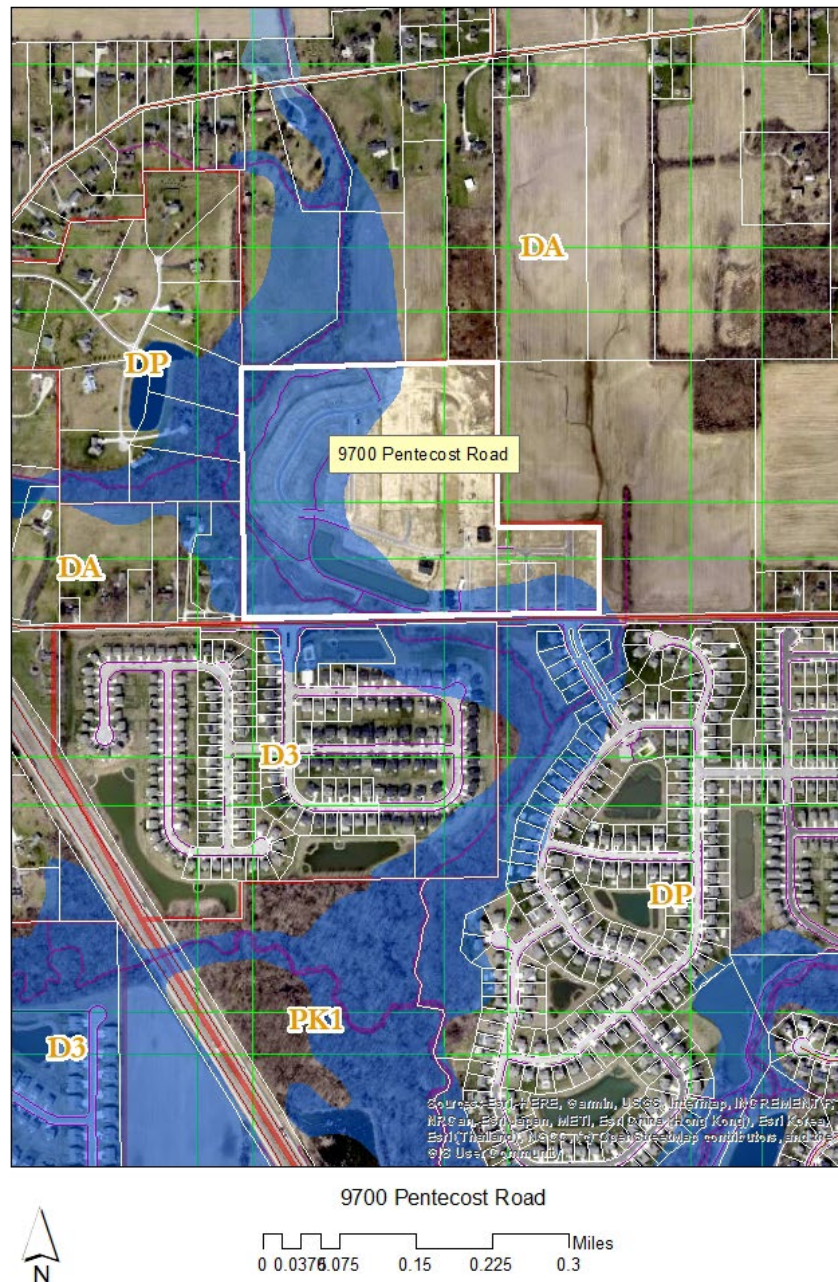
2018-ZON-004; 9700 Pentecost Road, requested rezoning of 40.0 acres, being in the D-5II District, to the D-3 classification to provide for residential development, **withdrawn**.

2005-ZON-120; 9741 Pentecost Road, requested rezoning of 68.337 acres, being in the D-A District to the D-3 classification to provide for single-family residential development, **approved**.

2004-ZON-830; 9700 Pentecost Road, requested rezoning of 40.0 acres, being in the D-A District, to the D-5II classification to provide for two-family residential development, **approved**.

