Metro Property Services P.O. Box 27907 Tempe, AZ 85285-7909



MARICOPA COUNTY RECORDER HELEN PURCELL

98-0029125

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# **ASSOCIATION RULES AND** ARCHITECTURAL GUIDELINES AND PROCEDURES FOR REGATTA AT VAL VISTA LAKES ADOPTED BY THE REGATTA HOMEOWNERS **ASSOCIATION BOARD OF DIRECTORS**

December, 1994

### ARCHITECTURAL CONTROL

Note to OWNER: These rules and procedures for the Regatta have been formulated for the benefit of you and your neighbors. They also offer you an opportunity to have your preliminary plans reviewed by the Regatta ARCHITECTURAL COMMITTEE prior to incurring the cost of final working blueprints. The COMMITTEE is obligated to enforce the Regatta CC&Rs and the Rules and Regulations (through injunctive relief if necessary). It is therefore imperative that you read, understand and comply with the ARCHITECTURAL GUIDELINES and Rules and Regulations.

Universal rules of the entire spectrum of architectural designs that may be submitted to the ARCHITECTURAL COMMITTEE are not practical. The COMMITTEE is required to make judgments and is given that authority in the CC&Rs. The COMMITTEE will, however, be guided by at least the following two principles:

- a. Aesthetic integrity and compatibility; and
- b. The OWNER's desires.

It is necessary that aesthetic integrity and compatibility be satisfied. Every effort will be made to approve the OWNER's desires when logical and practical. When such desires cannot be approved, the COMMITTEE will make a good faith effort to help find or suggest suitable alternatives.

### ARCHITECTURAL GUIDELINES

Certain architectural guidelines unique to The Regatta have been established. The ARCHITECTURAL COMMITTEE will generally approve residential applications meeting the requirements.

Specific guidelines for The Regatta include the following:

### I. Architecture

The architectural style is governed by the overall Val Vista Lakes architectural guidelines.

### II. Square Footage

The minimum total square footage on a home shall be 2,200 livable square feet above grade. A two story home must have at least 60% of the livable square footage on the ground floor.

### III. Construction

- A. Before construction begins, all OWNERS must pay a security deposit of one thousand five hundred dollars (\$1500) in the form of a cashier's check or money order payable to the Regatta Homeowners Association. If an OWNER fails to provide trash containers, fencing and/or construction clean up, the deposit will be used by Regatta to provide the needed items or work. Regatta may use the deposit to repair common property, including but not limited to sidewalks, streets, street lights and green belts that may have been damaged due to the construction of the OWNER's residence, or to pay legal expenses incurred by the ASSOCIATION relating to the OWNER's compliance with these Architectural Guidelines or Procedures. An OWNER must identify and report to the ARCHITECTURAL COMMITTEE all existing common property damage on the landscape plan prior to submission for approval. If the OWNER does not report the damage, the OWNER's security deposit will be used to remedy the damage. Once construction and landscaping are completed, Regatta will return the deposit upon authorization from the ARCHITECTURAL COMMITTEE provided:
  - (1) The residence is built and the landscaping is installed as approved; and

(2) Regatta has not incurred any expenses to provide fencing, repairs, clean-up, trash container, or legal fees.

Regatta will return the OWNER's deposit less the cost of any expenses and repairs Regatta has incurred. Costs incurred exceeding the deposit will be billed to the OWNER.

- B. During construction all OWNERS must provide a metal trash container and a chain link fence around the Lot. Regatta specifically does not allow the trash container or perimeter fence to be made of "chicken wire." The trash container must be on the property before the stem walls are poured. The fence must be installed before digging the basement or before framing, whichever occurs first.
- C. All OWNERS shall have a field inspection to insure the OWNER is within the approved site plan and setback requirements before breaking ground. It shall be the responsibility of the OWNER to contact the COMMITTEE and make arrangements for the field inspection. The OWNER will be responsible for surveying, locating and marking all the property pins. The OWNER will mark the approved footprint of the house. At the time of the field inspection, the COMMITTEE will give final approval to the OWNER for construction, provided the OWNER is within the approved site plan and setback requirements.
- D. All COMMITTEE approvals are valid for 180 days from the date stamped on the plans by the COMMITTEE. If construction has not begun within 180 days, plans must be resubmitted for approval.
- E. All construction must be completed within 180 days from breaking ground. If construction exceeds the 180 day period, the OWNER must obtain an extension and pay a \$100 per month nuisance fee to Regatta until construction is completed.

