

ARCHITECTURAL, LANDSCAPE AND LAKE BUFFER GUIDELINES

FOR

BAYCROSSING

# **ARCHITECTURAL, LANDSCAPE AND LAKE BUFFER GUIDELINES**

## **INTRODUCTION**

These Architectural, Landscape and Lake Buffer Guidelines (the "Guidelines") have been prepared by the Architectural Control Committee (the "ACC") for the residential community known as BayCrossing ("the community"). The Guidelines are contemplated in and are promulgated pursuant to that certain Declaration of Covenants, Conditions and Restrictions for BayCrossing (the "Declaration"). The Guidelines consist of four components: Architectural and Design Guidelines, Landscape Guidelines, Lake Buffer Guidelines and Construction Rules, as set forth below. All defined terms used in the Guidelines, as indicated by the initial capitalization thereof, shall have the same meaning ascribed to such terms in the Declaration, unless otherwise specifically defined herein.

The Guidelines shall be employed in conjunction with the Declaration. If there is an express conflict between the terms of the Declaration and the terms of the Guidelines, the terms of the Declaration shall control and prevail; provided, however, the mere fact that the terms of the Guidelines may be more restrictive than the terms of the Declaration, or vice versa, shall not be construed as an express conflict, and in such case the most restrictive provision shall control and prevail. IN THE EVENT GOVERNMENTAL OR QUASI-GOVERNMENTAL RULES, REGULATIONS OR REQUIREMENTS THAT ARE APPLICABLE TO THE COMMUNITY ARE MORE RESTRICTIVE OR MORE STRINGENT THAN THE TERMS OF THE DECLARATION AND/OR THE TERMS OF THE GUIDELINES, THE APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL RULES, REGULATIONS OR REQUIREMENTS SHALL CONTROL AND PREVAIL.

## **DESIGN PHILOSOPHY**

The Guidelines have been developed to implement the design philosophy of the community, namely, to blend structures, Lake Norman (the "Lake"), and residents' lifestyles into a harmonious and aesthetically pleasing residential community which places a strong emphasis on the preservation and enhancement of the natural beauty of the community. The Guidelines are intended to provide direction to Lot Owners and builders in the planning, design, and construction of residences and related Improvements on Lots. It is not the purpose of the Guidelines to create look-alike residences and other Improvements or to suggest that all residences employ the same colors, styles, and materials. Rather, the primary emphasis of the community is on quality of design and compatibility among all Improvements, without unduly restricting the ability of Lot Owners to exercise individuality in their choice or design of a residence and related Improvements. No residence, structure, or other Improvement should stand apart in its siting, design, or construction so as to detract from the overall environment or appearance of the community. The ACC will be open to and encourage creativity, innovative use of materials and design and unique (if appropriate) methods of construction as long as the final result is consistent with the spirit of the Guidelines and the guiding philosophy of the community. The authority of the ACC to approve or disapprove plans, specifications and drawings for residences and related improvements is provided by the Declaration.

The Guidelines have been established to provide Lot Owners and their architects and builders with a set of parameters for (i) the preparation of plans, specifications and drawings for the construction of residences and related Improvements on Lots (the "Building Plans and Specifications"), (ii) the preparation of plans, specifications and drawings for the installation of landscape improvements on Lots (the "Landscape Plans and Specifications"), and (iii) the general application of the Watershed Regulation of North Carolina (the "Lake Buffer Guidelines"). Each Lot Owner and each Lot Owner's building team should become familiar with the Guidelines and the process set forth herein for the submittal, review and approval of

Building Plans and Specifications and Landscape Plans and Specifications (together, the “Plans and Specifications”). If building in the community for the first time, Lot Owners and their builders are encouraged to consult the ACC with questions regarding the application of the Guidelines to the Lot Owners’ design concepts prior to the initiation of any design work.

The ACC has been created to explain and assist in the design review process as well as to review, approved, or disapprove Plans and Specifications. It is the ACC’s objectives to maintain a pleasing aesthetic relationship of building to site and building to building and not to restrict individual creativity or preferences. The ACC will use the Guidelines for the purpose of reviewing each design, but the ACC may consider creative and innovative approaches in order to address special site conditions or circumstances, provided such approaches are permitted under the Declaration and are otherwise consistent with the spirit of the Guidelines. The ACC may retain advisory design professionals to serve as members of the ACC to aid in the review of Plans and Specifications.

## FUTURE AMENDMENTS

The ACC reserves the right to amend any or all provisions of the Guidelines at any time and from time to time, in the sole and absolute discretion of the ACC. Also, the ACC reserves the right to rule on all issues on a case by case basis, taking into account the fact that these guidelines are to be used a benchmarks for policies and procedures, and may be interpreted from time to time by the ACC to reflect certain circumstantial issues.

All Building Plans and Specifications and all Landscape Plans and Specifications shall be prepared in compliance with the most current version of the Guidelines (and all amendments thereto) that has been promulgated by the ACC at the time such Building Plans and Specifications and Landscape Plans and Specifications are prepared.

## **ARCHITECTURAL AND DESIGN GUIDELINES**

### 1. PROCEDURES AND APPROVALS

#### 1.1 Architectural Review Process.

Prior to the commencement of any construction activity of any type (including any grading work) on any Lot, an Application for Approval (using a form to be obtained from the ACC) of such work must be submitted by the Lot owner or such Owner’s designated agent to the ACC. The ACC must receive, review and approve the information and documentation required to be submitted under Section 1.3 herein entitled “Design Review Procedure” prior to the commencement of any such work. Also, all design and construction escrow fees required under these Architectural and Design Guidelines must be paid to the ACC prior to the commencement of any such work.

#### 1.2 Pre-Application Procedure.

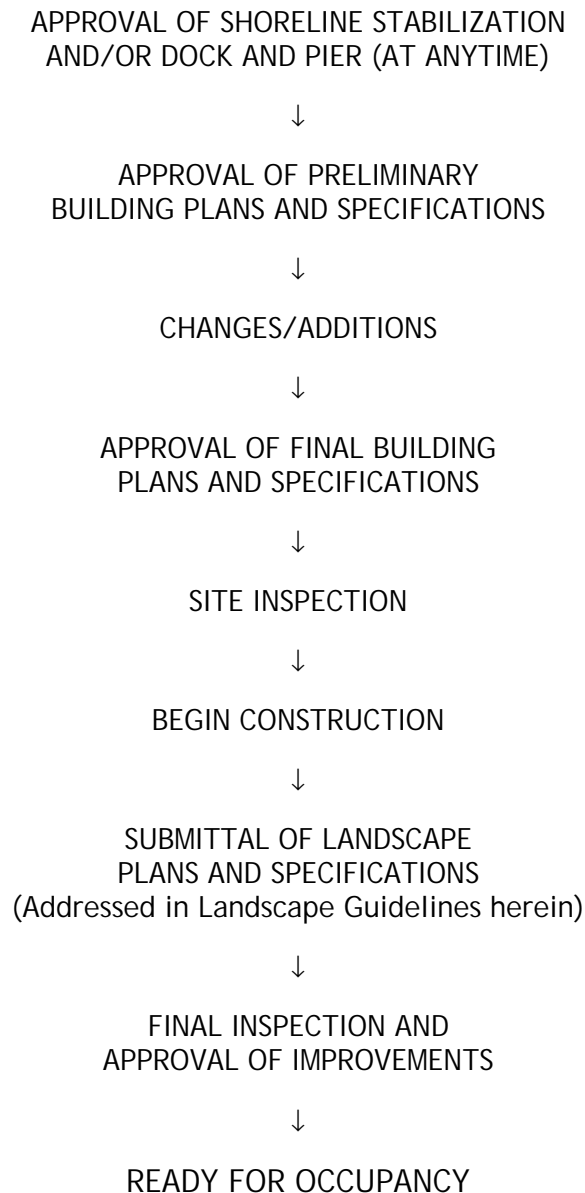
Iredell County and its building inspection department have jurisdiction over the community. Each Lot Owner or a representative of each Lot Owner should contact representatives of Iredell County and its building inspection department at the beginning of the planning and design process relative to such Owner’s Lot to ensure

compliance with the rules, regulations and standards of Iredell County. Compliance with all governmental and quasi-governmental rules, regulations and standards is the obligation of each Lot Owner and the Lot Owner's builder. It should not be assumed, however, that compliance with the rules, regulations and standards of Iredell County and other governmental and quasi-governmental authorities will satisfy all requirements of the ACC.

1.3 Design Review Procedure.

The successful completion of the design review procedure under the Architectural and Design Guidelines will be facilitated by reviewing and complying with the requirements outlined in the Architectural and Design Guidelines and by reviewing and following the step-by-step design review format described below. The review format has been structured to achieve a smooth and timely review from preliminary plan submittal to final site inspection and approval.

The following flow chart represents the necessary procedures in the process of building a residence:



The ACC has established a schedule for submittal of Building Plans and Specifications, review of Building Plans and Specifications, and meeting with the Lot Owner or the representative of the Lot owner to discuss any questions or concerns of the ACC relative to the Building Plans and Specifications. The established schedule permits a timely review of submitted Building Plans and Specifications and allows Lot Owners and their representatives to accurately plan their schedules. Building Plans and Specifications must be submitted by the Lot Owner or the Lot Owner's representative to the ACC Coordinator by 5:00 p.m. seven days prior to the scheduled ACC review meeting. Each submittal of Building Plans and Specifications must be accompanied by a completed Application for Approval form (copies of which are attached hereto as Schedule A and Schedule B, as applicable), a one-time processing fee (the "Processing Fee") of Six Hundred Fifty and No/100 Dollars (\$650.00), and two (2) complete sets of the Building Plans and Specifications. In addition, the initial septic installation inspection fee and the first annual septic inspection fee are due at the time of ACC submittal. These checks are in the amount of \$250.00 and \$300.00 respectively, and are made payable to the BayCrossing Owners Association.

The ACC has a review meeting as needed, but no more than once a week, to review the Building Plans and Specifications that have been submitted since the most recent ACC review meeting. Each Lot Owner that has submitted Building Plans and Specifications for review is encourage, although not required, to attend the ACC review meeting at which such Lot Owner's Building Plans and Specifications will be reviewed to respond to any questions that the ACC may have relating to such Lot Owner's Building Plans and Specifications. Appointments for ACC review meetings can be made by contacting the ACC Coordinator.

As set forth above, each Lot Owner will be charged a Processing Fee for the review of such Lot Owner's Building Plans and Specifications. The Processing Fee, which is Six Hundred Fifty and No/100 Dollars (\$650.00), shall be paid by check and shall be made payable to the ACC. The ACC shall have the right to increase the amount of the Processing Fee from time to time as stated in the Declaration and these Guidelines. The Processing Fee is intended to partially cover the expense incurred by the ACC in reviewing Building Plans and Specifications, including the cost of compensating any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained by the ACC.

The Application for Approval, along with the following fees:

- \$650 Processing Fee made out to BayCrossing ACC
- \$1000 Construction Escrow Deposit made out to the HOA
- \$250 Initial Septic Installation Fee made out to the HOA
- \$300 First Annual Septic Inspection Fee made out to the HOA,

The Building Plans and Specifications and all other materials necessary for the ACC to review Building Plans and Specifications shall be sent to:

Hecht Properties, LLC  
885 North Highway 16  
Denver, NC 28037

#### 1.4 Review of Preliminary Building Plans and Specifications.

The ACC encourages Lot Owners and builders who are building in the community for the first time to participate in the preliminary Building Plans and Specifications review process. Although not required, the preliminary Building Plans and Specifications review process may help avoid unnecessary expense and delay by expediting later phases of the Building Plans and Specifications review process. The ACC will review with the Lot Owner or the Lot Owner's representative such Lot owner's proposed design approach to confirm general compliance with the Architectural and Design Guidelines and the appropriateness of the design concept. To fully utilize the preliminary Building Plans and Specifications review process, a completed site plan and the architectural drawings for the Improvements (as outlined in the enclosed Application for Preliminary Design Approval form, a copy of which is attached hereto as Schedule A) shall be included as part of the preliminary Building Plans and Specifications submittal shall also include a completed Application for Approval and the Processing Fee.

The ACC shall review the preliminary Building Plans and Specifications and return them to the Owner marked "Approved" or "Disapproved", as the case may be. As to any preliminary Building Plans and Specifications that are marked "Approved" by the ACC, final Building Plans and Specifications produced thereafter must be in substantial conformity therewith; provided, however, the ACC's approval of preliminary Building Plans and Specifications shall in no way bind or obligate the ACC to approve the subsequent final Building Plans and Specifications.

The ACC may refuse to approve preliminary Building Plans and Specifications or any component(s) thereof, without limitation, the location, style, exterior colors or finishes or other specifications of the proposed Improvements for any reason or reasons, including purely aesthetic reasons, in the sole discretion of the ACC.

#### 1.5 Review of Final Building Plans and Specifications.

The submittal of final Building Plans and Specifications shall incorporate all of the requirements stated in the Application for Final Design Approval form, a copy of which is attached hereto as Schedule B, and other portions of the Architectural and Design Guidelines as well as comments from previous meetings and design reviews.

Two (2) complete sets of the final Building Plans and Specifications must be submitted to the ACC. Also, the Processing Fee (\$650.00) must be submitted as part of the final Building Plans and Specifications submittal if the Processing Fee has not been paid to the ACC previously. In addition, the following items must be submitted to the ACC as a condition to the final Building Plans and Specifications review process:

- The construction escrow deposit (the "Construction Escrow Deposit"), as set and determined by the ACC as of the date the final Building Plans and Specifications are submitted. The Construction Escrow Deposit is currently One Thousand Dollars (\$1,000.00) per Lot. The Construction Escrow Deposit shall be paid by check made payable to BayCrossing Owners Association, Inc. (the "Owners Association"). The Construction Escrow Deposit will be held by the Owners Association and sued for the purposes set forth in the Construction Rules.

If found not to be in compliance with the Guidelines or if found to be otherwise unacceptable to the ACC, one (1) set of the final Building Plans and Specifications shall be returned to the Lot Owner marked "Resubmit", accompanied by a written statement

of items found not to be in compliance with the Guidelines or to be otherwise unacceptable to the ACC. If the first resubmittal of final Building Plans and Specifications occurs more than a year from the original submittal of the final Building Plans and Specifications, such resubmittal shall be accompanied by another Processing Fee (\$650.00); also, each resubmittal of final Building Plans and Specifications in excess of three (3) submittals (including both the original submittal and any resubmittals) shall be accompanied by a supplemental processing fee of Two Hundred and No/100 Dollars (\$200.00).

At such time as the final Building Plans and Specifications are approved (or conditionally approved) by the ACC, one (1) complete set of the approved final Building Plans and Specifications shall be marked "Approved as Submitted" or Approved as Noted" and returned to the Lot Owner, along with a written statement with design comments. Once the ACC has approved final Building Plans and Specifications for Improvements to be constructed on a particular Lot, the construction of such Improvements must be promptly commenced and diligently pursued to completion; and if such construction is not commenced within one (1) year following the date of approval of the final Building Plans and Specifications by the ACC, the approval of such final Building Plans and Specifications by the ACC shall be deemed rescinded. In the event of any such rescission of the ACC's approval of Building Plans and Specifications pursuant to the immediately preceding sentence, construction of Improvements on such Lot may be commenced thereafter only after resubmission of final Building Plans and Specifications to the ACC for approval and approval of such final Building Plans and Specifications by the ACC.

Any modification or change to the "Approved" set of final Building Plans and Specifications must be submitted in duplicate to the ACC for its review and approval (using the same procedure as set forth herein relative to the submission and approval of the original final Building Plans and Specifications). The ACC may require the Lot Owner to pay an additional review fee in connection with any submittal of modifications or changes to previously approved final Building Plans and Specifications.

#### 1.6 Lot Staking, Site Inspection and Approval to Commence Work.

Once final Building Plans and Specifications approval has been granted by the ACC, the Lot Owner or the Lot Owner's representative shall stake the Lot (as provided herein) for review and approval by the ACC prior to commencing any construction work thereon (including grading work). The Lot Owner or the Lot Owner's representative must clearly stake the proposed house and property lines and, if applicable, the Lake Buffer Area (as defined herein). Staking shall be with a continuous ribbon encircling the area to remain undisturbed, and any additional trees to remain undisturbed located outside the encircled area shall be ribboned individually or in groups. After such staking of the Lot has been completed in accordance with this Section 1.6, the Landscape Guidelines and the Lake Buffer Guidelines, the Lot Owner or the Lot Owner's representative shall request the ACC to make a site inspection prior to the commencement of clearing and construction work on the Lot. Provided, however, and notwithstanding any term or provision herein to the contrary, "mature trees" located outside the Building Envelope and the Lake Buffer Area may not be cut down, damaged or otherwise removed without the specific written approval of the ACC. "Mature trees" for purposes of these Guidelines shall mean the following:

<u>Tree Type</u>	<u>Diameter</u> (measured 12 inches above ground level)
Evergreen	6 inches or greater
Deciduous	3 inches or greater
Dogwoods and other flowering trees	1.5 inches or greater

The primary purpose of the site inspection by the ACC is to ensure compliance with the approved Building Plans and Specifications to prevent any unnecessary damage to specimen trees and other unique site features. (Please refer to the Landscape Guidelines and the Lake Buffer Guidelines regarding requirements and restrictions relating to tree and vegetation protection and removal). In addition to the foregoing matters, the site inspection shall include a review of the following matters and issues:

Building setbacks (as per stakes);

Lake Buffer Area location (as per stakes);

Side yards (as per stakes);

Clearing limits;

Placement of excavation materials;

Protection of water meter and sanitary sewer boxes;

Location of construction entrances;

Location of temporary toilet;

Location of trash containers; and

Erosion control measures (silt fences, hay bales, diversion swales, stone filter dams, etc., as required).

