

MELROSE PHASE 2 HOMEOWNERS ASSOCIATION, INC
Architectural Review Committee
Post House Closing Design Guidelines

I. INTRODUCTION

A. Purpose of Design Guidelines

The Design Guidelines for MELROSE PHASE 2 (“Design Guidelines”) provide an overall framework and comprehensive set of standards and procedures for the development of MELROSE PHASE 2 Subdivision (the “Community” or “MELROSE PHASE 2”) in an orderly and cohesive manner. These standards have been developed to assist in the modifying of existing homes within MELROSE PHASE 2. The standards set forth criteria for design, style, materials, colors and location of site improvements, landscaping, signage, and lighting. In addition, the Design Guidelines establish a process for review of proposed modifications to homes to ensure that all sites within MELROSE PHASE 2 are developed with the consistency and quality that attracted you to this development.

B. Government Permits

To the extent that MONTGOMERY County and MONTGOMERY CITY ordinances or any local government ordinance, building code, or regulation requires a more restrictive standard than the standards set forth in these Design Guidelines or the Declaration of Single Family Residential Protective Covenants, Conditions, and Restrictions for MELROSE PHASE 2 Subdivision (the “Declaration”), the local government standards shall prevail. To the extent that any local government standard is less restrictive, the

Declaration and the Design Guidelines (in that order) shall prevail.

C. Preparer

These initial Design Guidelines have been prepared by the Architectural Review Committee (the “ARC”). The Design Guidelines may be changed and amended to serve the needs of an evolving Community pursuant to the procedures set forth in Article VI of these Design Guidelines.

D. Applicability of Design Review

All plans and materials for new construction or exterior modifications of improvements on an existing home must be approved before any construction activity begins. Unless otherwise specifically stated in these Design Guidelines, no structure may be erected upon any property, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take place without receiving the prior written approval of the appropriate reviewer as described below. Where these Design Guidelines specifically allow an Owner to proceed without advance approval, such allowance shall only be effective so long as the Owner complies with the requirements of the stated guideline.

Owners are responsible for ensuring compliance with all standards and procedures within these Design Guidelines. Owners are also governed by the requirements and restrictions set

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forth in the Declaration and any applicable supplemental declaration. In particular, Owners should review and become familiar with the Use Restrictions applicable to MELROSE PHASE 2 set forth in Section B.34 “Use of Approved Structure,” Section B.35 “Business Activity,” Section B.38 “Authorized Uses and Exceptions” and B.39 “Prohibited Uses” of the Declaration, which address restricted and prohibited activities and conditions within the Community.

E. Review Structure

Architectural control and design review for MELROSE PHASE 2 is handled by the ARC. The term “reviewer” as used in these Design Guidelines, shall refer to the ARC.

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The ARC has jurisdiction over those responsibilities delegated to it by the Declaration. The ARC has jurisdiction over all Architectural and landscaping matters as set forth in Section B.3 of the Declaration. The ARC shall review plans and specifications, property modifications, and landscaping on any property. The ARC shall be the conclusive interpreter of these Design Guidelines, shall monitor the effectiveness of these Design Guidelines, and shall make decisions consistent with these Design Guidelines.

II. DESIGN REVIEW PROCEDURES

A. Review of Modifications

The review of modifications to existing structures or improvements shall require the submission of an Application for Review to the reviewer. Depending on the scope of the modification, the reviewer may require the submission of all or some of the plans and specifications listed below in Section II B below. In the alternative, the reviewer may require a less detailed description of the proposed modifications. The review and approval of modifications shall take place within a 30 day review period.

B. Plans to be Reviewed

A reviewer may require two sets any of the following plans for a modification, in addition to the submission of an Application for Review:

1. Floor Plan.

Showing decks, patios, stoops, retaining walls related to the residential dwelling, trash enclosures, HVAC equipment and utilities, and the screening for same, interior spacing of rooms, and connections to driveways and walkways. Minimum scale of ¼” = 1’0”.