### IV. Setbacks

All OWNERS must build within designated setbacks as set forth in the Fredstrom 1986 individual site plans or the recorded setbacks, whichever is greater. OWNERS must contact the ARCHITECTURAL COMMITTEE to obtain a copy of the site plan for the lot prior to creating any plans. Any OWNER wishing to exceed the designated setbacks shall be required to:

- A. Obtain 100% approval from all adjoining and direct view residences; and
- B. Obtain 75% approval from all of the OWNERS in the Regatta in order to receive a variance from the Fredstrom site plan for that lot.

The COMMITTEE will provide a variance form for obtaining the above approvals together with complete instructions. Once the two requirements are met, the OWNER shall submit his request to the COMMITTEE for approval. Notwithstanding any variance granted hereunder, all construction must also comply with the building and zoning requirements of the Town of Gilbert. All other aspects of the architectural review process shall proceed as otherwise provided for.

### V. Walls/Fencing/Gates

- A. All party walls shall be constructed of concrete block and stuccoed. Wall construction must conform to the Val Vista Lakes theme wall.
- B. The cost of building party walls shall be shared by the adjoining OWNERS. In the event a dispute concerning the cost of building party walls arises, the matter shall be submitted to the COMMITTEE in writing for resolution. The decision of the COMMITTEE shall be final and binding on the parties.
- C. Front yard walls within the 21 foot front building set back shall not exceed 3 feet 0 inches in height.

- D. Party walls within the maintenance easement that extend 15 feet from the shoreline into each lakefront lot shall be constructed of concrete block, stuccoed and painted, with 48 inch wrought iron above (see exhibit 5).
- E. All other rear yard party walls shall be 6 feet 0 inches and constructed of concrete block, stuccoed and painted.
- F. All retaining walls shall not exceed 2'6" in height. For lakefront installations, innovative wall and landscape design shall be required to maximize a natural lakefront appearance. Pool equipment and air conditioning screening walls may be higher as necessary and will be approved by the COMMITTEE on a case by case basis.
- G. Wing walls must be compatible with the house and party wall and will not be approved beyond the front of the residence.
- H. All stuccoed walls shall be painted the same color as the residence.
- I. All wrought iron fences must be painted Battle Green. If existing fences require painting they must be repainted Battle Green. The COMMITTEE will not approve other colors for fences. A sample of the color as manufactured by Valspar is on file with the COMMITTEE.
- J. Fences, by their nature, are incompatible with a natural and open lakefront appearance. Therefore, fences located on LAKEFRONT LOTS between the house and the lake edge will only be considered for approval when requested for the stated purpose of controlling access to the water. To preserve open lakefront view corridors, the preferred fence placement is as close to the back of the house as possible. In no case may the fence be closer than fifteen feet to the lake edge, except that when this restriction would effectively prohibit a fence controlling access from the rear of the house to the water, the fence may be placed at the boundary of the structure, but not beyond. Fences shall be designed to maximize visibility of the backyard and the house when viewed from the lake. Innovative fence and accompanying landscape design will be required to partially screen and soften the fence and support a natural lakefront appearance.

In no event shall the ASSOCIATION be liable for the safety aspects of said fence. It is the OWNER's responsibility to ensure the final fence's a) compliance with applicable municipal, county, and state regulations, and b) suitability for intended purposes as a safety device.

