

RECORDING REQUESTED BY:

DURYEY, MALCOLM, DALY & VITTI
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Attn: Peter D. Zeughauser, Esq.

\$ 36.00

RECORDED AT REQUEST OF
TITLE INS. & TRUST CO.
IN OFFICIAL RECORDS OF
ORANGE COUNTY, CALIFORNIA
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LEE A. DRANCO, County Recorder

WHEN RECORDED MAIL TO:

CAPRI BUILDERS, INC.
3835 Birch Street
Newport Beach, CA 92660

(Space Above for Recorder's Use Only)

DECLARATION ESTABLISHING EASEMENTS,
COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION ESTABLISHING EASEMENTS, COVENANTS,
CONDITIONS, AND RESTRICTIONS (hereinafter "Declaration") is
made on this 22nd day of January, 1979, by
TRACT 9604 JOINT VENTURE (hereinafter "Declarant") a Califor-
nia general partnership.

ARTICLE I
RECITALS

Section 1. The Property. Declarant is the owner of
certain real property (hereinafter "Property") located in
the unincorporated territory of the County of Orange, State
of California described as: lots one through seventy-seven,
inclusive, of Tract number 9604, as shown on the tract map
recorded on the 17th day of July, 1978, in Book 436 at Pages
17-22, inclusive, of the Official Records of the County of
Orange, State of California.

Section 2. Declarant's Intent. In furtherance of
a general plan for the improvements, development, and use of
the Property as a residential development, Declarant desires
to subject the Property, and every part thereof, to the
easements, covenants, conditions, and restrictions (herein-
after collectively "Restrictions") set forth in this Declaration.

ARTICLE II
GENERAL PROVISIONS

Section 1. Definitions. Unless the context
otherwise specifies or requires, for all purposes of this
Declaration, the term

(a) "Assessments" means and includes, Regular and
Special Assessments;

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(b) "Regular Assessments" means and includes any uniform charge or charges levied by the Board of Directors against each and every Lot, which charge or charges shall constitute a personal obligation of the Owner or Owners of each Lot, representing that portion of the expenses attributable to each Lot incurred or to be incurred by the Association pursuant to this Declaration;

(c) "Special Assessments" means and includes a uniform charge or charges levied by the Board of Directors against each and every Lot, which charge or charges shall constitute a personal obligation of the Owner or Owners of each Lot, representing that portion of the cost to the Association for (i) the prosecution of any and all actions, including, but not limited to, the filing and prosecution of a lawsuit, whether at law or in equity, and the payment of attorneys' fees therefor, reasonably necessary to enforce the provisions of this Declaration; and (ii) the erection, installation, construction, reconstruction, replacement, or repair of any Improvement in or on an estate owned by the Association pursuant to this Declaration;

(d) "Owner" means and refers to an owner, as shown by the official records of the County of Orange, whether one or more persons, partnerships, corporations, trusts, or other entities, of an estate, whether freehold or less than freehold, in a Lot, including a contract seller of a Lot, any Security Holder while he has possession of a Lot or after he has become the owner of an estate in a Lot pursuant to judicial foreclosure, foreclosure by power of sale, delivery of a deed in lieu of foreclosure, or any other procedure, and a purchaser of a Lot at any such foreclosure sale, but not including (i) a Security Holder while he does not have possession of a Lot and before he has become an owner of an estate in a Lot; and (ii) the Owner of a leasehold estate in a Lot;

(e) "Improvement" means and includes a Developer's Wall, Fence, Plant, Hedge, and any and all other structures or landscaping of any type or kind, including, but not limited to, a building, road, driveway, parking area, wall, wind break, planting, tree, shrub, pole, sign, or exterior lighting;

(f) "Owner Improvement" means and includes an Improvement placed, planted, constructed, erected, or installed, or caused to be placed, planted, constructed, erected, or installed, by any individual or entity other than Declarant, but shall not mean or include an Improvement placed, constructed, erected, or installed by order of and in accordance with plans and specifications of a governmental authority with appropriate jurisdiction;