2. Elevations.

Front, rear, and side exterior elevations showing building materials and finishes, and indicating the maximum height of the residential dwelling.

3. Roof Plan.

Showing slopes, pitches, and gables, unless reflected in the other plans.

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4. Exterior Finishes

Showing the exterior color scheme (including samples and color chips, if requested), lighting scheme, and other details affecting the exterior appearance of the proposed improvements.

5. Landscaping Plan.

Showing location of trees, protection of existing vegetation, use of plants, and other landscaping details.

6. Other.

Such other information data, and drawings as may be reasonably requested, including, without limitation, irrigation systems, drainage, lighting, satellite dish placement, landscaping, and other features.

C. Review Criteria;
Recommendations; Variances

While the Design Guidelines are intended to provide a framework for construction and modifications, the Design Guidelines are not all-inclusive. In its review process, the reviewer may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other things. Reviewer decisions may be based on purely aesthetic considerations. However, no reviewer shall grant approval for proposed construction that is inconsistent with the Design Guidelines, unless such reviewer

grants a variance.

The ARC may, in its sole discretion, provide that the lists of recommended materials constitute “approved materials” and that the installation of such materials requires no reviewer approval. Alternatively, the ARC may provide that the purpose of the lists(s) is merely to provide guidance and that installation of recommended materials does not relieve the Applicant from any obligations set forth in the Design Guidelines to acquire approval prior to installation.

Variances may be granted in some circumstances (including, but not limited to, topography, natural obstructions, hardship, or environmental considerations) when deviations may be required. As a matter of clarification, the inability to obtain approval from any governmental agency, the inability to obtain any permit or the terms of any financing shall not be considered a hardship warranting a variance. The reviewer shall have the power to grant a variance from strict compliance in such circumstances, so long as the variance does not result in a material violation of the Declaration, or devaluation of any neighboring properties within MELROSE PHASE 2. No variance shall be effective unless in writing, signed by the committee chairperson with the support of a majority of the committee members. Any variances granted by the reviewer are made on a case by case basis and absolutely no precedent is set by what may or may not be deemed acceptable on one house in comparison to another.

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With regard to color palettes, variances may be issued at the discretion of the ARC and the intent is to provide a traditional and cohesive development color scheme. Any items that require the color to match the colors of the home may, at the ARC's discretion, have a variance granted to allow different colors, if the colors will create an improved look for the home. This determination and the corresponding variance shall be in the ARC's sole discretion.

D. Review Period

Each Application for Review and plans and specifications submittal shall be approved or disapproved within 30 days of submission of all materials required by the reviewer. Within 30 days of receipt of a complete review request, the reviewer shall respond to Applicant. One set of plans shall be returned to the Applicant, accompanied by the reviewer's decision. The other set of plans shall be retained for the reviewer's records. The reviewer's decision shall be rendered in one of the following forms:

1. "Approval" – The entire application as submitted is approved.
2. "Approval As Noted" – The application is not approved as submitted, but the reviewer's suggestions for curing objectionable features or segments are noted. The Applicant must correct the plan's objectionable features or segments, and the Applicant may be required to resubmit the application and receive approval prior to commencing

the construction or alteration.

3. "Disapproval" – The entire application as submitted is rejected in total. The reviewer will provide comments as to why the application was denied.

If the reviewer fails to respond within thirty (30) days of receipt of the application, approval shall be deemed granted. However, no construction or modification that is inconsistent with the Declaration or the Design Guidelines shall be deemed approved, unless the reviewer has granted a variance.

E. Appeal

Any Applicant shall have the right to appeal a decision of the reviewer by resubmitting the information, documents, and fees set forth above, however, such appeal shall be considered only if the Applicant has modified the proposed construction or modification or has new information which would, in the reviewer's opinion, warrant reconsideration. If Applicant fails to appeal a decision of the reviewer, the reviewer's decision is final. In the case of a disapproval and resubmittal, the reviewer shall have 30 days from the date of each resubmittal to approve or disapprove any resubmittal. The filing of an appeal does not extend any maximum time period for the completion of any new construction or modification.

