

## Construction Guidelines

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# 1. Concept

The only justification for development of an area like The Preserve is that it improves the position of more people to enjoy special facilities and exposure to beautiful natural surroundings. There can be no improvement on nature.

It is with a full appreciation of our responsibility to all the owners that the Design Committee intends to administer the design controls uncompromisingly. Every building in The Preserve must contribute positively to the overall man-made environment.

Fitting the building unobtrusively into the natural environment and disturbing nature as little as possible are the primary basis for the specific design criteria that the committee will apply to site grading, landscaping, colors, materials, and siting of the structure.

It is not the intent of the Design Review Committee to inhibit excellence of design, nor to limit the owner to any preconceived type of building, but to protect the owners who have purchased land in The Preserve because of its natural beauty, from any construction which might unnecessarily destroy the natural surroundings.

“The Preserve is dedicated to the philosophy that the emerging suburban environment can be better and that creative planning, design and economic management will make it better.”

To achieve this goal, two basic principles must be applicable to all types of developments. They are:

1. Compatibility with the existing natural site characteristics.
2. Minimum disturbance of existing natural systems.

The existing natural and environmental features in The Preserve consist of rolling terrain, bluffs, draws, lakes and marshes, woodlands, groves of trees, shelter belts, grasslands and rock outcrops. These features provide The Preserve’s “character” and shall be preserved physically or in essence throughout all future development.

The Preserve will insure that the planned residential development is in conformance with the approved P.U.D. concept plans and the terms and conditions of the use permit for such development which does not conform to such plans, terms and conditions.

## **2. Design Review Process**

The following discussion is presented to identify to The Preserve owner and his professionals the “Design Review Process” consisting of the developers “Primary Design Review” and The Preserve Homeowner Association “Secondary Design Review.”

### ***Primary Review***

#### **A. Single Family Primary Construction Approval**

Typically the basis of the developer’s primary review is the building floor plan, elevations and a registered surveyor’s certificate or plat of survey prepared for the builder or owner.

Initially the review is oriented to approving 1) The Compatibility to The Preserve’s overall concept. 2) Horizontal—Vertical placement of all proposed structures and driveway on the lot.

A publication titled “The Preserve Design Review Committee—Instruction to Building Permit Applicants” is available at the developer’s sales office for distribution to the owner or builder’s surveyor. (See Exhibit in Appendix).

The primary review process may include all of the review elements identified later as basic site plan elements or as architectural plan elements.

Basis site plan or architectural plan elements which are not or cannot be presented for primary review or proposed remodeling of previously approved projects will automatically become subject to The Preserve Homeowner Association “secondary” Design Review process.

#### **B. Multi-Family or Commercial (3 step process)**

##### **B1 Site Selection Approval**

Before any specific function or structural design is imposed upon a site, the developer must complete a site analysis. Initially, this will consist of determining if the site should accommodate the desired function. Alternative sites or functions shall be kept in mind throughout the initial site selection phase. The ideal site is one that will best meet the needs of the project with the least alteration and disturbance of the natural environment. Before proceeding the developer should seek site selection from The Preserve developer Design Review Committee. After site selection approval the proponent should proceed to prepare for step two.

##### **B2 Preliminary Approval**

- 1.) Prepare a Project Program which organizes an accurate description of requirements on which the design can be based and evaluated.
- 2.) Provide a Site Survey, by a registered land surveyor, which indicated:
  - a. Title of survey, location, scale, north point, certification and sate.
  - b. Boundaries, coursed and distances.
  - c. Existing buildings and structures (fences, drives, wells, culverts, etc.) easements, right-of-way, utilities and adjacent property owners and uses.
  - d. Topography shown by contours at 2 foot intervals over the total site and adjacent road elevations, pedestrian pathways systems, and approximately 100’ outside the site on all sides.