K. Gates. All side gates shall be made of wrought iron frames. If screening mechanical, trash containers or storage equipment, side gates must have wood slats. The owner shall submit a drawing of the proposed gate along with the proposed materials for the gate for approval by the COMMITTEE.

### VI. Docks

Any dock installed on a lakefront lot must be approved and of a standard design. The standard design is available from the Regatta ARCHITECTURAL COMMITTEE.

### VII. Mailboxes

All mailboxes shall be constructed according to the standard design according to Exhibit 6 of the architectural guidelines. The OWNER must show the location of the mailbox on the plans for review by the ARCHITECTURAL COMMITTEE. The mailbox must have ceramic tile numbers as indicated in Exhibit 6. OWNERs may contact the COMMITTEE for information on how to obtain mailbox tiles. OWNERs with adjoining mailboxes must share the cost of building the mailbox with the adjoining neighbor. In the event a dispute regarding the mailbox arises, the matter shall be submitted to the COMMITTEE in writing, whose decision regarding responsibility for payment shall be final.

### VIII. Pools

In no event will the ARCHITECTURAL COMMITTEE approve any pool, Jacuzzi, spa, or hot tub constructed closer than 10 feet (water to water) from the existing edge of the lake. Prior to approval, the OWNER must provide the COMMITTEE with a signed statement from the pool contractor, or the OWNER if the OWNER is building himself, acknowledging the ten foot water to water setback requirement and agreeing to adhere to.

### IX. Garages

No plans for a garage built to accommodate more than three (3) vehicles will be approved absent extraordinary design. If the COMMITTEE does approve a garage built to accommodate more than three (3) vehicles, the approval will not be deemed a waiver or limit in any way the COMMITTEE's ability to disapprove future plans for garages built to accommodate more than three (3) vehicles.

### X. Landscaping

Each OWNER must submit a preliminary landscape concept to the COMMITTEE for review and approval. Upon receipt of comments from the COMMITTEE, based on the preliminary plan, the OWNER may then proceed with landscape and irrigation working drawings which will then also require COMMITTEE approval. The comments from the COMMITTEE are a prerequisite to the next stage of the approval process and should not be construed as a final approval of the submitted plans.

A. All landscaping plans shall provide as a minimum five trees in the front yard. The five trees must comply with the following size requirements:

One 48" box multitrunk tree

Two 36" box trees

Two 24" box trees

All trees must be approved in accordance with the plant list in Exhibit 4. All other trees shall not be less than 15 gallon trees.

B. Additionally, all LAKEFRONT LOTs must have at least five trees in the rear yard. The five trees must be at least the following sizes:

One 48" box tree

Two 36 " box trees

Two 24" box trees

All trees shall be approved in accordance with the plant list in Exhibit 4. All other guidelines regarding trees also apply as currently set forth in the guidelines. All other trees shall be no less than 15 gallon trees.

- C. All landscaping plans must note total square footage of the landscaped area. The landscaping area shall be determined by subtracting the square footage of the following from the total square footage of the Lot:
  - 1. Footprint of house and garage
  - 2. Entry walkway

The following shall not be excluded in calculating the total landscaped area:

