

**DESIGN GUIDE
LAS ESTANCIAS DE PICACHO MOUNTAIN**



December 8, 2008

Exhibit B

LAS ESTANCIAS DE PICACHO MOUNTAIN DESIGN GUIDE

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SECTION I INTRODUCTION

Section 1.1 Introduction.

Picacho Mountain is being developed and presented with the intent to create an upscale community in Las Cruces, with residences thoughtfully designed and constructed to be harmonious with the existing desert environment. Much of the land is intended to remain undisturbed in this community, and walking trails will encourage residents to more fully experience the high desert. The natural arroyos, vegetation and view aspect of each lot contributes greatly to the character of each lot, and the homes should be constructed in a manner that enhances these features without altering the desert's natural character. The intent is for the homes to blend subtly with the natural features of the terrain. These design guides are an effort to assist homeowners, architects and builders understand, create and sustain a community wide cohesive design scheme that has proven to enhance long term resale



values both to individual residences as well as the community as a whole. Particular continuous attention will be paid to the adherence of the Covenants, Conditions, and Restrictions (CC&R's) guidelines attached herein. This will ensure that both an aesthetically coherent community and a more valuable community will be created.

Section 1.2 Design Philosophy.

We are passionately committed to setting the standard for traditional southwest living in our region. Our communities promote harmony with the natural environment, simplicity over opulence, and still manage to carve out a special place of their own. We believe that the desert is a beautiful place, and the more it is left as we found it, the better.

Because good design isn't always as simple as it sounds, we believe in using professional architects and designers. They are best equipped to help you achieve an award-winning home design that:

- ◆ Uses traditional, understated southwestern architecture,
- ◆ Blends harmoniously into the natural landscape using exterior colors and materials that key on earth tones and other neutral, natural colors from the surrounding desert palette,
- ◆ Maximizes views while protecting view corridors of surrounding lots for the benefit of the entire community,
- ◆ Is tailored to your site and focuses attention on natural arroyos, elevation changes, open space, and views of the Valley, Picacho Peak, and Organ and Dona Ana Mountains,
- ◆ Minimizes disturbance of the existing desert environment,
- ◆ Uses native landscaping as a dominant architectural feature that matures and grows with age and employs re-vegetation wherever disturbance has occurred,
- ◆ Possesses proper scale and massing of details in relationship of different components of the building facade and structure, and
- ◆ Subtly use Universal Design Standards to insure life-long living convenience.

Section 1.3 Lifestyle Enrichment Committee.

The Lifestyle Enrichment Committee (LEC) is formed to ensure that all improvements meet the appropriate Picacho Mountain design criteria, as may be amended from time to time. The Lifestyle Enrichment Committee has all administrative and interpretive authority in the design review process and referred to herein as "Reviewer". The LEC at inception is operated by the Declarant, and is subsequently operated by a board of directors as allowed by the Declaration of CC&R's for Picacho Mountain.

The design review responsibility of the LEC is:

- 1) To approve or disapprove designs and plans for site planning, construction, landscape, lighting and all other improvements;
- 2) To ensure compliance of construction to the LEC approved plans, including identifying non-compliance and recommending enforcement actions; and
- 3) To maintain and make available to residents the standards and guides of the community.

The LEC reserves the right to grant any variance to any proposed improvement that the LEC finds desirable for the overall aesthetics and/or value of the community and its residents as a whole. Such a variance, if granted, does not by virtue of its approval and granting, change the established design guides or establish a precedent that a similar future variance will be granted.

Section 1.4 Green and Sustainable Building.

Although the LEC does not require green or sustainable building practices, the LEC strongly encourages these types of building processes and will work closely with owners and builders who wish to employ progressive techniques to make their homes energy efficient and environmentally friendly. The LEC will make special exceptions on a case-by-case basis for "green" homes that employ water, energy, or environmentally advanced elements within the existing design framework for the community. For example, elements such as water harvesting, gray water irrigation, low e glass, low flow toilets, solar panels, energy star products, and the use of sustainable materials is recommended and encouraged. We are excited and hopeful to see these practices employed, and the LEC will be as flexible as possible while ensuring the implementation occurs in an aesthetically pleasing manner.

SECTION II DESIGN REVIEW STANDARDS

This design guide establishes design criteria for Las Estancias De Picacho Mountain, under the power and authority of the Declaration of Covenants, Conditions and Restrictions for Picacho Mountain, (CC&R's) as filed by the Declarant. The following design review process for Picacho Mountain is encapsulated from the CC&R's for ease of reference, however in case of conflict, the CC&R's shall rule.

Section 2.1 Design Review.

(a) By Declarant: New Construction. Declarant shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for original construction within the Properties. Declarant may, in its sole discretion, designate one or more Persons, including the Lifestyle Enrichment Committee, from time to time to act on its behalf in reviewing applications hereunder. Any such delegation shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason

(b) Lifestyle Enrichment Committee: Modifications. The LEC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures located on Lots or Parcels, or on or to Lots containing Dwelling Units (including the initial landscaping on a Lot). Subject to Declarant's rights, the LEC also may be assigned jurisdiction over original construction within the Properties. The Association also may assign to the LEC responsibility for monitoring compliance with and enforcement of Use Restrictions and Board promulgated Rules.

Declarant shall have the right, in its sole and absolute discretion, to veto any action taken by the LEC; provided, Declarant's right to veto must be exercised within 10 business days of its receipt of notice of action taken by the LEC. The party submitting the Plans for approval shall not be notified of the LEC's approval or disapproval until after Declarant's right to veto has been exercised or has expired.

c) Reviewer; Fees; Assistance. For purposes of this Design Guide, the entity having jurisdiction in a particular case shall be the LEC, which may appoint a representative to assist in the review process; however the LEC shall remain the "Reviewer." The LEC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the Association may employ architects, engineers, or other Persons as deemed necessary to perform the review. The Board may include the compensation of such Persons in the Association's annual operating budget.

Section 2.2 Procedures.

- Except as otherwise specifically provided in the Design Guide, no activities shall commence on any portion of the Properties until an application for approval has been submitted to and approved by the Reviewer.
- Such application shall be in the form required by the Reviewer and shall include information required under the Design Guide, such as plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable.
- The Design Guide and/or the Reviewer may require the submission and approval of such additional information as may be reasonably necessary to consider any application.

2.2(a) Two-Phase Design Procedure.

In order to assure that Las Estancias residents all enjoy the benefits of living in a well designed environment, a two-phase design process and corresponding application and review processes for each proposed residence will be utilized.

This two-phase process should mirror the design process that you, your architect, and/or your builder might already have in place. At the completion of each step, and as illustrated in the sections that follow, you must submit your concepts to the LEC for review and approval. These two review intervals will greatly assist in making sure that your design is on the right track and conforms to the Las Estancias community concept.

Before any design steps are initiated:

- ⇒ Visit Your Site
- ⇒ Obtain Your Site Plan from the LEC
Shows Pad Location, Pad Elevation, Maximum Disturbed Area, Existing Contours, Curb Elevations, Corner Locations, and Street & Legal Names
- ⇒ Choose an Architect, Landscape Architect, Civil Engineer, & General Contractor

1st Phase: Preliminary Submittal

In this step of the design process, the goal is to submit a Site Plan, a Preliminary Floor plan, and External Elevation Plans for the residence.

2nd Phase: Final Submittal of Construction Documents.

This phase includes all the finished drawings necessary to complete construction on the proposed residence. These drawings will be reviewed for compliance with the previous design submittals as well as all Design Guideline requirements.

Obtain a soils test and foundation recommendations from soils and/or civil engineer.

After the LEC has approved the Construction Drawings, they may be submitted to the county for a building permit. Once the applicable building permit has been issued, construction may commence.

2.2(b) Application Process.

• **Application**

A copy of the application is included below as well as in the Lot Closing Binder you receive at the time you execute your Lot Contract. Please complete the application and submit it as soon as it can be completed or, at the latest, with your plans for the schematic design phase of design review.

• **Submittal Checklists**

After the Application below, please find two (2) submittal checklists for each phase of the design review process. Please use these to insure that all necessary materials are submitted to the LEC in a complete fashion. This will greatly assist in making the review and approval processes as efficient as possible.

• **General Notes on the Application Process**

All plans are to be submitted in the proper scale as listed below, and the plans should be printed on 24" x 36" sheets (at a minimum). Because of the size of some of the residences, a larger sheet may be required in order to include all necessary dimensioning, etc.

Electronic files should be submitted in PDF format and saved at the highest quality possible. Please submit these files on a single CD for each phase of review. These electronic files will make record keeping much more efficient and provide an easy way for our staff to have your files at their fingertips whenever questions should arise.

Initial Application (Page 1 of 2)

Application for lot #: _____
Date Received: _____

Application Fee: _____
Fee Received: _____

**Picacho Mountain Homeowners Association
Application for New Construction Design Review**

Any new construction on an existing lot within Picacho Mountain must be approved in advance by the Design Review Committee. In order to minimize redesign efforts, application for new construction or other improvements should be reviewed and approved by the Design Review Committee prior to any submissions to the City of Las Cruces or County of Dona Ana.