Inspection by the ACC shall be made within seven (7) business days of the date the request is received by the ACC. Written authorization by the ACC to proceed with the Lot clearing and construction work will be issued to the Lot Owner or such Lot Owner's builder by the ACC promptly after the inspection is completed or, if problems are detected during the site inspection, written notification of such problems shall be given to the Lot Owner or such Lot Owner's builder by the ACC promptly after the inspection is completed. No clearing or construction activities that are commenced on a Lot in violation of the terms and requirements of the Guidelines. The ACC may delegate its site inspection functions under the Guidelines to the development construction manager.

#### 1.7 Failure of the ACC to Act.

If the ACC fails to approve or disapprove any final Building Plans and Specifications and other submittals which conform (and which relate to Improvements which will conform) with the requirements of the Guidelines and of the Declaration or to reject them as being inadequate or unacceptable within thirty (30) business days

after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Guidelines and the Declaration, of all items that were to have been submitted to the ACC, and provided the ACC shall again fail to approve or disapprove of such final Building Plans and Specifications and other submittals within ten (10) business days after additional written request to act on such items is delivered to the ACC following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the ACC has approved such conforming Building Plans and Specifications and other submittals, EXCEPT that the ACC has no right or power, either by action or failure to act, to waive or grant any variance relating to any mandatory requirements specified in the Declaration or any Additional Declaration for the Phase in which the Lot is located, and EXCEPT FURTHER, that the ACC shall not be deemed to have waived any of the requirements set forth in Article IX, Section 5, Section 6 or Section 7 of the Declaration or any corresponding provisions in the Guidelines. If final Building Plans and Specifications or other submittals are not sufficiently complete or are otherwise inadequate, the ACC may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The ACC is authorized to request the submission of samples of proposed construction materials.

#### 1.7.1 North Carolina Catawba Buffer Rules

These Guidelines are not intended to conflict with the NC Catawba Buffer Rules as administered by the State of North Carolina and the North Carolina Department of Environmental Health and Natural Resources (NCDENR). In the case where there is a direct conflict between any governmental or regulatory agency laws, ordinances, rules, or provisions including the NC Catawba Buffer Rules, the more stringent stipulations shall apply.

#### 1.8 Final Inspection and Construction Escrow Refund

Once all improvements have been completed, including landscape improvements, a final inspection must be conducted to ensure compliance with the ACC's approval of Final Building Plans and Specifications. A request must be made to the ACC in writing to conduct a final on-site inspection (see the attached Schedule E). The Construction Escrow Deposit, will be refunded after this inspection has been conducted and the lot is deemed to be "in compliance" with approved plans and specifications, and provided the escrow deposit has not been utilized during the building process out outlined in Section 5.2.

## 2. SITE PLANNING

### 2.1 Site Analysis and Siting Considerations.

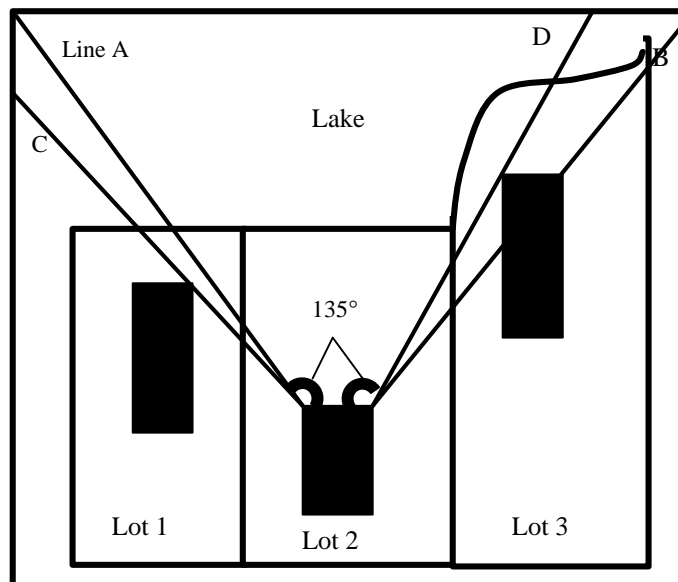
The siting of a house is a critical and important design decision. The site plan concept developed for each Lot Owner (as part of the Plans and Specifications for such Owner's Lot) should reflect functional needs but also should be sensitive to the unique characteristics of the Lot as well as the unique characteristics of the surrounding neighborhood. Due to relatively large Lots and open vistas of the community and the Lake, residences and other Improvements on Lots will be seen from many different angles and viewpoints.

The ACC shall consider each Lot independently but shall give consideration to the impact of each individual Lot (and the Improvements proposed to be constructed thereon) on adjacent Lots and view corridors. Care must be taken to locate each

structure, when and where possible, so as not to infringe upon adjacent Lots and structures constructed or to be constructed thereon, view corridors and natural amenities of the area. Consideration in this regard must be given to the following:

- 1) Topography of the Lot and other Lots in the vicinity.
- 2) Distant and intimate views from the Lot.
- 3) Distant and intimate views of the Lot from other Lots and from the Lake.
- 4) Existing vegetation type and quality.
- 5) Existing water and drainage patterns.
- 6) Driveway access.
- 7) Height of proposed structures on the Lot and existing and proposed structures on adjacent Lots and other Lots in the vicinity.
- 8) Setback from street to align with adjacent Lots.

All structures should be sited so as to minimize disruption to the existing natural setting, including mature trees, drainage ways and the Primary View. The "Primary View" for each Waterfront Lot differs based on the Lot's relationship to other Lots as determined by the ACC, but is generally defined as the area facing the Lake and formed by extending opposing lines (1) at a 45 degree angle from each rear corner of a Lot's Building Envelope or (2) from the rear corners of a Lot's Building Envelope through the closest rear corners of neighboring Lots' Building Envelopes, whichever is smaller. For example, in the accompanying figure, Building Envelopes are shown with shading; Lines A and B are at 45 degree angles from the rear corners of the Lot 2 Building Envelope; and Lines C and D extend from the rear corners of the Lot 2 Building Envelope through the closest rear corners of the Lots 1 and 3 Building Envelopes. The smallest area between any opposing lines is the area between opposing Lines A and D. Therefore, the Primary View from Lot 2 is the area between Lines A and D.



Notwithstanding the above, Primary Views and other view corridors to and from a Lot and the Lake, Common Areas and other areas within the community are in all respects subject to the rights of other Lot Owners, the ACC, Hecht Properties, LLC and others under the terms and conditions of the Declaration and these Guidelines to construct buildings and other Improvements and install Landscape Improvements (as defined herein) that might obstruct or otherwise diminish such views and view corridors. The ACC will use the Primary View concept as a guide, but not an absolute rule, when reviewing proposed Building Plans and Specifications. Provided, however, unless otherwise approved by the ACC, no fence or wall shall be erected, placed or maintained on a Waterfront Lot which will substantially obstruct a Primary View of any other Waterfront Lot.

## 2.2 Building Envelopes and Building Setbacks.

The ACC has provided setback requirements that, when viewed in total, are designed to ensure that the community will be pleasing in appearance from views not only from the Roadways but also from the Lake. In that regard, the ACC has established a specific Building Envelope for each Lot, and the Building Envelope approved by the ACC for each Lot will be available from the ACC on an unrecorded plat. The Building Envelope for each Lot defines the front, side, and rear yard setbacks. The intent of the ACC in imposing the Building Envelope is to allow for harmonious alignment of the Improvements on Lots to help assure appropriate views of and from the residences located on the Lots.

Within the Building Envelope, the residence and all other Improvements shall be located and tailored to the specific features of the particular Lot. All Improvements shall be located so as to minimize disruption or disturbance to the existing natural setting, including mature trees, drainage ways, and views. The ACC strongly discourages the clearing of the septic repair area on the initial clearing of the lot and primary septic field. As part of the review and approval of Plans and Specifications, the ACC may require that the location and orientation of the house and other Improvements within the Building Envelope be modified. No building on any Lot (including any stoops or porches, patios, terraces, decks, etc.) and no recreational Improvement on any Lot shall be erected or permitted to remain outside of the Building Envelope for that particular Lot. Provided, however, and notwithstanding the foregoing to the contrary, (i) docks, piers (including any gazebos proposed to be attached thereto) and boatslips are exempt from this Building Envelope restriction, provided they are approved by the ACC in accordance with the applicable provisions herein and (ii) fireplace chimney structures projecting from the side of a dwelling may encroach no more than eighteen (18) inches into the side yard setback established by the Building Envelope.

As set forth in the Declaration, the ACC shall have the right, in its sole discretion, to make exceptions to any Building Envelope to recognize any special topography, vegetation, Lot shape or dimension, or other site-related condition.

## 2.3 Easements.

Landscape Improvements (as defined in the Landscape Guidelines) and the building of driveways or fencing within utility easements are permissible (unless otherwise prohibited by a recorded easement instrument). Provided, however, if in the future there is a need to disturb or remove such Landscape Improvements, driveways or fencing to access such utilities, such removal and any necessary repair and restoration shall be the responsibility of the Owner of the Lot.

## 2.4 Erosion and Sediment Controls.

The design and development concepts of the community call for the utilization and enhancement of the existing natural environment. The ACC is particularly conscious of the erosion and sediment disturbances that can occur during any clearing, grading or construction activity on a Lot. To help minimize erosion and sediment disturbances, as part of the final Building Plans and Specifications, an erosion control plan (using erosion control measures such as sit fences, hay bales, diversion swales, stone filer dams, etc., as required) must be designed in accordance with Schedule F attached hereto and must be incorporated within the site plan. Approval of the erosion control plan must be obtained from the ACC (as part of the approval by the ACC of the final Building Plans and Specifications) prior to any earth-disturbing operations on any Lot. Particular care must be exercised on Lots fronting the Lake to prevent any negative effect or impact upon the Lake and/or the Lake Buffer Areas. Erosion control measures implemented pursuant to an approved erosion control plan must remain in place until such time as all disturbed areas have been stabilized.

All erosion control plans submitted to the ACC shall be considered individually for each lot. Recommendations or requirements of the ACC in that regard will be based on individual Lot location, terrain, soil conditions, vegetation, drainage, proposed cuts and fills, and any other conditions the ACC determines impact upon the possible erosion and sediment disturbances for the Lot. At a minimum, however, each Lot Owner shall be responsible for causing the following minimum erosion control practices to be implemented and maintained throughout the course of all earth-disturbing operations and final seeding:

- (a) Roadway and Homesite Construction Entrance. Prior to the commencement of any earth-disturbing operation, a stone construction entrance shall be installed on the building site (the "Construction Entrance"). The Construction Entrance shall: (i) if possible, be installed in the same location as the proposed driveway so as to minimize the amount of disturbed area; (ii) extend a minimum of 50 feet from the existing roadway; and (iii) be installed, preserved and replaced, if necessary, in accordance hereto. During construction, each owner shall use diligent efforts to minimize traffic traveling off of the driveway onto such Owner's Lot.
- (b) Silt Control Devices. Prior to the commencement of any earth-disturbing operation, a diversion ditch and rock check (or stone filer) dam or other similar measures approved by the ACC shall be constructed and maintained on the building site (collectively, "Silt Control Devices"). The Silt Control Devices shall be located at the boundary of the estimated disturbed area as set forth more particularly on Schedule F attached hereto and shall be constructed, preserved and replaced, if necessary, in accordance with the standards set forth on Schedule F attached hereto.

In order to ensure the effectiveness of a particular Lot Owner's erosion control measures, the ACC shall have the right to enter any Lot to inspect any and all erosion control measures and to require additional erosion control measures, as necessary.

## 2.5 Drainage.

Drainage considerations for individual Lots play an important part in the ecological balance of the community. Generally, each Lot should be graded such that all water draining from such Lot does not drain onto any adjoining Lots. Water runoff for each individual Lot must be handled by adequately sloping all areas so that runoff can be directed to the natural drainage areas or storm drainage facilities. Water runoff and control is the responsibility of each Lot Owner relative to such Owner's Lot. The water runoff shall be handled in such a manner as not to adversely affect any neighboring Lots or the Lake. Particular care must be taken on Lots fronting the Lake and other amenity areas.

Building Plans and Specifications for any Lot shall include a conceptual drainage plan for such Lot.

### 3. ARCHITECTURAL DESIGN

#### 3.1 Architectural Style.

The intent of the Architectural and Design Guidelines is to encourage the excellent design of a community of individual residences which, when viewed together, produce an outstanding total community environment. It is not the intent of the Architectural and Design Guidelines to dictate a particular architectural style, but rather to provide Lot Owners and their architects with a set of guidelines that will foster an attractive community.

The residential architecture at should work in harmony with the natural features of the surrounding terrain. Traditional architectural styles preferred as the basis or foundation of the design. However, contemporary interpretations of traditional designs are acceptable, provided they adhere to the criteria of the Architectural and Design Guidelines. The designs employed shall be compatible with traditional architectural styling in terms of make, shape, profile, scale, and proportion.

#### 3.2 Quality Design Features.

The homes should reflect the individuality of their owners while adhering to the principles of fine architecture. The following considerations are among those to be addressed when developing the architectural design for Improvements to be constructed on a Lot:

- 3.2.1 The residence shall be located on the Lot with minimum disruption to the Lake, natural topography, vegetation, and unique site features.
- 3.2.2 There shall be a consistency in the site planning, architecture, and Landscape Improvements.
- 3.2.3 Sensitive interpretation of the architectural style is encouraged within the constraints of budget and site.
- 3.2.4 A consistent scale shall be used throughout the design of the residence and other Improvements, with each element designed in proportion to the other design elements.

- 3.2.5 The various building materials shall allow for a pleasing and harmonious exterior appearance for the residence and other Improvements. Building materials shall be used logically.
- 3.2.6 Appropriate colors shall be used, and colors shall be used with restraint.
- 3.2.7 Bay windows shall be carried down to grade or visual support of cantilevered conditions must be expressed. When bay windows are stacked in a two-story configuration, the blank panel between all facets shall be accented.
- 3.2.8 Masonry or stucco used as a veneer material on the façade of a residence shall continue around the front corners of such residence to a logical point of termination.
- 3.2.9 The main roof shall have a minimum slope of eight (8) vertical to twelve (12) horizontal. Shed roof forms are discouraged. Roof shapes and configurations shall be planned to avoid complex, awkward, or odd roof designs.
- 3.2.10 Gutters and downspouts shall be used at all eave lines, unless deemed inappropriate. All exterior downpipes (except copper downpipes) shall be painted to blend with the color of the exterior of the residence.
- 3.2.11 All roof structures, such as attic vents, plumbing vents, etc. shall be treated or painted to blend with the roof shingles, except that flashing applied to vertical surfaces may be paneled to blend with the vertical materials where more appropriate.
- 3.2.12 All exterior utility service connections must be provided in unobtrusive and inconspicuous locations. All electric meters and main fuse boxes must be positioned away from view. This may be accomplished by providing an enclosed recess in the side of the dwelling or through approved Landscape Improvements and/or screening.
- 3.2.13 Exposed electrical equipment, stubouts, conduit, drain lines, pipes and vents must be painted to match the color of the home. Exterior disconnects for air conditioning equipment, etc. shall be mounted at the lowest point allowed by applicable building codes.
- 3.2.14 Gas meters must be adequately screened with Landscape Improvements to conceal equipment from view.

#### 4. DESIGN CRITERIA

##### 4.1 Dwelling Types.

Each Lot may contain only one detached single-family private dwelling and one private garage for not less than two (2) vehicles and only such other accessory structures as are approved in advance in writing by the ACC. Provided, however, Hecht Properties, LLC shall be entitled to use Lots owned by it from time to time for the construction and operation of construction offices and sales/marketing offices (and related uses) for the project.

4.2 Dwelling Size.

The square footage requirements set forth below are for enclosed heated floor area and are exclusive of the areas in unheated basements, vaulted ceiling areas and attics, unheated porches of any type attached or detached garages, porte-cocheres and unheated storage areas, decks and patios.

Any dwelling erected upon any Lot shall contain not less than the following heated floor areas:

A. Waterfront Lots.

<u>Style</u>	<u>Minimum Total Heated Area</u>	<u>Minimum Ground Floor Heated Area</u>
1 Story	2,600	2,600
1 ½ Story	2,800	1,600
Multi-Level	3,000	1,500

B. Off Water Lots:

<u>Style</u>	<u>Minimum Total Heated Area</u>	<u>Minimum Ground Floor Heated Area</u>
1 Story	2,400	2,400
1 ½ Story	2,600	1,500
Multi-Level	2,800	1,400

Notwithstanding for foregoing requirements, the ACC shall have the right (but not the obligation), because of restrictive topography, lot dimensions or unusual site related conditions or other reasons, to allow variances from such minimum square footage requirements of up to ten percent (10%) of such minimum footage requirements by granting a specific written variance.

4.3 Maximum Dwelling Height.

No Dwelling erected upon Lot shall contain more than two and one-half (2 ½) stories above ground level; provided, however the Architectural Control Committee shall have the right (but not the obligation), however of steep topography, unique Lot configuration or similar reasons, to allow Dwellings heights greater than two and one-half (2 ½) stores on rear and side elevations.

#### 4.4 Ceilings.

Interior ceiling heights in dwellings constructed on Lots are recommended to be a minimum of nine (9) feet on the first (i.e. street grade) floor and a minimum of eight (8) feet on all other floors.

#### 4.4 Garages.

Every house shall have an enclosed garage for not less than two (2) vehicles. Garage openings may not face the front elevation street unless approved in advance in writing by the ACC; and such approval will be given by the ACC only where particular hardship would otherwise result because of Lot size, configuration, topography, or other circumstances deemed sufficient by the ACC.