2003-ZON-060; (2003-DP-008); 9900, 10050, 10500, and 10640 East Thompson Road and 10101 and 10401 Pentecost Road, requested rezoning of 422.943 acres, being in the D-P (FF)(FW) District, to the D-P (FF)(FW) classification to provide for 833 single-family dwellings, **approved**.

2005-ZON-120; 9741 Pentecost Road, requested rezoning of 68.337 acres, being in the D-A District to the D-3 classification to provide for single-family residential development, **approved**.



A202100131032

09/29/2021 09:32 AM

**KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER**

FEE: \$ 35.00

PAGES: 10

By: ODG

LA

STATEMENT OF COMMITMENTS

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description: See Exhibit C attached hereto which is incorporated herein by this reference.

Statement of COMMITMENTS:

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. Additional right-of-way will be dedicated, within 60 days of approval, sufficient to satisfy the request of the Department of Public Works for a Twenty-Five-foot (25') 1/2 right of way along the Pentecost Road frontage of the real estate. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by DPW.
3. The development will have a homeowner's association, created and controlled by the developer or its designee until the subdivision is substantially built out, and thereafter turned over to the homeowners, which shall be responsible for mandatory membership, mandatory lien enforced assessments and the collection of said assessments upon improved lots to support the association in, among other things, the expense of maintenance and taxes of the common areas such as retention ponds, open space, perimeter landscaping, the amenity center, snow removal from subdivision streets to supplement city snow removal, payment of utility expenses for interior and entry lights, and other services which the association determines to offer to the residents. At the time the association is turned over to the homeowners, the Developer will provide the Franklin Township Civic League with the name, address and telephone number of the initial contact for the homeowner's association.
4. The planned association of homeowners shall have appointed from among its members (being the developer until after the initial build out period has occurred), an architectural control committee which shall have the power to approve or disapprove all house designs, additions or alterations thereto, together with any proposed accessory structures and or appurtenances, including but not limited to fencing.
5. Other than perimeter fencing installed by the Developer, any fencing proposed along the Pentecost Road frontage of the development should be of a uniform style, design, color and height, and shall be subject to the approval of the architectural control committee.
6. Any fence which is constructed by a homeowner on any platted lot shall be constructed only in the rear yard; and shall not extend any closer to the public street in front of the residence than the



- applicable rear corner of the residence, with the exception that a rear yard fence may extend as necessary through one side yard of the residence in order to connect to a garage service door or the like.
7. The maximum number of homes in the development shall be 184.
 8. Satellite disks of no more than 30 inches in diameter shall be the only antennae permitted.
 9. No outbuildings (defined as including those with and without a permanent foundation) shall be permitted, with the exception that mini barns/storage buildings MAY be approved by the applicable ARC, if said building is less than 160 square feet in size, is not constructed of metal, tin, aluminum or the like, the color of the roof shingles match the house, the siding is painted to match the house, and a commitment is made to regularly maintain said building to these standards or any others imposed by said committee. Further, any such building shall not be placed in an area described as a drainage, legal drain, or utility easement.
 10. No outside storage of unlicensed vehicles, RV's, trailers, boats or boat trailers shall be permitted.
 11. No above ground pools shall be permitted.
 12. Each unit shall have a landscaping package at the time of original construction which includes a minimum of two (2) trees and five (5) shrubs.
 13. There will be at least two entrances from the project onto Pentecost Road, at least one of which shall be a boulevard type design.
 14. The Plat for the entire 46 acres will include a street stub to the North which lines up with the easternmost entry, and also a street stub to the East from the original 40 acre portion of the property.
 15. The lot width of each two-unit lot in the development shall match the recorded Plat.
 16. Each unit shall have an attached garage capable of storing at least two (2) vehicles.
 17. No carports shall be permitted.
 18. The driveway serving each unit shall be hard surfaced along its entire length.
 19. No side gravel drives shall be permitted.
 20. All mailboxes within the development shall be constructed of uniform design, materials and colors.
 21. All interior streets shall be at least 28 feet wide as measured from the outside of curb to outside of curb. All interior streets within the development shall be dedicated to the City of Indianapolis, for public use and maintenance.
 22. While concrete sidewalks will be installed along both sides of all interior streets, in the areas where said sidewalk is also functioning as a part of the recreational trail through the project (approximately as shown on the Preliminary Plat), that portion of the concrete sidewalk could be wider if necessary to match the width of the abutting portions of the recreational trail. Also, all on-site utilities shall be underground.
 23. A master drainage plan shall be designed for the development and submitted for the review and approval of the Department of Public Works. At the time the drainage plan is finalized and submitted to the City, a copy of said plan shall be provided to the Franklin Township Civic League Land Use Committee for their review. Upon the request of the Franklin Township Civic League Land Use Committee, the Developer and its engineer shall appear at a monthly meeting of the Franklin Township Civic League Land Use Committee to explain and discuss the drainage plan.
 24. Any underground drainage tiles which are uncovered during the excavation phase will either be: (1)

