



AFTER RECORDING RETURN TO:

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KISSING TREE
SAN MARCOS ★ TEXAS

**MASTER RESIDENTIAL LANDSCAPE AND
MODIFICATION GUIDELINES**

Adopted on the 8th day of June, 2017 (the "Effective Date") by:

DECLARANT AS THE KISSING TREE REVIEWER:

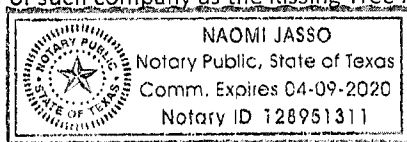
CARMA PASO ROBLES, LLC,
a Texas limited liability company

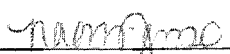
By: 
Chad Matheson, Chief Financial Officer

THE STATE OF TEXAS §
 §
COUNTY OF Hays §

This instrument was acknowledged before me on this 8 day of June, 2017,
by Chad Matheson, Chief Financial Officer of Carma Paso Robles, LLC, a Texas limited liability company,
on behalf of such company as the Kissing Tree Reviewer.

[SEAL]





Notary Public, State of Texas

Adopted by the Kissing Tree Reviewer in accordance with Section 7.04(b) of Kissing Tree Master Covenant,
recorded as Document No. 16036339, Official Public Records of Hays County, Texas (the "Master Covenant").

**ANY PROPOSED MODIFICATION TO AN IMPROVEMENT IN THE DEVELOPMENT MUST BE
SUBMITTED AND APPROVED BY THE KISSING TREE REVIEWER.**

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KISSING TREE

SAN MARCOS ★ TEXAS

MASTER RESIDENTIAL LANDSCAPE AND MODIFICATION GUIDELINES

ARTICLE 1 INTRODUCTION

Any notice or information required to be submitted to the Kissing Tree Reviewer under these Modification Guidelines hereunder will be submitted to the Kissing Tree Reviewer, 11501 Alterra Parkway, Suite 100, Austin, Texas 78758, Phone: (512) 391-1330, Fax: (512) 391-1333.

1.01 Background. Kissing Tree is a master planned community located in Hays County, Texas which is or shall be made subject to the terms and provisions of Kissing Tree Master Covenant, recorded in the Official Public Records of Hays County, Texas (the “**Master Covenant**”) and a Development Area Declaration for Kissing Tree, recorded in the Official Public Records of Hays County, Texas (the “**Development Area Declaration**”) upon pursuant to the Recording of one or more Notices of Annexation in accordance with *Section 11.05* of the Master Covenant. The Master Covenant and each Development Area Declaration includes provisions governing the construction and modification of improvements and standards of maintenance, use and conduct for the preservation of Kissing Tree.

1.02 Kissing Tree Reviewer and Review Authority. The **Kissing Tree Reviewer** consists of one or more individuals who have been appointed by **CARMA PASO ROBLES, LLC**, a Texas limited liability company (the “**Declarant**”). As provided in *Article 7* of the Master Covenant, Declarant has a substantial interest in ensuring that improvements within Kissing Tree development maintain and enhance Declarant’s reputation as a community developer and do not impair Declarant’s ability to market and sell all or any portion of the community, and as a consequence thereof, Kissing Tree Reviewer acts solely in Declarant’s interest and shall owe no duty to any other Owner or Kissing Tree Master Community, Inc. (the “**Association**”).

Article 7 of the Master Covenant includes procedures and criteria for the construction and modification of improvements within Kissing Tree. *Section 7.04(b)* of the Master Covenant provides that the Kissing Tree Reviewer may adopt Modification Guidelines to govern the standards for design, construction, and modification of Improvements, landscaping, and the placement of exterior items within Kissing Tree which may consist of multiple written design guidelines applying to all or specific portions of the Development. These Master Residential Landscape and Modification Guidelines shall constitute “**Modification Guidelines**” as such term is defined and used in the Master Covenant. *Section 3.07* of the *Development Area Declaration* provides that any and all improvements must be erected, placed, constructed, painted, altered, modified or remodeled in strict compliance with the requirements of these Modification Guidelines, and *Section 7.04* of the Master Covenant and *Section 3.07* of the *Development Area Declaration* provides that no improvements may be constructed or modified without the prior written approval of Kissing Tree Reviewer.

These Modification Guidelines have been adopted by the Kissing Tree Reviewer and will apply only to Lots within the Development which will be used for residential purposes. Supplements to

these Modification Guidelines may be adopted for specific Development Areas within the Development. Each supplement shall be in addition to the terms and provisions of the Master Residential Landscape and Modification Guidelines. In the event of a conflict between the terms and provisions of any supplement to these Modification Guidelines and the supplement(s) to the Master Residential Landscape and Modification Guidelines, the terms and provisions of the supplement will control.

ARTICLE 2 GOVERNMENTAL REQUIREMENTS

Governmental ordinances and regulations are applicable to all Lots within Kissing Tree, including, but not limited to federal, state, county and local requirements, and universal building codes, if adopted.

It is the responsibility of each Owner to obtain all necessary permits and inspections and to comply with all Applicable Law (as further defined in the Master Covenant). Compliance with these Modification Guidelines and approval by the Kissing Tree Reviewer is not a substitute for compliance with the applicable ordinances and regulations and other requirements set forth in the Documents. Please be advised that these Modification Guidelines do not list or describe each requirement which may be applicable to a Lot within Kissing Tree. Each Owner is advised to review all encumbrances affecting the use and improvement of their Lot prior to submitting plans to the Kissing Tree Reviewer for approval. Furthermore, approval by the Kissing Tree Reviewer should not be construed by the Owner that any Improvement complies with the terms and provisions of all encumbrances which may affect the Owner's Lot.

Kissing Tree Reviewer shall bear no responsibility for ensuring plans submitted to the Kissing Tree Reviewer comply with any applicable building codes, zoning regulation and other government requirements, including but not limited to the Development Agreement. It is the responsibility of the Owner to secure any required governmental approvals prior to construction on such Owner's Lot.

ARTICLE 3 INTERPRETATION

In the event of any conflict between these Modification Guidelines and a Development Area Declaration, the Development Area Declaration shall control. Capitalized terms used in these Modification Guidelines and not otherwise defined in this document shall have the same meaning as set forth in a Development Area Declaration.

ARTICLE 4 AMENDMENTS

During the Development Period, the Declarant, acting alone, may amend these Master Residential Landscape and Modification Guidelines. Thereafter, the Kissing Tree Reviewer may amend these Master Residential Landscape and Modification Guidelines. All amendments shall become effective upon recordation in the Official Public Records of Hays County, Texas. An Owner submitting an application for modifications to Improvements shall comply with these Modification Guidelines, as amended, in effect at the time of the application submittal. Amendments shall not apply retroactively so as to require modification or removal of work already approved and completed or approved and in

progress. It is the responsibility of each Owner to ensure that they have the most current edition of these Modification Guidelines and every amendment hereto.

ARTICLE 5 ARCHITECTURAL REVIEW OVERVIEW

5.01 Objective. The objective of the review process is to promote aesthetic harmony in the community by providing for compatibility of specific designs with surrounding buildings, the environment and the topography. The review process strives to maintain objectivity and sensitivity to the individual aspects of design.

5.02 Responsibility for Compliance. An applicant is responsible for ensuring that all of the applicant's representatives, including the applicant's architect, engineer, contractors, subcontractors, and their agents and employees, are aware of these Modification Guidelines and all requirements imposed by the Kissing Tree Reviewer as a condition of approval.

5.03 Inspection. Upon completion of all approved work, the Owner must notify Kissing Tree Reviewer. Kissing Tree Reviewer may inspect the work at any time to verify conformance with the approved submittals.

5.04 Submittals. Requests for approval of proposed landscaping or exterior modifications must be made by submitting the information and materials outlined in the Plan Review Process, as set forth herein.

ARTICLE 6 ARCHITECTURAL AND AESTHETIC STANDARDS

6.01 Brick Color and Masonry Stone Repetition. Kissing Tree Reviewer may, in its sole and absolute discretion, deny proposed brick or masonry for a particular Lot if substantially similar brick or masonry exists on a Lot in close proximity to the Lot on which the brick or masonry is proposed. Kissing Tree Reviewer may adopt additional requirements concerning substantially similar brick or masonry constructed in proximity to each other.

6.02 Siding and Masonry. All building materials must be approved in advance by the Kissing Tree Reviewer, and only new building materials (except for antique brick if approved in writing) may be used for modifying any Improvements.

(a) **Prohibited Elements:**

(i) Vertical siding or wood shake siding (wood siding accents may be permitted if approved by the Kissing Tree Reviewer).

(ii) Highly reflective finishes on exterior surfaces (other than non-mirrored glass or on surfaces of hardware fixtures).

(iii) Mirrored glass.

(iv) Gray brick.

6.03 Temporary/Accessory Structures. Detached accessory structures such as cabanas, garden buildings, detached garages, storage buildings or guesthouses (which are in compliance with the Development Area Declaration) are permitted if approved in advance by the Kissing Tree Reviewer.

(a) Permitted Structures. Such accessory structures must be constructed with colors similar to the primary residence, neutral, or earth tone colors, including the roof (as determined by the Kissing Tree Reviewer); and no larger than 8' X 8' X 8', unless otherwise approved.

(b) Variances. The Kissing Tree Reviewer may, at its sole discretion, approve variances on an individual basis.

6.04 Roofs and Chimneys. The pitch, color and composition of all roof materials must be approved in writing by the Kissing Tree Reviewer, prior to commencement of modification. Roof vents and other penetrations shall be as unobtrusive as possible and must match the principal color of the roof unless approved in advance by the Kissing Tree Reviewer.

(a) Energy Efficiency Roofing. Roofs may be modified with “**Energy Efficiency Roofing**” with the advance written approval of Kissing Tree Reviewer. For the purpose of this Section, “Energy Efficiency Roofing” means shingles that are designed primarily to: (a) be wind and hail resistant; (b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (c) provide solar generation capabilities.