Applications should be submitted with attachments of construction plans detailing the intended new construction with one full paper set, and one full set in electronic format (PDF, JPEG, CAD, etc.) to:

Picacho Mountain Community Association, Inc.
1310 Picacho Hills Drive
Las Cruces, NM 88007

Phone: 505-523-2500

email: HOA@picachomountain.com

Name of Applicant (owner): _____

Property Address: _____

Neighborhood (I.E.; Las Estancias): _____ Lot # _____

Style of Home/Elevation _____

Mailing Address (if different from above): _____

Phone # (Daytime): _____ (Evening): _____

E-mail: _____

Reason for Review: New Construction

Required Attached Items Checklist (1st Review, Schematic Design):

- ____ Topographic Survey
- ____ Site Plan
- ____ Floor Plan
- ____ Elevations
- ____ Utility Location
- ____ Location of Retaining and Stem Walls
- ____ PDF Versions of all Printed Plans

Additional Attachments (Optional):



Initial Application (Page 2 of 2)

Indicate Largest Dimensions (Height, Width, and Length):

Height _____ Width _____ Length _____

Indicate Square Footages:

Air Conditioned _____ Covered Patio _____ Garage/Mechanical _____

Persons or Contractor performing the work: _____

Licensed Contractor and the New Mexico License # _____

Person performing the work and the New Mexico License # _____

Person performing work contact phone #: _____

Estimated Completion Date: _____

I submit this application and attachments for review and approval and certify that all the information contained here and in my attachments is accurate to my plans. I understand and acknowledge that no work may commence prior to approval and that I will be liable for all costs necessary to bring any nonconforming work into compliance. I understand that as part of the review process members of the Committee may contact my surrounding neighbors regarding this project. I agree to maintain the improvement if approved. I understand that the project must commence within one calendar year from the date of approval or the approval shall expire. I will comply with all city, county and state laws and will obtain all necessary permits prior to start of construction if necessary.

Print Name: _____

Signature: _____

Date: _____

Contractor and / or Person Acknowledgement of receiving and reading the Design Guide
Contractor _____ Date _____

PRELIMINARY APPROVAL PROCESS AND CHECKLIST

Two Phase Design Procedure.

In order to assure that Las Estancias residents all enjoy the benefits of living in a well designed environment, a two phase design process will be utilized.

This two phase process should mirror the design process that you, your architect, and/or your builder might already have in place. At each step, you must submit your concepts to the Design Review Committee for review and approval. These two review submittals will greatly assist you in making sure that your design is on the right track and conforms to the Las Estancias community concept.

Preliminary Submittal

In this step of the design process, the goal is to submit a Site Plan, a Preliminary Floor plan, and External Elevation Plans for the residence.

PRELIMINARY SUBMITTAL CHECKLIST

Topographic Survey of Lot and Surroundings 1/20 scale)

- ⇒ 10' contours of entire lot
- ⇒ Property lines, set back lines, and easements
- ⇒ Approved finished floor elevation
- ⇒ Building Envelope showing maximum disturbed area.

Site Plan & Floor Plan (1/8" or 1/4" Scale)

- ⇒ Proposed floor plan w/ rooms designated by name
- ⇒ Schematic site design concept w/ drives, walks, patios, pools, etc. ***The building site is within an allowable disturbed area of the lot. This is called the Building Envelop and will be designated by Picacho Mountain Design Review Team.***
- ⇒ Show existing and proposed grades on plan
- ⇒ Preliminary Landscape Plan with grading and drainage
- ⇒ Show Utility Locations
- ⇒ Show location of Retaining and Stem Walls (it is required that these walls are constructed before the pad is poured)
- ⇒ Show Ponds and pond calculations (recommended pond shape is more oval than square)

Exterior Elevations (1/8" or 1/4" Scale)

- ⇒ Four (4) elevations identified as North, South, East, and West

FINAL APPROVAL PROCESS AND CHECKLIST

Two Phase Design Procedure.

In order to assure that Las Estancias residents all enjoy the benefits of living in a well designed environment, a two phase design process will be utilized.

This final process that you, your architect, and/or your builder should already be in place. At each step, you must submit your concepts to the Design Review Committee for review and approval. These two review submittals will greatly assist you in making sure that your design is on the right track and conforms to the Las Estancias community concept.

Final Phase: Final Submittal of Construction Documents

This phase includes all the finished drawings necessary to complete construction on the proposed residence. These drawings will be reviewed for compliance with the previous design submittals as well as all Design Guideline requirements.

FINAL PHASE DESIGN DOCUMENT CHECKLIST

Architectural Plans

1. Cover Sheet
2. Site Plan (1/20 Scale with North designation)
3. Foundation and Details (1/4" Scale)
4. Floor Plan and Details (1/4" Scale)
5. Exterior Elevations including lighting and fixture details (1/4" Scale)
6. Structural Details Concrete and Framing w/Details (1/4" Scale)
7. Roof Plan (1/4" Scale)
8. Electrical Plan (1/4" Scale)
9. Miscellaneous Details

Landscaping Plans (can be submitted up to 6 months later or minimally 1 month before final inspection)

1. Landscape Plan (Planting & Hardscape) Drainage and Lighting (1/8" to 1/20 Scale)
2. Planting List with Your Selections Highlighted (only plants listed in the Design Guide are allowed)
Please use common and botanical names, quantities and sizes.
3. Pool, Spa, and Fountain Plans and Details

NOTE: All plans will be submitted in a pdf format as well as printed copies.

ARCHITECTURAL PLAN DETAILS

General Requirements

- ⇒ Complete symbol and abbreviation legends
- ⇒ Conceal chimney shrouds and other vents should be painted a color similar to the house
- ⇒ Finished Floor Elevation
- ⇒ Exterior lighting

Architectural Plans

Minimum Working Drawing Sheet Requirements Include:

1. Cover Sheet

- ⇒ Site of Vicinity Map
- ⇒ Project Information
- ⇒ Names of Consultants & Contact Information
- ⇒ Square Footage of Areas

2. Site Plan (1/20 scale with North Designation)

- ⇒ Adjacent Lot Numbers
- ⇒ All Proposed Architectural Improvements
- ⇒ Easements
- ⇒ Dimensioned Building, Roof Overhang, and Pool Setback Lines from Property Lines
- ⇒ All Drives, Walks, Patios, and Pools Identified
- ⇒ All retaining walls /stem walls /landscaping walls
- ⇒ Final Grading and Drainage details
- ⇒ HVAC Equipment and Utility line Routing
- ⇒ Building Envelope showing maximum disturbed area.

3. Foundation and Details (1/4" Scale)

- ⇒ Include all Slab Elevations (verify elevation with nearest benchmark at front of curb)
- ⇒ Reference and Include all Details Required for Construction of Foundation and Installation of Concrete including structural details.
- ⇒ Soils Report and results from soils and/or civil engineer.

4. Floor Plan and Details (1/4" Scale)

- ⇒ Include location of exterior HVAC Unit (screened with short wall)

5. Exterior Elevations (1/4" Scale)

- ⇒ Exterior Finishes and Materials (See **Material Board** section at the end of the landscaping section)
- ⇒ Main Entry Door, Garage Doors, Garden Gates, Columns, Ornamental Work, Exterior Trim, & Special Features (Skylights, Solar Panels, and Exterior lighting details, Etc.)
- ⇒ Items Evident on the Exterior: Louvers, Vents, Roof Drains, Gutter Outlets, Access Openings, Meter Boxes, Electrical Fixtures, Flashing, Tile or Masonry Feature Strips, Etc.
- ⇒ Include Roof Pitch & Maximum Height of Finished Structure

6. Roof Plan (1/4" Scale)

- ⇒ Shows All Roof Penetrations
- ⇒ Gutters, Roof Drains, Scuppers or canales, Flashings, & Related Sheet Metal (not over HVAC unit)
- ⇒ Roof Slopes and Water Flow with Directional Arrows
- ⇒ Roofing Materials

7. Electrical Plan (1/4" Scale)

8. Miscellaneous Details

- ⇒ Building Sections, HVAC, Plumbing, Exterior Soffits locations and details.
- ⇒ Any Additional Plans Necessary for Completion of the Project

LANDSCAPING PLAN DETAILS

Because this is often one of the last items to complete during the construction process, the landscaping plan may be submitted later than the construction documents submittal. As such, the landscaping plan submittal checklist is on its own page.

We strongly encourage you to complete this and submit it with the Construction Documents, but it MUST be submitted within SIX (6) MONTHS of the exact date upon which the Design Review Committee issues the Construction Documents approval.

1. Plant List
 - ⇒ Include a list of plants your landscaping plan will utilize in its design. (From approved plant list. (List must include common and botanical names, sizes and quantities)

2. Landscape Plan (Planting & Hardscape) (1/8" to 1/20 Scale)
 - ⇒ Provide Sections and Details of all Garden and Retaining Walls (Unless Already Shown in Architectural Site Plan)
 - ⇒ Show and Describe all Hardscape (Material, Color, and Finish)
 - ⇒ Drainage Plan
 - ⇒ Landscape Lighting with directional arrows indicating light pattern and aim.

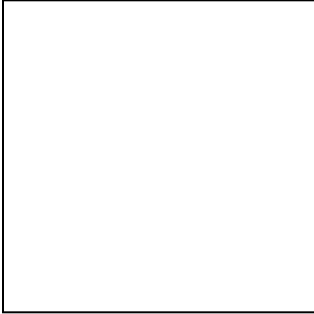
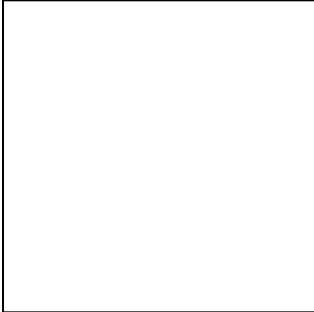
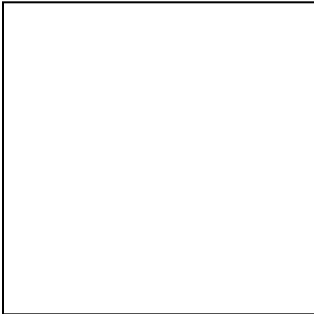
3. Pool, Spa, and Fountain Plans and Details
 - ⇒ Plans, Sections, and Details for All Water Features on Lot
 - ⇒ Pertinent Electrical Details.