**F. MONTGOMERY CITY
Approval**

The review and approval of plans and

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specifications shall not be a substitute for compliance with the permitting and approval requirements of MONTGOMERY CITY or other governmental authorities. It is the responsibility of Applicant to obtain all necessary permits and approvals.

G. Implementation of Approved Plans

All work must conform to approved plans. If it is determined by the reviewer that work completed or in progress on any property is not in compliance with these Design Guidelines or any approval issued by the reviewer, the reviewer shall, directly or through the Board, notify the Owner, in writing of such noncompliance specifying in reasonable detail the particulars of noncompliance and shall require Owner and/or builder to remedy the same. If the Owner and/or builder fails to remedy such noncompliance or fails to commence and continue diligently toward achieving compliance within the time period stated in the notice, then such noncompliance shall be deemed to be in violation of the Declaration and these Design Guidelines.

1. Time to Commence

If construction does not commence on a project for which plans have been approved within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Applicant to resubmit the plans to the appropriate committee for reconsideration and allow for another 30 day review period.

2. Time to Complete

The reviewer shall include in any approval a maximum time period for the completion of any new construction or modification. If no maximum time period is specified in the approval, construction shall be completed within thirty days of its commencement. The Applicant may request an extension of such maximum time period not less than three days prior to the expiration of the maximum time period, which the reviewer may approve or disapprove, in its sole discretion.

If construction is not completed on a project within the period set forth in the approval, within the thirty day default period, if applicable, or within any extension approved by the reviewer, the approval shall be deemed withdrawn, and the incomplete construction shall be deemed to be in violation of the Declaration and these Design Guidelines.

H. Changes After Approval

All proposed changes to plans, including changes that affect the exterior of any building, colors, windows, grading, paving, utilities, landscaping, or signage, made after the approval of plans must be submitted to and approved in writing by the reviewer prior to implementation. Close cooperation and coordination between the Applicant and the reviewer will ensure that changes are approved in a timely manner.

If MONTGOMERY CITY or any other

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authority having jurisdiction requires that changes be made to final construction plans previously approved by the reviewer, the Applicant must notify the reviewer of such changes and receive approval from the reviewer prior to implementing such changes. A secondary review period of 10 days is allowed in this specific situation.

I. Enforcement

In the event of any violation of these Design Guidelines, Stone Martin Builders, LLC (the “Developer”), the MELROSE PHASE 2 Subdivision Homeowners Association, Inc. (the “HOA”), ARC or the Board of the HOA may take any action set forth in the By-Laws or the Declaration, including the levy of a specific assessment pursuant to the Declaration. The Developer, HOA, ARC or the Board may remove or remedy the violation and/or seek injunctive relief requiring the removal or the remedying of the violation. In addition, the Developer, HOA, ARC or the Board shall be entitled to recover the costs incurred in enforcing compliance and/or impose a fine against the Unit upon which such violation exists.

III. DESIGN STANDARDS

The following specific site criteria shall apply to all proposed or existing construction within MELROSE PHASE 2 unless a variance is granted by a reviewer.

A. Storage Buildings

Owners shall secure reviewer approval

prior to construction of any storage building, including garden or tool sheds or permanently installed playhouses. As a matter of clarification, all play structures such as playsets, swing sets, jungle gyms, etc. under 24 square feet and less than 8 feet in height are not governed in Section A but are addressed below in Section S. A detached garage is not considered a storage building, and its construction shall require reviewer approval on a case-by-case basis. See section N for details. Storage buildings shall meet the following criteria:

1. A storage building may be made with cement board siding or wood siding and of color, and style that compliments the main residence. The maximum size for a storage building is 10’ x 12’ with a 4 to 12 roof pitch maximum. A Storage building’s roofing materials shall match those of the main residence (no 3 tab shingles or metal roofs allowed). Storage buildings constructed out of aluminum, plastic, steel or polycarbonates are not allowed. Generally, all accessory structures must be 12’ or less in height from the peak or the roof to the ground. However, the ARC can take the topography of the lot into consideration when deciding on the height of the structure. All storage buildings must be enclosed by a privacy fence.
2. Any utilities servicing accessory buildings shall be installed underground.
3. Storage building shall be located in the rear yard but may not be located within an easements area, and not within 5’ of any property line on any side and

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shall not unreasonably obstruct any adjacent neighbor's views. See Architectural Standards Section III E.