Kissing Tree Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (i) resemble the shingles used or otherwise authorized for use within the community; (ii) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (iii) match the aesthetics of adjacent property. An Owner who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth the Restrictions. In conjunction with any such approval process, the Owner should submit information which will enable Kissing Tree Reviewer to confirm the criteria set forth in this Section.

(b) Chimneys. Chimney style must be appropriate for the style of the home and may be brick or other masonry matching with the same permitted colors and materials as permitted on the body of the house; provided however, that any chimney located on the interior portion of the roof may also include cementitious materials solely or in addition to the brick or other masonry.

(c) Other Materials. Any other type of chimney or roofing material shall be permitted only with the advance written approval of Kissing Tree Reviewer.

(d) Prohibited Elements:

- (i) Excessively pitched roofs.
- (ii) Mansard, gambrel or chalet roofs.

- (iii) Flat roofs (less than 3:12).
- (iv) Non-dimensional or three tab composition shingles.
- (v) Roofs that are too steep or too shallow for the style of the home.
- (vi) Shed roofs except as incidental to the main roof.
- (vii) Glossy metal and/or reflective materials or bright colors.
- (viii) Natural or silver Galvalume.
- (ix) Roof vents on the front plane of the home.
- (x) On corner lots, roof vents on street side (unless prior written approval obtained).
- (xi) Stove-pipe chimneys, prominent chimneys or other random roof penetrations.
- (xii) Vents or skylights facing the street.
- (xiii) White or bubble skylights.

6.05 Garages. All garages shall be approved in advance of modification by the Kissing Tree Reviewer.

(a) **Features.** Interior walls of all garages must be finished with sheetrock, textured and painted at a minimum. Each garage shall have garage doors that are wired so as to be operated by electric door openers and automatic door openers are required for all garage doors.

(b) **Prohibited Elements:**

- (i) Carports.
- (ii) Open (not enclosed) automobile storage.

6.06 Exterior Lighting. Exterior lighting must be approved in advance by the Kissing Tree Reviewer.

(a) **Brightness.** No exterior light whose direct source is visible from a street or neighboring property or which produces excessive glare to pedestrian or vehicular traffic will be allowed. Exterior mounted lamp housings must shield lamp (maximum 75 watts) from view and the direct light. Housing must be at least 8 inches long, extend at least 3 inches beyond lamp and have a maximum angle from the wall of the structure of 30 degrees. Decorative or lantern fixtures shall have a maximum of 45 watts per fixture.

(b) Number. The number of exterior light fixture for the house and the landscape may be limited in order to prevent excessive lighting. When the lighting is being installed on the site, a night time inspection and written approval may be required prior to final installation.

(c) Prohibited Elements:

(i) Use of other than white or color corrected high intensity lamps and exterior lights (except holiday lighting which may not be installed more than twenty-one (21) days before a holiday and must be removed no more than fourteen (14) days after the holiday).

(ii) Sodium, mercury vapor, or bare HID yard lights.

6.07 Impervious Cover. The maximum allowable impervious cover per Lot is set forth on Attachment 1, attached hereto.

6.08 Address Markers and Mailboxes. Address markers must be readily visible from the street. The painting of addresses on the curb is not allowed. Centralized mailbox units will be provided in the community for mail pick-up and delivery.

6.09 Solar Energy Devices. “Solar Energy Device” means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. Solar Energy Devices may be installed with the advance written approval of the Kissing Tree Reviewer, subject to the following provisions.

(a) Application. To obtain approval of a Solar Energy Device, the Owner shall submit the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the “**Solar Application**”). A Solar Application may only be submitted by an Owner. The Solar Application shall be submitted in accordance with the provisions of *Article 7* of the Master Covenant.

(b) Approval Process. The Kissing Tree Reviewer will review the Solar Application in accordance with the terms and provisions of *Article 7* of the Master Covenant. The Kissing Tree Reviewer will approve a Solar Energy Device if the Solar Application complies with *Section 6.09(c)* below **UNLESS** the Kissing Tree Reviewer makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 6.09(c)*, will create a condition that substantially interferes with the use and enjoyment of property within the Development by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The Kissing Tree Reviewer’s right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Lots immediately adjacent to the Owner/applicant provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this *Section 6.09* when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the Kissing Tree Reviewer, each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

(i) The Solar Energy Device must be located on the roof of the residence located on the Owner's Lot, entirely within a fenced area of the Owner's Lot, or entirely within a fenced patio located on the Owner's Lot. If the Solar Energy Device will be located on the roof of the residence, the Kissing Tree Reviewer may designate the location for placement unless the location proposed by the Owner increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the Solar Energy Device if installed in the location designated by the Kissing Tree Reviewer. If the Owner desires to contest the alternate location proposed by the Kissing Tree Reviewer, the Owner should submit information to the Kissing Tree Reviewer which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device will be located in the fenced area of the Owner's Lot or patio, no portion of the Solar Energy Device may extend above the fence line;

(ii) If the Solar Energy Device is mounted on the roof of the principal residence located on the Owner's Lot, then: (A) the Solar Energy Device may not extend higher than or beyond the roofline; (B) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Device must be parallel to the roofline; and (C) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

6.10 Screening. Pool equipment shall be enclosed by a structural screening element constructed of materials approved by Kissing Tree Reviewer.

6.11 Flags. Owners are permitted to display certain flags on the Owner's Lot, as further set forth below.

(a) Approval Requirements. An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, an official or replica flag of any branch of the United States Military, or one (1) flag with official insignia of a college or university ("**Permitted Flag**") and permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence ("**Permitted Flagpole**"). Only two (2) permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Kissing Tree Reviewer. Approval by the Kissing Tree Reviewer is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Lot ("**Freestanding Flagpole**").

(b) Installation and Display. Unless otherwise approved in advance and in writing by the Kissing Tree Reviewer, Permitted Flags, Permitted Flagpoles and Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

(i) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;

(ii) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height;

(iii) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3'x5');

(iv) The flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;

(v) The display of a flag, or the location and construction of the flagpole must comply with Applicable Law, easements and setbacks of record;

(vi) Any flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;

(vii) A flag or a flagpole must be maintained in good condition and any deteriorated flag or deteriorated or structurally unsafe flagpole must be repaired, replaced or removed;

(viii) Any flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring property; and

(ix) Any external halyard of a flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the flagpole.

6.12 Signs. Except for those permitted signs as set forth below or otherwise permitted by Applicable Law, no sign of any kind may be displayed or visible to Ordinary Public View on any Lot without the prior written approval of the Kissing Tree Reviewer.

(a) Permitted under the Documents. Signs which are expressly permitted pursuant to these Modification Guidelines or Rules and Regulations may be displayed on a Lot.

(b) Sales and Marketing. Signs which are part of Declarant's or a Homebuilder's overall marketing, sale, or construction plans or activities for the Property shall be permitted on any Lot.

(c) School Spirit. One (1) temporary school "spirit" sign may be placed on any Lot so long as the sign: (i) is professionally made; (ii) is limited to maximum face area of five square feet (*e.g.*, 2' x 2.5') on each visible side; (iii) is mounted on a single or frame post if free standing; (iv) does not exceed four feet (4') in height from finished grade at the location where the sign is located; and (v) is removed within five (5) business days following the athletic season for which the sign relates.

(d) For Sale. One (1) temporary "For Sale" sign placed on any Lot so long as the sign: (i) is professionally made; (ii) is limited to a maximum face area of five square feet (*e.g.*, 2' x 2.5') on each visible side; (iii) is mounted on a single or frame post if free standing; (iv) does not exceed four feet (4') in height from finished grade at the location where the sign is located; (v) is removed within two (2) business days following the sale of the Lot; provided, however, that "For Lease" and "For Rent" signs are expressly prohibited.

(e) Elections. Political signs may be displayed on any Lot provided that: (i) the sign is erected no earlier than the 90th day before the date of the election to which the sign relates; (ii) the sign is removed no later than the 10th day after the date of the election to which the sign relates; (iii) the sign is ground-mounted; (iv) only one sign may be erected for each candidate or ballot item; and (v) signs which include any of the components or characteristics described in Section 202.009(c) of the Texas Property Code are strictly prohibited.

(f) Religious Items. A religious item may be displayed on the entry door or door frame of a residence (which may not extend beyond the outer edge of the door frame) provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty-five square inches (*e.g.*, 5" x 5").

(g) Permits. Permits may be displayed on any Lot as may be required by: (i) legal proceedings; or (ii) a governmental entity

(h) No Solicitation. A "no soliciting" and "security warning" sign may be displayed on or near the front door to a residence, provided that the sign does not exceed twenty-five (25) square inches (*e.g.*, 5" x 5").

6.13 Antennas. The installation of only certain antennas shall be permitted in the Development, as further set forth below.

(a) Prohibited Antennas; Permitted Antennas. Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc may be erected, maintained or placed on a Lot without the prior written approval of the Kissing Tree Reviewer; provided, however, that:

(i) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

- (iii) an antenna that is designed to receive television broadcast signals;

(collectively, (i) through (iii) are referred to herein as the “**Permitted Antennas**”) will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Kissing Tree Reviewer, consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will have the right, but not the obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Development.

(b) Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner’s Lot and may not encroach upon any street, Common Area, Special Common Area, or any other portion of the Development. A Permitted Antenna may be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from Ordinary Public View. In order of preference, the locations of a Permitted Antenna which will be considered least visible from Ordinary Public View by the Kissing Tree Reviewer are as follows:

- (i) attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then
- (ii) attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

The Kissing Tree Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

Satellite dishes one meter or less in diameter, e.g., DirecTV or Dish satellite dishes, are permitted; provided, **HOWEVER**, you are required to comply with the rules regarding installation and placement. These rules and regulations may be modified by the Kissing Tree Reviewer from time to time. Please contact the Kissing Tree Reviewer for the current rules regarding installation and placement.