4. Landscape Lighting
 - ⇒ Show Location of all Landscape Lighting and Features
 - ⇒ Provide Examples of all Fixtures Used (photo copy)
 - ⇒ Show Lighting on Home, Screen or Garden Walls on Elevation View

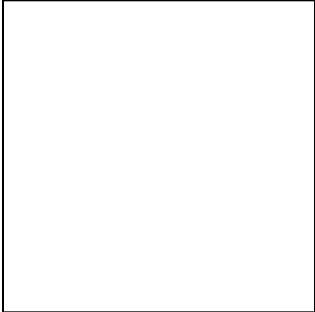
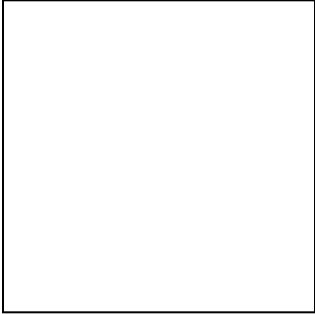
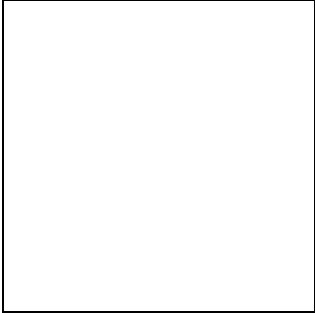
Material Board Supplied by Picacho Mountain

- ⇒ Samples of proposed finishes (actual material sample is preferable where applicable)
- ⇒ Provide at a minimum:
 - ⇒ Exterior Finish(es): Stucco Texture & Paint Colors
 - ⇒ Door(s): Material & Color
 - ⇒ Window(s): Material, Color, & glass Selection
 - ⇒ Roof: Material & Color
 - ⇒ Accent Roofs: Material & Color
 - ⇒ Accent Trim: Material & Color
 - ⇒ Lighting: Fixture Example & Finish/Color

Preliminary Material Board 1 of 2

Owner:	Lot/ Address:	Date:
	Exterior Material Stucco / Stone / Other	
	Primary Exterior Color Mfg. / Color	
	Secondary Exterior Color Mfg. / Color	

Preliminary Material Board 2 of 2

Owner:	Lot/ Address:	Date:
	Roof Tile Material and Color	
	Flat Roof Surface Color	
	Driveway Material and Color	

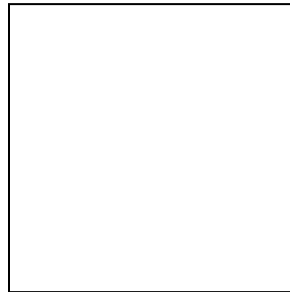
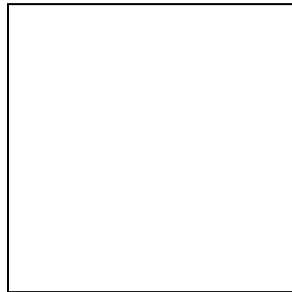
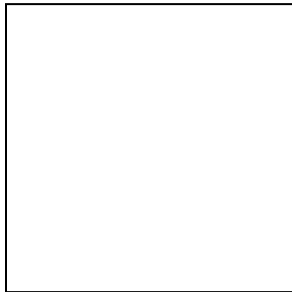
Final Material Board 1 of 2

Owner:

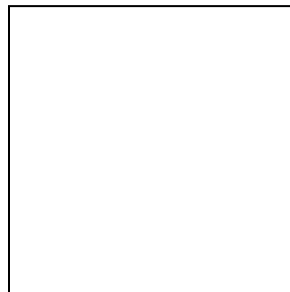
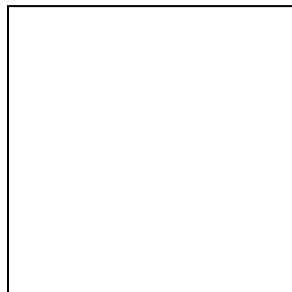
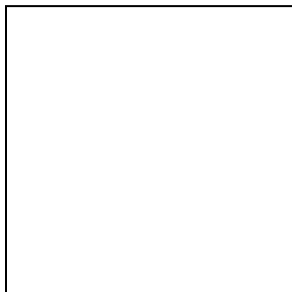
Lot/ Address:

Date:

Exterior Accents and Trim Finish Colors

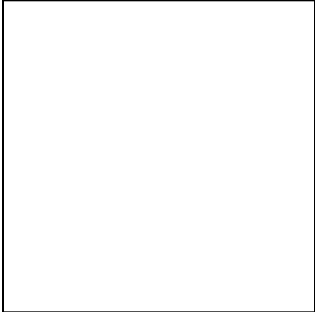
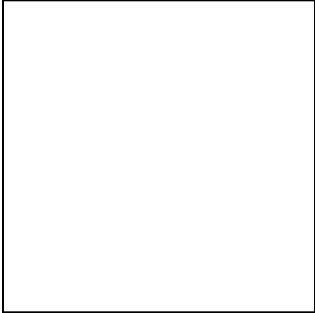
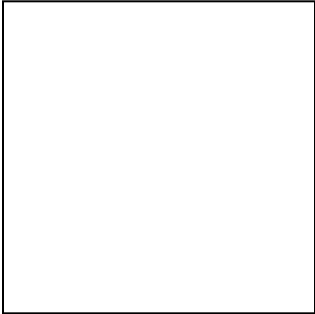


Exterior Lighting Fixtures



**This Final Material Board can be submitted up to
60 days after the Preliminary Material Board**

Final Material Board 2 of 2

Owner:	Lot/ Address:	Date:
	Entry Door Color	
	Other Door and Gate Colors	
	Window Frame Color	

This Final Material Board can be submitted up to 60 days after the Preliminary Material Board

2.2(c) Review Process.

- In reviewing each submission, the Reviewer may consider any factors it deems relevant including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determination as to such matters is purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.
- The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as they have been made in good faith and in accordance with the procedures set forth herein.
- At each of the two plan submittal phases, the Reviewer shall make a determination on each application after receipt of a completed application and all information required by the Reviewer for the relevant phase of review. Each phase requires a submittal and then written approval by the Reviewer before the next phase of submission and approval is undertaken.
- For each submittal phase, the Reviewer may:
 - (i) approve the application, with or without conditions;
 - (ii) approve a portion of the application and disapprove other portions; or
 - (iii) Disapprove the application.
- Reviewer approval shall not constitute approval of or waiver of approvals or reviews by Dona Ana County or any other municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

2.2(d) Notice of Approval.

- The Reviewer shall, for each phase of review, notify the applicant in writing of the final determination on any application within:
 - (i) 15 days after its receipt of a completed application and all requested information for Schematic Design.
 - (ii) 15 days after its receipt of a completed application and all requested information for Design Development.
 - (iii) 30 days after its receipt of a completed application and all requested information for Construction Documents.
- Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.
- EMAIL NOTIFICATION: Whenever possible, notification will also be emailed to the applicant, but formalized notice shall only be deemed to have been given via the methods described above. Please be advised, email notifications are for information purposes only and do not qualify as formalized notification as required for approval.
- In the event that the Reviewer fails to respond in the timelines specified above, approval shall be deemed to have been given, subject to Declarant's right to veto.
- No approval shall be deemed to have been given to an application that violates any provision of the Declaration.
- No approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guide unless a written variance has been granted.
- As part of any approval, the Reviewer may require that construction commence in accordance with approved plans within a specified time period. If construction does not commence within the required period, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it must be diligently pursued to completion. All

work shall be completed within sixteen (16) months of commencement unless otherwise specified in the notice of approval or the Design Guide, or unless the Reviewer grants an extension in writing, which it is obligated to do. If approved work is not completed within the required time, it will be considered nonconforming and will be subject to enforcement action by the Association, Declarant, or any aggrieved Owner.

- Notwithstanding the above, landscaping shall be installed, as approved, in the front yard of a Lot, and on any portion of a Lot that is required to be landscaped that is visible from a street, other Lots or Parcels, or the Common Area, sixteen (16) months from the start of Pad Site Dirt Work. The Reviewer's decision as to which portions of a Lot are affected by this requirement is final.

Section 2.3 No Waiver of Future Approvals.

- Each Owner acknowledges that the Persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guide, may vary accordingly.
- Each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future.
- Approval of applications or plans, or in connection with any other matter requiring approval, shall not constitute binding precedent in any other matter nor an estoppel or waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

Section 2.4 Variances.

- The Reviewer may authorize variances from compliance with any of its standards and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require attention.
- Such variances may only be granted when unique circumstances dictate and no variance shall:
 - (a) be effective unless in writing;
 - (b) be contrary to this Declaration; or
 - (c) prevent the Reviewer from denying a variance in other circumstances.
- For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance. Notwithstanding the above, the Reviewer may not authorize variances without the written consent of Declarant during the Class "B" Control Period.

Section 2.5 Limitation of Liability.

- The standards and procedures in this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties; they do not create any duty to any Person.
 - (i) The Reviewer shall not bear any responsibility for ensuring:
 - (a) structural integrity or soundness of approved construction or modifications;
 - (b) compliance with building codes and other governmental requirements;
 - (c) that all Dwelling Units are of comparable quality, value, size, or design; or
 - (d) that improvements will be aesthetically pleasing or otherwise acceptable to other Owners.
- Declarant, the Association, the Board, any committee, or any member of any of the foregoing shall not be held liable for any claim whatsoever arising out of construction on or modifications to any Lot or Parcel. In all matters, the Reviewer shall be defended and indemnified by the Association

- (ii) Both Lot Owner and his Contractor as well as all subcontractors, consultants, agents, employees, agree to hold Declarant, the Association, the Board, any committee, or any member of any of the foregoing shall not be held liable for any claim whatsoever arising out of any unsafe construction practice whether leading to injury or fire on any Lot or Parcel. In all safety matters, the Declarant, et al shall be defended and indemnified by the Lot Owner et al.
- (iii) Lot Owner and his Contractor as well as all subcontractors, consultants, agents, and employees agree to hold Declarant, the Association, the Board, any committee of the Association, and/or any member of any of the foregoing not liable for any claim whatsoever arising out of damages caused by a fire for any reason. In any matter of fire or damage to any structure, landscape foliage, etc, the Declarant, et al shall be defended and indemnified by the Lot Owner et al.