- e. Location of all drainage systems, swamps or bogs, springs, water bodies, rock outcroppings and prominent land form features.
  - f. Location of wooded areas. Indicate all existing trees that have a trunk diameter of 4" or more, 3 feet above the ground. Show ground cover material (grass, cultivated field, marsh, shrubs, etc.)
  - g. Sub-surface soil investigation will indicate soil structure and profile, bearing, water table and pH.
- 3.) Prepare site analysis diagrams  
Indicating sun or orientation wind patterns, air drainage, exposures, hot and cool slopes, slopes and grades, natural landscape features, edges and all other elements that make up the site's "character." This should be shown over a vase map or survey as specified above.
- 4.) Prepare a site plan  
Showing the proposed project as it relates to the site. Design and siting of the structure and all related site facilities and amenities shall be considered.

### Summary

At this point the proponent seeks step two (preliminary approval) of the developers design review committee and arranges dates for public meetings.

### B3 Final Approval

Design development of the site shall be made through consideration of the following:

- 1.) Siting of the structure and related facilities, utilities, amenities, and use areas.
- 2.) Circulation systems—drives, parking, pedestrian walks, etc.
- 3.) Entries and exits to and from site and structure.
- 4.) Service areas, recreational and maintenance equipment storage areas, refuse containers, drying yards, etc.
- 5.) Privacy.
- 6.) Vistas.
- 7.) Social and recreational area and their treatment.
- 8.) Plant material: trees, shrubs, ground covers, etc.
- 9.) Maintenance.
- 10.) Character, identification, clarity and image.
- 11.) Preservation and compatible use of existing landscape features and ground form.
- 12.) Protection of Existing Site.

All existing trees to be preserved shall be protected from mechanical damage to the trunk and limbs by approved methods. Limit all heavy construction equipment traffic from within the drip line.

Trees to be moved and relocated shall be moved by approved methods and experienced and licensed personnel. Select trees to be moved by species, accessibility and soil. Orient transplanted tree the same as it was originally growing, prune and water well.

Cut and fill around trees shall be performed as indicated in sketch.

Establish adequate construction and grading limits and restrict access to all areas of the site to be left undisturbed. Backfill and rough grade immediately after excavation. All open and exposed grades shall be maintained to provide basic drainage and erosion control. Cover all "open" and

exposed grades with appropriate surface material. For sod and seed cover refer to City of Eden Prairie Standard Specification.

See grade schedule for recommended slopes.

#### Summary

The final approval, step three of The Preserve Developer Design Review Committee should be requested by the proponent at the conclusion of this stage.

Final public hearing for rezoning and planting should be scheduled. Materials should be formed which are suitable for public presentation.

### 3. Design Review Elements

The Preserve Association is interested in maintaining the beauty and quality of life that has made The Preserve a desirable place to live. The following information describes some of the design review requirements that affect existing or new structures. Complete requirements are detailed in the Preserve Association Documents.

1. By Laws—Article IX, Section 5
2. Restrictive Covenants—Article V
3. Construction Guidelines

**ALL RESIDENTS ARE REQUIRED TO SUBMIT PLANS TO THE DESIGN REVIEW COMMITTEE BEFORE COMMENCING ANY EXTERIOR CONSTRUCTION, ALTERATIONS OR COLOR CHANGE.**

**Additions, Porches, Decks and Attached Buildings:** Shall have the same or compatible architectural and color treatment as the main dwelling and be finished in subdued colors or earth tones.

**Fences:** Fences are not allowed in The Preserve except for the following conditions:

- a. Patio Fences—designed as an integral part of the building and should enclose a maximum area of 200 sq. feet and not over 6 feet high.
- b. Decorative Fence—can be split rail or post and rail construction not more than 4 feet high and have a total length of not more than 10 feet.
- c. Swimming Pools—pools and related landscape areas must be fenced for adequate screening, security and maintenance. Construction must be in accordance with Minnesota State Board of Health Standards.

**All Fences and Decks:** Must be constructed of durable wood products such as cedar, redwood, pressure treated lumber, or wood-like composite materials. They can be left natural or finished in subdued colors or earth tones.

**Dog Kennels:** Shall be an integral part of the site or structure design. The area shall be adequately enclosed with earth toned wood or vinyl coated chain link fence and VISUALLY SCREENED. The size of the kennel should not exceed 6x10 feet.