B. Additions and Expansions

Reviewer approval is required for any addition to or expansion of a residence. Materials shall match the existing residence.

C. Air Conditioning Equipment

Unless otherwise permitted by the reviewer, no window air-conditioning unit shall be installed which is visible from the street.

D. Antennas and Communication Dishes

Except as otherwise prohibited by law, satellite dishes shall be restricted in size to 22" or less and shall be located in a location acceptable to reviewer. In most situations, satellite dishes should be located behind the rear portion of the dwelling in the rear yard of the Unit and screened from view of the street and sidewalk, unless the applicant demonstrates that such placement unreasonably interferes with reception. Standard television antennas may be installed if such are located on the rear pitch of the roof and not visible from the street. No other exterior television, radio antennas or satellite dish or receiver, or solar equipment of any sort shall be placed, allowed or maintained upon any portion of a structure or Property without prior written approval of by the reviewer.

E. Architectural Standards

The exteriors of all buildings must be designed to be compatible with the natural site features of the property and to be in harmony with their surroundings. The land forms, the natural contours, local climate, vegetation, and the views should dictate the building location, the building form, and the architectural style. The reviewer may disapprove plans if in its judgment the massing, architectural style, roof line, exterior materials, colors, or other features of the building do not meet these standards.

F. Awnings and Overhangs

The installation of awnings and overhangs requires reviewer approval. The awning or overhang color must be in the same color as the home or generally recognized as complementary to the exterior of the residence.

As a matter of clarification no metal awnings can be added to any residence in front, side or back yard.

G. Birdbaths, Birdhouses and Birdfeeders

Reviewer approval is required for the front or side yard installation of any birdbath, birdhouses, and birdfeeders. Any rear yard installation that is visible from any street within MELROSE PHASE 2 Subdivision also requires reviewer approval.

H. Woodpiles and Storage of Fuel

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All woodpiles shall be kept and maintained in the rear yard only and be screened by adequate planting and/or fencing so as to conceal them from view or neighboring residences and the streets. No clotheslines or above-ground tanks for the storage of fuel, water, or any other substance shall be located on any property. Piles of lumber, metal or bulk materials are not allowed.

I. Compost

Except as otherwise prohibited by law, no composting shall be allowed and no compost pile shall exist.

J. Decks and Balconies

Owners shall secure reviewer's approval before installing decks or balconies. Decks and balconies must be constructed of wood or other material similar to that of the residence and, must be painted or stained a color similar to or generally acceptable as complementary to the residence. If stained, the deck and balcony must be Olympic Maximum Tintable Multiple Semi-Transparent Exterior Stain Canyon brown. Decks and balconies must be installed as an integral part of the residence or patio area. Any such decks or balconies must be located so as not to obstruct or diminish the view of or create an unreasonable level of noise for adjacent property owners. Construction shall not occur over easements and must comply with the applicable MONTGOMERY CITY requirements.

K. Pet Runs and Houses

No structure for the care, housing, or confinement of any animal shall be constructed, placed or altered on any property unless plans and specifications for said lot have been approved by reviewer. No stable, poultry house, rabbit hut, or other similar yard structure, with the exception of a doghouse, shall be constructed or allowed to remain on any property. No pet run shall be constructed without a privacy fence encompassing the property per the guidelines in Section IV, Part B. The installation, construction or maintenance of other pet houses or pet runs shall be made only with the approval of the reviewer.