Section 2.6 Enforcement.

- Any construction, alteration, or other work done in violation of this Article or the Design Guide shall be deemed to be nonconforming.
- Furthermore, Declarant, or the Association, shall have the authority to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Lot or Parcel, where such actions have not first been reviewed and approved, or constitute a violation of this Declaration, the Design Guide, or Rules and Regulations.
- Upon written request from the Association or Declarant, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure the nonconformance to the satisfaction of the requester or restore the Lot or Parcel to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Association, Declarant, or their designees shall have the right, but not the obligation, to enter the Lot or Parcel, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the rate established by the Board (not to exceed the maximum rate then allowed by law), may be assessed against the Lot or Parcel and collected as a Special Assessment.
- All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot or Parcel, unless approval to modify any application has been obtained. In the event that any Person fails to commence, and diligently pursue to completion, all approved work by the deadline set forth in the approval, Declarant, or the Association, shall be authorized, after notice to the Owner of the Lot or Parcel including opportunity to be heard, to enter upon the Lot or Parcel and remove or complete any incomplete work and to assess all costs incurred against the Lot or Parcel and the Owner thereof as a Special Assessment unless otherwise prohibited in this Declaration.
- All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guide may be excluded from the Properties, after being provided with notice and an opportunity to be heard. In such event, neither Declarant nor the Association, their officers and directors, shall be held liable to any Person for exercising the rights granted by this paragraph.
- In addition to the foregoing, the Association and Declarant shall have the authority and standing, but not the obligation, to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Reviewer.

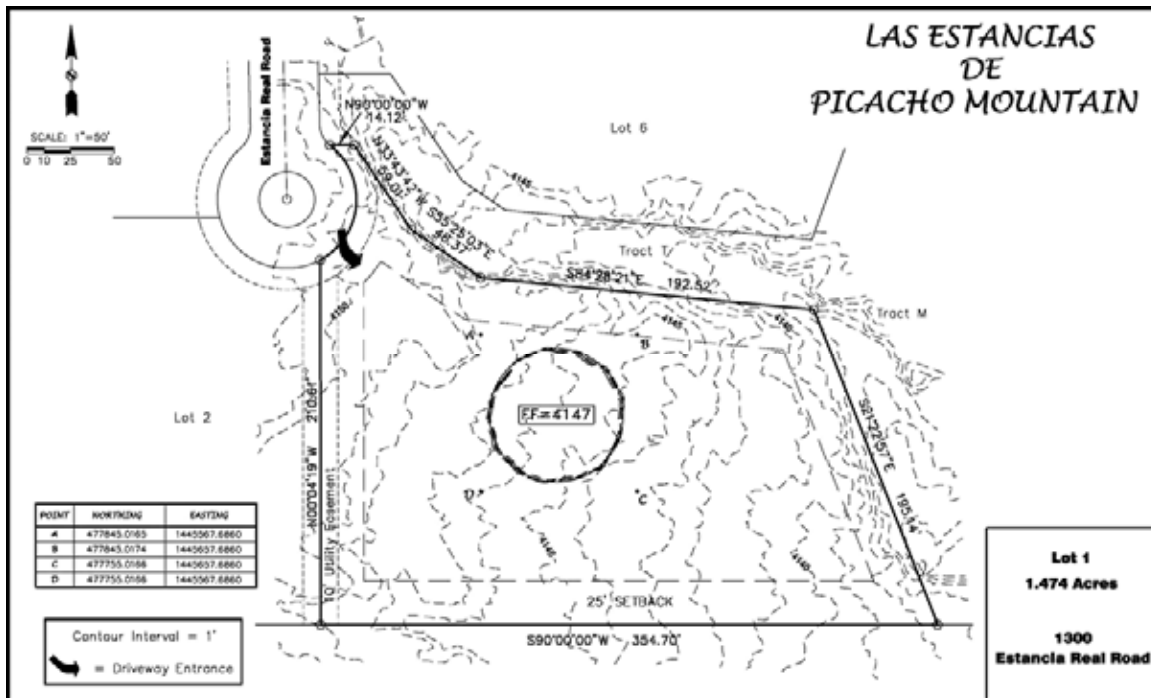


Section 3.1 Building Location and Allowable Disturbed Area.

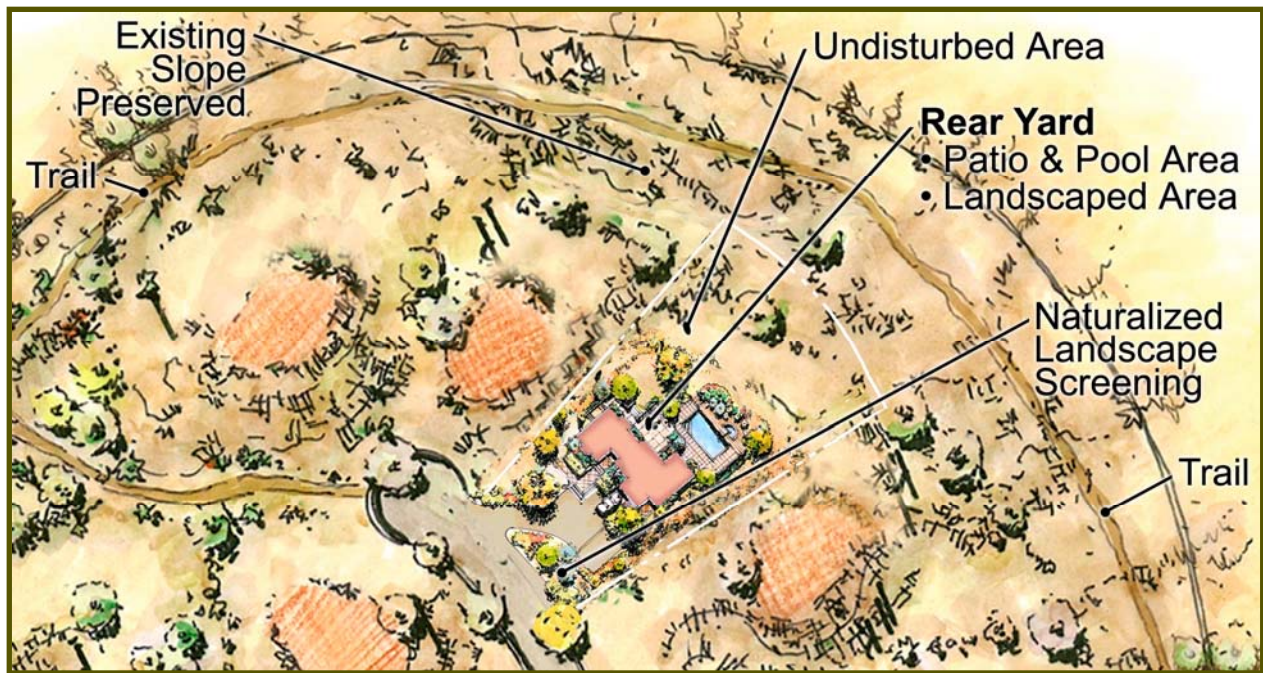
- No structure shall be located on any Lot that violates the setback requirements of the Extra Territorial Zone (ETZ) ordinances of the City of Las Cruces and County of Dona Ana.

All buildings and structures will be built within an allowable disturbed area of the lot, at the elevations recorded on the plat map, unless otherwise approved in writing or already accordingly adjusted by the Lifestyle Enrichment Committee. This maximum disturbed will be called the "Building Envelope" This building envelope will be staked with standard 3' high SILT fencing before any construction begins. . All construction, construction traffic, material movement, and disturbance to the site will be done inside the building envelope. The exact location of the building envelope will be decided by the Design Review Team. The **approximate** location/size of the building envelop will be 10' out from the building pad, driveway, and other approved structures. This 10' dimension will vary according to site topography and other construction requirements. Any unapproved work done outside the building envelope makes the owner/builder liable to replace/repair any damage that the Design Team believes is necessary to return the land to the original condition. This includes but is not limited to replacing vegetation and wildlife. This will be a non-negotiated assessment from the Design Team.

- The site plan Picacho Mountain provided you contains four (4) specific points determined by Picacho Mountain as the general area for your building pad. These points are field locatable, and they should be placed and verified when your builder has the pad area surveyed and staked. Any pad built higher than the allowed pad elevation must be remedied to allowable height prior to the slab being poured. The finished floor elevation will be determined as the pad elevation plus 4 inches.



- This image below shows a typical lot situated on site within its maximum area of disturbance. The pads are built in an organically shaped manner that fits the house onto existing topography, and does not use large amounts of grading to force the construction of the pad. The topography should be considered when locating the house site. For example, sites with hilly topography may not be suitable for large yards, as all grading must remain within the Building Envelope. Note the diagonal driveway that does not go straight to the home. This provides an effect of the home being surrounded by landscape and natural desert, instead of a wide paved corridor from the street to the house.



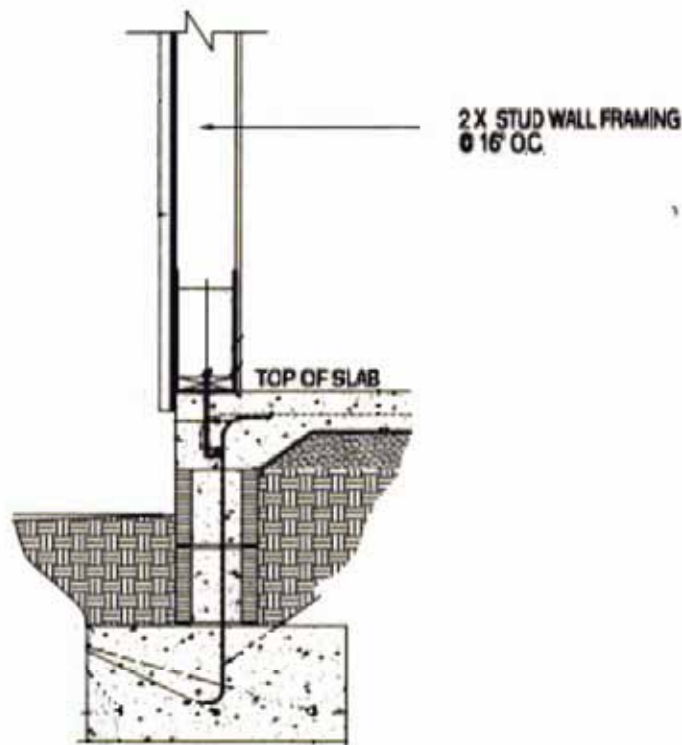
3.1.1 Stem Retaining Wall Construction.