**Storage and Maintenance:** Recreation and maintenance equipment and refuse container storage shall be an integral part of the site design and relate to the architectural form. **NO ON-SITE UNHOUSED STORAGE WILL BE ALLOWED OF INFREQUENTLY USED VEHICLES,**

SNOWMOBILES, BOATS, TRAILERS, CAMPERs, EXCESS MATERIAL, AND OTHER OFF-SEASONAL EQUIPMENT.

**Trash Containers:** No exposed refuse containers will be permitted. Must be located inside the building proper or otherwise screened from public view.

**Signs:** The Design Review Committee shall have full jurisdiction over all signs located in The Preserve. (Typically: For Sale, Garage Sale, Advertising, and Directional).

**Basketball Hoops:** Mounting directly to the principal structure is favored when possible. Remote placements may be approved on a provisional basis, relying on the adjacent neighbors' written approval as the basis for continuing use.

**TV Antennas & Satellite Dishes:** Placed within the structure or located so they are not visible from adjacent homes. Contact The Preserve Association Office for Design Review process guidelines for small Digital Satellite Systems antennas.

**Clothes Line:** Shall be retractable or portable and will be housed when not in use.

**Ornaments:** Of precast concrete, plastic or wood figurines, gazing globes, wishing wells, windmills, etc., will be discouraged.

**Holiday and Seasonal Decorations:** Shall be limited to two months of display and shall be erected and dismantles within this time.

**General Landscaping:** Your landscaping plan should strive to complement the natural surroundings. Limited tree thinning will be considered on an individual basis.

**Planting Design Objectives:** Plant materials can be used to create enclosures, canopy, and to accentuate the ground plan. Careful selection of plant material can provide sun, wind, and erosion control, physical and visual barriers, views, vistas, wild life refuge and food, mood, character, and beauty.

**Landscape Maintenance:** All homeowner plant and turf areas shall be maintained on a regular basis, including watering, pruning, fertilizing, cultivating, and staking.

**Retaining Walls-Rip Rap:** Generally, retaining walls or rip-rap will be only if needed to create level areas and to achieve architectural expression. Form and materials should complement the existing site and architecture.

**Site lighting:** All forms of exterior lighting shall be subdued. The light source should be concealed and directed to illuminate edges of exterior spaces, plant forms, entries and walks. Exposed fixtures should be selected to integrate with the architecture in form and scale. No flashing or brilliant lights shall be located as to infringe on a sight pattern from an adjacent property. All Homeowner Association greenway plant and turf areas shall be maintained by HOA Maintenance unless delegated via official Board of Director's permit.

**Other:** Direct any questions regarding additional information, submittals, or other design review items to The Preserve General Manager at 941-8400. As you make plans for improving your property, be sure to consider the impact on your neighbors. It would be a good idea to discuss your plans with them before submitting plans to the Design Review Committee.

## B. Basic Architectural Plan Elements

1. Floor Plan: Note on the floor plan the square footage of interior living space.
2. Basements: Block walls may not be exposed more than two feet above grade. Some grade conditions will necessitate walls of more than two feet, but such a condition will be considered an exception and will require specific submission and approval. Acceptable materials for exposed basement walls are brick, stone, integrally colored concrete or painted concrete or painted concrete block or an approved textured finish. Three coat stucco may be used in an approved texturized or panelized design. All colors and materials are to be approved prior to construction.
3. Exterior Elevations
  - a. General: All elevations and height above the average grade must be shown. All exterior materials must be noted. Exterior materials should be kept to a maximum of three. Good design required the judicious use of few materials.
  - b. Decorations: Fake facades and gingerbread ornamentation is discouraged inasmuch as it tends to date the architecture as well as make it appear inexpensive unless handled with unusual finesse. Well designed buildings seldom need to resort to stuck-on decoration for interest, but are capable of standing alone. Design and character should be compatible with the surroundings and harmonious with the neighborhood.
4. Roofs: Due to topographic conditions many roofs will be visible. Consequently the roof should be considered as a part of the total design proposal. Materials and color should be selected so as to blend with the structure as well as the surrounding area.