6.14 Aesthetic Appeal. The Kissing Tree Reviewer may disapprove the modification design of a home on purely aesthetic grounds. Any prior decisions of Kissing Tree Reviewer regarding matters of design or aesthetics shall not be deemed to have set a precedent if Kissing Tree Reviewer feels that the repetition of such actions would have any adverse effect on the community.

ARTICLE 7 LANDSCAPE GUIDELINES

7.01 Landscape. General landscaping guidelines for each Lot are set forth below. All landscapes and landscaping must be approved in writing prior by the Kissing Tree Reviewer prior to installation.

(a) Plans. Detailed landscape plans for each Lot must be submitted to the Kissing Tree Reviewer for consideration at least thirty (30) days before installation is planned. No significant (*i.e.*, major changes in the plant list, plant and plant bed locations, plant count, hardscape design, materials) revisions may be made to approved plans without submission to, and further approval by the Kissing Tree Reviewer of the revised plans. Landscape plans must include vegetative screening for above ground utility connections visible from the street or adjacent properties. Hardscape elements in the landscaping must be in scale with the home and associated structures.

(b) Materials. All introduced vegetation shall be trees, shrubs, vines, ground covers, seasonal flowers or sodded grasses which are commonly used in Central Texas for landscaping purposes and which are approved by the Kissing Tree Reviewer. An emphasis should be placed on utilizing native plants that are drought tolerant as well as deer resistant. A minimum of 2" of mulch is required for all shrub and bed areas. Turf grass shall have a minimum of 4" of native soils or improved soils. Caliche is not considered soil. An Owner must plant grass within three (3) days after top-soil for planting grass has been delivered to the Lot.

(c) Installation and Maintenance. Landscaping of new homes must be installed within thirty (30) days of completion and in any event, landscaping in accordance with the approved plans shall be completely installed prior to occupancy of a residence. Modifications of existing landscaping must be completed within fourteen (14) days of commencement. Extensions to the time limit may be granted by the Reviewer but may require a deposit. After installation, landscaping (including temporary landscaping) shall be properly maintained at all times.

(d) Gardens; Sculptures and Fountains. Any Owner who wishes to plant one or more gardens upon their Lot must obtain the approval of the Kissing Tree Reviewer. Sculptures and fountains are subject to approval by the Kissing Tree Reviewer.

(e) Reservation of Future Approvals. The Reviewer reserves the right to require additional landscaping for pools, cabanas and other hardscape elements that may be constructed after completion of the residence and associated landscaping.

(f) Prohibited Elements.

(i) Rock other than crushed granite as a ground cover (unless approved in advance by the Kissing Tree Reviewer).

(ii) St. Augustine Grass.

7.02 Tree Protection. Protection and preservation of trees is of significant importance to the aesthetics of the community and the environment of Kissing Tree.

(a) Vegetative Fencing. Whenever possible and economically feasible, all trees should be preserved and protected during construction with vegetative fencing.

(b) Tree Removal. As used herein, the "Building Envelope" shall be defined as the area of the Lot that is allowed for construction of improvements as defined by the setbacks of

the Lot. A "Specimen Tree" is defined as a tree that is healthy and with a uniform canopy, excluding Junipers and Mesquite. In the area outside the Building Envelope, a Specimen Tree that is 9" or larger in diameter measured 24" off the ground must be flagged and approved in writing by the Kissing Tree Reviewer prior to removal.

(c) Oak Wilt. Sound horticultural practices, as recommended by the Texas Forest Service, are required to prevent the establishment or spread of oak wilt. Specific requirements include:

- (i) Tree pruning tools and blades shall be sterilized prior to and between cutting any oak trees.
- (ii) Oak tree pruning is discouraged from February 1st to June 15th.
- (iii) Pruned trees and/or wounds shall be immediately protected with tree paint (approved example: Treekote Tree Compound).
- (iv) All firewood shall be covered.

7.03 Irrigation. Kissing Tree Reviewer must approve all irrigation systems prior to installation.

(a) Full Yard Required. Full yard programmable irrigation systems may be required to be installed on a Lot by the Kissing Tree Reviewer. Any approved irrigation systems must be installed and maintained pursuant to all water requirements under Applicable Law, as well as any applicable Texas Commission on Environmental Quality ("TCEQ") regulations.

(b) Backflow Prevention Device. Each Owner is advised that TCEQ regulations require the installation of a backflow prevention device at any connection to a public drinking water supply. If a backflow prevention device is required, the Owner will be obligated to have performed a yearly inspection by a licensed TCEQ Backflow Prevention Assembly Tester.

(c) Drip Systems. The use of drip irrigation is encouraged. Irrigation sprinkler systems must use heads that emit large drops rather than a fine mist. All irrigation systems shall be zone based on plant watering requirements.

(d) Drought Management Plans. Drought management plans may be implemented, as necessary, by the Kissing Tree Reviewer.

7.04 Xeriscaping. As part of the installation and maintenance of landscaping on an Owner's Lot, an Owner may submit plans for and install drought tolerant landscaping ("**Xeriscaping**") upon written approval by the Kissing Tree Reviewer, subject to the following provisions.

(a) Application. Approval by the Kissing Tree Reviewer is required prior to installing Xeriscaping. To obtain the approval of the Kissing Tree Reviewer for Xeriscaping, the Owner shall provide the Kissing Tree Reviewer with the following information: (a) the proposed site location of the Xeriscaping on the Owner's Lot; (b) a description of the Xeriscaping, including the types of plants, border materials, hardscape materials and photograph or other accurate

depiction and (c) the percentage of yard to be covered with gravel, rocks and cacti (the “**Xeriscaping Application**”). A Xeriscaping Application may only be submitted by an Owner unless the Owner’s tenant provides written confirmation at the time of submission that the Owner consents to the Xeriscaping Application. The Kissing Tree Reviewer is not responsible for: (a) errors or omissions in the Xeriscaping Application submitted to the Kissing Tree Reviewer for approval; (b) supervising installation or construction to confirm compliance with an approved Xeriscaping Application or (c) the compliance of an approved application with Applicable Law.

(b) Approval Conditions. Unless otherwise approved in advance and in writing by the Kissing Tree Reviewer each Xeriscaping Application and all Xeriscaping to be installed in accordance therewith must comply with the following:

(i) The Xeriscaping must be aesthetically compatible with other landscaping in the community as reasonably determined by the Kissing Tree Reviewer. For purposes of this Section, “aesthetically compatible” shall mean overall and long-term aesthetic compatibility within the community. For example, an Owner’s Lot plan may be denied if the Kissing Tree Reviewer determines that: a) the proposed Xeriscaping would not be harmonious with already established turf and landscaping in the overall community; and/or b) the use of specific turf or plant materials would result in damage to or cause deterioration of the turf or landscaping of an adjacent property owner, resulting in a reduction of aesthetic appeal of the adjacent property Owner’s Lot; and

(ii) The Xeriscaping must not attract diseases and insects that are harmful to the existing landscaping on neighboring Lots, as reasonably determined by the Kissing Tree Reviewer.

(c) Process. The decision of the Kissing Tree Reviewer will be made within a reasonable time, or within the time period otherwise required by provisions in the Documents which govern the review and approval of improvements. A Xeriscaping Application submitted to install Xeriscaping on property owned by the Association or property owned in common by members of the Association will not be approved. Any proposal to install Xeriscaping on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to the requirements set forth in this Section when considering any such request.

(d) Approval. Each Owner is advised that if the Xeriscaping Application is approved by the Kissing Tree Reviewer installation of the Xeriscaping must: (a) strictly comply with the Xeriscaping Application; (b) commence within thirty (30) days of approval; and (c) be diligently prosecuted to completion. If the Owner fails to cause the Xeriscaping to be installed in accordance with the approved Xeriscaping Application, the Kissing Tree Reviewer may require the Owner to: (a) modify the Xeriscaping Application to accurately reflect the Xeriscaping installed on the property; or (b) remove the Xeriscaping and reinstall the Xeriscaping in accordance with the approved Xeriscaping Application. Failure to install Xeriscaping in accordance with the approved Xeriscaping Application or an Owner’s failure to comply with the post-approval requirements constitutes a violation of the Master Covenant and may subject the Owner to fines and penalties. Any requirement imposed by the Kissing Tree Reviewer to

resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application shall be at the Owner's sole cost and expense.

7.05 Rainwater Harvesting Systems. Rain barrels or rainwater harvesting systems (a "Rainwater Harvesting System") may be installed with the advance written approval of the Kissing Tree Reviewer, subject to the following provisions.

(a) Application. To obtain Kissing Tree Reviewer approval of a Rainwater Harvesting System, the Owner shall provide the Kissing Tree Reviewer with the following information: (a) the proposed installation location of the Rainwater Harvesting System; and (b) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the "Rain System Application"). A Rain System Application may only be submitted by an Owner.

(b) Approval Process. The decision of the Kissing Tree Reviewer will be made in accordance with *Article 7* of the Master Covenant. Any proposal to install a Rainwater Harvesting System on property owned by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this Section when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the Kissing Tree Reviewer, each Rain System Application and each Rainwater Harvesting System to be installed in accordance therewith must comply with the following:

(i) The Rainwater Harvesting System must be consistent with the color scheme of the residence constructed on the Owner's Lot, as reasonably determined by the Kissing Tree Reviewer;

(ii) The Rainwater Harvesting System does not include any language or other content that is not typically displayed on such a device;

(iii) The Rainwater Harvesting System is in no event located between the front of the residence constructed on the Owner's Lot and any adjoining or adjacent street;

(iv) There is sufficient area on the Owner's Lot to install the Rainwater Harvesting System, as reasonably determined by the Kissing Tree Reviewer;

(v) If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, the Kissing Tree Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. See *Section 7.05(d)* for additional guidance.

(d) Guidelines. If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, the Kissing Tree Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System.

Accordingly, when submitting a Rain System Application, the application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of any street, common area, or another Owner's Lot. When reviewing a Rain System Application for a Rainwater Harvesting System that will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, any additional requirements imposed by the Kissing Tree Reviewer to regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System, may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the Kissing Tree Reviewer.