This Stem Retaining Wall/slab construction method is REQUIRED anywhere that the pad elevation is more than 3 ft (36") above grade. If this method of construction is not employed where the pad elevation is more than 3 ft (36") above existing grades, plans will not be approved by the LEC.

This method involves building the pad through digging a trench for a spread footing around the perimeter of the home, pouring a concrete footing, building a concrete block retaining wall, back-filling into the retaining wall, and finally tying the slab into this wall.

Because we hope to maintain as much natural landscape as possible, and because of the unique elevation changes present on many of our lots, this method is much more effective because it requires no sloped grading beyond the perimeter of the home. Wherever the pad elevation is more than 3ft above the existing grades, building up a stem wall will preserve much more of the native vegetation and landscape. It is important to remember that the entire perimeter will likely not need this treatment. Only the areas where heavy grading would result in a large disturbed slope need to utilize this alternative construction method.

Stem Wall Construction Concept:



Stem Wall Disturbed Area Illustration 1:



Retaining Wall Disturbed Area Illustration 2:



3.1.2 Typical Slab Construction

The monolithic turn down slab is the typical slab construction method. This method involves building the pad through cutting, filling, grading, and compaction.

Because we hope to maintain as much natural landscape as possible, and because of the unique elevation changes present on many of our lots, this method does not prove effective in many circumstances.

When the pad elevation is more than +/- 3ft of the existing grades, grading to achieve the desired pad elevation will destroy too much of the native vegetation and landscape.

Section 3.2 Setbacks.

The setback requirements of the ETZ shall be satisfied. Typically these setbacks applicable to Picacho Mountain are:

- a) All structures will maintain a minimum separation of ten (10) feet from overhang to overhang.
- b) 25' front and rear setbacks, 10' side setbacks.



Section 4.1 Architectural Style.

Generally accepted southwest architectural styles may be used. These styles are described as Pueblo/Santa Fe style, Territorial style, Spanish or Spanish Colonial style, and Mission style. There are distinctive characteristics of each of these styles, and it is the intent of this Design Guide to maintain a single architectural style throughout the construction of any home. Each home may be different, but each home should be consistent with a single architectural style. The intent is for homes to blend seamlessly with the natural surroundings by using a muted color palette, organic textures and a single architectural style.

4.1 Pueblo / Santa Fe Style.



Pueblo homes have many of these features:

- Flat roof with no overhang
- Massive, round-edged walls made with adobe or adobe-like material
- Rounded parapet with spouts in the parapet to direct rainwater
- Stepped levels
- Vigas (heavy timbers) extending through walls serve as main roof support beams
- Latillas (poles) placed above vigas in angled pattern
- Deep, simple window and door openings
- Kiva “beehive” corner fireplace
- Bancos (benches) that protrude from walls
- Nichos (niches) carved out of wall for display purposes
- Brick, wood, or flagstone floors

Several variations of Pueblo style exist. Some of these are:

- Pueblo Revival: Spanish influenced design with porches held up with zapatas (posts), enclosed patios, heavy wooden doors, and elaborate corbels
- Pueblo Deco: Combines Pueblo Revival with Art Deco architecture. These homes are decorated with geometric patterns and Native American designs
- Santa Fe Style: This type of Pueblo became the standard in New Mexico after it was defined by the Santa Fe Historic Zoning Ordinance of 1957
- Contemporary Pueblo: These are stripped down, un-ornamented Pueblos without posts, beams, or vigas
- Territorial Pueblo: Windows are framed with straight wooden moldings

4.2 Territorial Style.



Southwestern Territorial homes have many of these features:

- Flat roofs with parapets above the walls
- Corners are square instead of round
- Smooth plaster or stucco walls
- Sturdy vigas supporting the ceiling structures
- Coping at the tops of the walls
- Milled woodwork, such as pedimented lintels above window frames
- Painted wood trim at the doors and windows
- Turned wood posts to support the porches (portales)

Due to the blending of styles that is common in the Southwest today, true Territorial-style architecture may be difficult to find. However, the features found in this style home are often found blended with other types of architecture.

4.3 Spanish / Spanish Colonial Style.



Spanish inspired houses usually have these features:

- Low-pitched roof
- Roof tiles (*please see Sec 4.4 for details on how much of the roof may be tiled*)
- Little or no overhanging eaves
- Stucco siding
- Arches, especially above doors, porch entries and main windows

Some Spanish inspired homes have:

- Asymmetrical shape w/ cross gables and side wings
- Flat roof and parapets
- Or, a hipped roof
- Carved doors
- Spiral columns and pilasters
- Courtyards
- Carved stonework or cast ornaments
- Patterned tile floors and wall surfaces

4.4 **Mission Style**



Spanish Mission style houses have many of these features:

- Smooth stucco siding
- Roof parapets
- Large square pillars with twisted columns
- Arcaded entry porch
- Round or quatrefoil windows
- Roof tiles (*please see Sec 4.4 for details on how much of the roof may be tiled*)
- The front door is often rounded with wrought iron hardware
- Arched dormers and elaborate arches
- Decorative work such as patterned tile work, stone carvings, or elaborate grillwork

Section 4.2 Size of Residences.

Except as herein provided, no residential structure erected on any Lot shall have more than one (1) story, nor exceed twenty (20) feet in height as measured from the finished floor elevation recorded on the original LEC pad elevation sheet (which identifies the original planned pad elevation of each lot) to the top of the highest point of the roof.

Although 20 feet above finished floor is the maximum height of the residence, not more than one half (1/2) of the residence by square footage shall reach this height, and the remainder of the home may not exceed sixteen (16) feet **in height**.

No residential structure with a floorplan area of less than Two Thousand Two Hundred (2,200) square feet, exclusive of the area of attached garages, porches, servant's quarters, or other appurtenances or appendages will be erected on any Lot.

Two-story or multi-level homes may be approved only when the topographical features of the lot are such that a two-story or multi-level home may be constructed without intrusion into view corridors of residences of neighboring lots. Those lots which are known to have such topography may be further identified by lot number by the association. Those identified lots will be the only lots upon which it is permissible to build two-story or multi-level homes, subject to the approval of the Lifestyle Enrichment Committee.

The height of any addition to an existing structure will not be higher than the highest roofline of the original construction

Example of varying roofline heights



Section 4.3 Building Pads and Driveways.

Building pads and driveways shall be constructed within the areas so designated on the site plan. Any proposed changes must be submitted to the Lifestyle Enrichment Committee in writing with appropriate drawings of proposed changes of locations and/or elevations.

- No driveway that causes more than one entrance from the street will be permitted. This ensures that as much desert is protected as possible. In the event that the site presents a unique opportunity to use a circle drive, obtaining a variance from the LEC is always an option.
- Regardless of the type of material chosen to complete the majority of the driveway, at least the first twenty (20) feet of the entry, starting at the curb, must be concrete in order to prevent as much silt as possible from running onto the streets.
- While it is not required, the use of muted natural color pigmented concrete or earth-tone brick pavers for driveways is encouraged.

Building pads must be built upon within 30 days of completion and must provide retaining walls or other approved methods to eliminate erosion of pad into native landscape. Pads and driveways will be protected during construction to prohibit erosion of silt on to the streets, into the native landscape, or into the natural arroyos.

Driveway Detail with poor erosion control



Driveway Detail with proper design (Entry Drive, Drainage Solutions, Re-Vegetation, Materials, Etc.)



Section 4.4 Roof Design.

Roofs shall be designed and constructed in the southwest style using southwest design materials approved by the Lifestyle Enrichment Committee and with low pitch or flat style, in no instance exceeding a maximum pitch of 5 vertical rise over 12 horizontal run. Parapet walls must be constructed at least 12 inches taller than the roof surface in closest proximity. No roof area greater than 1500 sq. ft. shall be permitted without a parapet wall separating that roof area from adjacent roof area. False parapet walls may be used to break up the roof plane, however when any end of a parapet wall is exposed to public view so that the cross section width is evident, that end must be built to a minimum width of twelve (12) inches.

Neither metal roofs nor cement tile will be permitted unless so approved by specific variance issued by the LEC. Working with these materials requires special aesthetic attention and will be approved on a case-by-case method only. Consideration for the materials will take place only during Schematic Design or Design Development review per the variance procedures listed in this document.

All roofs shall have a low light reflectance value. No roof shall cover more than 30% of the square footage of the home with tile. Tiled areas of roof may not be comprised of a traditional one-color terra-cotta effect. All tiled

areas of roof must have a variegated or mottled color effect. No tiles are allowed to have a shiny or glossy finish. No machines or equipment of any nature (except solar energy collection panels that are hidden from view) shall be permitted on any roof, to include evaporative coolers and/or air conditioners. Skylights shall blend into the overall roof design and color scheme, and must not be mirrored or overly reflective as determined by the Lifestyle Enrichment Committee. Chimneys must be enclosed, and all sheet metal vents and vent piping must be painted to match the home and concealed from view.

Roof-top color shall be the same color as the major surface color of the primary residence. This application of color may be of a lighter tone, but the color tone used in this application must compliment the major surface color. The terrain of Picacho Mountain has a west to east sloping characteristic, and it is the intent of this roof-top coloration requirement to protect the natural desert colors, and to prevent the occurrence of views filled with white or other nonconforming colored rooftops.