- attached to or incorporated into the storm drainage system for the development; or (2) any damage to said line caused by such uncovering will be repaired and said line will be recovered, at Developer's option.
25. The livable space of each single-family unit/home, exclusive of garages and open porches shall be no less than 1,300 sq. ft.
 26. Not less than 98% of the first-floor exterior walls of the unit/home (except doors, windows, architectural features, trim, and the like) will be covered with either brick, stone or other masonry (including but not limited to concrete board/sheet product similar to those manufactured by the James Hardie © companies).
 27. Any unit/home which is oriented such that the back is primarily facing Pentecost Road (not to include any units/homes oriented so the side primarily faces Pentecost Road, as is likely on both sides of the entry roads) shall be set back from the centerline of Pentecost Road not less than the distance shown on the Recorded Plat.
 28. In addition to the two trees per unit/home required in Commitment 11, for those units/homes which are the first units in from the East property line of the site, are located within 150 feet of the East property line, and are also oriented such the back or side of the unit is primarily facing to the East, an additional tree shall be planted in the East yard of each such unit/home.
 29. The trees planted in the yard of each unit by the developer/builder shall be, if evergreen, not less than six feet in height at the time of planting, or if deciduous, not less than 1 ½ inch caliper at the time of planting.
 30. The Declaration shall prohibit the installation of playsets or similar play equipment designed for children anywhere in the development.
 32. The Homeowner's Association shall offer to provide additional services typical of a "full" or "low" maintenance development, including for example, mowing the homeowner's yards, snow removal from the homeowner's drives and sidewalks, leaf cleanup in the Fall, and the maintenance of the initially installed landscaping and the associated mulch beds.
 33. At the time the two entrances into the development from Pentecost Road are constructed, the developer shall (A) add additional asphalt along the north edge of Pentecost Road along the balance of the site's frontage on Pentecost Road which is not improved as a part of the westernmost entry, so that Pentecost Road ends up being widened to not less than twenty (20) feet along the entire frontage of the site; and (B) relocate the guardrail running along the North side of the existing bridge which is located just west of the proposed westernmost entry to accommodate the wider pavement width.
 34. Prior to the occupancy of any residence located on a Lot which abuts the North line of the development (Lots 24B through 28B as shown on the Preliminary Plat) the developer will install either a farm fence (woven wire 4 foot tall with round wooden posts at least 4 inches in diameter, with the posts not more than 24 feet apart), or a wrought iron style aluminum fence at least 4 feet tall, along the entire portion of the North edge of the development which is east of the easternmost edge of the floodway (the area behind the homes on above identified lots). The developer and the owner of the property which abuts that portion of the North line shall have the right to negotiate a different style and location of the fence by mutual written agreement prior to installation, provided that the agreement to replace/modify this commitment is properly signed, notarized and recorded.