(g) "Fence" means and includes an Improvement that is commonly known as a fence or wall, the purpose of which is ornamental, or to completely enclose or partially enclose or shield or otherwise protect a Lot or any portion thereof or Improvement thereon;

(h) "Plant" means and includes any and all members of the group of living organisms other than an animal, the cells of which contain chlorophyll, which, upon achieving maturity, and without clipping or pruning thereof, might normally be expected to exceed nine (9) feet in height, measured from ground level, except (i) in the event the Plant is part of a Hedge, in which event the aforementioned definition is limited to such an organism which, upon achieving maturity, might normally be expected to exceed three (3) feet with respect to height measured from ground level; and (ii) any such organism placed or planted on or in the Property by Declarant shall not be included in this definition;

(i) "Hedge" means and includes a Plant or row of Plants commonly known as a hedge, which Plant or row of Plants, without clipping or pruning thereof, might normally be expected to exceed three (3) feet in length, measured from the outermost leaf of the Plant or Plants comprising the row;

(j) "Security Holder" means and refers to a beneficial holder of a Security Instrument, whether a mortgagee, a beneficiary of a deed of trust, or otherwise;

(k) "Security Instrument" means and includes a mortgage, a deed of trust, or any other instrument that encumbers an estate in a Lot or an Improvement in or on a Lot and is granted as security for the payment or performance of an obligation;

(l) "Lot" means and refers to a parcel of land designated as a lot on a parcel map, tract map, or a subdivision map, or on any other survey of record recorded in the Official Records of the County of Orange on which there has been or will be constructed a single-family residence, but shall not mean or include any public street;

(m) "Property" means and includes the property described under "I. RECITALS, Section 1. The Property" next above;

(n) "Association" shall mean and refer to Marinita Homeowners Association, a nonprofit corporation, incorporated under the laws of the State of California, and its successors and assigns;

(o) "Member" shall mean and refer to each and every person, partnership, corporation, trust, or other entity holding membership in the Association;

(p) "Board of Directors" shall mean and refer to the Board of Directors of the Association;

(q) "Architectural Committee" shall mean and refer to the committee established under "ARTICLE VII, ARCHITECTURAL CONTROL" below;

(r) "Slopes" shall mean and refer to those areas designated as such and located approximately as shown on the map attached hereto as Exhibit "A" and incorporated herein by this reference (hereinafter "Exhibit 'A'") and shall be the entire area that is actually graded as slope by Declarant, including, but not limited to, any and all concrete or other drainage ditches located at the foot of such an area;

(s) "Relevant Lot" shall mean and refer to those Lots identified as Lot numbers 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 50, 51, 52, 53, 54, 55, 56, 57, 58, 62, 63, 64, 65, 69, 70, 71, 72, 73, 74, and 75 on Exhibit "A";

(t) "Project" shall mean and refer to all of the development commonly known as Marinita, constructed or to be constructed on the Property, together with each and every Improvement constructed or to be constructed thereon;

(u) "Developer's Walls" shall mean and refer to those walls constructed or to be constructed by Declarant upon the Property prior to the Sale of the Lot first sold and shall include, but not be limited to, any monument or other Improvement of a kind commonly used for identification of the Project;

(v) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association;

(w) "Bylaws" shall mean and refer to the Bylaws of the Association;

(x) "Sale" shall mean and refer to the grant, transfer, or alienation by Declarant of an estate other than a leasehold in any Lot, for a valuable consideration, the occurrence of which shall be deemed to occur when all documents to be recorded pursuant to such grant, transfer, or alienation have been recorded;

(y) "Open Space Areas" shall mean and refer to those areas designated as such and located approximately as shown on Exhibit "A" and shall be the entire portion of the Property actually landscaped as an open space area by Declarant;

(z) "Maintain" shall mean and include any and all work that a reasonable and prudent individual or entity would perform or cause to be performed as an Owner in order to improve his Lot and the Property and prevent same from depreciating in value or deteriorating in appearance, and shall include construction, reconstruction, replacement, painting, and repainting of Improvements and landscaping and normal upkeep of landscaped areas. This definition shall include all tenses of the verb maintain and as the context requires, adaptation of the verb to the noun form (i.e., maintenance).