Roof Design Illustrated 1

(Slope, Coloring, Mechanical Considerations, Parapet Height, Etc.)



Roof Design Illustrated 2

(Slope, Coloring, Mechanical Considerations, Parapet Height, Etc.)



Section 4.5 Exterior Surface Materials.

Exterior surface materials shall be such that they blend with the natural desert environment and landscape. Masonry, stucco, stone/rock veneer, and adobe are acceptable exterior surface materials. The colors of these materials shall be natural in character, and subdued in general appearance to blend with the natural desert colors. A palette of approved colors will be provided by the LEC.

Wood accents, and exposed wood structural beams are permitted, so long as wood is not used to cover large surfaces such as wood siding. Exterior walls must be finished down to finish grade with the exterior surface material, to eliminate view of unfinished foundation walls. Windows and doors may not be mirrored and frames must be of a color that blends with or accents the color scheme of the entire home. In addition, garages and garage doors must be located such that they are not a major visual impact from the street. Though not required, side entry garages are encouraged.

Exterior Sample 1



Exterior Sample 2



Wood Details



Section 4.6 Residence Buildings and Garages.

No building or other structure shall be built, placed, constructed, reconstructed, or altered on any Lot other than a single family residence, and no structure will be occupied or used until the exterior construction thereof is completed. Detached accessory buildings or structures including but not limited to guesthouses, casitas, pool houses, cabanas, garages, and etcetera, must appear as integral to the primary residence structure, and attached by a common wall. Each single family residence situated on a Lot shall have an enclosed, attached garage for not less than two (2) automobiles.

No garage shall have more than one (1) story. Space for parking one (1) RV may be incorporated into a garage in addition to the allocated automobile spaces, however, such space must be designed so that the additional height and size of the garage does not become a major design element of the residence as viewed from the street directly in front of the center of the lot's street frontage. The suggested design for the RV garage is a design that incorporates a low driveway that allows the roofline to be the same height as the home. No carport shall be built, placed, constructed or reconstructed on any Lot.

No garage shall ever be changed, altered, reconstructed or otherwise converted for any purpose inconsistent with the garaging of automobiles if such change reduces the total number of garage spaces to less than two. All Owners, their families, tenants and contract purchasers shall, to the greatest extent practicable, utilize such garages for the garaging of vehicles belonging to them.

Section 4.7 Septic Tanks.

No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot or other portion of the Properties without express written consent of Declarant, or as allowed by the filed final plat.

Section 4.8 Access.

No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot or other portion of the Properties unless the express written consent of the Lifestyle Enrichment Committee has been obtained.

Section 4.9 Chimneys and Exterior Fireplaces.

All fireplace flues, smoke stacks, and spark arrestors must be completely enclosed and concealed from public view in finished chimneys of materials architecturally compatible with the principal finish material of the exterior walls of the dwelling. Bare manufactured fireplace flue caps are not acceptable finish materials. No material causing a foul, noxious, or objectionable odor may be burned. Material producing burning ash, flying embers, or other cause of spread of fire may not be burned. No material which produces an ash residue outside of the fireplace itself may be burned. Gas burning installations are preferred. All chimneys must be capped with a spark arrestor that will not allow sparks and burning detritus that is a one-half inch ($\frac{1}{2}$ ") or greater sphere to pass through. Typically, a five-eighths inch ($\frac{5}{8}$ ") size spark arrestor will meet this requirement as it will not allow passage of $\frac{1}{2}$ " spherical material. All installations must meet local fire code.

Chimney Details



Section 4.10 Window Treatment.

No aluminum foil, reflective film or similar treatment shall be placed on windows or glass doors. This does not preclude the use of architectural windows that have UV coatings or other special coatings and features so long as those features do not create glare or coloration inconsistent with the approved color palette provided for the Neighborhood. All windows visible to the street shall require window treatments, this includes garage windows. Awnings, canopies or sunscreens must be approved by the LEC prior to installation, and must be complimentary to the style and appearance of the primary residence.

Section 4.11 Air-conditioning.

All air-conditioning apparatus must be installed on the ground, along the side or back of the home in a manner that conceals such apparatus. No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus or any evaporative cooler shall be attached to any wall or window of a residence. Any air conditioning apparatus or evaporative cooler must be concealed from public view as viewed from the street.

Section 4.12 Walls, Fences and Hedges.

Walls and fences must be of stucco, ornamental iron, rock or masonry construction, or combination thereof. Stucco for fences and walls is the preferred construction material, as stucco blends into the desert more readily than rock wall, and appears more natural in character. Walls and fences must blend with the exterior color of the residence, and of a color approved for use within the Las Estancias De Picacho community. Walls erected for the purpose of screening views may not exceed six (6) feet in height and whenever possible, would consist of the lower half solid and the upper half open (wrought iron) picket style. Lot perimeter walls are not permitted. No chain link fences will be permitted



Ownership of any wall, fence or hedge erected by Declarant as a protective screening on any Lot shall pass with title to such Lot and it shall be the Owners responsibility to maintain thereafter and evermore. In the event of default on the part of the Owner or occupant of any Lot in maintaining said protective screening and such failure continuing after ten (10) days' written notice thereof, Declarant or its successors or assigns may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause said protective screening to be repaired or maintained or to do any other thing necessary to secure compliance with this Declaration or any Supplemental Declaration, so as to place said protective screening in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot to pay such statement immediately upon receipt thereof. Side walls must be within the property line or may be centered on the property line of the adjoining Lots, as mutually agreed by the owners of the adjoining lots.

Wall, Fence, and Hedge Details (Include Illustration of Heights/Types in Elevation Format)





Section 4.13 Sporting Activities (Courts, Goals, Ramps, Etc.).

The sounds of a basketball bouncing on a hard surface, tennis rackets volleying back and forth, or skateboards chattering up a ramp are loud and common complaints from residents in upscale neighborhoods. In order to protect those residents who wish to experience an upscale neighborhood in a naturally quiet desert setting, basketball goals, skateboard ramps, or any other outdoor sporting equipment or accessories may not be installed without the prior approval of the LEC.

Section 4.14 Ornamentation (Including Street Numbers).

Exterior ornamentation such as artwork, sculpture and etcetera shall not be visible from the street or from a neighboring lot, or cause a nuisance as determined solely by the LEC. This does not prohibit displaying the house address on stone in the front yard. The LEC reserves the sole right to approve the way that the house address is displayed in front of the residence, and will adhere to the overall design philosophy in such determination.

As a guide, please refer to the following examples of street numbering designs:



SECTION V

CONSTRUCTION REQUIREMENTS



Note the preservation of natural landscape around the house and the stem wall construction.

Section 5.1 Minimum Construction Standards.

The Lifestyle Enrichment Committee reserves the right to modify the existing design guide in the future as required

- (a) **LEC Approval of plans** must be received by owner in writing from the LEC prior to any work commencing on any lot. Plans should be submitted to the LEC for approval *prior* to submittal to local government authorities. The prior approval of plans by the LEC will minimize time and effort spent in the case of changes required by the LEC. The Design team will meet with the owner/builder before construction begins to insure that there is a good understanding of the design guide, its philosophy and the top several items that have been historically flagged as probable issues.
- (b) **All appropriate government approval** of plans must be received by owner and/or builder in writing prior to any work commencing on any lot and a copy of such approval must be submitted to the LEC. Local government approvals do not imply LEC approval.
- (c) **Permitted plans** are required to be kept on site at all times once construction begins, and the LEC reserves the right to inspect these plans and insure that they are in compliance and agreement with the set the LEC was presented during Construction Document review. Periodic inspections by the LEC or Reviewer, including but not limited to, verification of disturbed areas, verification of slab location and construction, and verification of finished floor elevation, may take place at the discretion of the LEC, anytime after construction has commenced.
- (d) **Material storage** must be within the LEC approved buildable pad area of the lot. No materials may be stored on streets or neighboring lots.

- (e) **Trash** receptacles/dumpsters must be provided as needed for debris and trash removal. All trash and debris must be removed from the jobsite at the end of each day by the owner or contractor. Dirt, mud and sand that collects in the street due to the work on the improvement must be removed at the end of each day. Failure to clean the job site may result in a fine of one-hundred dollars (\$100.00) per occurrence. Failure to clean the site within 48 hours after being notified of the failure, the LEC may hire services to clean the area, and the cost may be charged to the owner of the lot.
- (f) **Sanitation facilities** shall be provided and maintained by the owner or builder for workers. Portable facilities locations and length of use must be approved by the LEC, to minimize odor and visual impact to the neighborhood.
- (g) **Construction parking** shall not block traffic on streets. Vehicles must be parked in a manner that does not disturb landscaping. Overnight parking of construction vehicles and/or equipment is prohibited.
- (h) **Hours of construction** shall be from 7 AM to 6 PM on Weekdays, and 8 AM to 6 PM on Weekends.
- (i) **Construction signage** will consist of a Picacho Mountain Standard Sign that will be used on all constructions sites. This signage will be supplied by Picacho Mountain.
- (j) **Property damage** caused by construction activity must be repaired at the expense of the owner of the lot on which the construction activity which caused the damage is occurring.
- (k) **Prohibited conduct** of contractors, sub-contractors, builders and their agents or employees include the following expressly prohibited activities that are offensive as determined solely by the LEC:
 - a. Vehicular access of or transport over any undeveloped area of Picacho Mountain.
 - b. Vehicular access of or transport over any common area, trail or pathway.
 - c. Removal of any plant, rock or soil from any property in Picacho Mountain, including any other lot, common area, or undeveloped area.
 - d. Pets may not be brought to the work site.
 - e. Having an open fire
 - f. Use of alcohol or drugs
 - g. Use of profane language
 - h. Having loud music/radios
 - i. Speeding vehicular traffic
- (l) **Exterior construction** of the primary residential structure, garage, porches, and any other buildings appurtenances or appendages of every kind and character on any Lot and all landscaping in front yards and side yards abutting streets shall be subject to the following construction time table:

Construction Timeline:

Pad Site Dirt Work -----May not begin until lot owner is ready to undertake all construction needed to complete the residence, and must be complete within two (2) months from start of pad site dirt work. This work shall include any planned retaining walls.