The placement of garages and driveways has a great effect on the overall aesthetics of the street scene and on the architectural appeal of each specific residence. A street scene with emphasis on residences instead of garages and driveways is more visually interesting. For that reason, certain garage placements on a Lot are discouraged.

In cases where a front entry attached garage must be used, recessing the garage from the remainder of the residence diminished the adverse impact of the front entry garage on the street scene and keeps the residence from appearing to be composed of almost entirely the garage. Therefore, in cases where Lot size does not allow a side entry garage, a minimum thirty-six (36) inch offset of the front entry garage from the major façade of the house is required, and a greater recess distance [up to a maximum of ten (10) feet] is encouraged. A porte-cochere that does not extend past the major building façade, and is constructed of the same building materials as part of the house, is allowed.

Garage doors are required for all garages, and the garage doors must be paneled and/or detailed to provide appropriate scale. Single bay garage doors are preferred over double width garage doors. Front entry garages must use single paneled doors. Carports shall not be allowed. There must be a total minimum distance of twenty-eight (28) feet between the garage opening and the adjacent side Lot boundary line.

#### 4.6 Exterior Materials and Colors.

Exterior materials shall be brick, stucco, stone, cedar shake or horizontal siding. Brick exteriors must cover the front of the home and must be wrapped around to cover at least twenty-four (24) inches of the sides of the home. Architectural features such as quoin-corners are encouraged. Horizontal siding must be fully back-supported to maintain a straight and even outer surface and must be fully and properly finished. The use of any vinyl siding will only be considered if used as an accent, and covers no more than 25% of the front face of the house. The vinyl material used must be pre-approved by the ACC. Natural weathering of exterior wood materials is not desired. Imitation stone or brick-like materials are generally discouraged and may be used only upon prior written approval of the ACC. Homes constructed on Waterfront Lots shall use the same or similar exterior materials on all sides of the structure.

#### 4.7 Roofs.

Roofs and roof pitches shall be in proportion to the overall size and shape of the house. Except as specifically approved otherwise in writing by the ACC, the minimum

roof slope for the main house structure shall be eight (8) vertical to twelve (12) horizontal. Acceptable roofing materials are (i) wood shingles, (ii) wood shakes, (iii) natural or man-made slate, (iv) tile or (v) minimum twenty-five (25) year warranty variegated (not solid) color, architectural (sculpted) style, composition (fiberglass) shingles. All specific roof materials to be used must be approved in writing by the ACC as part of the final Building Plans and Specifications prior to commencement of construction.

#### 4.8 Windows and Shutters; Doors.

Windows shall generally be the same type and style all around the house. Thermal pane windows are preferred, and exterior storm windows generally will not be permitted. Wood windows are preferred; however, vinyl windows will be considered, provided the style and profile are visually similar to wood windows. Shutters are encouraged and shall fit the proportion and shape of the windows. All window and doors are encouraged to have caps of soldier course brick jack arches, wood caps or other approved decorative treatment.

#### 4.9 Chimneys.

Chimneys shall be full foundation based and constructed of brick, stone, stucco or other material approved in writing in advance by the ACC. Chimneys shall have a design and location, and shall be constructed of a material that is appropriate to the house (provided that fireplaces not located on exterior walls may be constructed of an alternative material if approved in advance in writing by the ACC). Exposed metal flues and wood chases shall not be used. Chimney cap covers are required for prefabricated metal flues. Direct vent fireplaces are discouraged if the location is a side elevation; and direct vent fireplaces shall be allowed only on the rear side of a residence constructed on an Off Water Lot (unless otherwise approved in writing by the ACC) and shall not be permitted on a front elevation or on any elevation that is visible from the Roadway(s).

#### 4.10 HVAC Equipment.

No air conditioning or heating equipment or apparatus shall be installed on the ground in front of, or attached to any front wall of, any residence on a Lot. Additionally, air conditioning and heating equipment and apparatus shall be screened from view from streets by Landscape Improvements, as more particularly provided in the Landscape Guidelines herein.

#### 4.11 Attachments; Satellite Dishes or Discs and Antennae.

No permanent attachment of any kind or character whatsoever (including, but not limited to, television and radio antennae, solar energy-related systems, satellite or microwave dishes or similar improvements) shall be attached to the roof or exterior walls of any building on any Lot or otherwise placed or maintained on any Lot, unless such attachments or devices are approved in advance in writing by the ACC. Notwithstanding the above to the contrary, no radio or television transmission or reception towers, antenna, satellite dishes or discs shall be erected or maintained on any Lot, except that one (1) dish or disc not exceeding eighteen (18) inches in diameter or diagonal measurement for receiving direct broadcast satellite service ("DBS") or multi-point distribution services ("MDS") may be erected and maintained on each Lot. No roof-mounted antenna, dishes or discs shall be permitted on any Lot if adequate broadcast reception can be obtained without mounting such equipment of the roof of

the house; provided, however, that if such roof-mounted equipment is required, no antenna or related structures may be mounted on masts exceeding ten (10) feet in height above the highest roof line ridge of the house. Any dish, disc or antenna (with associated mast) shall be camouflaged and screened from view from Lake Norman and the Roadways, and shall not be located in the area between the street right-of-way line and the minimum building setback lines applicable to the Lot. The location and screening of the satellite or microwave dish [which, as states, shall be eighteen (18) inches or less in diameter] must be approved in writing by the ACC prior to installation.

#### 4.12 Mail and Newspaper Boxes.

All mailboxes and newspaper boxes must be of a standard color, size and design as approved by the ACC. In general, the size and design of all mailboxes and newspaper boxes should be substantially similar to those shown on Schedule K attached hereto.

#### 4.13 Pools, Therapy Pools and Spas.

The size, shape and setting of pools (including standard swimming pools, therapy pools and spas) must be carefully designed to be compatible with the surrounding natural and man-made environment. In locating swimming pools, therapy pools and spas, the following shall be considered:

- 4.13.1 Indoor/Outdoor relationship;
- 4.13.2 Setbacks imposed by the applicable Building Envelope;
- 4.13.3 Views both to and from the pool area;
- 4.13.4 Terrain (grading and excavation); and
- 4.13.5 Fencing and privacy screening.

Except as provided herein, pools, decks and related equipment will not be allowed outside of the Building Envelope area. Provided, however, pool decks may encroach into the setback area imposed by the Building Envelope if such deck is either at or within two (2) feet of natural grade and no closer than ten (10) feet to any Lot boundary line. Pool and pool equipment enclosures must be architecturally consistent and harmonious with the residence and other structures on the Lot in terms of their placement, mass and detail. Pools, decks and related equipment and pool and pool equipment enclosures shall be screened or treated so as to avoid distracting noise and views.

#### 4.14 Exterior Lighting.

Exterior lighting (which must be approved by the ACC as part of the Building Plans and Specifications) must be limited to areas within the Building Envelope (unless otherwise approved in writing by the ACC), must not result in excessive glare and must not interfere with the privacy of nearby dwellings, all as determined by the ACC in its sole discretion.

#### 4.15 Docks, Piers, Boatslips and Seawalls.

Subject to approval by Duke Energy Corporation, the Owner of each Waterfront Lot will be permitted to construct and install one pier within the Pier Zone for such Waterfront Lot, provided that, in the sole and absolute discretion of the ACC, the Waterfront Lot is not located in an area where the narrowness of a cove precludes construction of a pier. The location of the Pier Zone for each Waterfront Lot is identified and described in the Declaration. The pier, dock, boatslip(s) and boat(s) for each Waterfront Lot shall be located entirely within the Pier Zone. No Owner shall have the right to construct more than one pier in front of a single Waterfront Lot.

The design, color, dimensions and materials of piers (including any gazebos proposed to be attached thereto), docks, boatslips and seawalls must be approved in advance in writing by the ACC. The design, color, dimensions and materials of all piers (including gazebos), docks and boatslips should be substantially similar to the standards set forth in Schedule I attached hereto. Piers (including gazebos), docks, boatslips and seawalls must be constructed of new materials.

Generally, any waterfront improvement should have a low profile and open design to minimize obstruction of neighbor's views. Double-level boathouses or docks will not be allowed.

Piers, docks, boatslips and seawalls should be located and constructed so as to minimize grading and clearing of vegetation at or near waterfront areas. The use of rip-rap, bulkheading or other shoreline stabilization methods or materials may not be initiated without approval by Duke Energy Corporation, any and all applicable governmental and/or quasi-governmental authorities, and the ACC. The point of access of a pier, dock or boatslip and any site disturbance or clearing associated with its placement or construction must be submitted to the ACC (as well as any and all applicable governmental and/or quasi-governmental authorities, as the case may be) for written approval along with the final Building Plans and Specifications.

It is the Owner's responsibility to obtain any permits or approvals required in connection with any pier, dock, boatslip or seawall and any access thereto.

#### 4.16 Play Equipment.

Unless part of a Common Area, swing sets and similar outdoor play structures and equipment must be located where they will have a minimum impact on adjacent Lots. Such play equipment shall be located in the middle third of the Lot.

#### 4.17 Fences and Walls.

The located, materials, size and design of all fences and walls must be approved in advance in writing by the ACC prior to installation. Chain link or welded wire fencing will not be permitted, except as same may be installed within the Common Areas by the Declarant or the Owners Association. Once an approved fence or wall has been erected on a side Lot boundary line which is a common boundary line with another Lot, that approved fence or wall design and material(s) will be the only approved fence or wall design and material(s) that may be erected on that common Lot line. No double fencing will be allowed on side or rear Lot lines.

No fence or wall (including for this purpose densely planted hedges, rows or similar landscape barriers) shall be erected, placed or maintained on any Lot nearer to any Roadway fronting such Lot than the rear building corner of the main dwelling constructed on such Lot (unless otherwise approved in advance in writing by the ACC).

No fence or wall shall be erected, placed or maintained on a Lot in a location that will substantially obstruct views of the Lake. Fences and walls shall not exceed six (6) feet in height.

#### 4.18 Remodeling and Additions.

A Lot Owner desiring to remodel existing Improvements and/or to construct additions to existing Improvements is required to follow the Guidelines to the same extent as if such remodeling or addition were new construction. All criteria governing site location, grading and excavating, erosion control, structures, roofs, landscape and aesthetics will apply to remodeling and additions to the same extent as to new construction. Possible future Improvements or additions that will be of particular concern to the ACC are skylights and solar collectors, recreations features, lighting, antennas and satellite television. An approval from the ACC is required for remodeling and additions just as it is for new construction.

As set forth in the Declaration, the Board (i.e., the board of directors of the Owners Association) may hereafter create and establish an Architectural Changes Committee (the "Changes Committee") to review and approve Building Plans and Specifications for all renovations, changes, and additions to existing Improvements on Lots. In the event the Board acts to create and establish the Changes Committee, with regard to renovations, changes and additions to existing Improvements on Lots, the Changes Committee shall have all rights and powers that are reserved to the ACC in the Guidelines.

#### 4.19 Porches and Decks.

Porches and decks shall be designed with substantial, well proportioned railing, flooring and support posts meeting applicable building code requirements. Individual deck support columns that are five feet (5') or more in height from finished grade should be constructed of two six by six (6" x 6") treated posts placed side by side with a three inch (3") gap, or one eight by eight (8" x 8") treated posted, or single masonry piers. Porches and decks may not be constructed outside of the building envelope setbacks unless approved in writing by the ACC.

#### 4.20 Outbuildings.

The construction and location of outbuildings (gazebo, potting shed, storage shed, statues, gates, playhouses, etc.) shall be subject to the review and approval of the ACC. Their design and location in relationship to the house is essential. Wherever possible, buildings should be oriented so that access is indirect and their opening does not face the street.

Plans and architecture of outbuildings shall be submitted to the ACC for review and approval, prior to being shown on landscape plans. Approval of the landscape plans does not constitute approval of any outbuildings.

### 5. MISCELLANEOUS MATTERS

#### 5.1 Diligent Construction.

All improvements to be constructed on a Lot must be completed within one (1) year following commencement of construction (i.e., commencement of grading) of the first of such Improvement, unless a longer time is approved in writing by the ACC.

## 5.2 Purpose and Use of Construction Escrow Deposit.

The Construction Escrow Deposit that is required to be paid to the ACC by each Lot Owner pursuant to Section 1.5 herein shall be deposited by the ACC in an escrow account. The Construction Escrow Deposit paid by an Owner may thereafter be used by the ACC for any of the following purposes:

- 5.2.1 To pay for the cost to repair any damage to the Roadways, utilities or Common Areas in the community caused by the Owner or the Owner's builder or subcontractors and not repaired by the responsible Owner or such Owner's builder or subcontractors.
- 5.2.2 To complete any landscaping (required under the Landscape Guidelines) which has not been completed upon completion of a residence on any Lot.
- 5.2.3 To pay for the cost of completing any Improvements so that they are in accordance with the approved final Building Plans and Specifications, if and to the extent the Owner fails so to complete such Improvements consistent with the terms of the Guidelines and the Declaration.
- 5.2.4 To pay for the cost of restoring or replacing any trees, other vegetation, grades or other natural features improperly removed, altered or destroyed by the Owner in violation of the Guidelines.
- 5.2.5 To reimburse Hecht Properties, LLC for the Owner's share of street cleaning costs during construction, if the Owner does not pay such amounts to Hecht Properties, LLC in a timely manner as specified in the Construction Rules.
- 5.2.6 To reimburse Hecht Properties, LLC for the cost of cleaning up any significant amount of dirt, cement, or debris left by the Owner or by the Owner's builder or subcontractors on any street, if and to the extent such materials and debris are not immediately removed by the Owner or by the Owner's builder or subcontractors.
- 5.2.7 To pay for the cost of enforcing any of the Owner's other obligations under the Guidelines or the Declaration.
- 5.2.8 To pay any other costs, fines or expenses which, by the express terms of the Guidelines, may be deducted from the Construction Escrow Deposit.

Except for the reimbursements described in Section 5.2.6 above and except for the application of the Construction Escrow Deposit in accordance with the express terms of other provisions in the Guidelines, the ACC shall give an Owner prior notice that the ACC intends to use such Owner's Construction Escrow Deposit for a particular purpose. Such Owner thereafter shall have twenty four (24) hours from the date of the notice to complete the performance that is required and for which the ACC intended to use such

Owner's Construction Escrow Deposit or, if the performance cannot be completed during that time, to begin the performance and to thereafter diligently pursue such performance to completion. Upon the completion of all Improvements and all Landscape Improvements and the performance of all other obligations by an Owner pursuant to the terms of the Guidelines and the Declaration, the ACC shall return to such Owner the unused portion (if any) of such Owner's Construction Escrow Deposit.

In the event the ACC expends sums on the Owner's behalf as provided above in excess of the Owner's Construction Escrow Deposit, the Owner shall pay the excess to the ACC within twenty (20) days of notice thereof. Any and all interest earned on the Construction Escrow Deposit shall be credited to and retained by the ACC for its sole use and benefit.

### 5.3 Notices.

Each notice, document or submittal (collectively, "notice") required or permitted to be given under the Guidelines must be given in compliance with the requirements of this section.

5.3.1 Each notice shall be in writing.

5.3.2 Any notice to be given to the ACC shall be deemed to have been duly served and to be effective only when a receipt acknowledging such delivery (such as a registered mail, overnight express service or hand delivery receipt) is signed by a member or authorized representative of the ACC. The address of the ACC for delivery of notices hereunder shall be as follows:

BayCrossing Architectural Control Committee  
C/o Hecht Properties, LLC  
885 North Highway 16  
Denver, NC 28037

5.3.3 Any notice to be given to an Owner (or an Owner's builder, as the case may be) shall be deemed to be duly served when picked up by the Owner (or the Owner's builder, as the case may be) at the ACC's office, when delivered to the Owner's address (or the Owner's builder's address, as the case may be) by regular U.S. Mail Service (such delivery being presumed to have occurred on the second (2<sup>nd</sup>) day following the deposit of such notice by the ACC in the U.S. Mail), or when sent by facsimile to the Owner's facsimile number (or the Owner's builder's facsimile number, as the case may be) (such notice being presumed to have been duly served on the day same is sent by the ACC). The address of an Owner (and facsimile number, if applicable) shall be as set forth in the Owner's submittal of preliminary Building Plans and Specifications, or, if different, then as set forth in the Owner's submittal of final Building Plans and Specifications.

5.3.4 Either the ACC or an Owner may change its address (or facsimile number, as the case may be) for notices hereunder by written notice to the other party designating the new address (or facsimile number, as the case may be), such written notice of the

changed address (or facsimile number, as the case may be) to be given to the other party in accordance with this Section 5.4.

## **LANDSCAPE GUIDELINES**

### 6. GENERAL LANDSCAPE MATTERS

#### 6.1 Goals and Objectives

These Landscape Guidelines have been prepared for use by all Lot Owners and their builders, contractors, architects and landscape architects who are involved in making site improvements to Lots in the community. Adherence to the Landscape Guidelines by all such parties will help ensure the continued success of the community as a premiere residential community of the highest caliber. Extensive time and resources have been, and will continue to be, invested to create a high quality living environment. The Landscape Guidelines, implemented in concert with the other provisions of the Guidelines, will help assure that the foregoing objectives will be realized. The overall success of the community is dependent, in large part, on the coordination of Landscape Improvements (as defined herein) and architectural improvements.

The specific objectives of the Landscape Guidelines are to:

- 6.1.1 Provide minimum standards for the installation of Landscape Improvements and associated site Improvements within Lots in the community.
- 6.1.2 Establish criteria to ensure visual continuity in the Landscape Improvements, exemplary of the design excellence for which the community is known.
- 6.1.3 Present clear, concise, and enforceable guidelines for the installation and maintenance of Landscape Improvements.