- 1. Pool and cool deck
- 2. Driveway
- Paved patios
- D. The OWNER is responsible for complying with all applicable laws and ordinances regarding plant materials.
- E. Fruit trees will not be approved for the front yard.
- F. Semiarid desert plants shall be approved for minor accent use only. "Minor accent use" shall be defined as bushes or other small plants no larger than one gallon in size. Minor accent plants may not be the dominant theme of the landscaping. Minor accent plants must complement the landscaping theme. The COMMITTEE will not approve the use of cactus or other strictly desert plants for landscaping themes. The COMMITTEE will not approve desert trees.
- G. The majority of all landscaping that is VISIBLE FROM NEIGHBORING PROPERTY, streets, and lakes, must be turf. The OWNER must install the turf as sod. The recommended turf to groundcover ratio is 60% turf, 40% groundcover. Rocked areas may not exceed 40% of the total landscaped area.
- H. All exposed ground areas of a LOT must be covered with an organic ground cover, natural rock, decomposing granite or gravel. The use of artificially colored rock is prohibited. Wherever rock is used, ground cover must be planted every 36" on center. All plants planted in rocked areas must be no smaller than 1 gallon.
- I. Visible vegetable gardens must be submitted for approval by the COMMITTEE prior to installation.
- J. All houses built along Regatta Drive must plant 24" box Shamel Ash trees in the parkway strip area every 15 feet on center. OWNERs are responsible for the watering and maintenance of the trees.
- K. Any changes or revisions to the approved landscaping plan must be submitted for approval to the COMMITTEE. Installation of landscaping will be reviewed by the COMMITTEE to insure compliance with the approved landscaping plan.
- L. The intent of these rules is to encourage innovative design. At the discretion of the ARCHITECTURAL COMMITTEE, portions of these guidelines may be waived in the case of outstanding landscape architectural design. A waiver of any restriction contained herein will be granted on a case by case basis and will not prohibit Regatta from enforcing any and all of the guidelines or rules contained herein on any and all subsequent submissions.

### **PROCEDURES**

The following building requirements apply to all construction in the Regatta.

# I. Pre-application meeting

A pre-application meeting with the Regatta ARCHITECTURAL COMMITTEE may be useful to provide answers to questions. Any building material samples, color patches, preliminary drawings, pictures or other illustrative samples may be useful to the COMMITTEE. A meeting with the Town of Gilbert is also recommended. Final construction plans should not be prepared prior to the pre- application meeting and preliminary plan approval.

### II. Application

Application must be made to the Regatta ARCHITECTURAL COMMITTEE. An application shall not be considered submitted until all items on the Design Review Application check list have been submitted to the COMMITTEE.

### III. Approvals Required

A Design Review Application must be filed by each OWNER and approval must be obtained from the ARCHITECTURAL COMMITTEE for each of the following:

- A. The preliminary site plan, preliminary floor plan, preliminary elevations, and preliminary landscaping plan.
- B. The final site plan, working drawings, and specifications. The final landscaping/irrigation plan.

### IV. Design Review Application

- A. Filing requirement: The OWNER shall file a Design Review Application with the ARCHITECTURAL COMMITTEE on the form, which is available from the COMMITTEE. In general, such applications must contain three copies of a preliminary site plan, preliminary floor plan, preliminary elevations, and preliminary landscape/irrigation plan (see Exhibits 1 through 6 for examples).
- B. <u>Time for Filing:</u> The application and all the attachments required shall be submitted <u>prior to preparation of final working drawings and prior to submission of an application to the town of Gilbert for a building permit. Final working drawings must be approved by the COMMITTEE prior to the start of construction.</u>
- C. COMMITTEE Procedures: The ARCHITECTURAL COMMITTEE shall review the application, required documents, drawings, and specifications and issue its approval or disapproval. If disapproved, the reasons for disapproval will be clearly stated in a written decision. Notification of the decision will be given or mailed to the OWNER no later than thirty days from the date of submission.
- D. <u>Resubmission</u>: If the COMMITTEE disapproves the application, the OWNER may revise and resubmit a new application. If the resubmission again is not approved, the OWNER may exercise his appeal rights pursuant to the following paragraph.
- E. <u>Appeal</u>: If the application is disapproved following resubmission, the OWNER may request a hearing with the COMMITTEE. Said hearing may be scheduled no later than fifteen days after the receipt of the request for hearing. The decision of the COMMITTEE at the hearing will be made within fifteen days of the hearing.

## V. Final Site Plan, Working Drawings and Specifications

### A. Submission

After approval of the Design Review Application and thirty days before construction is to commence, the OWNER shall submit to the ARCHITECTURAL COMMITTEE, in the same manner as the original Design Review Application was submitted, the final site plan, working drawings, specifications, and landscaping plans; said documents must comply with the attachments previously submitted and must be attached to the approved Design Review

Application. The COMMITTEE will review the documents for the sole purpose of determining compliance with the previously approved Design Review Application. The ARCHITECTURAL COMMITTEE will, within fifteen days after submission, approve or disapprove the final working documents, and will give the OWNER written notice of such approval or disapproval. If such documents are disapproved the reasons therefore shall be stated in the written notice.