L. Exterior Lighting

Except for seasonal Christmas decorative lighting, all exterior lights must be approved by the reviewer. Christmas lights shall be permitted not earlier than Thanksgiving and must be removed no later than January 15th. Christmas displays which, in the opinion of the reviewer, create traffic congestion or become an annoyance to adjacent property owners shall not be allowed. The reviewer may take into consideration the visibility and style of the fixture and its location on the home. Exterior lights shall be conservative in design and small in size as practical. Lights shall be directed toward the house or ground and limited in wattage to 2,000 lumens. Low voltage (12 volt) lighting is preferred.

M. Flagpoles

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Flagpoles are not allowed. Decorative or seasonal flags must be mounted on the main residence dwelling, shall not exceed the roof line of the main residential dwelling, and may only be flown on holidays. The only flag that can be flown year round is the American flag.

N. Garage

Owners shall secure reviewer approval prior to construction of any garage building. Garage buildings shall meet the following criteria:

1. The design and materials used shall be the same as the house materials, brick color, windows, doors, trim and general style must match the main residence. The garage building must be built on a concrete slab. A garage building's roofing materials shall match those of the main residence (no 3 tab shingles or metal roofs allowed). See Section III V. See Architectural Standards Section III E. However, the ARC can take the topography of the lot into consideration when deciding on the height of the structure.
2. Any utilities servicing accessory buildings shall be installed underground.
3. All garage doors which are visible from any street must match existing residence or neighboring structures. Garage doors shall not be removed and shall remain closed except during periods of ingress and egress.

O. Gazebos and Greenhouses

Reviewer approval is required prior to the construction of any gazebo or greenhouse. Any gazebo or greenhouse must be an integral part of the landscape plan and must not obstruct any adjacent property owner's view. No metal gazebos are allowed. No metal roofs for gazebos are allowed.

P. Hot Tubs and Saunas

Reviewer approval is required for the installation of any hot tub, Jacuzzi, sauna, or spa and shall be an integral part of the deck or patio area and/or the rear yard landscaping. Hot tubs and Saunas must be installed behind a properly approved privacy fence per Section IV paragraph B.

Q. Latticework

Latticework or a garden trellis which is a part of the landscaping or exterior of a structure must be approved.

R. Patios Covers or Pavilions

Reviewer approval is required for the construction of patio covers, open patios, and enclosed patios. Patio covers, open patios, and enclosed patios shall be constructed of wood or material and design that match that of the main residence. Patios or pavilions built from wood are subject stain requirements in Section III, J. Aluminum roofs and columns are not allowed. See Section III, V for roofing.

S. Playhouse or Play Sets

All playhouses or play sets visible from

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any street within MELROSE PHASE 2 Subdivision must be approved by the ARC. In addition, a playhouse shall be considered an accessory building if it measures more than 24 square feet, is more than 8 feet high from peak to ground, or is constructed on a concrete slab or footing. Play sets that are subject to ARC approval are to be built from wood that is stained to match the privacy fence detail for MELROSE PHASE 2. Plastic play sets are not allowed if visible from any street within the development regardless of the orientation of that street in relationship to said property within MELROSE PHASE 2. As a matter of clarification, a wooden play set can have a plastic slide and swing. The intent of the previous sentence is to prohibit play sets that are constructed with a metal or plastic frame. Play set approvals are generally limited to the area that is inside the boundary of each side of the home and within 20' from the rear of the home, unless the ARC determines there may be a more discrete location on the property. Given the numerous styles and variables related to play sets, the ARC has broad discretion to approve or disapprove a proposed play set and may deny any play set without cause. Trampolines must be installed in a fenced yard.

T. Pools

Reviewer approval is required for the construction or installation of pools. Pools shall be an integral part of the deck or patio area and/or the rear yard landscaping. A pool shall be located in the rear yard only, shall be installed in such a way that it is not immediately

visible to adjacent property owners, and shall not create an unreasonable level of noise for adjacent property owners.