#### 6.2 "Landscape" and "Landscape Improvements" Defined.

For the purposes of the Guidelines, and to distinguish landscape elements from other site structural elements (which are covered by the separate Architectural and Design Guidelines), "Landscape" shall be deemed to be the combination of existing and introduced plant material and all of the land area within each Lot located outside the boundaries of the building perimeter of the house. As used in the Guidelines, "Landscape Improvements" include, but are not limited to, trees, shrubs, ground covers, annual and perennial flowers, turf grasses, mulches, irrigation and landscape lighting systems, and similar existing and introduced Improvements.

## 7. PROCEDURES AND APPROVALS

### 7.1 Landscape Review Process.

Prior to the commencement of any Landscape activity of any type (excluding any grading or similar site work encompassed by the Building Plans and Specifications) on any Lot, an Application for Landscape Plans and Specifications Approval (the form of which is attached hereto as Schedule C) must be submitted by the lot Owner or such Owner's designated agent to the ACC. The ACC must receive, review and approve the information and documentation required to be submitted under the section herein entitled "Final Landscape Plans and Specifications Review Procedure" prior to the commencement of any such Landscape work.

### 7.2 Design Review Procedure.

The successful completion of the landscape review process under the Landscape Guidelines will be facilitated by reviewing and complying with the requirements outlined in the Landscape Guidelines and by reviewing and following the landscape review procedure described herein.

The Landscape Plans and Specifications Review Application, the Landscape Plans and Specifications and all other materials necessary for the ACC to review the Landscape Plans and Specifications shall be sent to:

BayCrossing Architectural Control Committee  
C/o Hecht Properties, LLC  
885 North Highway 16  
Denver, NC 28037

### 7.3 Review of Preliminary Landscape Plans and Specifications.

The ACC encourages Lot Owners and builders who are building in the community to participate in the preliminary Landscape Plans and Specifications review process. Although not required, the preliminary Landscape Plans and Specifications review process may help avoid unnecessary expense and delay expediting later phases of the Landscape Plans and Specifications review process. Each Lot Owner may, at such Lot Owner's discretion, submit preliminary Landscape Plans and Specifications to the ACC at the time final Building Plans and Specifications for the Lot are submitted to the ACC (as contemplated in the Architectural and Design Guidelines).

The ACC shall review the preliminary Landscape Plans and Specifications and return to the Owner marked "Approved" or "Disapproved", as the case may be. As to any preliminary Landscape Plans and Specifications that are marked "Approved" by the ACC, final Landscape Plans and Specifications produced thereafter must be in substantial conformity therewith; provided, however, the ACC's approval of the preliminary Landscape Plans and Specifications shall in no way bind or obligate the ACC to approve the subsequent final Landscape Plans and Specifications.

The ACC may refuse to approve preliminary Landscape Plans and Specifications, or any component(s) thereof, for any reason or reasons, including purely aesthetic reasons, in the sole discretion of the ACC.

### 7.4 Final Landscape Plans and Specifications Review Procedure.

The submittal of final Landscape Plans and Specifications must incorporate all of the elements described herein as being required as part of the final Landscape Plans and Specifications submittal. It is critical that final Landscape Plans and Specifications (and other required documentation, as described above) be submitted to the ACC for review in a timely manner. In that regard, two (2) complete sets of the final Landscape Plans and Specifications for each Lot must be submitted to the ACC before the exterior finish work on the house (i.e., brick veneer, siding or stucco application, etc.) is commenced. Lot Owners submitting final Landscape Plans and Specifications after the exterior finish work on the house has been commenced will receive a written request for the final Landscape Plans and Specifications from the ACC. Beginning on the tenth (10<sup>th</sup>) day following the date such written request is sent by the ACC to such Lot Owner, funds will be withheld from the Construction Escrow Deposit (as defined in the Architectural and Design Guidelines) at the rate of \$25.00 per day; and such funds that are withheld shall be deemed earned by the ACC and shall be non-refundable to the Lot Owner. Such charges will accrue daily until the date that the final Landscape Plans and Specifications submittal (including all elements and documentation required herein) is received by the ACC. Furthermore, if final Landscape Plans and Specifications are not submitted to the ACC by the date the Lot Owner occupies the residence on the Lot, whether or not Landscape Improvements have been installed and whether or not any written notice has been given to the Lot Owner by the ACC as described above, fines shall accrue against such Lot (as a lien), and shall constitute a personal obligation of the applicable Lot Owner, at a rate of \$100.00 per day from the occupancy date until the date on which the final Landscape Plans and Specifications submittal (including all elements and documentation required herein) is received by the ACC. Such fines will be deducted first from the Construction Escrow Deposit and, if and when the Construction Escrow Deposit is depleted as a result of such daily deductions, such fines will continue to accrue at the daily rate until final Landscape Plans and Specifications are received by the ACC. No exceptions will be made to the circumstances described above which allow the ACC to withhold and retain part or all of the Construction Escrow Deposit.

Landscape Plans and Specifications submitted to the ACC will be reviewed by a certified landscape architect who is licensed in the state of North Carolina and who is either a member of the ACC or is hired by the ACC to conduct such review on behalf of the ACC.

If found not to be in compliance with the Landscape Guidelines or if found to be otherwise unacceptable to the ACC, one (1) set of the final Landscape Plans and Specifications shall be returned to the Lot Owner marked "Resubmit", accompanied by a written statement of items found not to be in compliance with the Landscape Guidelines or to be otherwise unacceptable to the ACC. If the final Landscape Plans and Specifications for a Lot are submitted and rejected two (2) or more times, the ACC may require an additional review or processing fee to be deposited by the Lot Owner to cover the additional time and expense incurred by the ACC in reviewing the resubmitted final Landscape Plans and Specifications.

At such time as the final Landscape Plans and Specifications are approved (or conditionally approved) by the ACC, one (1) complete set of the approved final Landscape Plans and Specifications shall be retained by the ACC and the other complete set of the approved final Landscape Plans and Specifications shall be marked "Approved as Submitted" or "Approved as Noted" and returned to the Lot Owner, along with a written statement with any comments of the ACC. Once the ACC has approved final Landscape Plans and Specifications for Landscape Improvements to be installed on

a particular Lot, the installation of such Landscape Improvements must be promptly commenced and diligently pursued to completion.

Any modification or changed to the "Approved" set of final Landscape Plans and Specifications must be submitted in duplicate to the ACC for its review and approval (using the same procedure as set forth herein relative to the submission and approval of the original final Landscape Plans and Specifications). The ACC may require the Lot Owner to pay an additional review fee in connection with any submittal of modifications or changes to previously approved final Landscape Plans and Specifications.

#### 7.5 Required Elements of Final Landscape Plans and Specifications.

All final Landscape Plans and Specifications shall include the following:

- 7.5.1 A blueprint with accurate boundaries of the Lot.
- 7.5.2 Lot number.
- 7.5.3 Scale of the drawing(s) (along with an accurate North Direction) shall be shown and labeled.
- 7.5.4 Date of the drawing(s), including any revision dates.
- 7.5.5 The name, address and telephone number of the preparer of the Landscape Plans and Specifications.
- 7.5.6 Lot Owner's name.
- 7.5.7 "Limits of Clearing and Grading Line" shall be shown exactly as it appears on the grading plan previously submitted by the Lot Owner as part of the approved final Building Plans and Specifications.
- 7.5.8 Precise location of the dwelling, garage and all other structures as depicted on the approved Building Plans and Specifications for the Lot.
- 7.5.9 Precise location of all exterior doors and windows on the first floor/ground level of the dwelling.
- 7.5.10 Precise location of driveways, walkways, decks, and steps, screened porches, gazebos, swimming (or other) pools, fountains, spas/hot tubs, fences and gates, garden walls sculptures, sundials, bird houses, basketball goals, play equipment/swing sets, storage structures, retaining and freestanding walls, etc.
- 7.5.11 Location of all proposed new Landscape Improvements, clearly labeled and indicating the species and quantities. Show all lawn areas as "lawn seed" or "lawn sod".
- 7.5.12 Plant list/planting schedule listing all proposed plant material, quantities, their common name and their botanical/scientific

name, their size at the time of planting, and any special or notable distinguishing characteristics.

- 7.5.13 Location of gas and electric meters, location of heating, ventilating and air conditioning units and pool equipment/pump or other utility-related equipment and apparatus.
- 7.5.14 All plants shown on the final Landscape Plans and Specifications are assumed to be scheduled for installation in the initial planting of the Lot. Any plants to be installed in a later phase (i.e., following the initial planting of the Lot) must be clearly labeled to that effect on the final Landscape Plans and Specifications and in the plant list that constitute a part of the final Landscape Plans and Specifications.
- 7.5.15 The type(s) of mulch material(s) to be used and their location(s) must be clearly indicated.

If any of the foregoing information or detail is not provided in the final Landscape Plans and Specifications, in whole or in part, the final Landscape Plans and Specifications will be rejected until all of the required information and detail is included, regardless of how elaborate and extensive the actual design may be.

#### 7.6 Failure of the ACC to Act.

If the ACC fails to approve or disapprove any final Landscape Plans and Specifications and other submittals which conform (and which relate to Landscape Improvements which will conform) with the requirements of the Landscape Guidelines and of the Declaration or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Landscape Guidelines and the Declaration, of all items that were to have been submitted to the ACC, and provided the ACC shall again fail to approve or disapprove of such final Landscape Plans and Specifications and other submittals within ten (10) days after additional written request to act on such items is delivered to the ACC following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the ACC has approved such conforming Landscape Plans and Specifications and other submittals, EXCEPT that the ACC has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in the Declaration or any Additional Declaration for the Phase in which the Lot is located, and EXCEPT FURTHER, that the ACC shall not be deemed to have waived any of the requirements set for in Article IX, Section 5, Section 6, or Section 7 of the Declaration or any corresponding provisions in the Guidelines. If final Landscape Plans and Specifications or other submittals are not sufficiently complete or are otherwise inadequate, the ACC may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance.

#### 7.7 Lot Owner Responsibility.

Although a landscape contractor, landscape architect, or landscape designer may prepare the final Landscape Plans and Specifications for a particular Lot on behalf

of the Lot Owner to review the Landscape Plans and Specifications for completeness (consistent with the Landscape Guidelines); and it also is the ultimate responsibility of the Lot Owner to ensure the timely submission of the Landscape Plans and Specifications and related documentation to the ACC for review as contemplated herein. Additionally, each Lot Owner is responsible for making those individuals acting on behalf of such Lot Owner aware of the requirements contained herein relating to the preparation and submittal of the final Landscape Plans and Specifications.

#### 7.8 Field Verification.

Following the approval of final Landscape Plans and Specifications for a Lot and the subsequent installation of Landscape Improvements in accordance with such approved final Landscape Plans and Specifications, the Lot Owner shall so notify the ACC in writing and the ACC shall inspect the Landscape Improvements installation for compliance with the approved final Landscape Plans and Specifications. Plant locations, plant species and plant sizes shall be consistent with those shown on the approved final Landscape Plans and Specifications. Plant sizes shall conform to the latest edition of the American Standards For Nursery Stock, published by the American Association of Nurserymen, Inc. Upon positive field verification of installation of the Landscape Improvements on the Lot in accordance with the approved final Landscape Plans and Specifications, the Construction Escrow Deposit (or any residual portion thereof not previously retained by the ACC as provided herein) shall be returned to the Lot Owner. If the Landscape Improvements, as installed, do not conform to the approved Landscape Plans and Specifications, at the sole discretion of the ACC and without limiting any other rights or remedies of the ACC or any other party under the Guidelines or under the Declaration, the Construction Escrow Deposit may be withheld until the Landscape Improvements installation is brought into conformance with the approved final Landscape Plans and Specifications.

### 8. PRESERVATION OF EXISTING TREES.

The existing trees in the community are prized natural amenity which add value to the community in a multitude of ways. Hecht Properties, LLC has exercised care to retain as much of the existing vegetation as possible in the design of the land plan for The community; and it is expected that Lot Owners and home builders and contractors of the Lot Owners will continue to preserve and protect this valuable resource during the course of construction.

#### 8.1 Owner Responsibilities.

Each Lot Owner shall be responsible for ensuring that such Lot Owner's general contractors and subcontractors adhere to the requirements of the provisions in the Guidelines (including the provisions in the Lake Buffer Guidelines) pertaining to the protection and preservation of existing trees. The Construction Escrow Deposit will be retained by the ACC if, in the sole discretion of the ACC, the provisions in the Guidelines (including the provisions in the Lake Buffer Guidelines) pertaining to the protection and preservation of existing trees are not followed and result in the destruction of or severe damage to otherwise healthy and desirable existing vegetation.

The ACC may employ the services of a qualified arborist and/or landscape architect (at the lot Owner's expense as part of the Annual Assessment levied under the Declaration) to analyze the condition of existing trees and to assist the ACC in monitoring adherence to the provisions in the Guidelines pertaining to the protection and preservation of existing trees.

## 8.2 Protection and Preservation Procedures for Trees Outside Lake Buffer Area.

It is essential that tree trunks, canopies, and root systems all be protected from heavy equipment and other harmful construction practices. Soil located from the "drip-line" of the tree to the trunk of the tree must remain undisturbed to enhance the likelihood that the tree will survive. Studies have shown that the damaged root systems, especially damage of the feeder roots at the top twenty-four (24) inches of the soil where a tree "breathes", are the most common cause of the fatal decline of otherwise healthy existing trees. Signs of the resulting stress often are not evident for months or sometimes years after the damage occurs, resulting in additional, often unforeseeable, costs and inconvenience to the then-current Lot Owner and to the community as a whole.

A qualified arborist should be consulted by each Lot Owner of such Lot Owner's builder for an on-site evaluation of the existing trees prior to, during, and after construction. In addition, the following place of protective measures must be followed by the Lot Owner and the Lot Owner's builder to ensure the protection of existing trees that are intended to remain on the Lot following the construction of Improvements thereon.

- 8.2.1 All healthy, individual existing "mature trees" (as defined in Section 1.6 hereof) and all groups of trees comprising a "tree save area" must be identified with blaze-orange flagging tape prior to the ACC's site inspection and prior to any clearing, grading or other construction activity is commenced on the Lot. The ACC shall have the right to establish "tree save areas" on each Lot as it deems necessary or desirable, and the Lot Owner and the Lot Owner's builder must contact the ACC to determine which trees (if any) on a Lot are within "tree save areas".
- 8.2.2 Having identified the existing trees to be protected, stakes identifying the "drip-line" of such trees must be erected before any clearing, grading or other construction activity is commenced on the Lot. Such staking must stand erect, completely enclosing the tree or trees, and must be maintained erect and in good condition until the installation of the Landscape Improvements is completed in accordance with the Landscape Guidelines. The Lot Owner is responsible for ensuring that such staking remains intact and in good condition throughout the construction process.
- 8.2.3 Keep trash, construction debris, fires, chemical liquids and stored construction materials out to the staked areas.
- 8.2.4 When changes in grade are required near existing trees, erect a retaining wall or walls outside the "drip-line" of the existing trees, to preserve the existing grade around the tree. Supply supplemental water and/or deep-root fertilization, as recommended by the arborist, to ease the stress of possible root loss due to grading operations and the construction of retaining walls.
- 8.2.5 In some instances, the ACC may require additional tree protection measures to ensure the preservation of especially valuable existing trees.

Please refer to the Lake Buffer Guidelines regarding requirements and restrictions relating to tree and vegetation protection and removal within the Lake Buffer Areas.

### 8.3 Tree Repair Procedures.

When trees are inadvertently damaged during construction, the Lot Owner shall retain a qualified arborist to make the necessary repairs. The following tree repair measures shall be taken by the arborist (as deemed appropriate by him or her) subsequent to his or her thorough inspection of the damaged area and determination as to the severity thereof.

- 8.3.1 Tree trunks scarred during the construction process shall be treated immediately. The scarred area must be properly cleaned. Any and all torn bark and/or ragged edges shall be cut cleanly away, and the wound shall be shaped into an ellipse where possible.
- 8.3.2 Limbs or branches damaged by construction operations shall be removed. Clean cuts with sharp pruning tools are to be made at the nearest branch or flush with the trunk for major limbs.
- 8.3.3 If, during or after construction, minor root damage is observed, reducing the crown by as much as thirty percent (30%) during the appropriate season of the year may be advisable. Crown reduction by pruning several of the small to medium-sized branches will reduce the demand on the damaged root system, thereby increasing the tree's prospects for survival and eventual full recovery.

### 8.4 Tree Valuation Schedule and Reimbursement Obligations Relating to Damaged or Destroyed Existing Trees.

With the care given to protecting and preserving existing trees as outlined above and as set forth in the Lake Buffer Guidelines, there should be little or no damage to trees during the course of construction on any Lot. However, accidents and possibly even negligence on the part of some contractors and/or subcontractors will likely occur to some limited degree, resulting in the destruction of existing trees intended to remain on the Lot after the completion of construction of the Improvements thereon. The Tree Valuation Schedule set forth below will be used to place an appropriate monetary value on any and all such existing trees severely damaged and/or destroyed within the tree preservation areas. Quantifying the value of existing trees will provide each Lot Owner with a method for calculating the proper amount of reimbursement such Lot Owner must pay to the Association upon written request as a result of the irreparable damage to, or destruction of, existing trees caused by a contractor's or subcontractor's construction operations on the Lot. The Association shall use the reimbursement amount to rehabilitate, restore and/or replace, as appropriate, the damaged or destroyed trees to the extent practicable. Any of the reimbursement amount not used for this purpose shall be retained by the Association. For purposes of the Tree Valuation Schedule, the tree's trunk diameter is measured at twelve (12) inches above existing grade level. Trunk diameters that fall between any two sizes presented in the Tree Valuation Schedule shall be assigned a value calculated proportionally.