Section 2. Purpose of Restrictions. The purpose of the Restrictions is to ensure proper and orderly improvement, development, and use of the Property and every portion

thereof as a residential development, to protect each Owner against improper improvement, development, or use of any part of the Property as would depreciate the value of any Lot, to secure and maintain proper and adequate easement areas, and in general, to enhance and protect the value, desirability, and attractiveness of the Property and every part thereof.

Section 3. Establishment of Restrictions.

Declarant, as owner of the Property, hereby declares that the Property and every part thereof is now held, and shall hereafter be held, transferred, encumbered, sold, leased, conveyed, or otherwise alienated, used, and occupied subject to the Restrictions contained in this Declaration, each and all of which Restrictions are for, and shall inure to, the benefit of and pass with each and every part of the Property and shall apply to and bind each and every part of the Property and the heirs, assignees, and successors in interest of each and every Owner, it being the intent of Declarant that all of the Restrictions shall run with the land and be binding on any and all parties having or acquiring any right, title, or interest in the Property or any part thereof, and shall inure to the benefit of each and every Owner and are imposed upon said interest and every part thereof as a servitude in favor of each and every Lot as a dominant tenement.

Section 4. Marinita Homeowners Association. In furtherance of this Declaration, Declarant will have incorporated or caused the Association to be incorporated, prior to the recordation of this Declaration, as Marinita Homeowners Association, a corporation, which Association shall have any and all powers reasonably necessary to maintain and enforce the Restrictions and each and every other provision of this Declaration.

ARTICLE III
MEMBERSHIP

Section 1. Membership.

(a) Every Owner shall be a Member of the Association and shall be obligated to abide by and conform to the terms and conditions of this Declaration, including, but not limited to, the Restrictions, and the Articles of Incorporation and Bylaws as same are enacted and from time to time amended. Membership shall be appurtenant to, and shall not be separated from, the ownership of a fee interest in any Lot.

(b) There shall be no qualifications for Membership other than those set forth in this section.

(c) Membership shall not be transferred, conveyed, hypothecated, or alienated in any way, except upon the Sale or encumbrance of a Lot, and then only to the new Owner of the Lot by virtue of said Sale, or to a Security Holder in possession of the Lot. The transfer, conveyance, hypothecation, or alienation of a membership in violation of this section

shall not be entered nor reflected upon the books and records of the Association. In the event an Owner fails, refuses, or neglects to, or otherwise obstructs the transfer of a membership pursuant to a Sale or encumbrance, the Association shall record said transfer, conveyance, hypothecation, or alienation in the books and records of the Association.

Section 2. Voting Rights. Each and every Member shall be entitled to cast one vote for each Lot in which he holds an interest required for membership. In the event more than one person owns such an interest or interests in any Lot, (a) all such persons together shall be entitled to one vote and shall cast such vote as they among themselves determine; (b) it shall be conclusively presumed that, upon the casting of a vote by one of such persons, the person who cast the vote had any and all authority reasonably necessary for him to do so at the time the vote was cast; and (c) in no event shall more than one vote or a fraction of one vote be cast with respect to any Lot. Voting rights shall be subject to the terms and conditions of this Declaration, the Articles, and Bylaws.