All projections such as flues and vents are to be painted to match the color of the color of the surface from which they project or an otherwise approved color.

Any garage or out-building roof must have continuity of design and material should be the same or compatible to those used on the main structure.

5. Colors: Manufacturer's color chips must be submitted for all proposed colors to be used on the exterior. For any future repainting, if not the same color, color chips must again be submitted to the Committee for approval prior to repainting. Subdued or earth-tone hues of any desired color will generally be acceptable to the Committee. Construction may be authorized prior to approval of exterior colors, but color choice must be submitted for approval prior to painting.
6. Split Levels or Two Story Homes

Both these styles, because of their height, take on more importance in the neighborhood and thus it becomes even more essential that they be well designed. Other items - not indicated herein should be directed to the H.O.A. Director.

## C. Beginning Construction Process

1. CONSTRUCTION shall not be started prior to final approval, unless specific permission to do so is granted by the Committee. Building permit from Village must be posted on property.
2. EXCAVATION: Notice to the Director of Home Affairs prior to beginning construction effort is requested so that site protection methods can be employed.
3. CHANGES AFTER CONSTRUCTION HAS BEGUN:

Any changes to a building or site not shown on approved plans after construction has begun, or approval has been granted, must be submitted to the Committee for approval.

#### D. Occupancy

Move-in during the period of developer control will be approved by the Design Review Committee Chairman.

#### E. Enforcement-Control

Applications for building permits from the City of Eden Prairie Building Inspections Department will not be granted until a copy of The Developer's Design Review Report is presented which indicates the applicant's compliance with developer's P.U.D. agreement with the City of Eden Prairie and the developer's "Construction Guidelines".

NON-COMPLIANCE with the primary or secondary review process and objectives is governed by The Preserve Homeowner's Association Board of Directors as per Articles and Covenants.

#### REVIEW PROCESS LIMITATIONS:

The Design Committee will attempt to advise the owner of any design problems relative to unusual conditions, but assumes no responsibility for failure to do so.

## 4. Governing Construction Codes

General Construction	Uniform Building Code, International Conference of Building Officials, Pasadena, California, Volume 1, 1970.
Mechanical Construction	Undetermined as of April 1, 1971. However, the following code may be used as a reference: Heating, Ventilating and Air Conditioning Code, Rochester, Minnesota, January, 1968.
Electrical Construction	National Electrical Code, National Fire Protection Association, (United States of America Standard Institute), Boston, Massachusetts, 1968.
Plumbing Construction	Minnesota Plumbing Code, Minnesota State Board of Health, Department of Administration, June 1969.
Health and Safety	Minnesota Regulations Relating to Health Minnesota State Board of Health, St. Paul, Minnesota, 1960 Edition.
Fire Regulations	Building Exits Code, National Fire Protection



Association, Boston, Massachusetts, 1970 Edition.

Pollution Control

Eden Prairie Zoning Ordinance Number 135, April 16, 1970.

Minnesota Administrative Rules and Regulations, Minnesota Pollution Control Agency Pamphlets on: Solid Waste, 1970; Air Quality, 1971; Water Standards, 1968. Documents Section, Department of Administration, State of Minnesota.

## 5. The Preserve Association

### 1. The organizational structure of the “Association”.

“The Preserve Association” is a non-profit corporation formed under and pursuant to the provisions of Chapter 317, Minnesota Statutes.