(e) Limitations. Rainwater Harvesting Systems shall be: (i) only two 55 gallon tanks shall be permitted which must be two feet (2') in diameter and four feet (4') in height; and (ii) only located within the fenced yard of the Lot and not visible from the street.

7.06 Landscape Inspection. Kissing Tree Reviewer may, upon the Owner's completion of the installation of landscaping, conduct an on-site inspection of the property to ensure compliance with the approved plan.

7.07 Drainage. There shall be no interference with the established drainage patterns except by Declarant, unless adequate provision is made for proper drainage and such provision has been certified by a professional engineer and approved in advance by the Kissing Tree Reviewer.

(a) Site Drainage. Responsibility for proper site drainage rests with the Owner. Each Owner is solely responsible for correcting any change in water flow or drainage caused by the construction of Improvements on such Owner's Lot.

(b) Area Drains. No area drains are allowed to extend through the curb, and any area drain opening must be behind the curb within the Lot and cannot extend to the street or right-of-way.

(c) Drainage Improvements. All drainage improvements within any right-of-way must be submitted to the Kissing Tree Reviewer for consideration and must be constructed in accordance with stamped engineered plans by a licensed engineer. Drainage improvements must be maintained by each Owner unless maintenance has been accepted by the Association in a Recorded written instrument.

7.08 Fencing and Walls. The materials, height, location and construction of all fences must be approved in advance by the Kissing Tree Reviewer.

(a) Lot Fencing. Lot fencing shall be five feet (5') in height, and shall be black wrought iron with four inches (4") on center spacing between the pickets. The pickets shall remain perpendicular on slopes. Standard stone columns shall be placed no further than sixteen feet (16') apart and shall be located on the corners. The columns must be twelve inches (12") in length by twelve inches (12") in width, by five and one half feet (5 ½') in height and must have a 16" x 16" cap stone that matches the standard column detail. Fencing may be located on the property line with returns going to the back corner of the residence on the Lot. Pet fencing may have pickets at two inches (2") on center and up to two feet (2') from the bottom of the fence. Approved fencing examples are shown on Attachment 2.

(b) Pet Enclosures. Pet enclosures may be up to three feet (3') in height, and shall be black wrought iron with four inches (4") on center spacing between pickets. The pickets shall remain perpendicular on slopes. Pet enclosures must be less than fifty percent (50%) of the width of the residence on the Lot and the maximum depth shall not exceed more than fifteen feet (15') from the back of the residence on the Lot. Columns around any pet enclosures are not required; however, landscaping around the exterior of the enclosure is required.

(c) Plans. Plans submitted for fences or walls must be drawn on an accurate copy of the site plan.

(d) Prohibited Elements:

- (i) Shadowbox or "Pallet" type fencing.
- (ii) Fencing of front yards.
- (iii) Solid walls enclosing an entire site.

7.09 Pools, Spas and Hot Tubs. An application must be submitted to the Kissing Tree Reviewer in conjunction with the review of any application for any proposed swimming pool, spa, or hot tub. The materials, location and construction of all pools, spas and hot tubs must be approved in advance by the Kissing Tree Reviewer.

(a) In Ground. Swimming pools and accompanying spas shall be in-ground, or a balanced cut and fill, and shall be designed to be compatible with the site and the dwelling. All exposed concrete on "Infinity Edge" swimming pools must be properly screened through the use of landscaping and no more than three (3) feet of exposed concrete may be visible. Self-contained above-ground hot tubs require approval by the Reviewer.

(b) Location. All permitted swimming pools and spas shall be located behind the front building line and in no case shall the pool proper be closer than five feet (5') to any Lot boundary line.

(c) Screening; Fencing. Screening, fencing, security and maintenance are required of all swimming pools, spas and hot tubs. Additional fencing, if any is proposed in addition to the yard fencing, and/or walls around the swimming pool, spa or hot tub must be approved in advance by the Kissing Tree Reviewer and integrated into the design of the dwelling and site. Fences must meet all governmental regulations and no pool, spa, hot tub or other similar water containing basin shall be filled with water until proper fencing is installed.

(d) Plans. The swimming pool, spa or hot tub plan must be drawn on a copy of an accurate site plan and shall include specific indications of distances from the water containing basin(s) and surrounding slab walks to the lot lines and building setbacks.

(e) Backwash. Unless otherwise expressly approved by the applicable governmental agency or utility service provider, backwash from a swimming pool, spa or hot tub drain with a backwash filtering system must be contained within the Lot on which the swimming

pool, spa or hot tub has been constructed and is not permitted to be discharged into any street, adjoining Lot or drainage easement.

(f) Construction Deposit. A construction deposit is required for all swimming pool, spa or hot tub construction by an Owner.

(g) Lot Access. No access across another Lot, Common Area, Open Space or greenbelt for the purpose of building or maintaining a swimming pool, spa or hot tub is permitted without the prior written approval of the other property owner or the Kissing Tree Reviewer, in the case of Common Area, Open Space and/or greenbelt.

7.10 Playscapes, Trampolines, Basketball Goals and Sport Courts. Playscapes, basketball goals, recreational or sport courts and trampolines must be approved in writing by the Kissing Tree Reviewer prior to the commencement of construction or placement.

(a) Features. If allowed, these facilities must be properly sited and screened so as to minimize the visual and audio impact of the facility on adjacent properties. Special attention will be placed on color schemes and on the visibility of the equipment from the street and neighboring Lots.

(b) Plans. Plans for playscapes and sport courts must be drawn on an accurate copy of the site plan and must include proposed screening.

(c) Basketball Goals. Portable basketball goals are only allowed between the street right of way and the front of a residence on a Lot and must not be placed, at any time, on any street or right of way located within a Development Area. When not in use, portable basketball goals must be stored in a garage or in the rear of the Lot (i.e., out of public view).

(d) Prohibited Elements:

- (i) Direct or indirect lighting of the playscape, trampoline or sport court.
- (ii) Netting enclosures (except safety netting around a trampoline).
- (iii) Tennis courts.

ARTICLE 8 EROSION CONTROL AND CONSTRUCTION REGULATIONS

The following restrictions shall apply to all modification and construction activities at Kissing Tree. **It is the responsibility of all Owners and/or contractors to adhere to State and Federal stormwater runoff protection and prevention requirements that may be applicable to their construction activities and to obtain proper permits as may be required. Periodic inspections by a representative of Kissing Tree Reviewer may take place in order to identify non-complying construction activities. If items identified as not complying with the regulations are not remedied in a timely manner, fines will be levied.**

8.01 Erosion Control Installation and Maintenance. Upon written approval by the Kissing Tree Reviewer, it is the responsibility of the Owner to install erosion control measures prior to the start of construction and to maintain the measures throughout construction.

(a) **Silt Fencing.** Silt fencing installed to all applicable standards is required to be properly installed and maintained to protect the low sides of all disturbed areas, where storm-water will flow during construction. The purpose of the silt fence is to capture the sediment from the runoff and to permit filtered, clean water to exit the site.

(b) **Sediment Removal.** Built-up sediment will need to be removed from the silt fence after heavy or successive rains, and that any breach in the fencing will need to be repaired or replaced immediately. If for any reason the silt fence is to be temporarily removed, a representative of Kissing Tree Reviewer must be contacted prior to the removal.

8.02 Security. Neither Kissing Tree Reviewer, the Association, nor the Declarant shall be responsible for the security of job sites during construction. If theft or vandalism occurs, the Owner should first contact the Hays County Sheriff's Department and then notify the Kissing Tree Reviewer.

8.03 Construction Hours. Unless a written waiver is obtained from Kissing Tree Reviewer, construction may only take place as follows:

(a) **Hours.** Monday through Friday from 7:00 a.m. until 7:00 p.m., and on Saturdays and Sundays from 9:00 a.m. until 6:00 p.m.

(b) **Holidays.** There shall be no construction on New Year's Day, Easter, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

(c) **Waivers.** Waivers may be given for the pouring of concrete slabs during the summer months.

8.04 Noise, Animals, Children. The use of music devices and noise must be restrained so as not to be heard on an adjoining Lot or street. Contractors and subcontractors may not bring dogs or children under 16 years of age to construction sites.

8.05 Material and Equipment Storage. All construction materials and equipment shall be neatly stacked, properly covered and secured. Any storage of materials or equipment shall be the Owner's responsibility and at their risk. Owners may not disturb, damage, or trespass on other Lots or adjacent property.

8.06 Insurance. Kissing Tree Reviewer may require an Owner to procure adequate commercial liability insurance during construction naming the Association, the Declarant and Kissing Tree Reviewer as additional insureds in an amount to be determined, from time to time, by the Kissing Tree Reviewer.

8.07 Site Cleanliness. During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming an eyesore.

(a) Fencing. Brightly colored construction fence must be installed before the start of construction on all side lot lines where a home is being constructed next to an existing occupied home.

(b) Trash Containers. Owners shall clean up all trash and debris on the construction site. Trash and debris shall be removed from each construction site on a timely basis. Kissing Tree Reviewer will have the authority to require that one dumpster be provided to serve no more than two Lots. In addition to any dumpster, a trash receptacle approved in advance by the Reviewer will be located on each lot during construction. Trash receptacles must be emptied periodically and will not be permitted to overflow. Chain link fencing is not an acceptable enclosure material for temporarily containing trash. Lightweight material, packaging and other items shall be covered or weighted down to prevent wind from blowing such materials off the construction site.

(c) No Dumping or Burning. The dumping, burying or burning of trash is not permitted anywhere in Kissing Tree.

(d) Heavy Equipment and Debris. When moving heavy equipment, precautions must be taken to prevent damage to pavement, curbs, and vegetation. Track loaders are not to be operated on paved or concrete surfaces. Mud, dirt and other construction debris that is tracked off the construction site shall be cleaned on a daily basis. Skid steer loaders are not to be used to clean the streets by scraping them.

8.08 Sanitary Facilities. A temporary sanitary facility (chemical toilet) shall be provided and maintained for the use of construction workers on or within three (3) Lots of the construction site.