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A" which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition # 2021-CZN-831 by the City-County Council changing the zoning classification of the real estate from a D-5II, and D-A zoning classification to a D-5II zoning classification; or
- (b) the adoption of approval petition # _____ by the Metropolitan Development Commission;

and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the D-5II zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

- 1. The Metropolitan Development Commission;
- 2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);
- 3. Any person who is aggrieved by a violation of either of the Commitments contained in Commitment #1 (Open Occupancy and Equal Employment Opportunity Commitments); and
- 4. N/A
- 5. N/A

Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The grant of the variance will allow for development of a single family product with a two-car garage providing for more off-street parking and thus, improving the health, safety and general welfare of the public by reducing the risk of on-street parking.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The variance being sought applies only to lots within a self-contained subdivision which required two-car garages by commitment.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The lots are platted with 40 feet of lot width, making it impossible to comply with the two-car garage requirement and meet the 30% maximum width requirement.

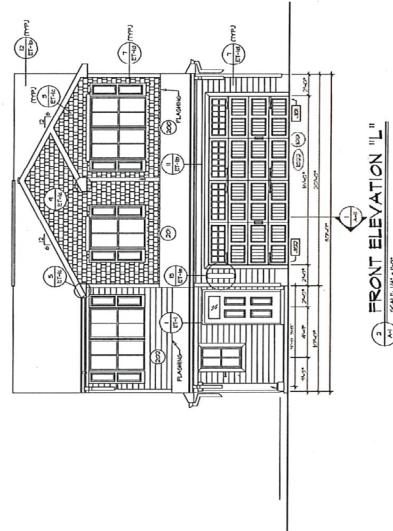
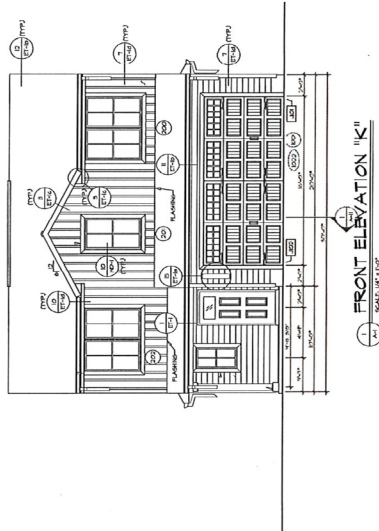
DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

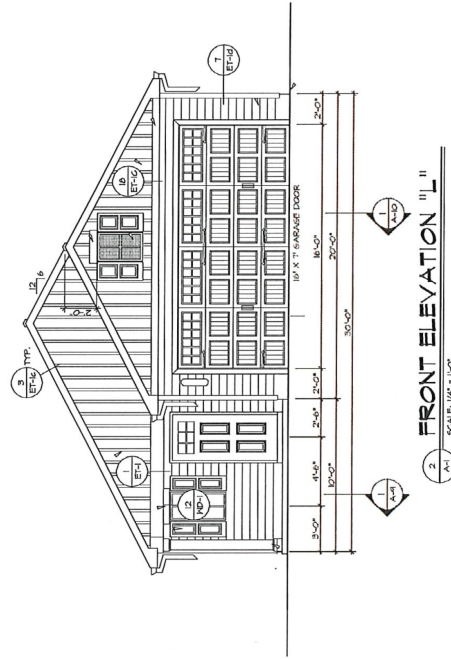
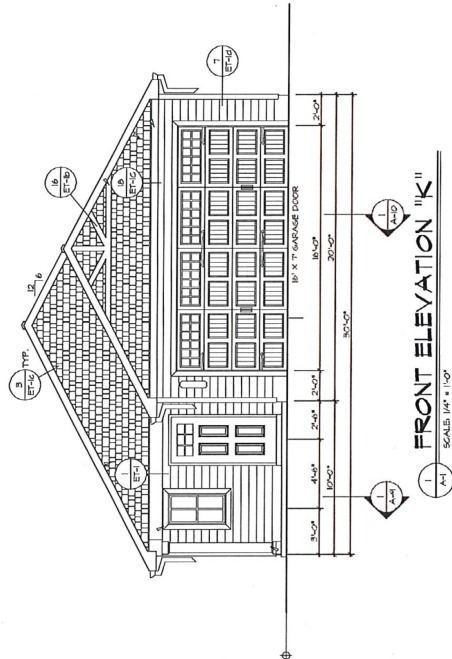
Adopted this _____ day of _____, 20 ____

dwelling with a two-car garage with width in excess of 30% of the width of the front facade.