A qualified arborist and/or landscape architect, at the Lot Owner's expense, shall evaluate the quality of the damaged or destroyed tree(s), as they would have existed prior to their being damaged or destroyed. The Tree Valuation Schedule (Figure 8.4.1) shall be used to determine the replacement value.

<b>Tree Valuation Schedule</b>			
Trunk Diameter Inches (DBH)	Cross Section Square Inches	Deciduous Tree Value	Evergreen Tree Value
2	3	\$102.72	\$89.88
4	13	\$445.12	\$389.48
6	28	\$958.72	\$838.88
8	50	\$1,712.00	\$1,498.00
10	79	\$2,704.96	\$2,366.84
12	113	\$3,869.12	\$3,385.48
15	177	\$6,060.48	\$5,302.92
20	314	\$10,751.36	\$9,407.44
30	707	\$24,207.68	\$21,181.72
48	1809	\$61,940.16	\$54,197.64

This schedule is calculated using plant appraisal techniques derived from The Guide for Plant Appraisal, 9th Edition, published by The Council of Tree and Landscape Appraisers and The International Society of Arboriculture, in conjunction with information provided by the Southern Chapter of the International Society of Arboriculture. This schedule may be superseded by the most current, updated, information available from future editions and/or official publications.

Figure 8.4.1

9. MINIIMUM PLANTING REQUIREMENTS

Minimum requirements for the initial Landscape Improvements to be installed on each Lot within the community have been devised to ensure that the high quality, visually appealing house styles and associated landscaping portray an aesthetically pleasing streetscape image. Essential to this is a unified and consistent balance between the quality of the architecture and the quality of the Landscape Improvements. A Recommended Plant List is attached hereto as Schedule G.

There shall be minimum expenditures required for the initial Landscape Improvements to be installed on each Lot within the community. Such minimum expenditures shall include the costs for complete Landscape Improvements installation, including reasonable and customary labor charges and a reasonable percentage of replacement planting/warranty planting based upon industry standards. However, not included in such minimum expenditures for each Lot are costs associated with grading, importation of fill material or soil retaining walls or other expenditures for lawn seed (including labor cost associated therewith) and planting beds; and any costs for such items must be funded by the Lot Owner in addition to the minimum expenditures required for the initial Landscape Improvements specified below.

9.1 Minimum Expenditures Required for Initial Landscape Improvements.

A minimum of two percent (2%) (the "Minimum Expenditure") of the house sale cost (excluding Lot price) must be spent by the Lot Owner on plant material, including trees, shrubs, ground cover plants, annual flowers, perennials, lawn sod (as provided below) and three (3) inches of mulch or pine needles on all disturbed areas not receiving lawn sod and/or see, in the initial Landscape Improvements installation for each Lot. Lawn sod is required in the front yard areas on all Lots (and all side yards areas which have frontage on a public street). Irrigation systems are encouraged to ensure the health of lawn and landscaping material and the efficient use of water. A Lot Owner shall be entitled to use (i) up to twenty percent (20%) of the Minimum Expenditure to pay the costs associated with the installation of lawn sod and (ii) up to twenty percent (20%) of the Minimum Expenditure to pay the costs associated with the installation of an irrigation system. Provided, however, the ACC may authorize a landscaping expenditure lower than the Minimum Expenditure for a particular Lot if the ACC determines in its sole discretion that, based upon any landscaping plans submitted and other circumstances, such a lower expenditure is adequate and appropriate, but in no event shall such expenditure be less than \$2,500.00. Provided further, corner Lots shall be required to expend an additional \$500.00 (in addition to the aforesaid Minimum Expenditure) for the initial Landscape Improvements installation; and the additional expenditure requirement for corner Lots is intended to provide adequate Landscape Improvements for both street frontages.

9.2 Distribution of Landscaping Plants on Lots.

On all Lots (other than corner Lots), eight percent (80%) of the plant material (i.e., trees, shrubs, annual flowers, etc.) installed in the planting of the initial Landscape Improvements shall be located in the front yard and in the front one-half of each side yard (to the midpoint of the Dwelling on each side). On corner Lots, ninety percent (90%) of the plant material installed in the planting of the initial Landscape Improvements (i) shall be located in the front yard and in the front one-half of the "non-street facing" side yard and (ii) shall extend fully around the "street facing" side yard to the rear property line and to the point which is ten (10) feet beyond the rear corner of the Dwelling (see diagrams).

9.3 Postponement of Planting.

Under circumstances of extreme weather conditions, the ACC may, in its sole discretion, grant a Lot Owner a postponement of the initial Landscape Improvements planting. A written request for such postponement must be submitted to the ACC. Generally, postponements of the initial Landscape Improvements planting will be considered only for the hotter summer months between July 1 and August 30 and for prolonged periods of below-freezing weather forecasted during the winter months.

Such a postponement, when granted by the ACC, in no way releases the Lot Owner from the obligation to install the initial Landscape Improvements at the earliest time that weather permits and in all events not later than the timetable set for in the ACC's written postponement.

## 10. LANDSCAPE DESIGN GUIDELINES - REQUIRED PRACTICES

The following guidelines shall be followed by all Lot Owners and the builders, contractors, subcontractors, and architects of the Lot Owners when planning for and installing Landscape Improvements on Lots within the community. These guidelines contain specific required practices and techniques for creating an aesthetically pleasing landscape.

### 10.1 Screening of HVAC Units, Utility Meters, Utility Transformers, Outside Refuse Containers, Etc.

All heating, ventilating, and air conditioning units, utility meters, electric utility transformer boxes, swimming pool pump equipment, permitted satellite or microwave dishes and similar equipment, apparatus and fixtures on each Lot, including all refuse containers stored outdoors, must be screened from view from street and from the Lake and from neighboring Lots. Plants used as screening should be maintained by the Lot Owner so that the equipment, apparatus or fixture being screened is accessible (wherever possible) by service personnel and/or meter readers. Plant materials for this purpose shall be installed using either five (5) or seven (7) gallon sizes, evergreen only.

### 10.2 Lawn Sod Location.

As set forth above, lawn sod must be installed on all front yards and all side yards which have frontage on a public street. Front yard sod shall extend ten (10) feet beyond the front elevation of the house toward the back of the house.

## 11. LANDSCAPE DESIGN GUIDELINES - RECOMMENDED PRACTICES

The following guidelines are recommended to be followed by all Lot Owners and the builders, contractors, subcontractors, and architects of the Lot Owners when planning for and installing Landscape Improvements on Lots within the community. These guidelines contain specific recommended practices and techniques for creating an aesthetically pleasing landscape.

### 11.1 Automatic Irrigation Systems.

As set forth above, automatic irrigation systems are highly recommended. Besides the obvious advantage of convenience, automatic irrigation systems, when designed, installed and operated properly, should help conserve water and should provide plant and lawn sod Landscape Improvements with the consistent waterings they require to thrive. Landscape Improvements that are installed between March 15 and September 30 likely will be subjected to periods of intense heat and periods of low precipitation. Automatic irrigation systems are especially beneficial during such periods to help ensure a consistent amount, frequency and duration of watering.

### 11.2 Landscape Lighting Systems.

Subject to the restrictions in Section 4.14 in the Architectural and Design Guidelines, landscape lighting systems shall be designed, installed and operated to

enhance the architecture of the house and/or landscaping shall be avoided. Landscape lighting shall be confined to the Owner's Lot only, and no direct illumination from such landscape lighting shall encroach onto any other Lot or any other location beyond the boundaries of such Owner's Lot.

### 11.3 Foundation Planting.

When designing foundation plantings, several important factors must be considered. Select shrubs that will not overgrow the location at maturity (i.e., covering windows). Select evergreen shrubs to be planted adjacent to the house foundation to provide an aesthetically pleasing appearance during all seasons, rather than deciduous plants (which shed their leaves in the winter months). Select plant types and varieties that require moderate to low maintenance and pruning. Locate foundation shrubs on either side of windows instead of directly under windows; this allows the shrubs more vertical growing room without blocking the window. Locate foundation plants far enough from the foundation of the house to allow ease of maintenance access to the house (e.g., with a ladder to paint the wall directly behind the shrubbery). Foundation plants shall be layered from front to back, with taller plants (evergreen) at the back and successively lower plants in the front.

### 11.4 Corner Lots.

With regard to Landscape Improvements and subject to the other provisions of the guidelines, corner Lots shall treat both facades or elevations of the house which face the streets with equal care and consideration. Both facades or elevations are "public" sides of the house to the degree that both elevations front on public street. Care and consideration shall be given to selecting plant material that will lend privacy to the rear yard by grouping evergreen trees and/or shrubs near the side right-of-way line.

### 11.5 Plants and Enframing Devices.

Trees and shrubs can and shall be utilized to enframe a view of the house (e.g., the front elevation). For instance, street trees located near the Lot boundary line at the street are best located near the side Lot boundary lines to create visual parameters through which to view the front of the house. This idea is further illustrated by locating evergreen trees (e.g., Nellie R. Stevens Hollies) at the front corners of the house to enframe the house with a plant material during all seasons of the year.

### 11.6 Planting Bed Layout.

Planting beds containing plant materials such as trees, shrubs, ground covers, and annual flowers shall be designed and constructed with smooth, flowing curves (wherever possible). The curves shall be broad enough to allow ease of maneuvering lawn mowing equipment along the edges of the planting beds. Consideration also should be given to the type of lawn moving equipment that will be used (i.e., riding lawn mower or push-type lawn mower) and its minimum turning radius.

### 11.7 Landscape and Architecture Compatibility.

The landscape design for each Lot should enhance the architectural style of the residence on such Lot. Different architectural styles call for different landscape styles. Lot Owners are urged to hire an experienced, qualified landscape architect or landscape designer to assist in achieving such compatibility.

#### 11.8 Yards and Visual Importance.

Any area of a Lot that is visible from a public street takes on a "semi-public" character in that the visual quality of that portion of the Lot contributes to the overall quality and character of the community at large. It is incumbent upon all Lot Owners, therefore, to landscape and maintain all such "semi-public" areas of their Lots with utmost care and consideration. Corner Lots effectively have two such "semi-public" yards due to the fact that such Lots front on two public streets.

## LAKE BUFFER GUIDELINES

### LAKE BUFFER REQUIREMENTS

#### INTRODUCTION

In order to ensure the natural beauty and the recreational benefits of the Lake and to help preserve the quality of water in the Lake, the ACC has prepared the following Lake Buffer Guidelines for the community:

The Lake Buffer Guidelines provide for a "Lake Buffer" which is 50-foot minimum distance setback from the full pond contour elevation along the entire shoreline of the Lake, within the boundaries of BayCrossing as noted on the final plat. The area within the Lake Buffer compose the "Lake Buffer Areas".

The BayCrossing project is also under the jurisdiction of The North Carolina Catawba Buffer Rules which is administered by the North Carolina Department of Environmental Health and Natural Resources (NCDENHR). These rules may or may not coincide with the rules and conditions of the Lake Buffer Guidelines as promulgated and administered by the ACC. Compliance with the ACC Guidelines does not constitute compliance with or approval of NCDENR, NC Catawba Buffer Rules, or any other governmental or regulatory agency's rules, laws, ordinances or provisions. It shall be each Lot Owner's responsibility to ensure compliance with any applicable parties or organizations and their rules, laws, ordinances or provisions.

Thus, if your Lot abuts the Lake there is a "buffer" established on it. The intent of the buffers is to implement land use restrictions, which preserve the Lake Buffer Areas in a "vegetative" state. The buffers are depicted on the recorded plat(s). Any construction (or modifications of the surrounding environment) by individual homeowners near, or in, the Lake Buffer Areas must be reviewed and approved by the Iredell County zoning director (or its successors or assigns) and NCDENR (or its successors or assigns), in accordance with any such activity. Mature trees within the Lake Buffer Areas may not be removed unless dead or diseased. Mature trees are defined, within the Lake Buffer Areas, as any trees six inches (3") in caliper and over.

Any construction (or modification of the surrounding environment) by individual homeowners near, or in, the Lake Buffer Areas must be reviewed and approved by the ACC in accordance with the Lake Buffer Guidelines before commencing any such activity.

Although the Lots in the community are situated to create a relatively low-density development, the construction of new streets and homes increases the rate of storm water "run-off" from rainfall. Hecht Properties, LLC, through its planning and engineering consultants, has developed and received approval for a two-stage plan of storm water management (i.e., during construction and after construction). During construction, storm water "run-off" crates the potential for erosion and sedimentation. This potential impact on the streams and the Lake exists during the development of the streets and utility systems and continues until the last home within the community is completed. Erosion control devices have been installed as part of the development and will remain present until contributory areas are stabilized (or as provided herein). Such erosion control devices include silt ponds which have been installed by Hecht Properties, LLC at the outlets for storm water drainage. While the silt ponds are in operation, Hecht Properties, LLC may remove silt from said silt ponds as is needed to insure their effective performance. No Owner shall disturb or interfere with the operation of the silt ponds or any other erosion control device installed by Hecht Properties, LLC.

As construction is completed, the storm water management plan changes. At this time, storm water passes from the street curb inlet system to the underground storm drainage network. At the

outlets of this underground drainage system, the concentrated flow leaving the drainage pipe is slowed down through energy dissipation, and dispersed to create a gentle sheet flow about the Lake Buffer Areas. These permanent stone lined devices are dry until rainfall occurs, at which time, they fill and overflow uniformly to reduce the potential erosion impact to the Lake Buffer Areas. These basins are located within easements of the Lots and must be protected.

## LAKE BUFFER GUIDELINES

The purpose of the Lake Buffer Guidelines is to promote a natural, low maintenance ecosystem to reduce the volume of runoff, erosion and pollutants entering the Lake. Forested buffers have the best capacity for collecting and storing nutrients that pass through such areas, and a tree canopy helps protect the soil from erosion.

### **Lake Buffer Guideline General Requirements:**

- Openings to provide access to the Lake are limited to 7 feet in width for walkways.
- Erosion control devices should be installed upstream out of the Lake Buffer Areas.
- The total area of impervious cover (including building, driveways, walks, etc.) should be limited to 24% or less on each Lot, which will be check as part of the building permit process.
- Shoreline Stabilization is allowed as long as no disturbance to the Lake Buffer occurs, and ACC approval has been obtained, as well as all approvals from any and all applicable governmental and regulatory agencies, including the NC Catawba Buffer Rules.
- No portion of the buffer area may be disturbed in any way, including any disturbance or removal of top soil, trees and other natural growth. Within the Lake Buffer Areas, the removal, cutting and clearing of trees, shrubs and ground cover within the Lake Buffer Areas is generally not permitted without prior written consent of Declarant or the ACC. The practical exceptions may be removed, underbrush may be selectively cleared, understory may be thinned to provide better views, individual trees may be limbed up, and grass or ground covers may be planted. Any tree removal shall be preformed using hand held gas or electric chainsaws and or manual hand saws. No other mechanical equipment or vehicles may be used in removing any trees.

### **Lake Buffer Guideline Prohibitions and Restrictions:**

- Turf grass in the Lake Buffer Areas as a permanent landscape feature is not encouraged. Grass planted as a temporary erosion control measure is permitted.
- Impervious structures such as driveways and boathouses are prohibited. Structures such as sitting areas maybe wholly or partially within the buffer area provided no more than a total of two hundred (200) square feet of such structures shall be located within the buffer area.
- Removal of natural leaf fall from within the Lake Buffer Areas is not encouraged.
- No trees larger than three (3) inches (DBH), as measured four and one-half (4.5) feet from the base of the tree, in caliper are to be removed from the Lake Buffer Areas (with the exception of dead or diseased trees), without prior approval from the ACC.

- Plan approval by the ACC is required for (i) shoreline stabilization, (ii) removal of existing trees to allow for access to the Lake or (iii) disturbances of vegetation greater than six (6) inches in diameter, as measured four and one-half (4.5) feet from the base of the tree.

**Lake Buffer Guideline Tree Requirements:**

- Tree pruning within the Lake Buffer Areas is allowed by removing only lateral links from the lower fifty percent of the tree’s height. Topping is not allowed.
- Planting of additional trees, shrubs, groundcovers and perennials within Lake Buffer Areas may be approved if done with minimal disturbance to root systems of existing trees.

**SHORELINE MANAGEMENT**

General.

The design, color, location, dimensions and materials of docks, piers, boatslips, mooring posts, seawalls, and any other structure or improvement constructed adjacent to or appurtenant to a Waterfront Lot or otherwise within the boundary of Lake Norman must be approved in advance in writing by the ACC. It is the Owner’s sole responsibility to obtain all permits or approvals required from Duke Energy Corporation and/or other applicable agencies.

Generally, any waterfront improvement should have a low profile and open design to minimize obstruction of neighbors’ views. Enclosed or two-level docks and enclosed or two-level boathouses will not be allowed. To limit the visual intrusion of the built environment on the Lake, individual docks, piers, and/or boatslips will be allowed to have only one (1) roof structure.

Docks, Piers, and Boatslips.

ACC Approval and the Construction Escrow Deposit is required prior to the installation of an individual dock, pier, or boatslip within the community (see Schedule D attached hereto). Docks, piers, and boatslips, must be located within the recorded pier zone and constructed so as to minimize grading and clearing of vegetation at or near waterfront areas. The point of access of a dock, pier or boatslip and any site disturbance or clearing associated with its placement or construction must be submitted to the ACC for approval. A certified copy of a survey showing the as-built dock/pier location must be submitted prior to release of Escrow Deposit.