8.09 Construction Parking & Construction Trailers. Construction crews shall not park on, or otherwise use, other Lots. No construction vehicle will be permitted to leak oil or otherwise damage or deface any street located within the community. The Documents permit Declarant to maintain and locate construction trailers and construction tools and equipment within the Development Area. Upon written approval from the Kissing Tree Reviewer, a Homebuilder may be permitted to establish a construction trailer, field office or similar temporary structure by submitting along with the application for approval, a copy of the site plan with proposed locations of trailer, field office or similar temporary structure with a trash receptacle noted thereon. The trash receptacle shall be of an approved size. Such temporary structure, if approved, must be removed immediately upon completion of construction. Approval by the Kissing Tree Reviewer shall not relieve Homebuilder from the obligation to apply for and obtain any other governmental permits before moving any such construction trailer, field office, etc. onto the Development Area.

8.10 Schedule of Construction Fines. Periodic inspections by a representative of Kissing Tree Reviewer may take place in order to identify non-complying construction activities. Fine amounts will be set forth in the Fine and Enforcement Policy in the Policy Manual (as defined in the Master Covenant).

ARTICLE 9

PLAN REVIEW PROCESS

The construction or installation of any improvements, changes to existing improvements, or the reconstruction of improvements, will require the submission of plans and specifications for approval of

Kissing Tree Reviewer before any such construction, installation or modification activity is commenced. Kissing Tree Reviewer may waive plan and specification requirements for certain modifications or improvements at its discretion.

9.01 Submittals. The Plan Review Process includes a Preliminary Review phase plus Final Approval by the Kissing Tree Reviewer:

Preliminary Approval - Submittal of a site plan showing the specific Improvement on the specific Lot upon which it is proposed to be built. The site plan must show compliance with all set-backs, easements, etc. and must also show location of and material to be used on home or ancillary Improvements, as applicable. In the case of landscaping, a diagram shall be submitted showing placement of required landscaping plants and any additional landscape improvements that may be specific to the particular house and/or Lot.

Final Approval - To obtain final approval, a completed Final Plan Application attached hereto as Attachment 3 must be submitted to the Kissing Tree Reviewer, including any information or materials requested but not previously provided or submitted (can be submitted at any Stage above). Improvements on a Lot may not commence until such Final Plan Application has been submitted and executed by the Kissing Tree Reviewer.

9.02 Timing. Kissing Tree Reviewer will attempt to review all applications and submittals within thirty (30) days after submission. Please plan construction activities to allow sufficient time for submittals and review as outlined above, and for obtaining Final Approval prior to commencement.

ATTACHMENT 1
IMPERVIOUS COVER

GC Land Use Development Standards

Standard Category						
	Commercial		Townhomes		Multi-Family	
	Required (by City Ord.)	Permitted (by PDD Ord.)	Required (by City Ord.)	Permitted (by PDD Ord.)	Required (by City Ord.)	Permitted (by PDD Ord.)
Lot/Parcel Area, Minimum Sq. Ft.	6000	6000	2500*	2500	*	7260
Lot/Parcel Area, Maximum Acres	N/A	N/A	N/A	N/A	N/A	N/A
Units per Acre, Maximum/Gross Acre	N/A	N/A	6/12	12	12	15
Lot Frontage, Minimum Feet	50	50	25	25	40	40/60
Lot Width, Minimum Feet	50	50	25	25	60	60/80
Front Yard Setback, Minimum Feet	20	20	20	15**	25	25**
Side Setback, Minimum Feet, Interior	5	5	0*	0*	10	5/10
Side Setback, Corner, Minimum Feet	15	10	12	10	15	10/15
Rear Yard Setback, Minimum**	5	5	10	10	10	10
Lot Depth, Minimum Feet	100	100	N/A	N/A	100	100
Impervious Cover, Max. %	80%*	80%	70%	70%	75%	75%
Building Height, Maximum Feet*	N/A	4 stories	30	4 stories	45	4 stories

* See Chapters 4 and 6 of the SMLDC for additional standards or requirements.

** Patios and decks are allowed to encroach into setbacks by 5 feet.

TABLE III-4
MU Land Use Development Standards

Standard Category	MU District (by City Ordinance)	Proposed (by PDD Ordinance)		
		Residential		Non-Res.
		SF	TH	NC/CC
Lot/Parcel Area, Minimum Sq. Ft.	6000	4000	2500	6000
Lot/Parcel Area, Maximum Acres	20	N/A	N/A	5
Units per Acre, Maximum/Gross Acre	5.5	7.5	12	N/A
Lot Frontage, Minimum Feet	50	30**	25**	50
Lot Width, Minimum Feet	50	40	25	50
Front Yard Setback, Minimum Feet	25	15***	15***	20
Side Setback, Minimum Feet, Interior	7.5	5****	0' /5	5
Side Setback, Corner, Minimum Feet	15	10	10	15
Rear Yard Setback, Minimum*	5*	15****	0/10	5*
Lot Depth, Minimum Feet	100	90	N/A	100
Impervious Cover, Max. %	60%	60%	70%	80%
Building Height, Maximum Feet*	30	4 stories	4 stories	35

Setbacks are to pad. Overhangs are allowed into setback access.

* See Chapters 4 and 6 of the SMLDC for additional standards or requirements.

** Lot frontage may be reduced per PDD, III.H.Section 6.7.2.1.

*** Accessory Dwellings and side entry garages are allowed to be within 5 feet of the front property line.

**** Patios, decks, and architectural features (bay windows, fireplaces, etc) are allowed to encroach into setbacks by 5 feet.

F. SCHOOL/PARK/COMMUNITY CENTER AND CIVIC DEVELOPMENT
STANDARDS

If a school site is located in the Paso Robles community, the developer working in conjunction with the San Marcos Consolidated Independent School District and the State of Texas Department of Education will develop appropriate standards to determine a final layout and site plan for a school site. Architectural and landscape themes appropriate to the PDD development will be addressed in this preliminary site plan review with the intent that the schools are to be in character with the design guidelines within the Paso Robles CC&R. Other issues to be addressed include parking requirements, landscaped transition areas, height limitations, circulation and residential setback requirements.

The design of a school, civic sites or any other community structure shall be consistent with the design guidelines within the Paso Robles CC&R's. In addition, the Community Center parcels are allowed to have Neighborhood Commercial/Community Center uses within a single or multiple buildings. These may include uses related to the production, storage, and sale of wine including, but not limited to, a winery visitor center, facilities for the retail sale of wines and wine-related items, catering shops, cafes / restaurants, offices, laboratories, bottling facilities, equipment maintenance shops, wine storage facilities, and commercial scales and commercial grape sampling facilities.

Relocation or expansion of a Community Center shall be accomplished administratively through direct negotiations between the developer and the City of San Marcos or utility provider, as applicable. If the relocation of the site is deemed necessary, it shall be located within an established residential zone. The previously designated location shall revert to a residential zone with all accompanying uses and restrictions. Location, relocation, or expansion of a School/ Community Center or Civic shall be allowed within this PDD and shall not require a major amendment to Paso Robles' PDD. However, the removal of a School/Community Center or Civic use shall require approval by the Planning & Zoning Commission and the City Council.

G. IMPERVIOUS COVER REGULATIONS

1. Purpose and Intent

The impervious cover regulations serve as an important element in implementing the land uses for the Paso Robles PDD. The regulations contained herein provide an appropriate degree of flexibility to anticipate future needs and afford compatibility among land uses while still achieving the City's intended water quality and sensitive feature protections. For the purpose of this PDD, specific impervious cover standards are established for the MU base zoning district and the GC base zoning district.

For the calculation of impervious cover within the MU (Residential) portion of Paso Robles, Table III-5 shall be used to calculate average impervious cover for each

S.F. lot. Overall impervious coverage shall be calculated at time of final plat based upon the average impervious coverage's for single family lots as per Table III-5 and actual areas for all other impervious surfaces. See Example Impervious Cover Tracking Chart in Table III-7 for illustrative impervious cover tracking calculations.

2. General Commercial Base District Regulations

The entire General Commercial base district shall be considered as a whole for impervious calculation purposes. Thus up to 80% of the entire district is allowed to be impervious.

3. Mixed Use Base District Regulations

a. Outside Edwards Aquifer Recharge Zone

The entire property area located outside the Edwards Aquifer Recharge Zone within the Mixed Use base district shall be considered as a whole for impervious calculation purposes. Thus up to 60% of the entire district is allowed to be impervious. A minimum of 40% pervious area shall be provided within the first plat located with this area. All subsequent plats shall in total (with previous platted areas) provide a minimum of 40% pervious area.

b. Within the Edwards Aquifer Recharge Zone

The entire property area located inside the Edwards Aquifer Recharge Zone within the Mixed Use base district shall be considered as a whole for impervious calculation purposes. Thus, up to 20% of the entire district is allowed to be impervious. Individual plats may exceed 20% impervious cover, as long as the maximum impervious cover is not exceeded as depicted in Table III-6. Each plat submittal shall provide a chart tracking the maximum impervious cover allowable as indicated in Table III-7.

TABLE III-5
Impervious Cover Calculations for Single Family Lots

Lot Size	Average Impervious Cover (sq. ft.)
> 3 acres	10,000
Between 1 and 3 acres	7,000
Between 15,001 sq. ft. and 1 acre	5,000
Between 10,001 and 15,000 sq. ft.	3,500
< 10,000 sq. ft.	2,500

TABLE III-6
Allowable Impervious Cover over Edwards Recharge Zone

Total Project Acreage within the Edwards Aquifer Recharge Zone	Acreage at 20% allowable impervious cover
204.98 acres	41.0 acres

TABLE III-7
Example Impervious Cover Tracking Chart

Total Area in Recharge Zone: 204.98 Acres
Total Allowable Impervious Cover (20%) 41.0 Acres

	Total Area	Impervious Cover	% I.C. per Plat	Cumm. I.C. (ac.)	Cumm. I.C. (%)
Plat #1 Areas	40.2 Acres	0.8 Acres	2.0%	0.8	0.4%
Remaining Areas	164.8 Acres	40.2 Acres			
Plat #2 Areas	12.6 Acres	4.2 Acres	33.3%	5.0	2.4%
Remaining Areas	152.2 Acres	36.0 Acres			
Plat #3 Areas	15.8 Acres	4.0 Acres	25.3%	9.0	4.4%
Remaining Areas	136.4 Acres	32.0 Acres			
Plat #4 Areas	26.3 Acres	6.1 Acres	23.2%	15.1	7.4%
Remaining Areas	110.1 Acres	25.9 Acres			

H. OTHER IMPROVEMENT STANDARDS

The following sections of the SMLDC are modified to provide an appropriate degree of flexibility to anticipate future needs and afford compatibility among land uses within the Paso Robles PDD. These modifications are specific to the terrain and design objectives to create a master planned community versus a series of subdivisions.