Pools shall be fenced for safety purposes. No above ground pools are permitted.

U. Recreational Equipment

Basketball goals shall not be placed on any structure or garage at any time. Portable Basketball goals may be placed to the rear of the driveway. Under no conditions can portable basketball goals be moved beyond the front of the house for storage, except for front load homes on a temporary basis. Basketball goals shall never be placed in the street, front yard or outside the limits of your property.

V. Roofing

Roof lines, gables, and roof forms should be varied to avoid a continuous one level elevation along the street. Main roof forms should be pitched at no less than 8/12 and are complementary to the overall structure of the home. Accent roof pitches, such as porches and stoops, may be approved on a case by case basis at a reduced pitch, but shall not be less than a 4/12 pitch. No pitch shall exceed 14/12. Dormers may exhibit arched, gabled, mansard, or hipped forms. No 3 tab shingles or metal roof panels will be allowed on any structure.

W. Roof Accessories and Equipment

Reviewer approval is required for all

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rooftop equipment and accessories, unless specifically excepted in this Section. All rooftop equipment must match roofing colors or be of a color that complements the house and must be placed as inconspicuously as possible. Exposed flashing gutters and downspouts must be painted to match the fascia and siding of the structure. No exposed attachment straps will be allowed.

Any installed solar energy equipment shall have the appearance of a skylight, shall have a finished trim material or curb, and shall not be visible from the street. Landscaping or other buffering may be required for solar panels.

X. Siding

Owners shall seek reviewer approval before installing or replacing siding which differs from original material. Owner shall be required to maintain all siding on a routine basis and repaint any siding as necessary. The ARC shall have the power to make assessments on Owners who do not take reasonable care to maintain siding or any other exterior finishes on their home.

Y. Signs

No sign whatsoever shall, without the reviewer's prior written approval of plans and specifications thereof, be installed, altered, or maintained on any Unit or on any portion of a structure visible from the exterior thereof, except: one temporary sign per Unit that advertises property for sale, which has a maximum face area of six square feet,

and which is conservative in color and style; such permits as may be required by legal proceedings; such permits as may be required by governmental entity.

"For Rent" or "For Lease" signs are prohibited. In no event during approved construction of any structure shall be more than one job identification sign be approved by reviewer.

Z. Statues

Reviewer approval is not required for the rear-yard installation of any statue, which, including any pedestal, stands no more than five feet tall and is not visible from any street within the neighborhood. All other statues or yard orientation is subject to reviewer approval.

AA. Trash Containers

Trash or containers shall be enclosed or screened from view of adjacent property. Trash containers and yard debris shall be kept in a manner which is not visible from the street or adjacent residence at all times other than during trash collection day. Screening garbage cans and yard trash with plants or softscape is approved; however, other hardscape screening such as an L shaped wood fence needs ARC permission. Fencing must follow guidelines in Section IV, B.

BB. Mailboxes

Owners shall only use mailboxes approved and/or provided by the Developer and shall comply with the terms related to mailboxes set forth in the Declaration.

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CC. Accessory Buildings

Owners shall secure reviewer approval prior to construction of any accessory building. Accessory buildings shall meet the following criteria:

1. An accessory building must be built to match existing home in color, brick color, doors, windows and style that compliments the main residence. The accessory building must be built on a concrete slab. Accessory building's roofing materials shall match those of the main residence (no 3 tab shingles or metal roofs allowed). See Section III V. See Architectural Standards Section III E. Accessory buildings constructed out of aluminum, plastic, steel or poly-carbonates are not allowed. However, the ARC can take the topography of the lot into consideration when deciding on the height of the structure. The maximum roof pitch shall not exceed 8 to 12 pitch nor be less than 4 to 12. All accessory buildings must be enclosed by a privacy fence.
2. Any utilities servicing accessory buildings shall be installed underground.
3. Accessory building shall be located in the rear yard but may not be located within an easements area, and not within 5' of any property line on any side and shall not unreasonably obstruct any adjacent neighbor's views.