Docks, piers, and boatslips must be constructed of new materials, and must be compatible in style with other improvements on the Lot (see Schedule I).

Materials

- 1) Treated Lumber: Wood decking and handrails to be no less than Grade 1 .40 treated pine. Wooden structural components such as joist and girders shall be of no less than grade 2.40 treated pine.
- 2) Steel: Any steel components in a marine environment shall be adequately protected against corrosion and chemical breakdown. Hot-dipped galvanizing is the most common and effective method in freshwater.

- 3) Aluminum: Construction shall be of adequate strength as to support implied dead and live loads.
- 4) Vinyl: Vinyl structural components shall be of adequate strength to support implied dead and live loads. Joist spacing shall be tight enough as not to allow for decking to sag. Alternative materials are to be approved structurally and aesthetically.
- 5) Flotation: All flotation material shall be approved by Duke Energy Lake Management. Encapsulated PolyStyrene is the most commonly accepted flotation material.
- 6) Piles: Wood piles should be of no less than .60 treated pine. Steel piles should be protected against corrosion. Painted with an epoxy or hot-dipped galvanizing are the most common methods. If steel piles are to be used, they are required to be telescopic in type.
- 7) Hardware and Miscellaneous: All nails, bolts, screws, hangers, brackets and miscellaneous hardware items shall be hot-dipped or galvanized.
- 8) Vertical Elements: Vertical members are required to be made of treated lumber. No vinyl or plastic members are permitted.
- 9) Handrails: Treated Lumber, Metal, or Vinyl Type materials are permitted, as long as they conform to the style and type of dock improvements utilized throughout. Marine style rope may also be considered.
- 10) Roofs: Shingle as well as metal roofs are permitted. Each individual dock or pier will be limited to one (1) roof structure.

### Shoreline Stabilization.

ACC Approval and the Construction Escrow Deposit is required prior to the installation of shoreline stabilization within the community (see Schedule H attached hereto). Shoreline Stabilization should be located and constructed so that no grading and clearing of vegetation occurs at or near waterfront areas. Methods of stabilization will be limited to riprap, seawalls, and or planting of "emergent" grasses which will grow in fluctuating water levels. All methods must be approved by Duke Power Lake Management and NCDENR.

For waterfront Lots, shoreline stabilization is restricted to a number of uniform, low visual impact improvements. The following improvements will be allowed:

1. Biological Methods of Stabilization - Low (1" - 3" in height herbaceous plant species that can accept dry conditions and/or shallow water depths.  
  
Individual plant types are subject to approval from Duke Power Lake Management. Once approved, these plants can be placed in combination with netting, grids or any of a variety of other geo-binders to provide additional stabilization of the shore.
2. Rip Rap - Rip Rap should be placed in two (2) or a maximum of three (3) layers generally more than 14" deep total with fabric between soil and rock but not upland beyond the 761' contour.
3. Seawalls - "Keystone" or "Allen Block" type walls may be installed but not upland beyond the 761' contour. Additional material will be considered on a case by case basis.

All forms of shoreline stabilization must be constructed of new materials, and must be compatible in style with other improvements on the Lot. In no event shall the width of the undisturbed buffer area be reduced to less than fifty (50) feet between any portion of the interior edge of the stabilization structures or improvement and any residence or other structure or improvement located on the property (other than docks, or other water access structures which have been approved in writing by Duke Energy).

#### Walkways.

ACC Approval is required prior to the installation of walkways through the Lake Buffer Areas within the community (see Schedule J attached hereto). Walkways should be located and constructed so as to not disturb existing mature trees.

Common Boatslip Paths and other common areas with paths through the Lake buffer Areas may be installed by Hecht Properties, LLC using impervious materials that are generally not permitted on individual lots, to support increased foot traffic associated with the use of such common areas.

### **GENERAL HOMEOWNER RESPONSIBILITIES**

BayCrossing, as a unique, wooded, lake front community, gains its great intrinsic value from the Lake Buffer Areas. The Lake Buffer Areas are to be preserved by the homeowner in accordance with these Lake Buffer Guidelines. This does not mean that these areas cannot be entered or modified, but activities are limited and subject to review and approval.

#### **Additional Permissible and Impermissible Activities:**

##### Recreation

The natural habitat preserved in the Lake Buffer Areas is an amenity for the homeowner and can be used for walks, nature study, and limited children's play. These areas should be shown considerate respect by limiting children's impact and not allowing play areas to cause erosion or structures (such as play houses) to create impervious cover. Repeated, intense use could lead to denuded areas and subsequent erosion problems.

##### Disposal

Disposal of spent oil, chemicals (household cleaners, paint thinner, etc.), or other solids or liquids with the potential for damage into the storm drainage system or on the ground near the Lake Buffer Areas is prohibited.

Construction of boat piers must be permitted by Duke Energy Corporation and any part of the pier or access thereto which is located over Lake Buffer Areas must be reviewed by the ACC. In addition to the specific regulations, the homeowner is encouraged to avoid the excessive use of fertilizers, pesticides or herbicides and to avoid land disturbing activities immediately adjacent to Lake Buffer Areas.

## CONSTRUCTION RULES

1. Applicability. These construction rules (collectively the "Construction Rules") shall apply to all lot Owners and their builders, and any reference herein to an Owner shall also apply to the Owner's builder and subcontractors. All Owners shall abide by the Construction Rules and such other rules as the Board and/or the ACC may establish from time to time.
2. Construction Hours and Noise. All construction activities must be conducted and all deliveries must be made from 7:00 a.m. until 8:00 p.m. Monday through Saturday; provided, however, no construction activities shall be conducted and no deliveries shall be made on July 4, Labor Day, Thanksgiving Day, Christmas Day or New Years Day. No loud radios or distracting noise (other than normal construction noise) will be allowed within the community during construction. This is distracting to Lot Owners. Normal radio levels are acceptable. Radio and stereo speakers shall not be mounted on vehicles or outside of homes under construction.
3. Rubbish and Debris. In order to maintain a neat and orderly appearance at all times in the community, the following rubbish and debris rules must be strictly followed:
  - (a) Exterior Construction Debris. With regard to all construction debris located on a Lot outside the walls of a residence that is under construction, the following rules shall apply:
    - (1) At the end of each day on which work occurs on the Lot, all lightweight, blowable construction debris, such as roofing paper, insulation bags, foam sheathing, polyethylene, etc., must be placed in a silt fence pen or other approved containment device on the Lot; and
    - (2) At the end of the day on each Friday, all non-blowable construction debris, such as wood scraps, shingles, brickbands, drywall, bricks and masonry blocks, must be gathered into neat piles.
    - (3) Within the last three (3) days of every month, all debris must be taken off the Lot and out of the community, leaving the pens and the Lot free of all debris.
  - (b) No Burning or Burial. Burning or burial of construction debris or vegetation is prohibited.
4. Street Cleaning. Hecht Properties, LLC also shall have the right, without notice, to clean up any significant amount of dirt, gravel, cement, etc., left on any street if the same is not immediately removed by the responsible Owner, to charge the cost of such clean up to the responsible Owner and to receive reimbursement for the expenses of such clean up from the responsible Owner.
5. Silt Fences. Silt fences and/or other devices for sedimentation control shall be installed where necessary or as directed by the ACC.
6. Material Storage. No construction materials, equipment or debris of any kind may be stored on any street, curb, sidewalk or area between streets and sidewalks, on any adjacent Lots or otherwise than in the locations approved by the ACC.

7. Trailers. No construction office trailers may be placed, erected or allowed to remain on any Lot or in any other area, except as approved in writing by the ACC.
8. Construction Access. During the time a residence or other Improvements are being built, all construction access shall be confined to the approved driveway for the Lot, unless the ACC approves an alternate access way.
9. Gravel Drives. Prior to the commencement of construction on a Lot, the Owner of such Lot or such Owner's contractor shall provide a gravel drive in accordance with Section 2.4 of the Architectural and Design Guidelines.
10. Parking. All vehicles must be parked so as not to impede traffic or damage vegetation. No vehicles (trucks, vans, cars, trailers, construction equipment, etc.) may be left parked on any streets within the community overnight. Construction vehicles may be left on gravel drive of a Lot (and no other portion) overnight only if additional use of the vehicle will be made within the following three (3) days. Subcontractors are to be instructed to park on the street (not on the road shoulder) adjacent to the Lot or on the gravel drive during the day.
11. Miscellaneous Practices. The following practices are prohibited in the community:
  - (a) Changing oil of any vehicle or equipment;
  - (b) Allowing concrete suppliers and contractors to clean their equipment at areas other than within the clearing areas (approved by the ACC) for a Lot;
  - (c) Carrying and/or discharging any type of firearms, except by law enforcement officials and security personnel authorized in writing by Hecht Properties, LLC;
  - (d) Careless disposition of cigarettes and other flammable material; and
  - (e) Operators of vehicles are required to use due care to ensure that they do not spill any damaging materials while within the community. If spillage does occur, it is the responsibility of the operator of the vehicle to properly clean up the spill. Any such clean up operations completed by BayCrossing's personnel will be charged to the responsible party. Any spills must be reported to the ACC and Hecht Properties, LLC in writing as soon as possible.
12. Pets. Builder and contractor personnel may not bring pets into the community.
13. Common Areas. Except with the prior written permission of the ACC, builder and contractor personnel are not allowed in the Common Areas, and no construction access will be allowed across the Common Areas.
14. Accidents. Hecht Properties, LLC and the ACC shall be notified immediately of an an accidents, injuries or other emergency occurrences.
15. Portable Chemical Toilets. An enclosed and regularly serviced portable chemical toilet must be provided at each residence under construction and must be located in as inconspicuous a location as possible (or such location as is otherwise approved by the ACC).
16. Speed Limit. The established speed limit within the community is twenty-five miles per hour (25 mph) for all vehicles, and this limit must be obeyed.

17. Signs. Building permits are to be attached to a post in a manner protected from the elements; and in no event may building permits or any other signage or documentation be attached to trees. For sale sign shall adhere to Schedule I.
18. Property Damage. Any damage to streets and curbs, water meters or boxes, drainage inlets, street lights, street markers, mailboxes, walls, fences, etc. may be repaired by Hecht Properties, LLC and the cost of such repairs will be billed to the responsible Owner. If not paid promptly, the repair cost will be deducted from the Construction Escrow Deposit. If the Construction Escrow Deposit is not sufficient to cover the entire repair cost, the additional amount will be charged to and promptly paid by the Owner. If any telephone, cable TV, electrical, water or other utility lines are cut, it is the responsible party's obligation to report such an accident within thirty (30) minutes to appropriate utility company personnel; and any costs incurred in connection with repairing such damage shall be borne by the responsible party.
19. General Builder Responsibilities. Builders are encouraged to maintain strict control over subcontractors to minimize soil and mud build-up in streets. Builders are advised to educate employees and subcontractors as to the location of the Lake Buffer Areas, the restrictions applicable to the Lake Buffer Areas and the ramifications for violation of the Lake Buffer Guidelines (i.e., fines). Planning the home construction with erosion control measures and the Lake Buffer Guidelines specifically in mind will be crucial to the success of each builder in the community. Where the Builder desires to modify the vegetation in the Lake Buffer Area or construct pathways or shoreline stabilization in the Lake Buffer Area, a Lake buffer plan must be submitted to the ACC for approval prior to construction. In addition to protecting the Lake Buffer Areas and controlling erosion, builders are encouraged to develop Lot plans which preserve natural wooded areas wherever possible and which minimize Lot grading and disturbance. Alignment of utilities and access should be planned to minimize the cutting of mature trees. The total impervious cover (including buildings, driveways, walks, etc.) must not exceed 24% of the total Lot area and will be checked as part of the building permit process.

Builders are encouraged to be guardians against:

- Excessive trash build-up and/or disposal on the project either on Lots or in Common Areas;
- Changing of oil, maintenance of equipment, or disposal of chemicals or paint resulting in spills on the Lots or into the storm drainage system;
- Use of excessive amounts of fertilizer or herbicides on seeded areas;
- Destruction or modification of any part of the permanent storm drainage system;
- Unpermitted burial of stumps or other debris;
- Unpermitted shoreline modification; and
- Unauthorized disturbance of any Lake Buffer Areas.

**SCHEDULE A**

**BayCrossing**

**LOT** \_\_\_\_\_

**APPLICATION FOR PRELIMINARY DESIGN APPROVAL**

Submit this form with two (2) copies of preliminary house plans, two (2) site plans, along with a six-hundred, fifty dollar (\$650.00) check made payable to BayCrossing ACC. One copy of the plans will be kept in the ACC's files and one copy will be returned to you.

Name of Lot Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: Work \_\_\_\_\_ Home \_\_\_\_\_

**I. Preliminary Site Plan (1" = 40')**

Location (with dimensions and materials) should be illustrated for each of the following site improvements on the Building Envelope Lot Plan:

- A. House and Other Improvements (garage, decks, patios, play equipment, etc.) within Building Envelope
- B. Front, rear, and side yard setbacks dimensioned
- C. Driveway, sidewalks, and easements as shown on recorded plat
- D. Fences and walls (including retaining walls)

**II. Preliminary Floor Plans and Exterior Elevations (1/4" = 1'-0")**

Heated finished square footage;

_____	First Floor
_____	Second Floor
_____	Third Floor
_____	Basement
_____	Total

ACC Required and Suggested Modifications:

Required: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Suggested: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Advisory Design Professional:

By: \_\_\_\_\_ Date: \_\_\_\_\_

BayCrossing ACC

By: \_\_\_\_\_ Date: \_\_\_\_\_

PRELIMINARY REVIEW DOES NOT CONSTITUTE EITHER FINAL PLAN APPROVAL OR AUTHORIZATION TO COMMENCE CONSTRUCTION. SEE ARCHITECTURAL GUIDELINES AND APPLICATION FOR FINAL DESIGN APPROVAL FOR THE APPROPRIATE STEPS TO FOLLOW TO ANY CONSTRUCTION. THANK YOU.

**SCHEDULE B**

**BayCrossing**

**LOT** \_\_\_\_\_

**APPLICATION FOR FINAL DESIGN APPROVAL**

Submit this form with two (2) sets of final building plans and specifications, two (2) site plans, two (2) erosion control plans, a six-hundred, fifty dollar (\$650.00) check made payable to **BayCrossing ACC** to cover house and subsequent landscape approvals unless fee already paid in preliminary submittal, a one-thousand dollar (\$1,000.00) check made payable to the BayCrossing Owner's Association for Construction Escrow Deposit.

Name of Lot Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: Work \_\_\_\_\_ Home \_\_\_\_\_

Builder: \_\_\_\_\_

I. Final Site Plan (1" -40')

Location (with dimensions and materials) should be illustrated for each of the following site improvements on the Building Envelope Lot Plan:

- A. Grading plan with 2' contour topography. (show proposed drainage plan)
- B. House and Other Improvements (driveway, sidewalk, garage, decks, patios, fences and walls (including retaining walls), etc.
- C. Front, rear, and side yard setbacks dimensioned, and utility easements as shown on recorded plat.

II. Final House Plans (1/4" - 1'-0")

Garage: # of Cars: \_\_\_\_\_

Home Square Footage:

\_\_\_\_\_ Total Heated Square Feet

\_\_\_\_\_ Total Overall Square Feet

III. Final House Elevations (1/4" - 1'-0")

Front, sides, and rear elevations shown

IV. Exterior Specifications: (must be completed prior to ACC approval) Submit samples with manufacturer specifications.

V. Roof shown in plan view.

VI. Materials and Colors

	<u>Material</u>	<u>Color</u>
Foundation:	_____	_____
Ext. Veneer Primary:	_____	_____
Ext. Veneer Secondary:	_____	_____
Ext. Trim:	_____	_____
Front Door:	_____	_____
Shutters:	_____	_____
Garage Door:	_____	_____
Roof:	_____	_____
Windows:	_____	_____
Other:	_____	_____

VII. ACC Modifications:

Required: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Suggested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VIII. Final Design Approval:

\_\_\_\_\_ Granted as noted above; however, construction start is subject to Approval to Commence Work.  
\_\_\_\_\_ Granted as submitted; however, construction start is subject to A Approval to Commence Work.  
\_\_\_\_\_ Denied as noted above.

Reviewed and Approved By:

Advisory Design Professional:

By: \_\_\_\_\_ Date: \_\_\_\_\_

BayCrossing ACC

By: \_\_\_\_\_ Date: \_\_\_\_\_

SCHEDULE B-1

BayCrossing

CONSTRUCTION ESCROW INFORMATION SHEET

LOT \_\_\_\_\_

Date: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Owner's Fax: \_\_\_\_\_ Owner's Phone: \_\_\_\_\_

Builder's Name: \_\_\_\_\_

Builder's Address: \_\_\_\_\_

Builder's Fax: \_\_\_\_\_ Builder's Phone: \_\_\_\_\_

Notices to be given regarding the use of the Construction Escrow Deposit will be done in conjunction with Section 5.3, Purpose and Use of Construction Escrow Deposit, and Section 5.4, Notices, of the Architectural, Landscape, and Lake Buffer Guidelines of BayCrossing.

In accordance with Article IX, Section 5, Enforcement, of the Covenants, Conditions, and Restrictions of BayCrossing, the Declarant shall have the right to enter the above referenced lot to remedy any violation that remains after the owner or owner's agent has been notified as referenced above and in the Architectural, Landscape, and Lake Buffer Guidelines.

Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If the contact person is to be different than the owner, then have the responsible party fill out the following:

In place of the Owner, I \_\_\_\_\_, agree to accept the terms and conditions for notification regarding the use of the Construction Escrow Depot as outlined in this document, the Covenants, Conditions, and Restrictions for BayCrossing, and the Architectural, Landscape, and Lake Buffer Guidelines.