### 2. Membership and voting rights of homeowners and the developers.

- a. “The Preserve Association” is structures to provide voting control for the developer until seventy-five (75%) percent of the total development is completed and until all classes of membership are in existence and the total votes outstanding in all classes equals or exceeds the total votes of the developer or until January 1, 1990, whichever is earlier; thereafter control shall be that of the homeowners, each being entitled to one (1) vote for each site owned. For the purpose of determining voting rights, an owner of a single family townhouse unit or condominium unit is considered to be a single family residential owner entitled to one (1) vote.
- b. An owner of a lot or lots which constitute the building site of a multiple dwelling unit or units has one (1) vote for each “living unit” located within his multiple dwelling, provided, however, that on any vote taken on Association business the total multiple living unit votes shall not exceed forty-nine (49%) percent of the total votes cast and if necessary shall be appropriately weighted so the total does not exceed this maximum.
- c. The developer shall be entitled to three (3) votes for each lot owned or for each living unit which the City of Eden Prairie approves to be constructed on any lots shown on a plat which is subjected to the terms of the Declaration and which has been zoned and approved for the construction of condominium units or multifamily structures, whether said lot is owned by the developer or not. At such time as a condominium lot or a multi-family living unit is completed on such lots and is either sold or occupied by a tenant, the owner shall then be entitled to one (1) vote and the developer shall no longer be entitled to any votes as to that condominium lot or that living unit.

### 3. Requirements for Annexation, Merger and Dissolution:

- a. The corporation may merge or consolidate with another corporation or corporations only when the resolution approving the proposed agreement or merger or consolidation is approved by the affirmative vote of not less than seventy-five (75%) percent of the total voting members of each class of membership in this corporation.
4. The maximum amount of the first yearly assessment was fifty and no/100 (\$50.00) Dollars in 1973 and has been increased five (5%) percent each year thereafter by Board action to date, which is for the maintenance of the common areas, Neill Lake, quasi-public areas and the community and recreational facilities provided.
  - a. For any assessment fees delinquent thirty (30) days or more, the assessment shall bear interest from the date of delinquency at the rate of six (6%) percent per annum.
  - b. The Board of Directors may, at its discretion, file a lien against the property of a member thirty (30) days or more delinquent. Said lien on the property may be enforced and foreclosed by action at law in the same manner as a mortgage.
  - c. In the event a foreclosure proceedings is effective on any lot and a lien has been placed on that lot by the "Association" for non payment of dues, the purchaser in a foreclosure sale is not responsible for the lien payment but is not relieved of subsequent assessments.
5. Method of changing the maximum "Association" assessment.

The assessment may be increased by the Board of Directors not to exceed five (5%) percent above maximum assessment for the previous year. An amount greater than five (5%) percent may be made only by assent of two-thirds (2/3) of the vote of each class of members who are voting.

6. There are no user fees at present.
7. Nature of common property including improvements.
  - a. Each member of the "Association" shall have a right and easement of enjoyment in the Common Properties which are provided by the developer. He may delegate his right to the Common Properties to members of his family, or to his tenants who reside on his site or lot. Guests may use the facilities in accordance with rules and regulations as approved by the Board of Directors.
  - b. The right and easement of enjoyment does not however, permit Homeowner Construction, Maintenance, Storage or other forms of personal alteration to a Common Property.
8. Services provided by the "Association" shall include maintenance for common areas such as snow removal on major quasi-public walks, lawn care maintenance of the reconstituted Neill Lake area, Community Center, tennis courts, swimming facilities, record keeping, management and supervision.
  - a. A reserve Fund has been created using funds from yearly dues and placed in trust for amenity items that require periodic replacement.
  - b. The "Association" has a Guaranty Agreement with the developer to provide funds for deficit spending of any ordinary and necessary expenses occurring in the "Association" under an approved budget by the Board of Directors.
  - c. The Guaranty ends when Class "E" membership (developer) converts to:
    - i. Another class, and he no longer has control, or 1990, or
    - ii. Significant funds from dues are available to meet all debts.
  - d. The "Association" must repay all subordinated loans to the developer this made provided cash surplus funds are available to make such a payment or payments. The "Association" responsibility ends December 31, 1980.