### B. Resubmission

If the COMMITTEE disapproves the application, the OWNER may revise and resubmit a new application. If the resubmission is disapproved, the OWNER may exercise his appeal rights pursuant to the following paragraph.

### C. Appeal

If the final site plan, working drawings and specifications are disapproved upon resubmission, the OWNER may appeal the COMMITTEE's findings to the COMMITTEE. Thereafter, the COMMITTEE will set a hearing within fifteen days. The decision of the ARCHITECTURAL COMMITTEE at the hearing will be made within fifteen days of the hearing.

### VI. Landscape Plans

### A. Submission

Three sets of preliminary landscape plans must be submitted to the ARCHITECTURAL COMMITTEE at the time of the Design Review Application (see Landscape Guidelines). Three sets of final landscape and irrigation working drawings must also be submitted to the COMMITTEE with the submission of the final working drawings. Such landscape plans shall be submitted in the same manner as the application as submitted and attached to the Design Review Application. The COMMITTEE shall review said landscape drawings for the sole purpose of determining compliance with the previously submitted application. The COMMITTEE shall, within thirty days, approve or disapprove the landscape plans and will give the OWNER written notice of approval or disapproval within thirty days. Landscape and irrigation working drawings must be submitted with architectural working drawings.

### B. Resubmission

If the ARCHITECTURAL COMMITTEE disapproves the application, the OWNER may revise and resubmit a new application. If the resubmission is disapproved, the OWNER may exercise his appeal rights pursuant to the following paragraph.

### C. Appeal

If the landscape plans are disapproved, the OWNER shall have fifteen days to appeal the ARCHITECTURAL COMMITTEE's findings. Thereafter the COMMITTEE will set a hearing within fifteen days. The decision of the COMMITTEE at the hearing will be made within fifteen days of the hearing.

### **ENFORCEMENT**

No OWNER shall apply for a Certificate of Occupancy from the Town of Gilbert unless he has obtained the approval of the ARCHITECTURAL COMMITTEE for all of the foregoing. Namely, the final site plan, working drawings and specifications, and the final landscape plan. In the event the OWNER applies for such Certificate of Occupancy without having gained all required approvals, or, having such approvals, failing to have constructed the home in accordance therewith, the ARCHITECTURAL COMMITTEE may seek an injunction to compel compliance with the Regatta CC&Rs and these Regatta Architectural Guidelines.

### WAIVER

A waiver of any restriction contained herein will be granted on a case by case basis and will not prohibit Regatta from enforcing any and all of the guidelines or rules contained herein on any and all subsequent submissions.

### **CLARIFICATION**

The Regatta ARCHITECTURAL COMMITTEE can be contacted for any clarification of these guidelines or for additional information.

It is important that full communication be established with the ARCHITECTURAL COMMITTEE at an early date in order to not delay construction of your new residence. The ARCHITECTURAL COMMITTEE is here to help you. If you need assistance or have any questions, call the Regatta ARCHITECTURAL COMMITTEE's Chairperson.

### **FEES**

The BOARD may hire an architect to assist the ARCHITECTURAL COMMITTEE in design review of the plans, designs, and specifications submitted to the ARCHITECTURAL COMMITTEE by the OWNER. The OWNER shall pay an architectural review fee of \$250 to offset the cost of this service. The fee will be payable at the time of application to the ARCHITECTURAL COMMITTEE.

The BOARD may hire an inspector to verify that the home builder has faithfully implemented the approved plans for construction and landscaping within the required time. The cost of such inspector will be covered by the payment by the OWNER of a \$200 inspection fee, payable at the time of application to the ARCHITECTURAL COMMITTEE.