ARTICLE IV EASEMENTS

Declarant hereby reserves in itself, and its successors and assigns, and shall grant to the Association, prior to the Sale of the first Lot sold, a nonexclusive easement in the Slopes for any and all purposes related to the Maintenance of the Slopes. The use of the Slopes shall be limited to open space purposes and the terms of the easement shall prohibit the construction or placement of any Owner Improvement on the Slopes including, but not limited to, any Fence, Plant, or Hedge except as may be reasonably necessary for the Maintenance of the Slopes and the health, safety, and welfare of those who venture or attempt to venture onto the Slopes.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Purpose of Assessments. Any and all Assessments levied by the Association shall be used exclusively for purposes that the Board of Directors, within its sole discretion, determines are reasonably necessary to protect the value, desirability, and attractiveness of the Property, including, but not limited to, the Slopes.

Section 2. Assessments Constitute a Lien. Each and every Owner, by acceptance of a deed for a Lot, or any portion thereof, whether or not stated in such deed, covenants and agrees to pay to the Association Assessments levied by the Association against each and every Lot owned by said Owner, together with interest thereon and costs of collection thereof, including, but not limited to, reasonable attorneys' fees and taxable costs, as hereinafter provided, which Assessments, interest and costs shall be a charge on and constitute a continuing lien (hereinafter "Lien") upon the

Lot against which each Assessment is made. Each and every Assessment, together with the aforementioned interest and costs, shall constitute a personal obligation of the Owner of the Lot against which the Assessment is made at the time the Assessment became or becomes due and payable. Said personal obligation shall not pass to the Owner's successors in title unless expressly assumed by said successors.

Section 3. Regular Assessments. The amount of, and date on which, Regular Assessments shall be due and payable shall be established by the Board of Directors pursuant to the Articles of Incorporation and Bylaws after giving due consideration to the reasonable current Maintenance costs and cost of other needs of the Association, except as provided in Section 4 next below; provided, however (a) Regular Assessments shall commence for all Lots on the first day of the month following the sale of the Lot first sold; (b) that no Regular Assessment, per Lot, shall exceed by twenty percent (20%) or more the Regular Assessment per Lot for the next preceding year without the vote or written approval of a majority of the Members as provided for in the Bylaws; (c) that, in the event Declarant or a successor in interest to Declarant who is the owner of five (5) or more Lots casts a vote or votes for approval, such vote or votes shall be excluded from the number of votes required to determine the number of votes required for approval. The Board of Directors shall cause a written notice of the amount of each Regular Assessment to be sent to each and every Owner, which notice shall specify the date on which the Regular Assessment shall be due and payable.

Section 4. Reserve Fund for Maintenance of Slopes. Declarant shall, upon the Sale of each Lot, collect from the purchaser of said Lot the purchaser's pro rata share of expenses incurred for the Maintenance of the Slopes prior to such Sale, which pro rata share shall be determined by Declarant, and deposit any and all money collected thereby into a reserve fund (hereinafter "Fund") created by Declarant. Declarant shall have the authority to withdraw from the Fund, from time to time, money reasonably necessary to Maintain the Slopes for the benefit of all Owners except that Declarant may not withdraw or spend any money from the Fund to pay for the cost of any labor or material incurred in connection with the construction of any part of the Project which is part of Declarant's original final plans and specifications for the Project. Within thirty (30) days following the first meeting of the Association, Declarant shall present to each Owner a written accounting of the deposits and withdrawals from the Fund from the date of establishment thereof, and any surplus remaining in the Fund, subsequent to said accounting, shall be paid by Declarant to the Association, or to any officer or agent of the Association designated in writing by the Board of Directors, as custodian for the Association.