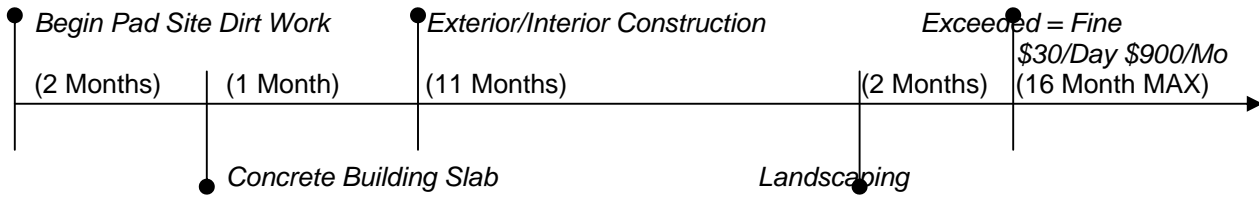
Concrete Building slab-----Must be complete within three (3) months from start of work on Pad Site Dirt Work.

Exterior/Interior Construction----Must be finished within Fourteen (14) months from the start of work on Pad Site Dirt Work.

Landscaping-----Must be complete within sixteen (16) months from the start of work on Pad Site Dirt Work.

Exceeded Timetable---Any Owner of any lot that is being improved shall be assessed thirty dollars (\$30.00) per day payable to the Picacho Mountain Homeowners Association for each day or portion thereof that exceeds the construction timetable set forth in this section 4.01 k.

Graphic Timeline Representation:



- (m) **No window or wall-type air conditioners** shall be permitted to be used, placed or maintained on or in any building in any part of the Properties.
- (n) **Approval of landscaping** must be given by the Lifestyle Enrichment Committee before landscaping shall be done in the front of any newly constructed residential structure. Such landscaping is to be done in/around the driveway area and on the front of the Lot as viewed from the street at the time the residential structure is being completed and before occupancy. Please refer to section 6 for details concerning landscaping design and to section 2 for landscaping plan submittal and review procedures.
- (o) **Exterior antennas, aerials, satellite dishes, or solar collectors** or other apparatus for reception of solar energy, television, radio, satellite or other signals of any kind shall not be placed, allowed, or maintained upon any portion of any Lot which is visible from any street, common area or other Lot unless it is impossible to receive signals from another location on the lot that is concealed from public view. In that event, the receiving device may be placed in a visible location as approved by the Lifestyle Enrichment Committee. The Lifestyle Enrichment Committee may require as much screening as possible while not substantially interfering with reception.
No satellite dishes shall be permitted which are larger than one (1) meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline, or exceed the height of the parapet wall. No exterior antennas, aerials, satellite dishes or other apparatus which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of any Lot without prior approval by the LEC. This subpart shall be interpreted to be as restrictive as possible while not violating the Telecommunication Act of 1996, as may be amended from time to time.
The use of solar energy collection is encouraged; however, the placement of these panels must be such that they do not negatively impact the visual aesthetics of the home and/or neighborhood, as solely determined by the LEC.
- (p) **Utilities (Gas, Water, & Electricity)** shall be run from stub out to house in the least destructive manner possible. Anywhere possible, the utilities should follow the shortest possible path to the home without undue destruction of the natural environment. In either case, anywhere visible destruction occurs, the LEC reserves the right to enforce mandatory re-vegetation of the natural landscape at the expense of the site's owner.

Section 5.2 Pad Construction.

It is recommended that each lot have a soils boring performed and a geotechnical engineering report provided prior to construction of the pad. The recommendation of the engineer should be followed, and each pad built to the recommended specification. Such borings and reports in the Las Cruces area may be obtained from several companies who perform this service including Dan Cospo (575)642-7671 and Precision (575)523-7674. This may add a small cost to the overall construction budget; however the long term benefit and assurance of having an engineered house pad in this sandy desert environment should be considered. Additionally, please refer to section 2.1 for details on recommended foundation/pad designs that help minimize the negative impact on the desert landscape surrounding the proposed home.

SECTION VI

LANDSCAPE REQUIREMENTS



General Notes

Picacho Mountain encourages each lot owner to engage the service of a qualified landscape architect or designer. The quality of mature landscaping can add many thousands of dollars to the value of a home, and is a major element of any neighborhood. The time and effort spent in this area will reward the owner both during residence and at resale.

Please note that even though you may not enlist the assistance of a landscape architect or designer, a detailed landscaping plan and plant list will still be required per the requirements noted in Section 2.2.

Section 6.1 Landscape Plant and Tree Height.

Trees and plants used in landscaping may not exceed the height of the primary residence.

Section 6.2 Grass.

It is the intention of this section to keep those areas of the Properties visible to the street as natural as possible, and to that end, grass may not be used for lawns or landscaping on front yards, or any street frontage. Artificial

grass or natural grass of approved types may be used in areas of backyards not visible from the street at the vantage point directly in front of the center of the home.

Section 6.3 Plants.

All plants used for landscaping must be approved by the LEC and included in the Approved Plant List. It is the intent of this section to limit invasive, destructive, high water use, or otherwise undesirable plants.

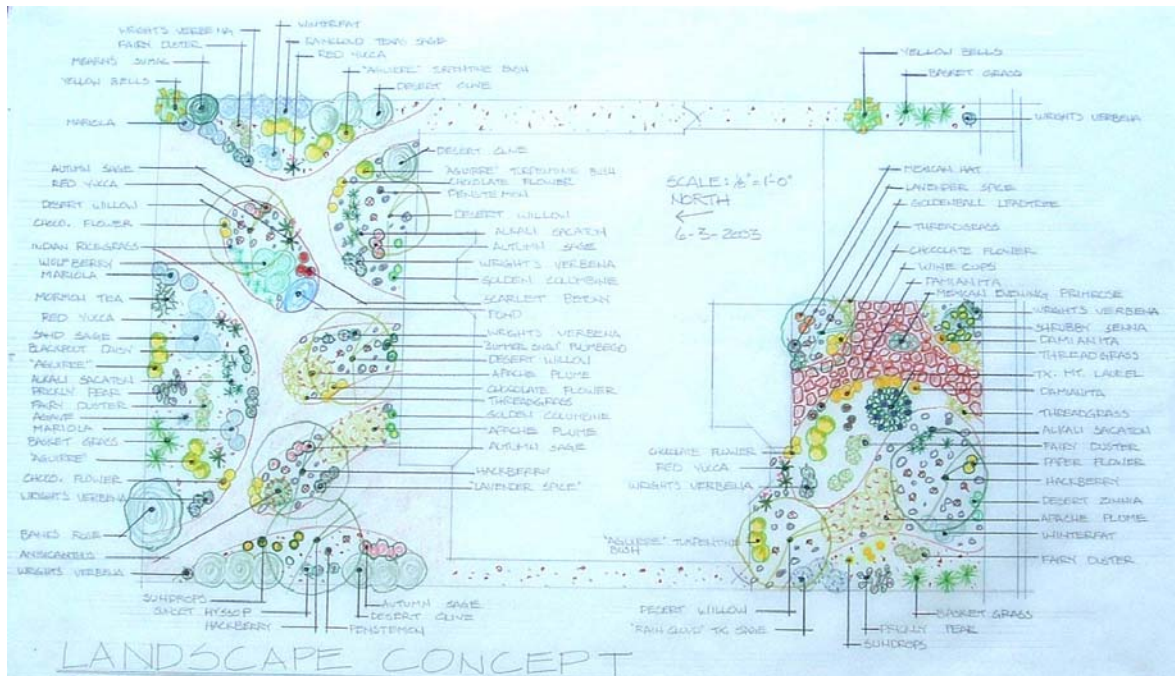
Section 6.4 Minimum Planting Requirement.

Each lot owner shall plant a minimum of:

- (a) three (3) specimen trees of a minimum of 2" caliper in the landscape area in front of the primary residence;
- (b) Other landscape plants, including shrubs, grass, perennials, succulents and additional trees, must be planted at a density to cover at least 65% of the landscaped area at plant maturity or three years, which ever comes first. The landscape plan should reflect the mature plant sizes. It is recommended that larger container size plant be used in order to obtain a mature look as quickly as possible.

Section 6.5 Sample Landscaping Plan Illustrating Requirements.

The following sample illustrates what to expect from a landscaping plan as well as the execution of the aforementioned planting requirements as well as Section 2.2 requirements:



SECTION VII DRAINAGE REQUIREMENTS



Section 7.1 Lot Site Runoff.

Lot site work and hardscape design shall provide for on site retention of runoff created by roof drains, patios, driveways and any other design feature that may create runoff. Landscape swales and other design features shall not be constructed in a manner that could lead to soil erosion, or divert runoff to neighboring lots unless they are part of existing arroyos as defined on the site plan. Runoff shall be mitigated as much as possible on grades and slopes by the use of natural desert wildflowers and plants and rock mulches if necessary. Obstruction or re-direction of drainage following the initial location and installation of drainage swales, storm sewers, drainage channels or structures is expressly prohibited.