Should the approval and inspection process result in the expenditure of funds in excess of the above fees, the OWNER will be billed for the excess cost.

### **FINES**

- An OWNER who is found to be in violation of the DECLARATION or other ASSOCIATION RULES shall be notified in writing, sent by mail or hand delivered, of the nature of the violation and the applicable fine for noncompliance. The notice of violation shall provide that within 14 days after receipt of the notice of violation, if hand delivered, or mailing, if the notice of violation was sent by mail, the OWNER must either: 1, correct the violation; 2, enter into a compliance agreement with the ASSOCIATION acceptable to the BOARD whereby the OWNER agrees to rectify the violation; or 3, notify the ASSOCIATION, by giving notice in writing to the ASSOCIATION by first-class mail or hand delivery to the ASSOCIATION office, or the office of the ASSOCIATION's managing agent, that such OWNER requests a hearing before the ASSOCIATION's BOARD concerning his or her defense, if any, or mitigating circumstances, if any, to the alleged violation. Within not less than five (5) nor more than thirty (30) days after receipt of a written request for a hearing, timely mailed or delivered, the BOARD shall meet with such OWNER. If an OWNER given notice of a violation does not request a hearing within the specified time or fails to appear at a properly scheduled hearing, he or she shall be deemed to have waived his or her right to a hearing and a fine shall be levied as specified in the notice of violation. Any fine levied by the majority vote of a quorum of the BOARD after the hearing or the waiver thereof shall be considered a special assessment and shall be collectible by the ASSOCIATION in the same manner as all other such assessments as provided in the Declaration of Covenants, Conditions and Restrictions. Additionally, the OWNER's voting rights will be suspended.
- II. In the event of a continuing violation (one that continues for more than 14 days after the notice of violation or the decision of the BOARD to impose a fine), the ASSOCIATION, in addition to imposing fines as provided above, shall be entitled to exercise any other enforcement remedy available to it under the DECLARATION.
- III. Additionally, the Val Vista Lakes Community Association or its managing representative will be notified of the violations, with a request for a parallel enforcement effort according to their enforcement procedures, including but not limited to suspension of voting rights, removal of recreational privileges, and fines, if applicable.
- IV. While the BOARD may delegate the power of this enforcement to its representatives or committees, the BOARD will be notified by such representatives of any instance of such action prior to the imposition of any fine, and may review the facts of the alleged violation with the power to make final determination of enforcement, and to consider any appeal by the MEMBER.
- V. All legal, collection and other expenses incurred by the BOARD to obtain compliance of an OWNER with the DECLARATION or other ASSOCIATION RULES will be the obligation of the OWNER.

### Fine Schedule:

Ongoing violation:

up to \$25 per day.