Section 5. Special Assessments. The Board of Directors may levy, in any calendar year, a Special Assessment applicable to that year only. Special Assessments may be levied only for the purpose of (a) prosecution of any and

all actions, including, but not limited to, the filing of a lawsuit, whether at law or in equity, and the payment of attorneys' fees and costs, whether or not taxable therefor, reasonably necessary to enforce the provisions of this Declaration; and (b) defraying, in whole or in part, the cost of any Maintenance for which the Association is responsible. Any proposal to levy a Special Assessment shall be in writing and shall specifically describe the Improvement or Slope or Slopes which it concerns and the cost of the Maintenance to be performed thereon, which cost shall be based upon an estimate or estimates obtained by the Board of Directors from a responsible individual or entity capable of performing or causing the performance of the Maintenance. In the event the cost of the Maintenance exceeds five percent (5%) of the Association's budgeted gross expenses for that fiscal year, then the Special Assessment shall require the approval of a majority of the Members; provided, however, in the event Declarant or a successor in interest to Declarant who is the Owner of five (5) or more Lots casts a vote or votes for approval, such votes shall be excluded from the number of votes required to determine the number of votes constituting a majority and from the number of votes required for approval, at a meeting duly called for the purpose of voting on said Special Assessment, written notice of which, setting forth the time, date, place and purpose of the meeting, shall be sent to each and every Member not less than ten (10) days in advance of the meeting.

Section 6. Uniform Rate of Assessment. Any and all Assessments shall be assessed against each Lot at a uniform rate and shall not be due and payable more than once per month.

Section 7. Certificate of Payment. The Association shall, on demand, furnish to any Owner, a dated certificate in writing signed by an officer of the Association, stating whether or not any Assessment, or any portion thereof, made against that Owner's Lot have been paid, and the amount of any unpaid Assessment, if any. The Association may require an Owner to pay a reasonable charge for the issuance of such a certificate. Presentation of such a certificate shall be conclusive evidence of the amount of any unpaid Assessment such certificate bears.

Section 8. No Abandonment. Abandonment of a Lot shall not cause the Lot or the Owner to be released or exempt from personal liability for Assessments duly levied by the Association.

ARTICLE VI FAILURE TO PAY ASSESSMENT

Section 1. Delinquency. Any Assessment not paid when due shall be delinquent. Delinquent Assessments shall bear interest from and after the date of delinquency at the rate of ten percent (10%) per annum, compounded annually. The Association shall have the right and power, at its option, to bring an action at law against an Owner or Owners for the

purpose of (a) obtaining a personal judgment against such Owner or Owners in the amount of the delinquent Assessment, plus such other amounts provided for in this section or by law, (b) foreclosing against a Lien in accordance with "Section 2. Notice of Lien" next below; and, in addition thereto, shall have the right and power to employ any other reasonable collection procedures and seek any other remedy against an Owner or Owners to collect an Assessment or Assessments levied against such Owner or Owners' Lot or Lots. In the event one or more of the foregoing procedures is commenced against an Owner or Owners to collect a delinquent Assessment or Assessments, there shall be added to the amount due under said Assessment or Assessments, interest thereon at the rate of ten percent (10%) per annum compounded annually and a reasonable charge for any and all expenses incurred by the Association in making the collection, including, but not limited to, reasonable collection costs, the cost of preparation and filing of a complaint in any legal action, and for reasonable attorneys' fees and other costs, whether or not taxable, incurred in the prosecution of such action. The right of each and every Owner to foreclose on a Lien, collect a delinquent Assessment, and bring an action at law against any Owner or Owners for the collection of a delinquent Assessment shall be vested in the Association.

Section 2. Notice of Lien. No foreclosure on a Lien or action at law or in equity other than an action brought to obtain a personal judgment against an Owner or Owners as described under "(a)" of "Section 1. Delinquency" next above shall be commenced until and after thirty (30) days from the date that a notice of a claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot subject to the delinquent Assessment. A copy of every such notice shall be filed or recorded, as appropriate, by the Association in the Office of the County Recorder in and for the County of Orange. Each such notice shall contain a good and sufficient legal description of the Lot against which the Assessment is delinquent, the name of the record Owner or reputed Owner thereof, the amount claimed under the Assessment (which shall include interest on the unpaid Assessment at the rate of ten percent (10%) per annum, plus reasonable attorneys' fees and expenses of collection, all as of the date of such notice, incurred in connection with the collection of the Assessment).