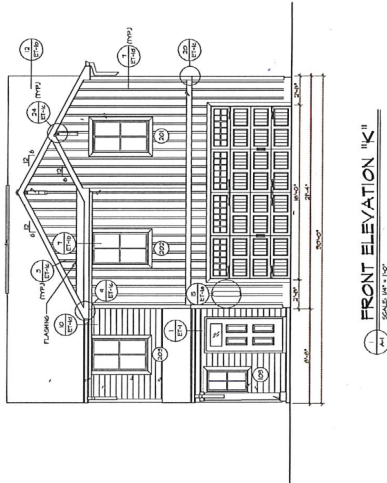
Fairview



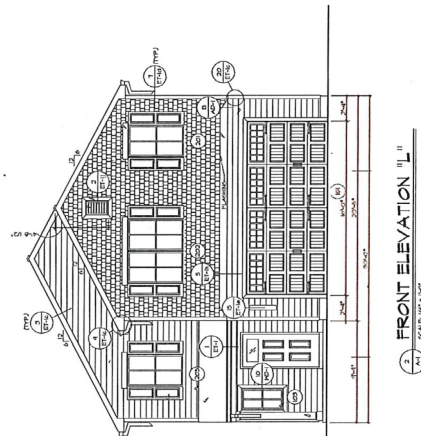
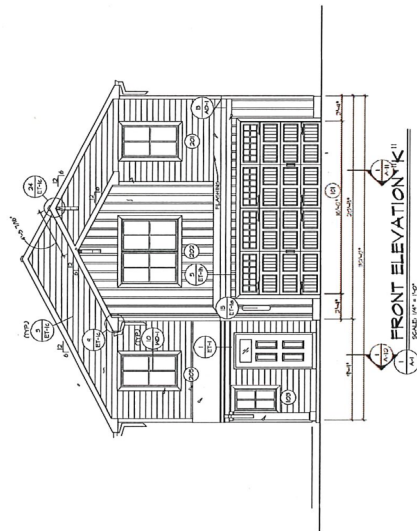
Rosewood