Responsible Party's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Method of Contact: \_\_\_\_\_

ACC Use Only:

Construction Escrow Utilized:

Date	Reason	Amount
1	_____	
2	_____	
3	_____	
4	_____	

**SCHEDULE C**

**BayCrossing**

LOT \_\_\_\_\_

**APPLICATION FOR LANDSCAPE PLANS AND SPECIFICATIONS APPROVAL**

REQUIRED INFORMATION:

Submission Date \_\_\_\_\_

Lot Number \_\_\_\_\_

Lot Owner \_\_\_\_\_

Landscape Contractor \_\_\_\_\_ Phone Number \_\_\_\_\_

Landscape Architect/Designer \_\_\_\_\_ Phone Number \_\_\_\_\_

Projected Construction Initiation Date \_\_\_\_\_

Projected Construction Completion Date \_\_\_\_\_

Lot Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

Note: All pertinent information as outlined in the Landscape Guidelines shall be included on the plan submission prior to plan review consideration

This landscape plan is submitted for: \_\_\_\_\_ Preliminary \_\_\_\_\_ Final \_\_\_\_\_ Upgrade Review

The submitting party shall fill in all information above this line; Submit this form along with four copies of Landscape Plans directly to the reviewing Landscape Architect (contact ACC coordinator for the current address).

ACC PLAN REVIEW: The following action was taken subsequent to plan review:

\_\_\_\_\_ Approved with the condition that all plants be installed as represented on the approved plan without additions, deletions, or size modifications, unless approved in writing by the ACC.

\_\_\_\_\_ Contingent Approval - The plan as submitted does not meet the requirements of the ACC, however approval will be given if the following required changes are made in full:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Disapproved (revise and resubmit plans) for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Reviewed and Approved By:

Advisory Design Professional:

By: \_\_\_\_\_

Date: \_\_\_\_\_

BayCrossing ACC

By: \_\_\_\_\_

Date: \_\_\_\_\_

FINAL REVIEW \_\_\_\_\_ Approved \_\_\_\_\_ Disapproved

Reason for Disapproval: \_\_\_\_\_

\_\_\_\_\_

Inspection Date: \_\_\_\_\_ Inspection By: \_\_\_\_\_

**SCHEDULE D**

BayCrossing

**DOCK & PIER REQUEST FOR REVIEW**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Lot # \_\_\_\_\_

Materials and Components List (include colors and attach samples)

Decking: \_\_\_\_\_

Handrails: \_\_\_\_\_

Roof: \_\_\_\_\_

Pilings: \_\_\_\_\_

Additional Comments/Explanations: \_\_\_\_\_

Contractor Performing Work: \_\_\_\_\_

Lot Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

- Attach site plan (use recorded plat or plot plan) at 40 Scale (1" = 40') showing precise location within the Pier Zone, and dimensions
- Include elevations drawn to an acceptable scale
- Attach copies of all approvals and/or permits from all applicable governmental and regulatory agencies
- Include check for Construction Escrow and completed Schedule B-1 as outlined in Section 5.3
- Mail to: Hecht Properties, LLC  
885 North Highway 16  
Denver, NC 28037

ACC Use Only: Site Inspection Date: \_\_\_\_\_

Approved:  Conditionally Approved:  Disapproved:

Comments: \_\_\_\_\_

BayCrossing ACC: \_\_\_\_\_ Date: \_\_\_\_\_

**SCHEDULE E**

**BayCrossing**

**REQUEST FOR FINAL INSPECTION / DEPOSIT REFUND**

Lot Number: \_\_\_\_\_ Date: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Owner's Phone / Fax: \_\_\_\_\_

Requested Date of Inspection: \_\_\_\_\_

I do hereby certify in good faith that the contracted structure on said lot does conform to the Standard Building Code, local codes, and the BayCrossing Architectural Control Committee requirements and standards and the final plans as approved by the Architectural Control Committee. All site work, landscaping, cleaning, removal of temporary utilities and repair of damage to rights of way and common areas have been implemented. Enclosed is a certified copy of a survey showing as-built dock/pier location. This constitutes a request for return of Construction Escrow deposit.

Owner's signature: \_\_\_\_\_ Date: \_\_\_\_\_

ACC use:

Escrow Deposit

\_\_\_\_\_ Deposit returned in full          \_\_\_\_\_ Partial refund

Amount returned: \_\_\_\_\_

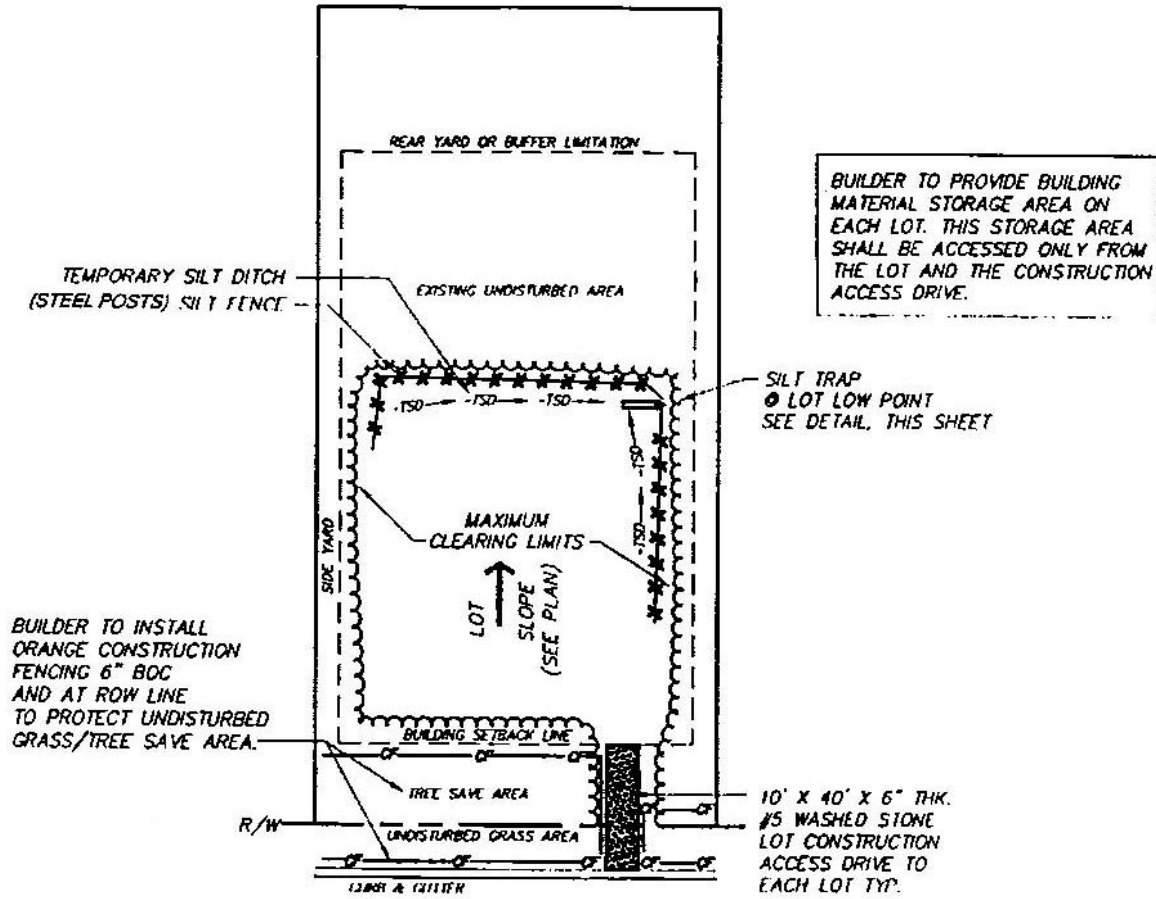
Reason for withholding: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

SCHEDULE F

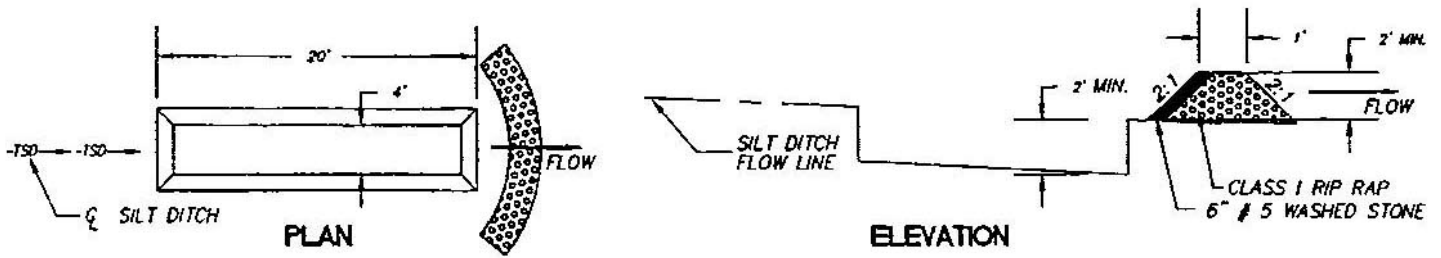
BayCrossing

GENERAL EROSION CONTROL NOTES



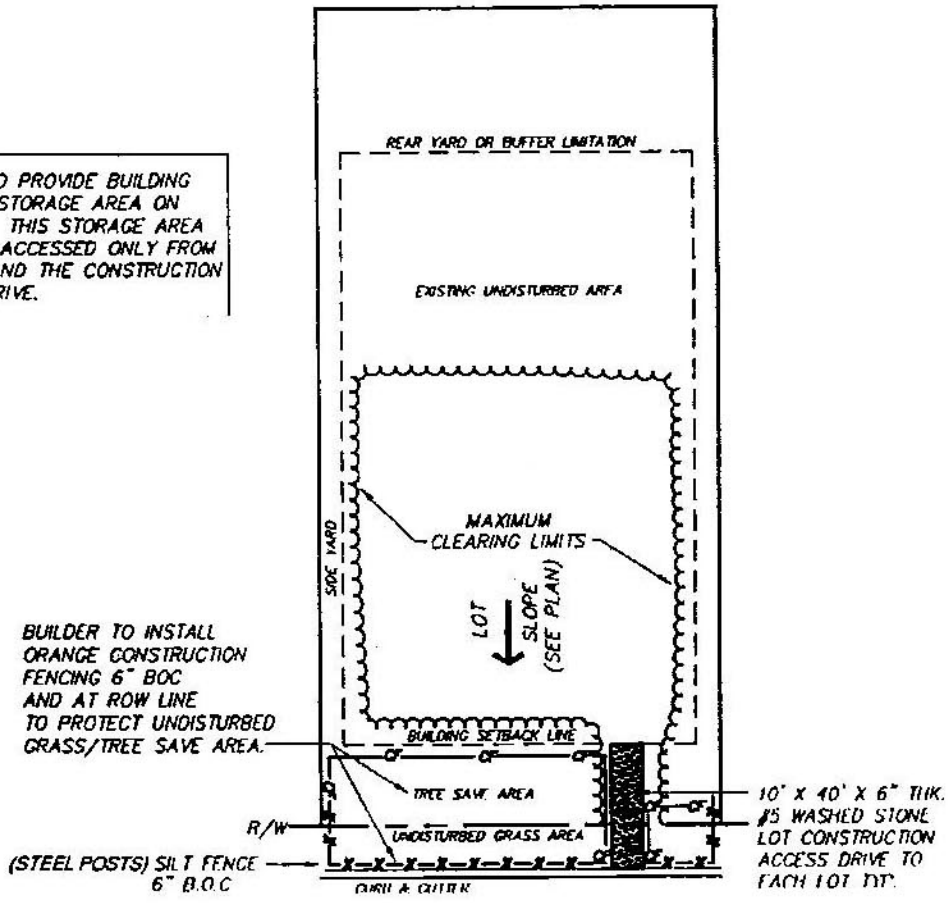
TYPICAL LOT DEVELOPMENT EROSION CONTROL

LOT SLOPING AWAY FROM STREET



SILT TRAP DETAIL

BUILDER TO PROVIDE BUILDING MATERIAL STORAGE AREA ON EACH LOT. THIS STORAGE AREA SHALL BE ACCESSED ONLY FROM THE LOT AND THE CONSTRUCTION ACCESS DRIVE.

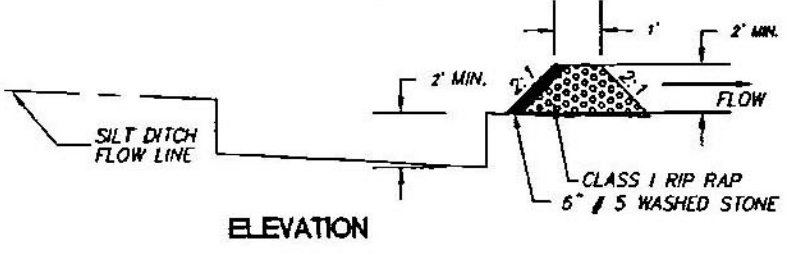
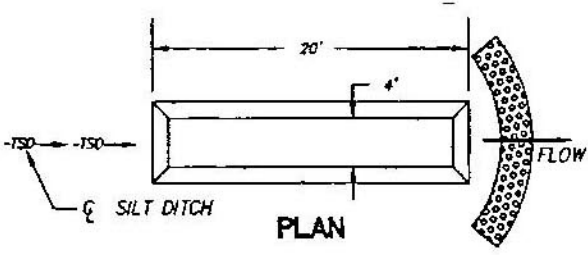


BUILDER TO INSTALL ORANGE CONSTRUCTION FENCING 6" BOC AND AT ROW LINE TO PROTECT UNDISTURBED GRASS/TREE SAVE AREA.

10' X 40' X 6" THK. #5 WASHED STONE LOT CONSTRUCTION ACCESS DRIVE TO EACH LOT TYP.

**TYPICAL LOT DEVELOPMENT EROSION CONTROL**

**LOT SLOPING TOWARD STREET**



**SILT TRAP DETAIL**

1. Erosion control measures shall be provided for each lot as it is developed.
2. The owner shall be responsible for installing and maintaining the erosion control measures for each lot owned by such owner.
3. The owner shall install a #5 washed stone construction access to each lot owned by such owner. Access to each lot shall be via this drive only. The owner shall not encroach or allow any encroachment into the undisturbed grass area between the back of curb and the right-of-way line with materials or vehicles.
4. The owner shall provide a material storage area on each lot owned by such owner. This storage area shall be accessed only from the lot or the construction access drive.
  5. The typical lot erosion control measures shown shall be field located and adjusted to reflect the final grades and actual field conditions of each lot.
6. The owner shall provide maintenance inspections of all lot erosion control measures on a daily basis and after rainfall. Repairs shall be performed immediately.
7. The owner shall at all times remain cognizant of and in obedience with the restriction prohibiting clearing, grading or construction of any kind within the limits of the Lake Buffer Areas.

## SCHEDULE G

### BayCrossing

#### **RECOMMENDED PLANT LIST**

Appropriate and aesthetically pleasing landscaping of individual Lots at BayCrossing is integral to the success of the community as a whole. A list of recommended plant materials that thrive in our region is provided for use by Builders, Lot Owners, and landscape contractors. The list represents a core group of plants, evergreen and deciduous, flowering and non-flowering, of various sizes at maturity, which perform well in our area. The list is not absolutely complete, and naturally other plants not appearing on our list are worthy of consideration. The intention is to provide a group of plants which are well-suited to our geographic location and which exhibit desirable ornamental characteristics. Many of the plants listed are indigenous (native) to our region: and several display desirable characteristics such as drought tolerance (xeriscape plants) and tolerance of heavy (clay) soils. Local plant nurseries should be consulted to obtain specific information on the improved varieties that may be available and the sun/shade exposure requirements of each plant.