9. Exterior maintenance of Homeowner dwellings and grounds does not apply except that should an owner of any lot in "The Preserve" which is subject to assessment fail to maintain the premises or maintain or repair the exterior of improvements thereon in a satisfactory manner, then by resolution to do so by a two-thirds (2/3) vote of all members of the Board of Directors may provide exterior maintenance with the costs being assessed against the lot for the purpose solely of performing the exterior maintenance or repair, authorized by the Articles of the Association, through its duly authorized agents, employees or contractors, shall have the right, after, reasonable notice to the Owner, to enter upon any Lot at reasonable hours of any day.
10. Architectural Control
  - a. During initial construction no resident, commercial building, garage, fence, wall, utilities, driveway, landscaping, outbuildings or other structures of any kind shall be commenced, erected or constructed on any lot prior to January 1, 1990 until the plans, specifications, working drawings and proposals of the same showing the nature, kinds, shape, type, materials and location thereof shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the developer. In the event said developer fails to approve or disapprove in writing such plans, specifications, working drawings and proposals within one hundred twenty (120) days after the date they are submitted to it, or in any event if no suit to enjoin the construction, addition, alteration or change has commenced prior to completion thereof, approval will not be required. After January 1, 1990 said approval must be obtained from the Design Review Committee of the "Association" appointed and operating pursuant to this Declaration.
  - b. After the initial construction any residence, commercial building, garage, fence wall, utilities, driveway, landscaping, outbuildings or other structure of any kind, no exterior addition to or alteration or change of any of such facilities shall be made until the plans, specifications, working drawings and proposals of the same showing the nature, kind, shape, height, materials and location thereof shall have been submitted and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Design Review Committee of the Association appointed and operating pursuant to the Declaration Review Committee fails to approve or disapprove in writing such plans, specifications, working drawings and proposals within one hundred twenty (120) days after the date they are submitted to it, or in any event if no suit to enjoin the construction, addition, alteration or change has been commenced prior to completion thereof, approval will not be required.

#### 11. Enforcement

Enforcement of the covenants, conditions and restrictions of the "Association" shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain violation or to recover damages and against the land to enforce any lien created by the covenants; and failure by the "Association" or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The Preserve Design Review Committee  
Instructions to Building Permit Applicants

- I. Introductory meeting with Committee representative - establish with sales person - applicant to receive:
  - a. Verbal indoctrination.
  - b. Written instructions.
  - c. Request for exhibit preparation
    1. Survey of lot in which construction is to be done, prepared by a registered surveyor, and providing the following information:
      - a. Scale of drawing.
      - b. Lot and block number.
      - c. Dimensions of front, rear and side yards.
      - d. Dimensions of lot and north pint.
      - e. Locations of all existing buildings and trees having 2" trunk diameter or shrub masses having 3' height on the lot.
      - f. Locations of proposed building or construction.
      - g. Location of stakes established by the surveyor along each side lot line at the proposed front and rear building line. The maintenance of these stakes once established by the surveyor shall be the responsibility of the building permit applicant.
      - h. The side yard and set back dimensions of building located on adjacent lots.
      - i. The location of all easements as shown on record plats.
      - j. Location of all trails and other adjacent common area features.
      - k. Grade elevations at the following points: (Such elevations shall be tied by the surveyor to a specified bench mark for which the elevation has been obtained from the Village Engineer's Office.)
        - i. Existing grades at:
          1. Each lot corner.
            - a. Front and rear setback points along each side lot line.
            - b. Crown and curb height of proposed street at each lot line extended.
            - c. Proposed building corners.
          2. Proposed elevations at:
            - a. All major corners of building.
            - b. Front and rear setback points along each side lot line.
            - c. Each lot corner.
          3. Proposed basement and garage floor elevation.
          4. Proposed top of foundation.
        - ii. The proposed disposal of drainage and surface waters, indicating direction of surface water drainage by arrows.
        - iii. Preliminary floor plans and elevation view of the proposed building.
        - iv. Specification of external material's color and texture.
        - v. Specification of general landscape techniques to be employed (Removal, protection, relocation, screening, and erosion control).
      2. Second meeting by appointment with the Design Review Committee Representative.
        - i. Review of applicant submitted materials.
        - ii. Review of field staking of the site.

- iii. Filling out of Village building permit application.
3. Third meeting by appointment – applicant to pick-up approved survey, building plans, committee report, and application for building permit.