IV. LANDSCAPING AND SITE STANDARDS FOR RESIDENTIAL PROPERTIES

Landscaping is an essential element of design at MELROSE PHASE 2. Preservation of existing vegetation in addition to the introduction of plants native to the MONTGOMERY CITY area must be considered in establishing the landscape design.

A. Drainage

Drainage of the Lot must conform to all MONTGOMERY CITY requirements. All drainage and grading must be indicated on the plans approved by reviewer. There shall be no interference with the established drainage pattern over any property except as approved in writing by the reviewer. The established drainage pattern is defined as the drainage pattern as engineered and constructed by the Developer or approved builder prior to (or in some cases, immediately following) conveyance of title from the builder to the individual homeowner. Owners may make minor drainage modifications to their Units provided that they do not alter the established drainage pattern.

Landscape plans shall conform to the established drainage pattern, shall cause water to drain away from the foundation of the house, and shall prevent water from flowing under or ponding near or against the house foundation. Water should flow fully over walkways, sidewalks, or driveways into the street. The reviewer may require a report from a drainage engineer as part of landscaping or improvement plan approval. Sump pump drainage should be vented a reasonable distance from the

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property line to allow for absorption.

B. Fences

No fence or wall of any kind shall be erected, maintained, or altered on any Property without prior written approval of the reviewer of plans and specifications for such fences and walls. Absent a specific written waiver from the reviewer, all wood fences must be installed so that the finish side of the fences faces outward from the Owner's Unit, so that the support structure side of the fence should face the Owner's Unit. All fences shall conform to the privacy fence exhibit. Privacy fences cannot be constructed in a manner to where they do not extend to the property lines of the property (except the corner lot provision below), and must be constructed in a manner so that neighbors can easily tie into the fence. In all areas of the neighborhood, except any garden home section, fences must tie into the rear of the home in the back 1/3 of the side walls of the home. It is preferable and optional for the reviewer to require the fence to tie into the back corners of the home. As a matter of clarification to the fence exhibit that has been adopted by the ARC, any individual cannot turn their support rails out on their side yard or rear yard fencing. This is often done in assumption that a neighbor will tie into the fence, but the ARC does not allow this under any circumstances.

1. Material; Types

All fences shall be submitted for approval. Materials used treated pine or cypress 6' dog ears. Wrought iron or powder coated aluminum fencing or gates can be approved on a case by case basis at the sole discretion of the reviewer.

2. Reviewer's Authority

The ARC shall have the authority from time to time to create, revise, or eliminate a list of pre-approved fence types and/or fence materials.

3. Maintenance

Any fences or walls, whether constructed by the Owner or builder, shall be well repaired and maintained consistent with the community-wide standard. In the event a fence or wall is damaged or destroyed, the Owner shall repair or recondition the same at the Owner's expense.

4. Staining

Within 30 days of installation of any privacy fence, the owner shall stain any section of privacy fence visible from any adjacent property or right of way. The stained section of the shall be completely covered in stain and the stain shall be uniformly installed per the manufacturer's instructions. Stain is to be reapplied on an as needed basis in order to prevent fading or damage to wood. Any fence that has stain that becomes faded in the sole determination of the ARC is to be restained within 60 days of receiving a restraining notice. All fence stains required throughout the

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neighborhood are Olympic Maximum Tintable Multiple Semi-Transparent Exterior Stain Canyon Brown Color.

5. Neighborhood Fence Detail

Due to the amount of variables that exists within the realm of privacy fencing, as part of this Design Guidelines, the ARC has adopted a detail sheet for fences. All fences have to conform to this detail sheet, which may be modified from time to time by the ARC. This detail exemplifies how to construct the fence along with an illustration of the items prior mentioned. All fences shall conform in style, color, and appearance to the adopted privacy fence detail.

6. Corner Lot Fencing

Corner lots have unique configurations which affect the location of the fence. On corner lots, the fence may not extend to the property line on the side yard that abuts the street. Furthermore, the fence abutting the side yard may not extend beyond the building setback line. All other sections of corner lots' fences shall extend to the property line as stated in section B above.