Section 4.4.1.2 Special Height Regulations

(a) Calculation of Height.

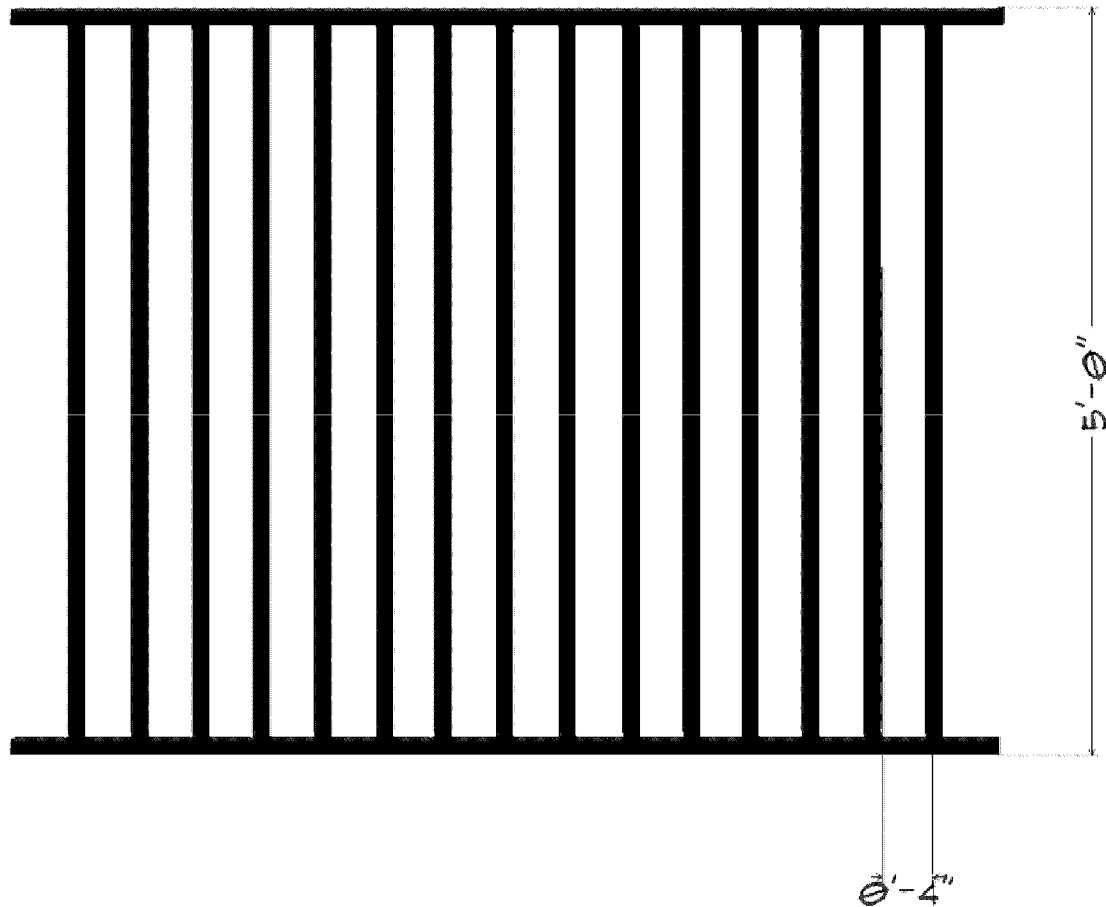
- (1) For the purposes of calculating the overall height of a structure, height shall be calculated from the highest point of the building to the highest point of finished grade at the building, or the elevation of an adjoining road, along a line that is, as close as possible, perpendicular to existing contours, whichever is higher.
- (2) The height shall be measured from the highest parapet or roof ridge to natural grade or finish grade at the highest point adjacent to the building exterior, whichever yields the greatest height.

City of San Marcos Land Development Code	Paso Robles	Modifications to City of San Marcos Land Development Code Per Planned Development District
Code modification comparison table		
Entire PDD		
Chapter 5 ENVIRONMENTAL REGULATIONS		
Impervious Cover Limitations		
Section 5.1.1.5(a) Impervious Cover Limitations - Hillsides: Impervious cover on hillsides shall be limited as follows: (1) 35% on areas having a slope with a gradient of between 15% and 25%; or (2) 20% on areas having a slope with a gradient more than 25%. (b) Impervious Cover Limitations - Edwards Aquifer: Impervious cover for developments within the Edwards Aquifer Zone shall not exceed the standards in Article 2 of this Chapter 5. Impervious cover limitations - river corridors: Impervious cover for developments within water quality or buffer zones of rivers, streams and wetway corridors shall not exceed the standards in Article 2 of this Chapter 5. Impervious cover limitations: Within City limits, the impervious cover allowed on a lot, parcel or tract shall be in accordance with the standards regarding impervious cover in Chapter 4, Article 2. Restrictions on impervious cover in subsections (a), (b) and (c) of this Section apply in addition to any lot coverage limitation imposed under Chapter 4, Article 2. Erodeable soils: The impervious cover standards in subsections (a), (b) and (c) of this Section shall be considered as maximum limitations on impervious cover, except as otherwise provided in this Land Development Code. Impervious cover on a development site subject to the limitations in subsections (a), (b) or (c) may be further limited if the site contains highly erodible soils, as identified in the Technical Manual for Chapter 5. Any development application that seeks approval of impervious cover under the standards of subsections (a), (b) or (c) on a site that has highly erodible soils shall include a plan for stabilizing and prevention of erosion of such soils from proposed development activities. Section 5.2.3.1 Impervious Cover Limitation (a) Impervious Cover Limitation: The total of all impervious cover that may be developed on a site in the recharge zone shall not exceed the following percentages of the gross area of the site based on the size of the site on October 8, 2001. Additional impervious cover limitations apply to those areas of the development site that are located within a water quality zone, a buffer zone or a sensitive feature protection zone. TABLE INSET: Size of Site Impervious Cover Limit Up to and including three acres 40% More than three acres and less than five acres 30% Five acres or more 20%	5.1.1.1.5(a) Impervious Cover Limitations - Hillsides: Impervious cover on hillsides shall be limited as follows: (1) 35% on areas having a slope with a gradient of between 15% and 25%; or (2) 20% on areas having a slope with a gradient more than 25%. 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(d) Limitation on site, land, and/or limited water quality zones, buffer zones, and sensitive terrain, protection zones may be used in the calculation of the total impervious cover allowed on the site. The total allowed impervious cover on a site may be allocated by an applicant in a manner that concentrates the allowed impervious cover in one or more upland zones on the site, under Sections 5.2.8.1 and 5.2.8.2. Submittal of a series of application submittals. A person may not submit a series of applications for approval of any type of Watershed Protection Plan for distinct sites on a single tract of property nor divide such tract into smaller parcels for the purpose of increasing the impervious cover limit on the property. If the Engineering Director determines that an application involves a violation of this subsection, the Engineering Director will apply the impervious cover limitation for the entire tract of property, including those portions already approved. Section 5.3.2.3 Creation of Impervious Cover (a) Impervious Cover Limitation. Impervious cover on land within the San Marcos River Corridor outside a water quality zone shall be limited by the gradient of the land to be developed, as follows: (1) 50 percent on areas having a slope with a gradient of less than 1% percent, or (2) 20 percent on areas having a slope with a gradient of between 1% and 2% percent, or (3) 10 percent on areas having a slope with a gradient greater than 2% percent. (c) Credit shall be given for the use of pervious surfaces and materials in direct proportion to the pervious character of the material.	(b) Calculation of Height. (1) For the purposes of calculating the overall height of a structure, slope shall be calculated from the highest point of the building at natural grade to the lowest point of the building at natural grade, or the natural grade of an adjoining road, along a line that is, as close as possible, perpendicular to existing contours. (2) The height shall be measured from the highest parapet or roof ridge to natural grade or finish grade at the lowest point adjacent to the building exterior, whichever yields the greatest height.
Section 5.3.2.1 General Tree Preservation Requirements for Existing Landscapes (a) Preservation of Existing Landscapes. The existing natural landscape character, especially native oaks, elms, madroño, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. For example, in an area of the street yard containing a stand of trees, the developer, and the builder shall use best good faith efforts to preserve such trees. Cells Occidental's (Haskewery), Jumpers, Virgiana, Jumpers ashe (Common Cedar), Chisholmy, mesquite and Ligustrum with a caliper of less than 12 inches are excluded from this provision. Indiscriminate clearing or stripping of natural vegetation on a lot is prohibited. Any part of a site not used for buildings, parking, driveways, walkways, utilities, on-site septic facilities (OSSF) and approved storage areas shall be retained in a natural state, or reclaimed to the natural state, to the greatest extent feasible, or alternatively landscaped in a manner that adds aesthetic value to the development.	Section 5.3.2.2 Tree Protection Standards - Residential and Nonresidential Development (a) Calculation of Height. (1) For the purposes of calculating the overall height of a structure, height shall be calculated from the highest point of the building to the highest point of the finished grade of the adjoining road, along a line that is, as close as possible, perpendicular to existing contours, whichever is higher. (2) The height shall be measured from the highest parapet or roof ridge to natural grade or finish grade at the point adjacent to the building exterior, whichever yields the greatest height.
Section 5.3.2.3 Tree Protection Standards - Residential and Nonresidential Development (a) Preservation of Existing Landscapes. The existing natural landscape character, especially native oaks, elms, madroño, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. For example, in an area of the street yard containing a stand of trees, the developer, and the builder shall use best good faith efforts to preserve such trees. Cells Occidental's (Haskewery), Jumpers, Virgiana, Jumpers ashe (Common Cedar), Chisholmy, Mesquite and Ligustrum with a caliper of less than 12 inches are excluded from this provision. Indiscriminate clearing or stripping of natural vegetation on a lot is prohibited. Any part of a site not used for buildings, parking, driveways, walkways, utilities, on-site septic facilities (OSSF) and approved storage areas shall be retained in a natural state, or reclaimed to the natural state, to the greatest extent feasible, or alternatively landscaped in a manner that adds aesthetic value to the development.	(b) Preservation of Existing Landscapes. The existing natural landscape character, especially native oaks, elms, madroño, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. For example, in an area of the street yard containing a stand of trees, the developer, and the builder shall use best good faith efforts to preserve such trees. Cells Occidental's (Haskewery), Jumpers, Virgiana, Jumpers ashe (Common Cedar), Chisholmy, Mesquite and Ligustrum with a caliper of less than 12 inches are excluded from this provision. Indiscriminate clearing or stripping of natural vegetation on a lot is prohibited. Any part of a site not used for buildings, parking, driveways, walkways, utilities, on-site septic facilities (OSSF) and approved storage areas shall be retained in a natural state, or reclaimed to the natural state, to the greatest extent feasible, or alternatively landscaped in a manner that adds aesthetic value to the development.