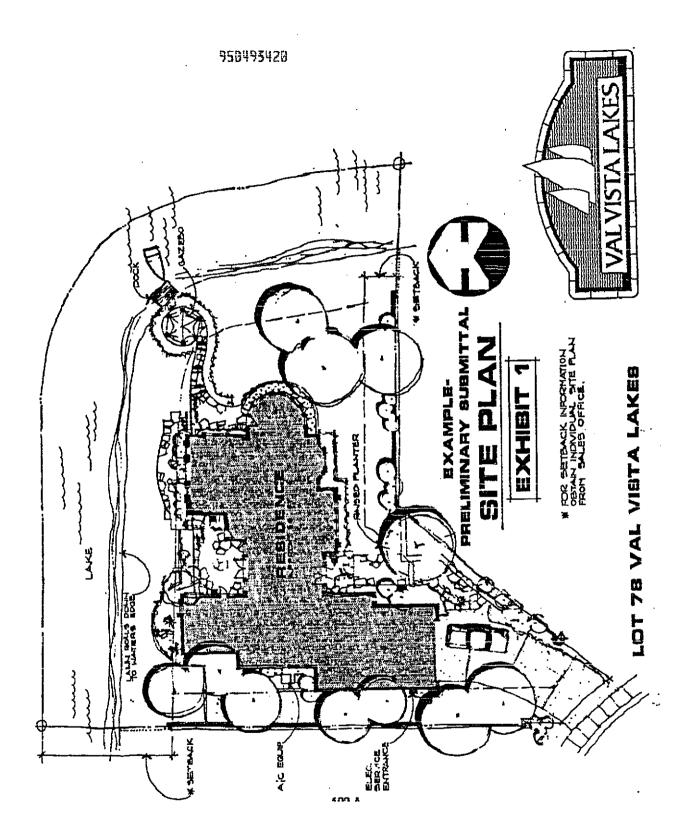
Intermittent and recurring

trash can

\$5.00 per incident

other

up to \$25 per incident



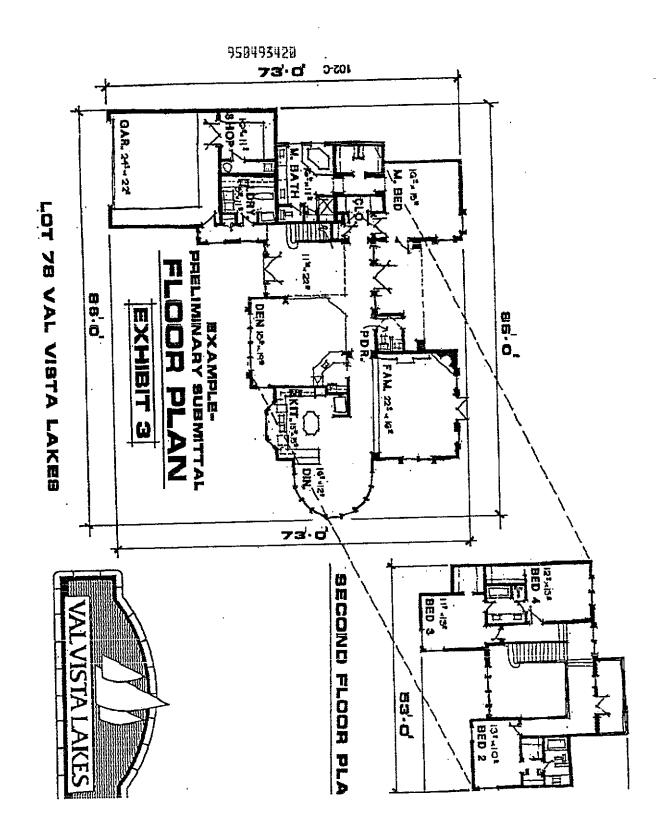
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# LOT 78 VAL VISTA L^KES

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# **EXHIBIT 4**

The following is a list of plant materials, which will work well with the plant pallette already establishes at Val Vista Lakes. Alternate plant materials will be evaluated by the Architectural Review Committee:

### Botanical Name

Trees Albizia Julibrissin Arecastrum Romanzoffianum Brachychiton Populneus Bauhinia Variegata Ficus Nitida Fraxinus Uhdei Jacaranda Mimosifolia Phoenix Dactyilifera Pyrus Kawakamii " Pistachia Chinensis Pinus Eldarica . . Rhus Lances Schinus Molle Salix Babylonica Ulmus Parvifolia

Shrubs Bougainvillea Carissa Grandiflora Ficus Benjamina Dietes Vegata

Washington Robusta

### Common Name

Silk Tree Queen Palm Bottle Tree Orchid Tree Laurel Fig Shamel Ash Jacaranda Date Palm Evergreen Pear Chinese Pistache Mondel Pine African Sumac California Pepper Weeping Willow Evergreen Elm Mexican Fan Palm

> All Varieties Natal Plum Chinese Banyan Lily



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EXHIBIT4 Continued
Page two

Botanical Name Shrubs- Cont.