Sequoia



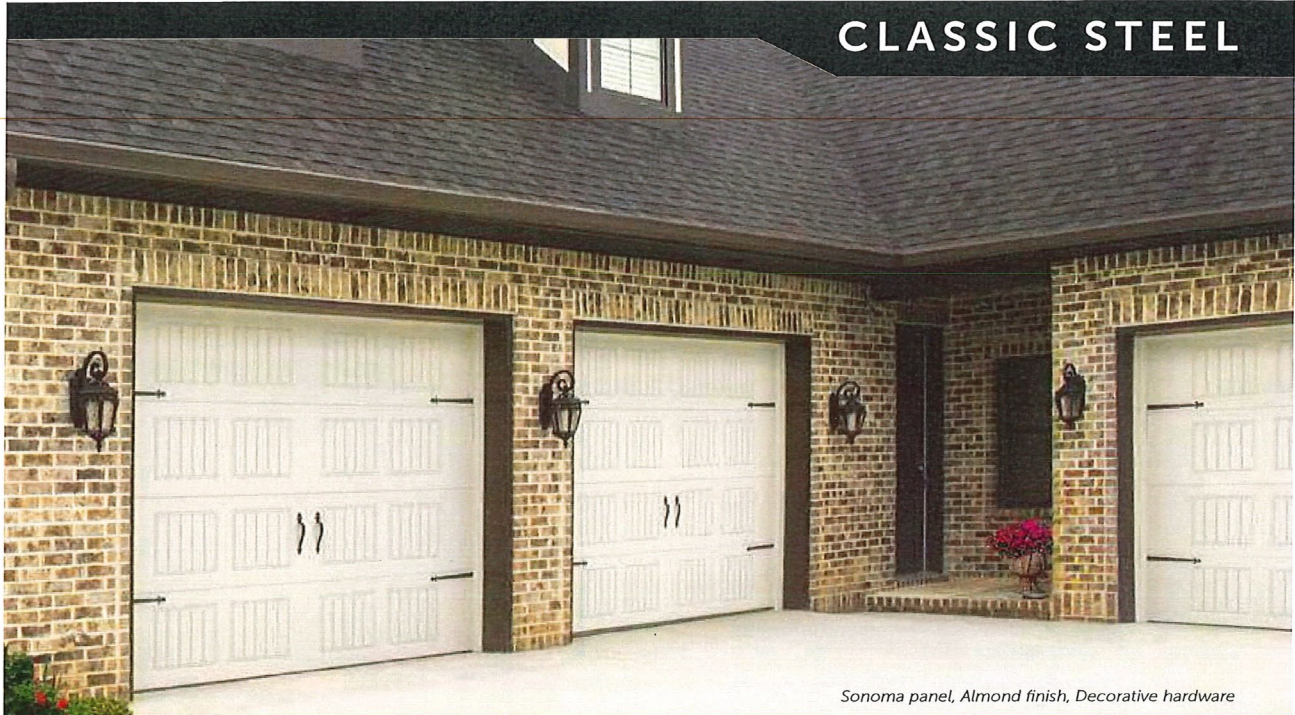
Torrey



Wayne Dalton
 GARAGE DOORS

MODEL **5120**
 BUILDER

CLASSIC STEEL



Sonoma panel, Almond finish, Decorative hardware

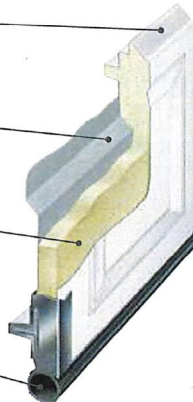
DOOR FEATURES

Pinch-Resistant Panels
 designed to push fingers out of harms way.

3-layer construction
 Model 5120 utilizes a ToughGard® backer.

Foamed-In-Place Polyurethane Insulation
 provides thermal efficiency with an R-value* of 9.

Integral Struts
 add rigidity and strength for long life and smooth operation.



High Cycle Spring Option

Choose a 25,000 cycle spring for more than twice the life of a standard torsion spring.

TorqueMaster® Plus Counter Balance System

Contains springs safely inside a steel tube to prevent accidental release of tension that could cause injury and features anti-drop safety technology.

Wind Load Options



Available with structural reinforcements for use in coastal or high wind region.

Limited Lifetime Warranty

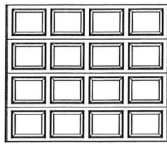


*Wayne Dalton uses a calculated door section R-value for our insulated doors.

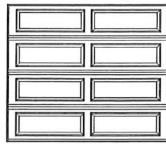
The Builder Select Series

1 Choose Your Style

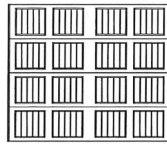
Doors shown are 8'x7'. Other sizes may have different panel configurations.