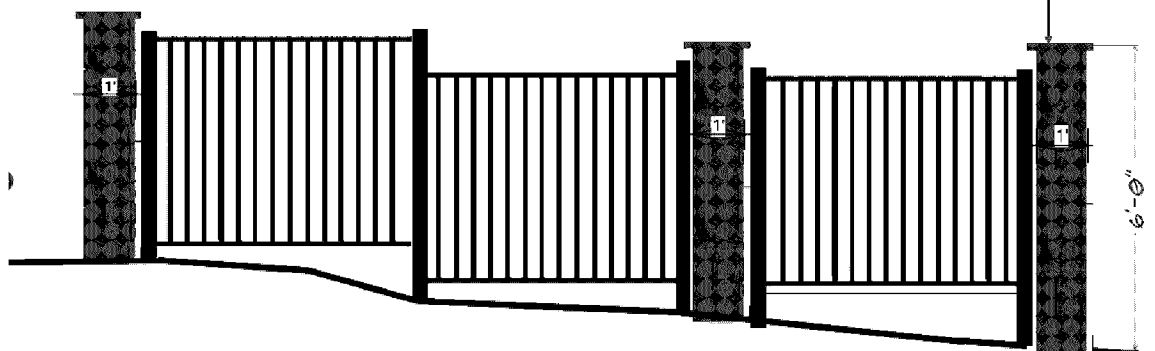
ATTACHMENT 2
FENCING SPECIFICATIONS

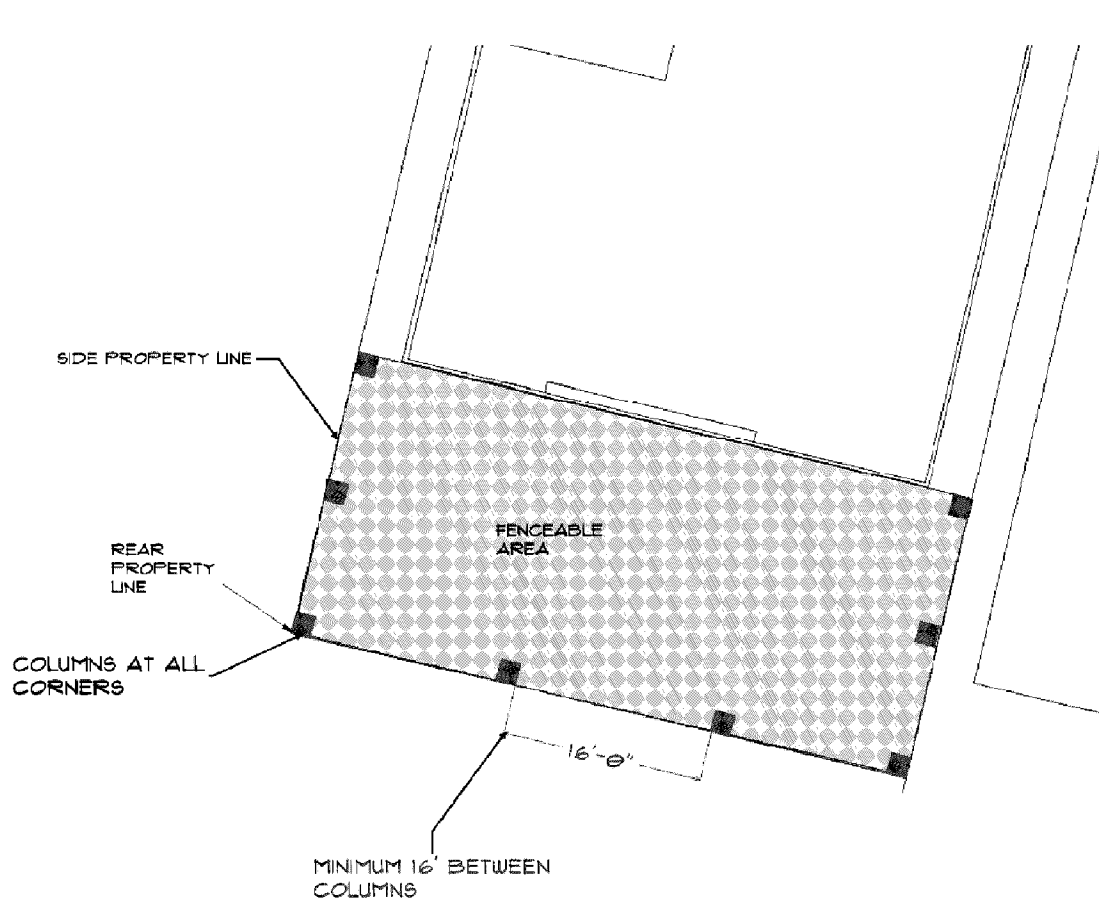
STANDARD 5' KT FENCE PROFILE



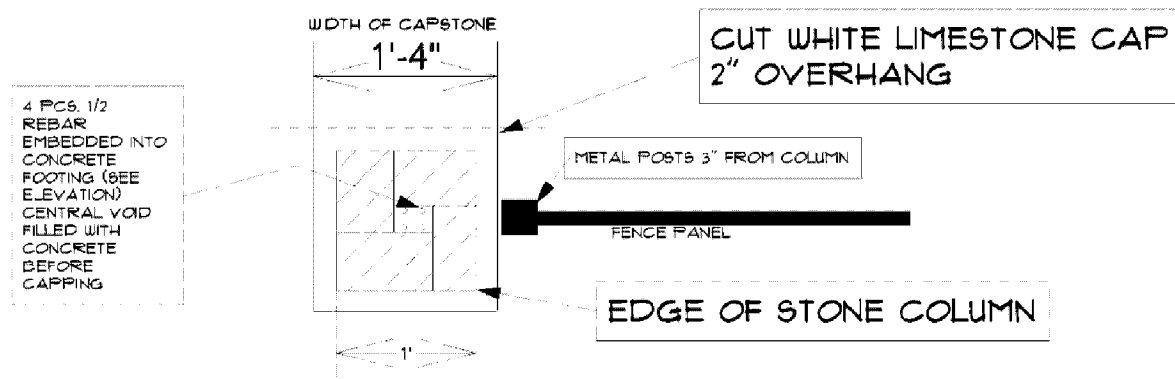
SLOPING TERRAIN: FENCE
PANELS WILL RUN LEVEL.