Drainage Details



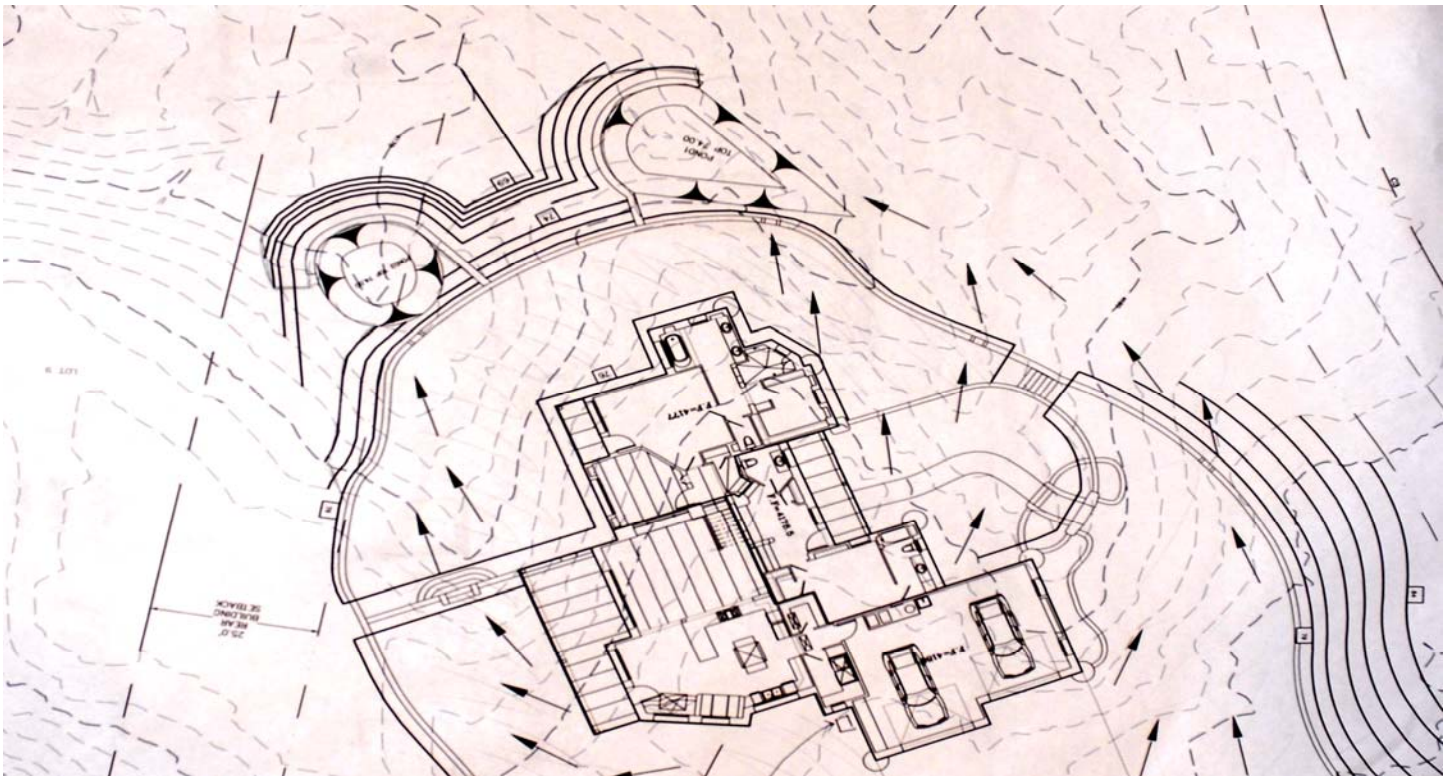


Materials used to slow runoff and stabilize slopes must incorporate multiple colors of multiple sized materials. No slope or grade shall be covered in one size or one color material. The placement of stabilization material should imitate the features of the natural terrain as closely as possible.

It is the responsibility of the owner and or builder of each lot during construction to abide by the EPA NPDES (including a Storm Water Pollution Prevention Plan) program as it pertains to individual lot construction.

Furthermore, any silt that washes into the streets as a result of improper site runoff control will be the responsibility of that site's owner to clean or repair. In the event that the silt is not properly removed, the LEC may exercise the right to clean or repair the problem and bill the site owner accordingly. Please refer to your covenants for more details in this area.

Drainage Plan Example



Note: Calculations for ponding areas and channels need to be shown.

SECTION VIII LIGHTING REQUIREMENTS



Section 8.1 Lighting.

It is the intent of this section to preserve the natural desert nighttime environment, and exterior lighting and landscape lighting should be used in a low or negligible impact manner. To this end, exterior lighting shall be limited as follows:

- a) Exterior building mounted lights may be installed for security, area or general illumination, provided such light is directed downward and away from adjacent lots, public areas, and streets.
- b) No exposed bulbs or bulbs under clear or lightly tinted protective fixtures shall be permitted.
- c) Lighting seen from the street shall be muted, and reflected or cast downward, not causing a bright spot that can impair night vision.
- d) No high power area floodlights will be permitted, and no bulbs with a lumen value greater than a seventy-five (75)-watt bulb shall be used in any exterior fixture.
- e) No light may be mounted on a pole or post.
- f) Low voltage lighting may be used to reflect against the home as accent lighting, upon review and approval by the LEC in each location.

Lighting Examples



Section 8.2 Security Lighting.

Security lighting is discouraged; including motion detector activated lighting, and may be allowed only when the following standards are satisfied:

- a) Security lighting is prohibited on any residence elevation facing a street
- b) Security lighting bulbs may not exceed seventy-five (75) watts per location.
- c) If on a switch, security lighting may not be left on past midnight, and if on a motion detector activation system, the lightning may not remain lit for more than twenty (20) minutes.
- d) Security lighting may not be used for general illumination
- e) Security lights must be shielded by a hood or shield that extends at least one (1) foot beyond the face of the lamp
- f) If problems with security lights occur, the LEC and the Association reserves the right to demand that the fixtures be disconnected, and in the case of non-compliance to cause the lights to be disconnected and the cost assessed to the homeowner.

Section 8.3 Landscape Lighting.

Landscape lighting may be used sparingly.

- a) Landscape lighting directed upward shall not be permitted due to the close proximity to the airport and the restrictions that are recorded in the ETZ articles. The only exception to this, as an example, would be on approval by the LEC to accent trees or major plants by a single shielded or hooded lighting fixture.
- b) All landscape lighting must be low-wattage, not exceeding 40watts in any single installation, and directed downward onto ground except as otherwise provided for in this section, vegetation and other ground features, not onto any reflective surface, or any other surface that may produce a glare.
- c) All wiring for fixtures must be buried below grade
- d) Colored light bulbs, lens or reflectors are not permitted.

Landscape Lighting Examples



SECTION IX AIRPORT CONSIDERATION

Airport Consideration Restriction.

The Picacho Mountain subdivision and all of the neighborhoods therein are in the Airport Operations District and are subject to the Flyover easement serving Las Cruces International Airport:

The Declarant hereby reserves to itself and for the benefit of the City of Las Cruces, New Mexico, Dona Ana County, New Mexico, the Las Cruces International Airport, and the general public at large, a perpetual easement for the free and unobstructed passage of aircraft and the unrestricted right of flight over and above the Property above a height of thirty-five (35) feet from the surface of the Property. Each Owner, by accepting title to a Lot subject to this Declaration, agrees that no structure will be constructed or erected on any Lot at a height in excess of thirty-five (35) feet above the elevation of the Lot unless any structure or improvements in excess of thirty-five (35) feet have first been approved by the LEC and any applicable governmental authorities.

In addition, each Owner, by accepting title to any Property subject to this Declaration, hereby waives and relinquishes any and all loss, liability, damage, actions, suits, proceedings, demands and claims (hereinafter collectively "Causes of Action") against Declarant, the City of Las Cruces, New Mexico, Dona Ana County, New Mexico, the Las Cruces International Airport and all organizations, entities and/or political subdivisions with responsibility for operating the same for any Causes of Action arising out of or relating in any way to the operation of aircraft over and above the Property and the ingress and egress of such aircraft to and from the Las Cruces International Airport.

By accepting any deed to any Lot or portion thereof, each Owner accepts such deed with full knowledge of the foregoing easement, disclaimer and release, the proximity of the Property to the Las Cruces International Airport, and all restrictions imposed by applicable laws, rules and regulations on the use of the Property by virtue of its proximity to the Las Cruces International Airport, or otherwise.

Glossary and Key Terminology

- Design Guide. This document.
- Declarer/Declarant. Master Developer and owner's Representative for Picacho Mountain.
- LEC - Life Enrichment Committee. Committee appointed by Declarer and formed to ensure that all design, improvements and construction meets the design criteria as established herein.
- Reviewer. Appointed by LEC and has administrative and interpretive authority both in the design review process and during construction to completion.
- Declaration of Covenants. Covenants Conditions and Restrictions or CC&Rs. Overall community guidelines that are a deed restriction on all property located within the confines of Las Estancias de Picacho Mountain community. Attached and or available upon request.
- Design Review. The three-step design process (checklists included herein) that is required by the Declarant and administered by the LEC and Reviewer.
 - Schematic Design. Develop overall rough building concept with your architect as herein described (p 10, 12, 13, 14 & 18)
 - Design Development. Requires complete submittal of architectural, preliminary landscape plan, and building material board. Includes necessary input of outside consultants including architect, soils, and civil engineers as described herein (p 10, 15 - 19).
 - Construction Documents. Includes all construction documents necessary to obtain a building permit (structural engineering & HVAC design). Also includes complete landscape design as described herein (p22 & 21).
- Extra Territorial Zone. Area of lot controlled by ordinances of the City of Las Cruces.
- Notice of Approval. Specific outlined steps necessary to begin construction.
- Non Conformance. Any work done in violation of this Design Guide, CC&Rs, and or the City of Las Cruces. Remedies for nonconformance are as described herein (p25 & 26).
- Site Requirements. In order to maintain the overall community feel, Picacho Mountain focuses a great deal of attention on the details of very specific guidelines. A special section (p27-36) has been added to this Design Guide so that adherence to the required community guidelines will translate collectively to the desired end result ... a beautiful coherent community.
- Architectural Guidelines. As outlined herein – to be used as an architect guide.
- Owner. The buyer of the lot.
- General Contractor. Licensed New Mexico contractor holding a GB98 general contractors license and who is responsible for building any improvement in Picacho Mountain.