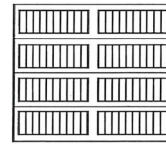
Colonial



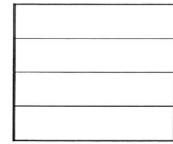
Ranch



Sonoma



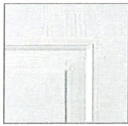
Sonoma Ranch



Contemporary

2 Choose Your Color

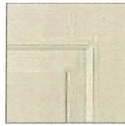
Paint finishes



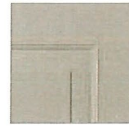
White



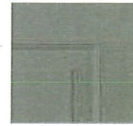
Almond



Desert Tan



Taupe



Gray



Green



Brown

3 Choose Your Windows

For Colonial and Contemporary Panels



Cascade I



Cascade II*



Cascade III*



Cathedral I



Cathedral II*



Clear I



Clear II*



Clear III*



Prairie I



Prairie II*



Sherwood I



Sherwood II*



Stockbridge*



Stockton I



Stockton II*



Stockton III*



Arched Stockton*



Waterton I



Waterton II*



Waterton III*



Williamsburg I



Williamsburg II*

*Contemporary panel only

For Sonoma Panels



Cascade I



Cascade III



Cathedral I



Clear I



Clear III



Stockbridge



Stockton I



Stockton III



Arched Stockton



Waterton I



Waterton III

For Ranch Panels



Cascade II



Cathedral II



Clear II



Prairie II



Sherwood II



Stockbridge



Stockton II



Arched Stockton



Waterton II



Williamsburg II

For Sonoma Ranch



Ashton IV



Cathedral IV



Cascade IV



Clear IV



Ruston IV



Sherwood IV



Stockbridge IV (3-Lite)



Stockbridge IV (4-Lite)



Stockford IV



Stockton IV (4-Lite)



Stockton IV (6-Lite)



Stockton IV (8-Lite)



Stockton IV (8-Lite Arched)



Stockton IV (12-Lite)



Arched Stockton IV



Waterton IV



Williamsburg IV



Williamsburg IV Single Arch, Double Car



Wyndbridge IV

Not all windows available in all areas. Windows shown are typical of an 8' wide door and placement may vary by panel design.

The following windows are available for double car doors



Arched Stockton Double



Arched Stockton Single

Glass Options



Clear



Gray Tinted



Satin Etched Privacy



Obscure

4 Choose Your Decorative Hardware



Arrow



Aspen



Barcelona



Bean



Conifer



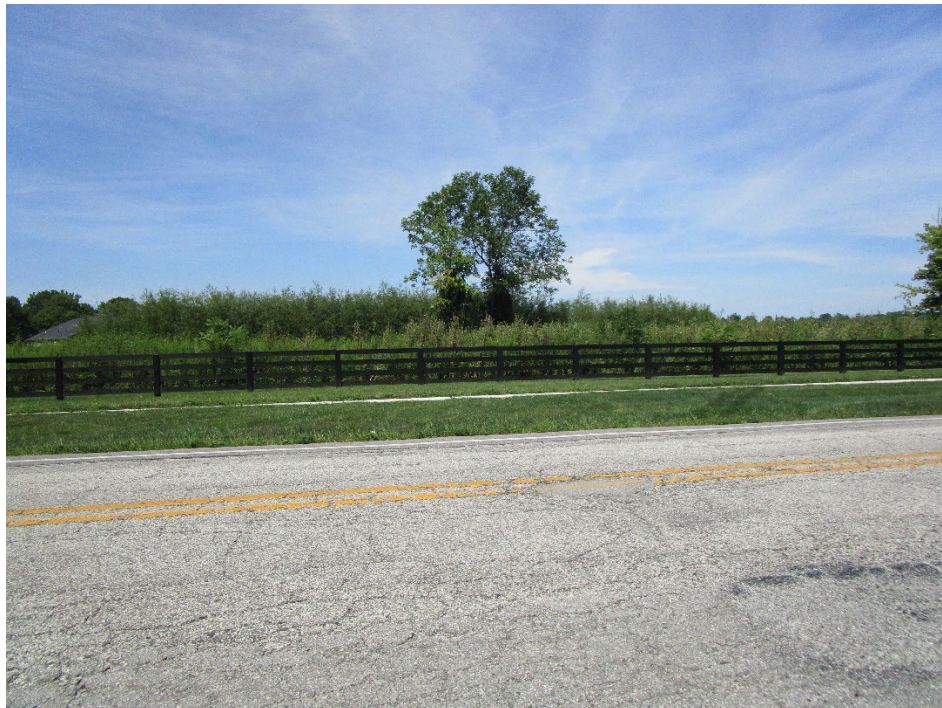
Fleur De Lis



Spear



View of site looking north across Pentecost Road



View of site looking north across Pentecost Road



View of site looking northeast across Pentecost Road



View of site looking north across Pentecost Road



View of entrance to the development looking north across Pentecost Road



View of garage doors on duplex looking northwest



View of garage doors on duplex looking northeast