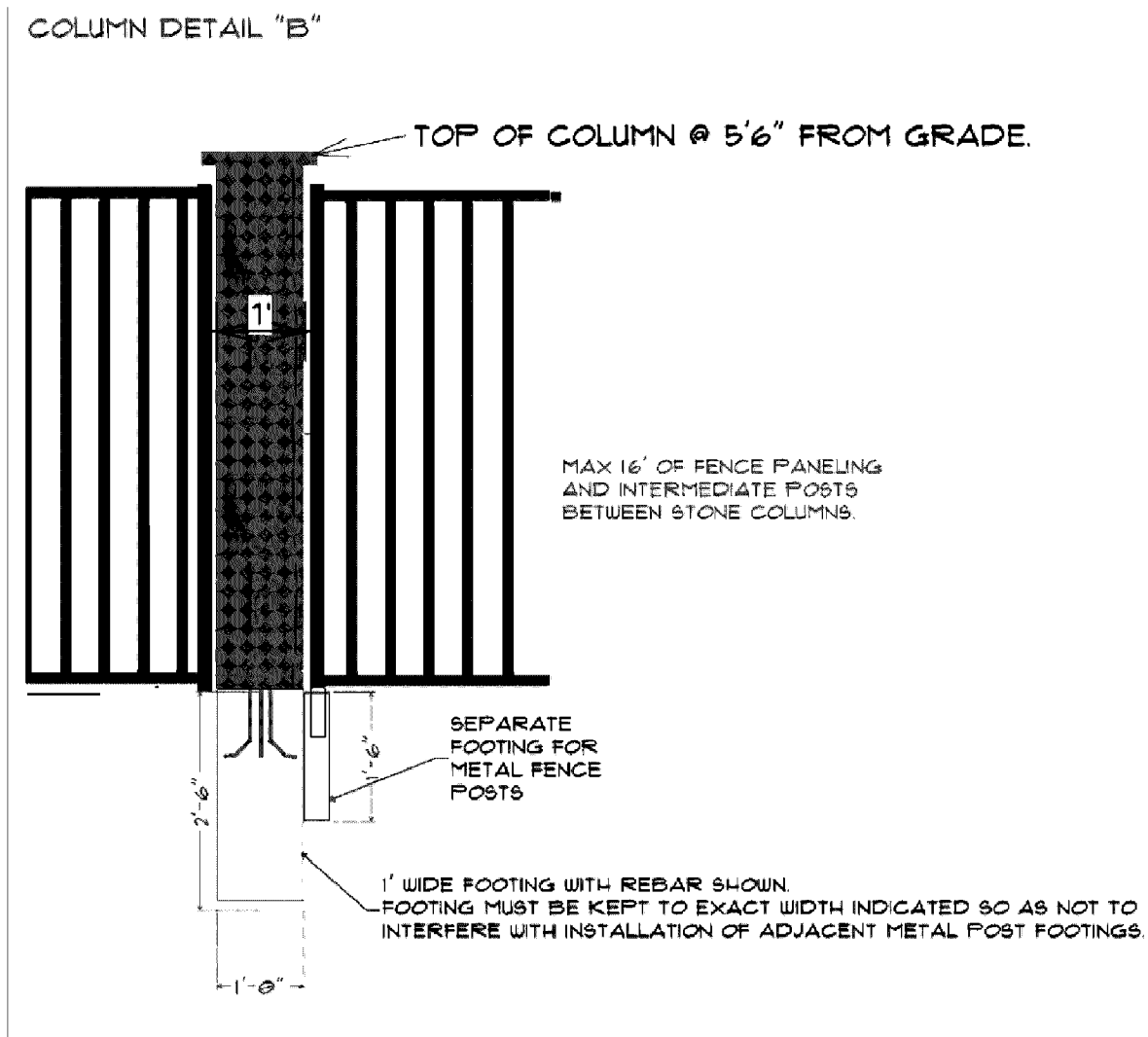
COLUMNS MAY RUN TALLER WHEN
COMPENSATING FOR SLOPING
TERRAIN

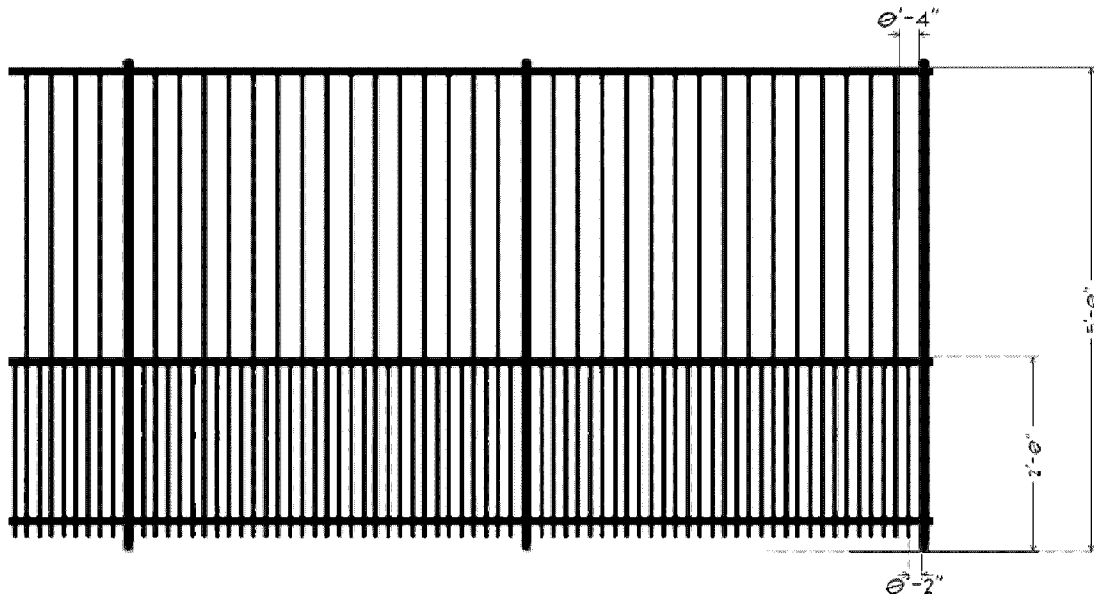




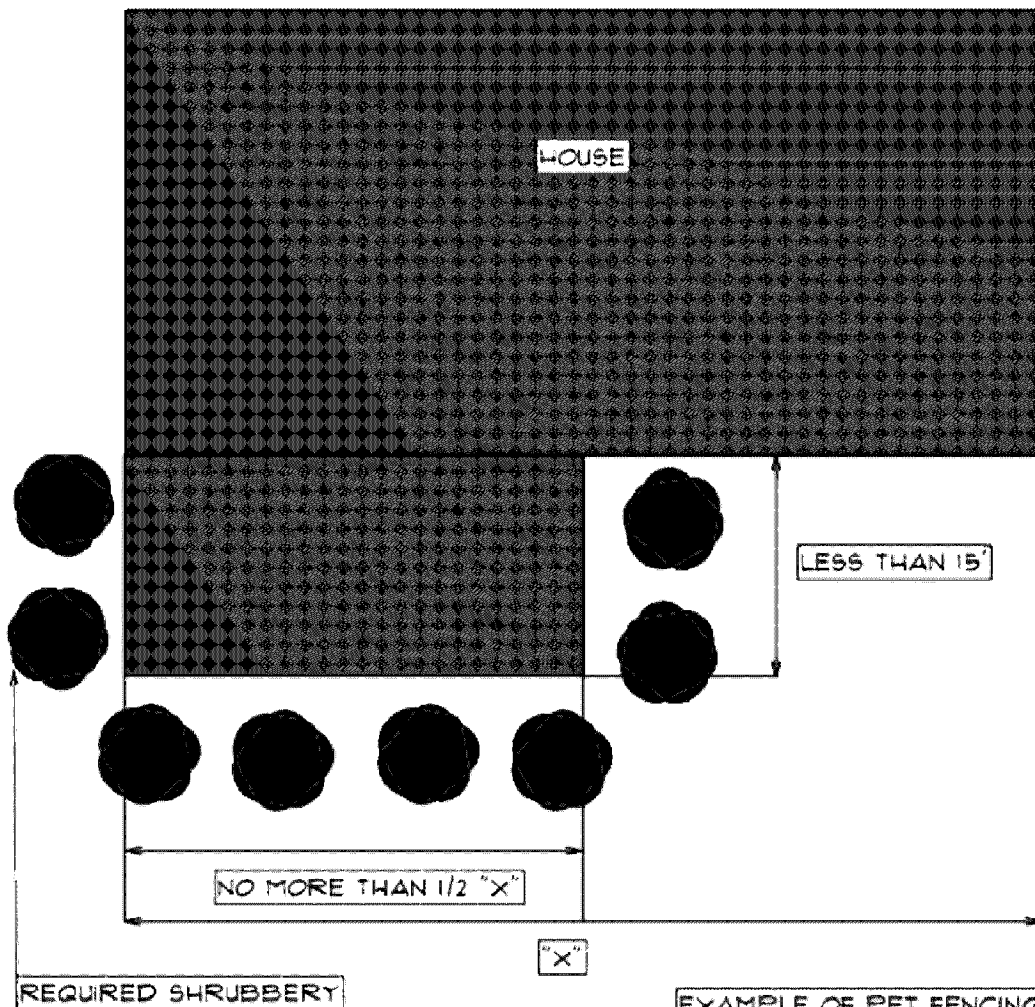
COLUMN DETAIL "A"





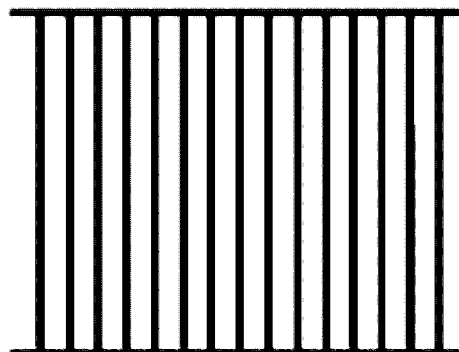


PET FENCING



- A. WIDTH OF HOUSE IS "X", PET CONTAINMENT FENCE CAN BE NO MORE THAN 1/2 "X" IN WIDTH
- B. PET FENCING WILL BE NO TALLER THAN 3' IN HEIGHT
- C. MAXIMUM DEPTH OF CONTAINMENT AREA SHALL BE NO DEEPER THAN 15' FROM THE BACK OF THE HOUSE
- D. COLUMNS NOT REQUIRED, BUT HEDGES OR SHRUBS ARE REQUIRED TO MASK OFF THE FENCE LINE

EXAMPLE OF PET FENCING



ATTACHMENT 3
FINAL PLAN APPLICATION

Deliver to:

Kissing Tree Reviewer

11501 Alterra Parkway, Suite 100, Austin, TX 78758

Phone: (512) 391-1330 Fax: (512) 391-1333

Date:

Address:

Lot: _____ Block: _____ Phase: _____ Section: _____

Plan #: _____ Elevation: _____

Square Footage: _____

Brick Manufacturer and Color: _____

Stone Type and Color: _____

Stucco Color: _____

Roof Pitch: _____ Roof Color: _____

Paint Color: _____

Trim Color: _____

Site plan must be attached to include the following items:

- ☐ Site dimensions
- ☐ Square footage of all enclosed improvements
- ☐ Impervious Cover
- ☐ Property Lines with dimensions
- ☐ Building Setbacks
- ☐ Proposed finish floor elevation
- ☐ Utility boxes
- ☐ Drives, parking areas and walks
- ☐ House and accessory structures
- ☐ Easements
- ☐ Boundaries of turf areas with type of turf noted
- ☐ Locations of all proposed plants
- ☐ Plan legend including species, quantity and sizes at time of planting
- ☐ Fence location

Comments: _____

Builder Name: _____

By: _____

APPROVED BY:

Kissing Tree Reviewer: _____ (signature)

Approval Date: _____