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#### Street Trees/Shade Trees:

Red Maple, October Glory, Sunset, Autumn Flame	Water Oak
Legacy Sugar Maple	Purpleleaf Beech
Southern Red Oak	Linden (Littleleaf, American)
European Mountain Ash	Bloodgood London Planetree
Ginko Biloba (male only)	Zelkova
Shumard Oak	Willow Oak
Chinese Elm	

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#### Large-Maturing Evergreen Trees:

Deodar Cedar	American Holly
Southern Magnolia	Cryptomeria Japonica (protected)
Austrian Pine	Loblolly Pine
Norway Spruce	Nellie R. Stevens Holly
Fosters Holly	Emily Bruner Holly
Pyramidal Arborvitac	Savannah Holly
Bald Cypress	

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#### Accent Trees (Flowering):

Kwanzan Cherry	Viburnum Apulus (Japanese Snowball)
Yoshino Cherry	Crape Myrtle species
Okame Cherry	Weeping Japanese Cherry
Sourwood	White Dogwood
Vitex (Chase Tree)	Kousa Dogwood
Styrax Japonica (Japanese Snowbell)	Pink Dogwood
Smoketree	Red Dogwood
Crabapple (improved varieties)	Pagoda Tree
Washington Hawthorn	Purpleleaf Plum
Eastern Redbud	Saucer Magnolia
Star Magnolia	Sweetbay Magnolia
White Fringetree	Witch Hazel
Amelanchier (protected)	Golden-rain Tree

Golden-cha Tree

#### Accent Trees (nonflowering):

Black Gum	Chinese Pistache
-----------	------------------

Wax Myrtle  
Green Japanese Maple  
Trident Maple  
Thornless Honey Locust  
Carolina Cherry Laurel

Bloodgood Japanese Maple  
Amur Maple  
American Hornbeam  
Heritage River Birch

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Evergreen Shrubs:

Holly Species (i.e., Dwarf Burford Holly, Compacta Holly, Helleir Holly, etc.)  
Ligustrum Species  
Rhododendron Species (Carolina, Catawba, etc.)  
Azalea  
Laurel "species"  
Camellia Sasanqua (protected)  
Cypress and False Cypress Species  
Nandina Species  
Was Myrtle  
Cotoneaster Species (Bearberry, Rockspray)  
Abelia  
Lorapetalum

Boxwood  
Euonymus Species  
Pieris  
Aucuba  
Camellia Japonica (protected)  
Gardenia (protected)  
Juniper Species  
Plum Yew  
Cleyera Japonica  
Osthmanthus "species"  
Inkberry  
Mahonia  
Dwarf India Hawthorn

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Deciduous Shrubs:

Althea  
Spirea Species  
Butterfly Bush  
Flowering Quince  
Hydrangea "species"  
Sweetspice  
Dwarf Crape Myrtle  
Azalea

Barberry Species  
Burning Bush Euonymus  
Fortythia  
Shrub Roses  
Viburnum Species  
Mock Orange  
Weigela

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Groundcovers and Vines:

Periwinkle  
Euonymus Fortunei "coloratus"  
Shore Juniper  
Lirope  
Santolina  
Ajuga  
Ferns

Pachysandra  
Asian Jasmine  
Sarcococca  
Mondo Grass  
Lady Banks Rose  
Carolina Jessamine  
Celmantis "species"

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Perennials:

Sedum Species (Autumn Joy, etc.)  
Coreopsis  
Iris  
Balloon Flower  
Liatris  
Primrose  
Coneflower  
Verbena  
Dianthus  
Ornamental Grasses  
Chrysanthemum

Rudbeckia  
Daylily Species  
Hosta Species  
Croal Bells  
Ferns  
Monarda  
Shasta Daisy  
Lillies  
Sage  
Aster

**SCHEDULE H**

BayCrossing

**SHORELINE STABILIZATION REQUEST FOR REVIEW**

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Lot Number: \_\_\_\_\_

Shoreline Stabilization Type:  
(Circle One)

Rip Rap

Rock (include type): \_\_\_\_\_

Block/Masonry

Planting

Other: \_\_\_\_\_

Color(s): \_\_\_\_\_

Height above High Water Mark: \_\_\_\_\_

(Note: If height varies, note locations and approximate heights on site plan. Include Elevations if necessary)

Additional Comments/Explanations: \_\_\_\_\_

Contractor Performing Work: \_\_\_\_\_

Phone: \_\_\_\_\_

Lot Owner Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- Attach site plan (use recorded plat or plot plan) at 40 scale (1" = 40') showing precise location of the wall(s), limits of clearing, and vehicular access points
- Attach copies of all approvals and/or permits from applicable governmental and regulatory agencies
- Include check for Construction Escrow and completed Schedule B-1, as Outlined in Section 5.3
- Mail to: Hecht Properties, LLC  
885 North Highway 16  
Denver, NC 28037

ACC Use Only:

On Site Inspection Date: \_\_\_\_\_

Approved:

Conditionally Approved:

Disapproved:

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

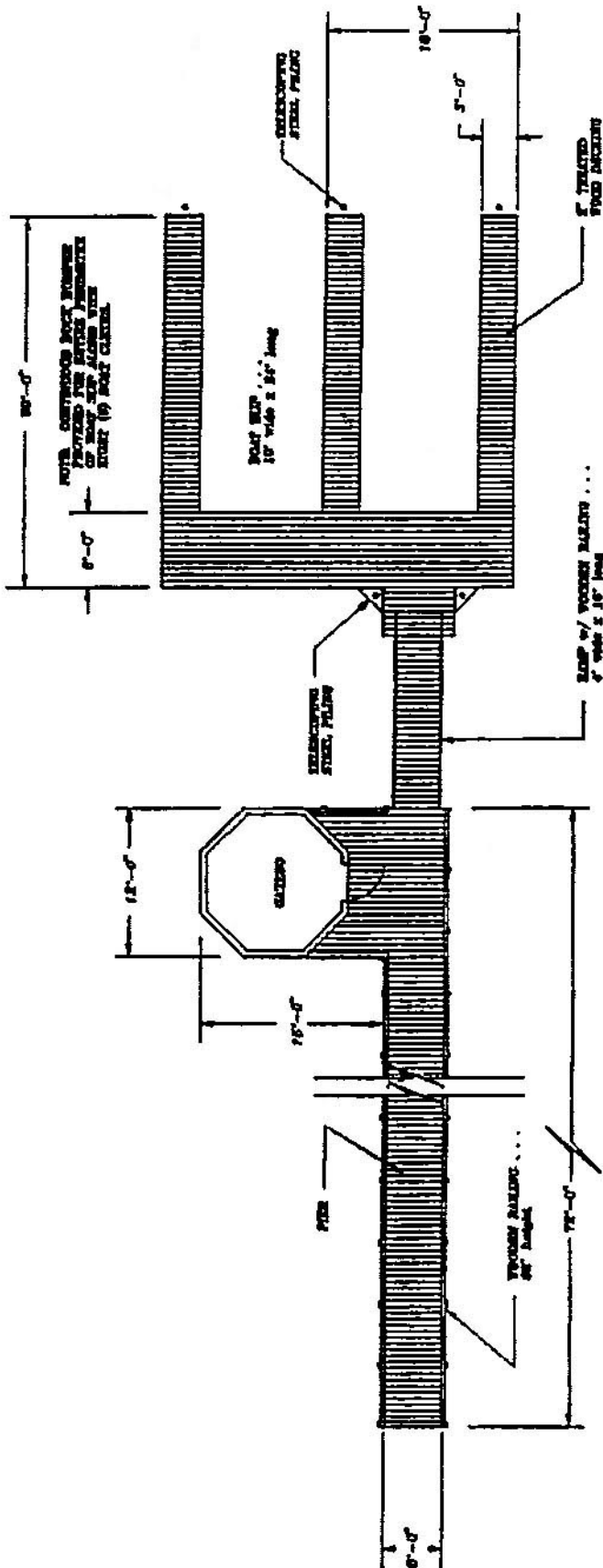
BayCrossing ACC: \_\_\_\_\_

Date: \_\_\_\_\_

SCHEDULE I

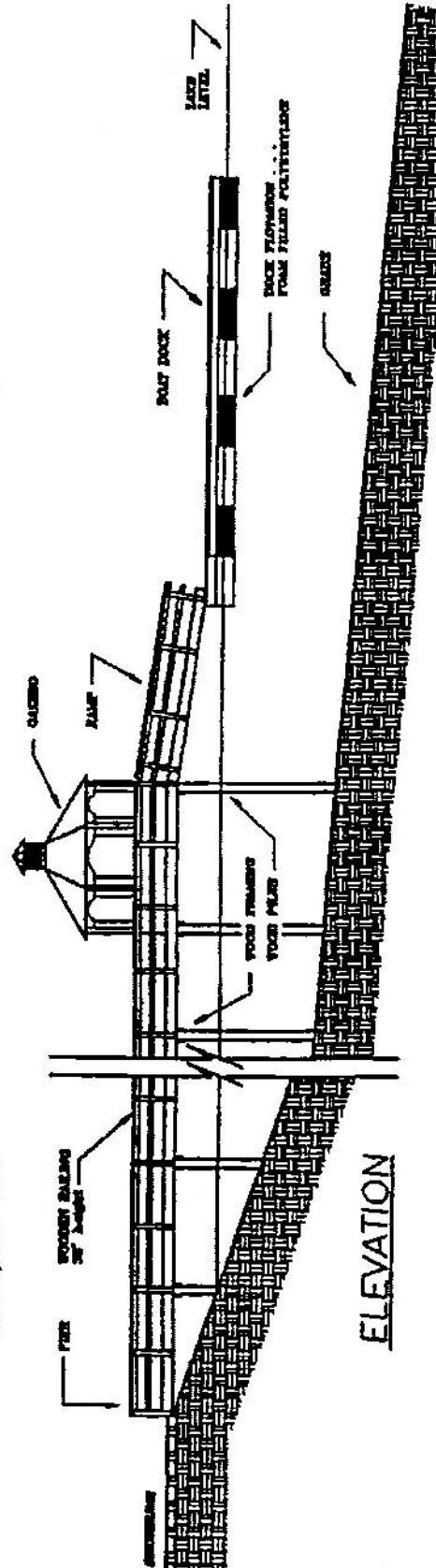
BayCrossing

MATERIALS SPECIFICATIONS FOR DOCKS, BOATS, PIERS, BOATSLIPS AND GAZEBOS



PLAN VIEW . . . . RESIDENTIAL PIER & BOAT DOCK

Scale: 1/8" = 1'-0"



ELEVATION

SCHEDULE J  
BayCrossing  
SHORELINE IMPROVEMENTS

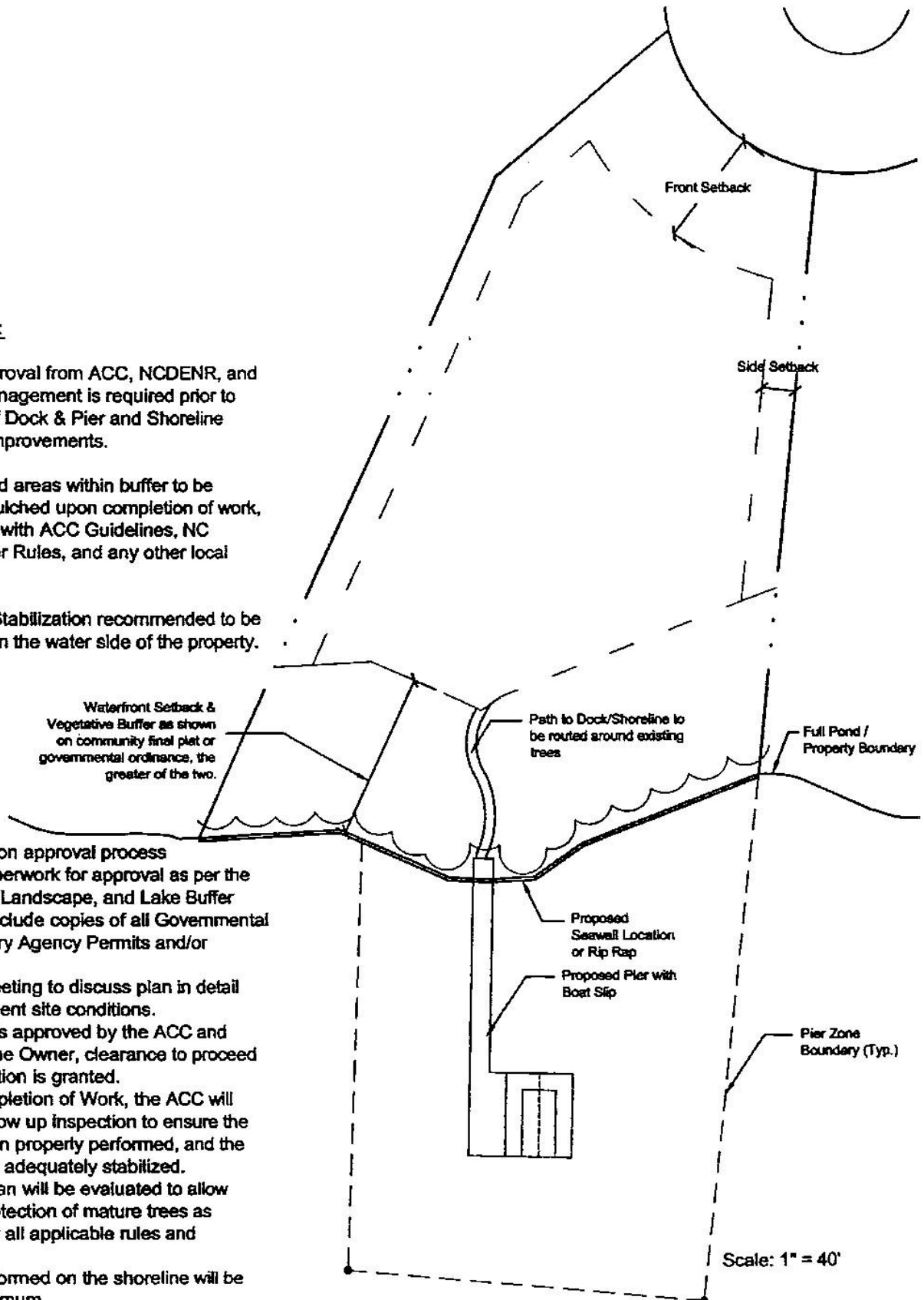
General Notes:

1.) Written approval from ACC, NCDENR, and Duke Lake Management is required prior to construction of Dock & Pier and Shoreline Stabilization Improvements.

2.) All disturbed areas within buffer to be replanted & mulched upon completion of work, in accordance with ACC Guidelines, NC Catawba Buffer Rules, and any other local ordinances.

3.) Shoreline Stabilization recommended to be completed from the water side of the property.

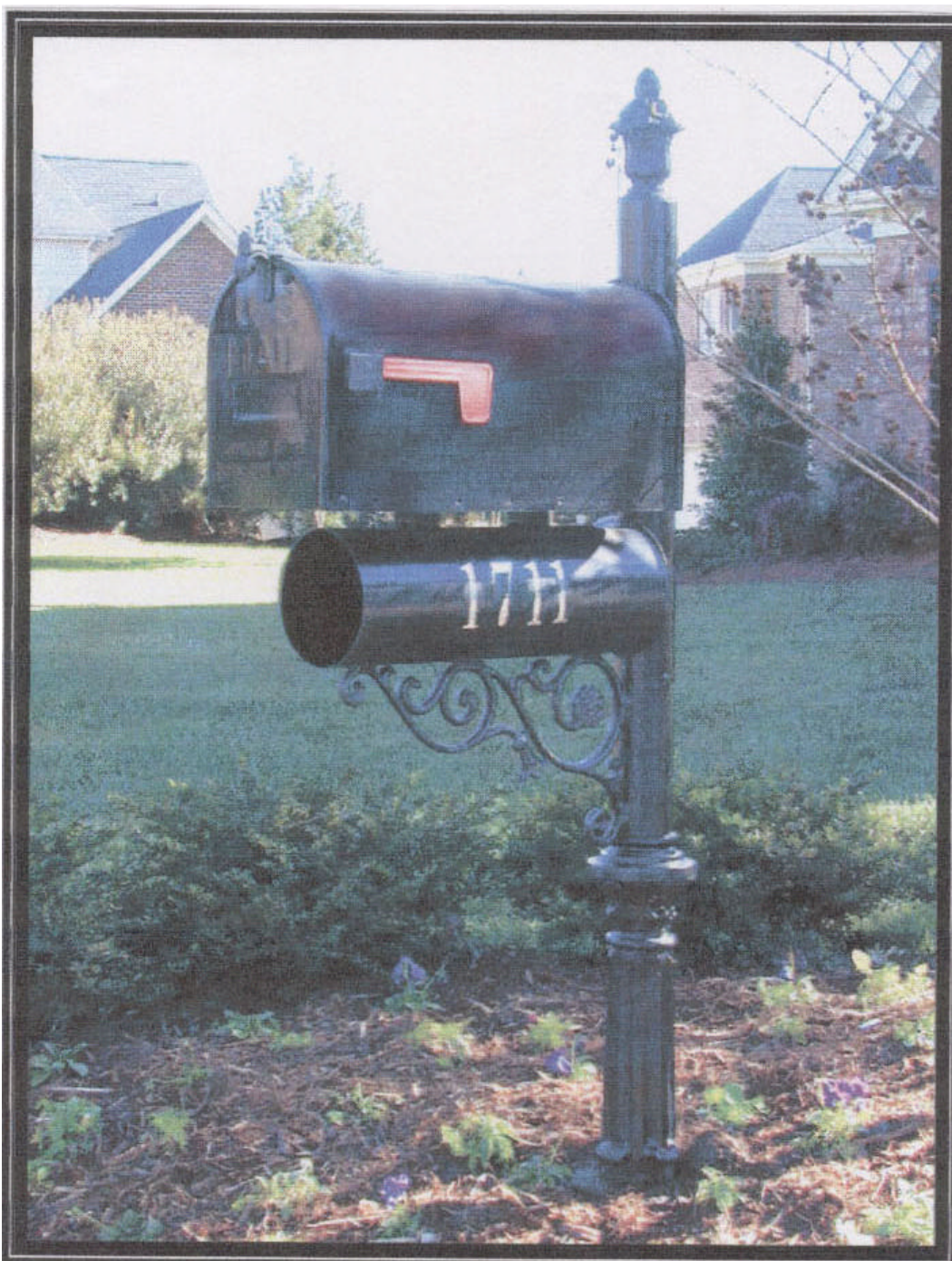
- 4.) Construction approval process
- Submit Paperwork for approval as per the Architectural, Landscape, and Lake Buffer Guidelines, include copies of all Governmental and Regulatory Agency Permits and/or approvals.
  - On-Site meeting to discuss plan in detail and to document site conditions.
  - Once Plan is approved by the ACC and received by the Owner, clearance to proceed with construction is granted.
  - Upon Completion of Work, the ACC will perform a follow up inspection to ensure the work has been properly performed, and the site has been adequately stabilized.
- 5.) Overall Plan will be evaluated to allow maximum protection of mature trees as prescribed by all applicable rules and regulations.
- 6.) Work performed on the shoreline will be held to a minimum.



SCHEDULE K

BayCrossing

MAILBOX



The Corinthian

Description:

3" Round Metal Post

Large Pineapple Finial

#2 Rural Solar Mailbox

Bellflower Bracket

6" Round Newspaper Holder

All Aluminum Corinthian Base

*BayCrossing*

**Lot # or Address**

**Agent or Owner**

**Real Estate Company (if any)**

**# # # - # # # - # # # #**