C. Grading

Owners shall not grade their property so as to interfere with the established drainage pattern over any property except as approved in writing by the reviewer. Owners should work with the natural contours and seek solutions that minimize the impact of grading with respect to major alterations of existing

grades.

D. Paving; Driveways

Owner shall secure reviewer's approval prior to paving with any paving material, including concrete, asphalt, brick, flagstone, stepping stones, and pre-cast patterned or exposed aggregate concrete pavers, and for any purpose, including walks, driveways, or patio areas. Owners shall secure reviewer approval before extending or expanding any driveway.

E. Retaining Walls

All retaining walls require approval by the reviewer. Such walls shall be properly anchored to withstand overturning forces. Stone walls shall be made thicker at the bottom than at the top to achieve stability. All retaining walls shall incorporate weep holes into the wall design to permit water trapped behind them to be released. Timbers for walls or other landscape use should be treated to resist decay. Walls shall not be located so as to alter the existing drainage patterns.

F. Additional Plantings or Landscaping

No additional plantings or landscaping shall take place on any property without reviewer approval. Although additional landscaping is encouraged within MELROSE PHASE 2 Subdivision, reviewer approval is required prior to any owner installing any tree, shrub, grass, bush, hedge, hardscape, landscape bed, etc on their property. Also no turf

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removal is to take place on the property without reviewer approval. If removing plant beds on side of home they must be replaced with sod. The ARC encourages the planting of native or commonly found species in the MONTGOMERY CITY area. Plantings of exotic or invasive species are prohibited. The approval of any landscape plan, is the sole discretion of the acting ARC.

G. Party Walls and Party Fences

Each wall or fence built as part of the original construction of the Community which separates any two (2) adjoining residences shall constitute a party wall or fence and to the extent not inconsistent with the provisions of the section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

1. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.
2. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator with ten (10) days after written request therefor by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators must bring their cases before the Board, and the Board must decide on the most

equitable resolution for both parties involved.

V. CONSTRUCTION GUIDELINES

A. Inspections

The Applicant shall schedule and coordinate a review of all construction activities with the reviewer to verify compliance with the approved plans and specifications. The reviewer may also perform additional periodic informal inspections to ensure that work is being performed in compliance with the approved plans and these Design Guidelines. All inspections are observations only and will not relieve the obligation to obtain inspection approvals from MONTGOMERY CITY and other organizations having jurisdiction.

B. Construction Damages

Any damage to vegetation or Common Area facilities caused by the Applicant, its contractors, sub-contractors, agents, or employees must be corrected immediately to satisfaction of the reviewer, the Developer, and the owner of the damaged property. If damage is not corrected, the Developer or the association may repair such damage and assess the costs of repair to the Applicant.

C. Conduct

The Applicant must ensure that all contractors and subcontractors control the conduct of their employees while

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working in MELROSE PHASE 2. Loud music, profanity, and other behavior which is unbecoming of a quality operation will not be tolerated. Employees violating this policy may be asked to leave the premises and may be denied access at the construction entrance.

D. Site Cleanliness

All sites must be maintained in a clean and orderly manner at all times. The storage of material should be in an inconspicuous location within the site and stored neatly and orderly. All construction debris shall be cleared at the end of each working day.

**VI. CHANGES AND
AMENDMENTS TO THE
DESIGN GUIDELINES**

A. These Design Guidelines may be amended upon the affirmative vote of two-thirds of the members of the ARC and the consent of the Developer. In addition, the Developer may modify these Design Guidelines in its sole discretion without the consent of the ARC or Board.

B. Such amendment shall be published and/or promptly posted in a prominent place within the Community. As a matter of clarification the neighborhood website qualifies as a prominent place.

C. In no way shall any amendment to these Design Guidelines change, alter or modify any provision of the Declaration or any supplemental declaration.