Juniperus Chinesis
Lantana Camara
Nerium Oleander
Nandina Domestica
Pittosporum Tobira
Philodendron Selloum
Photinia Frazeri
Raphiolepis Indica
Thevetia Peruviana
Xylosma Congestum
Hibiscus Rosa-Sinensis

### Groundcover

Annuals
Aspargus Sprengeri
Baccaris Pilularis
Dichondra Micrantha
Hedera Helix
Lantana Montevidensis
Myoporum Parvifolium
Lonicera Japonica
Trachelospermum Jasminoides
Vinca Major
Rosmarinun Officianalis
Verbena Peruyiana

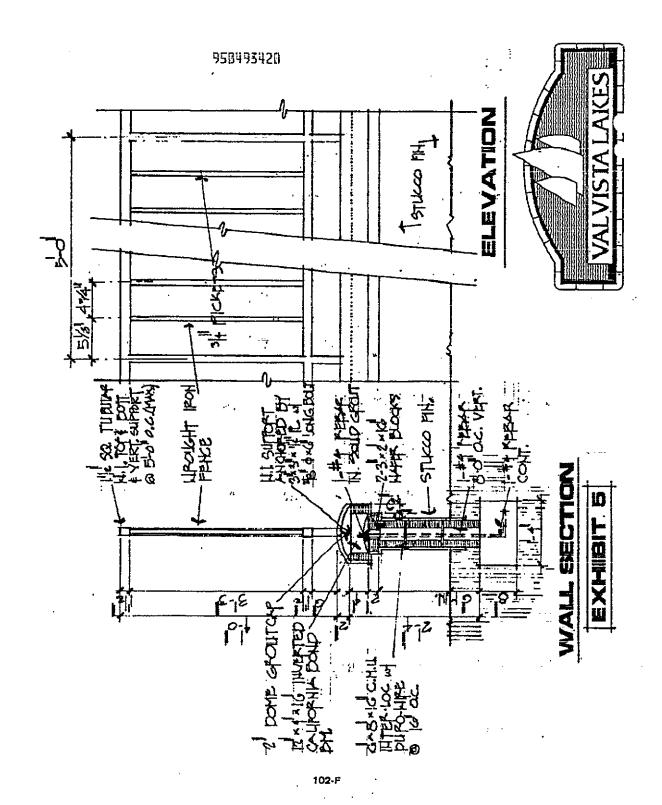
### Common Name

Seagreen Juniper
Lantana
Oleander
Heavenly Bamboo
Pittosporum
Elephant Ears
Frazer's Photinia
Indian Hawthorn
Yellow Oleander
Xylosma
Hibiscus

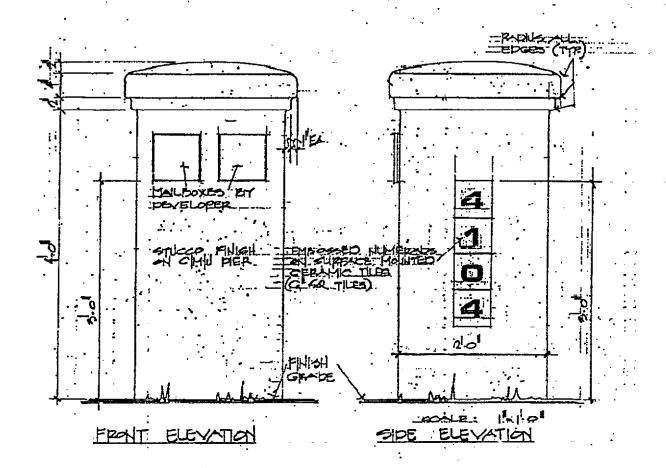
Seasonal Flowers
Asparagus Fern
Swarf Coyote Bush
Dichondra
Algerian Ivy
Trailing Lantana
Myoporum
Halls Honeysuckle
Star Jasmine
Periwinkle
Rosemary
Sand Yerbena



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HOTE: BELLERE TO CONTACT VAL METALLINES THE PERMISSION TILE



MALLBOX DESIGN VALVISTA LAKES

Jan. 27, 1956 Jan. 23, 1956

EXHIBIT 6