Section 3. Foreclosure Sale. Any sale conducted to foreclose on a Lien under this Declaration shall be conducted in accordance with the applicable provisions of the California Civil Code, including, but not limited to, Section 2924, et seq., as same is amended from time to time, or any successor statute applicable to the exercise of private or non-judicial powers of sale pursuant to a mortgage or deed of trust, or in any other manner permitted or provided by law. The Association, through an agent or agents duly authorized by the Board of Directors, shall have the power

to bid on any Lot for sale at a foreclosure sale, and to acquire and hold, lease, mortgage, convey, transfer, or otherwise alienate the same.

Section 4. Curing of Default. In the event a delinquent Assessment is paid in full subsequent to the recordation of a notice of claim of lien filed by the Association, any duly elected officer of the Association, upon approval by the Board of Directors, is hereby authorized to file or record, as appropriate, a release of such notice, upon payment by the Owner or Owners of the Lot or Lots against which the delinquent Assessment was owing, a fee, to be determined by the Board of Directors, in payment of the costs of preparing and filing or recording such release, together with the payment of any and all other costs, including, but not limited to, reasonable collection costs, taxable costs, attorneys' fees, interest or other fees incurred in the collection of the delinquent Assessment.

Section 5. Cumulative Remedies. The Association's rights and powers to collect delinquent Assessments under this ARTICLE shall be in addition to and not in substitution for any and all other rights and remedies which the Association and its successors and assigns may have under this Declaration and the law, including, but not limited to, a suit to recover a money judgment for delinquent Assessments.

Section 6. Subordination of Assessment Liens. If any Lot subject to a Lien that is a purchase money first encumbrance is the subject of a Security Instrument: (a) the foreclosure of such Lien shall not operate to impair or otherwise affect the obligation secured by such Security Instrument; and (b) foreclosure under the Security Instrument shall not operate to impair or otherwise affect such Lien, except that a Lien created under this Declaration for any Assessments that shall have been levied up to and including the foreclosure under the Security Instrument shall be subordinate to the lien created by the Security Instrument, with the purchaser at any foreclosure sale of such Security Instrument taking title free of the lien created under this Declaration for all Assessments and other charges, if any, assessed against the Lot up to the time the sale made by the foreclosure agent or trustee is final/ but subject to the Lien created under this Declaration for the Assessments and any and all other charges that shall be assessed against the Lot subsequent to foreclosure under the Security Instrument.

ARTICLE VII ARCHITECTURAL CONTROL

Section 1. Establishment. The Association shall have an Architectural Committee, as provided for in this ARTICLE, the purpose of which shall be to preserve the architectural integrity and design of the Project.

Section 2. Appointment of Architectural Committee.

The representatives first appointed to the Architectural Committee shall be appointed by Declarant and shall consist of not less than three (3) nor more than five (5) representatives none of whom need be Members, provided, however, that all non-Member representatives shall be architects, landscape architects, engineers, or others trained or experienced in the business of real estate development. Declarant shall have the authority to fill vacancies on the Architectural Committee, and non-Member representatives appointed to the Architectural Committee by Declarant shall remain in office, until the earlier of: (a) one (1) year from the date of recording of this Declaration; (b) the date on which ninety percent (90%) of the Lots in the Project have been sold; or (c) the fifth (5th) anniversary of the issuance of the Department of Real Estate's Final Public Report for the Project. From and after such time or event, as the case may be, the Board of Directors shall, from time to time as vacancies occur, appoint Members only to serve as representatives on the Architectural Committee. Each representative so appointed shall hold office until death, resignation, or removal by the Board of Directors or until the Board of Directors appoints a successor. Representatives on the Architectural Committee shall be subject to removal by the Board of Directors at any time with or without cause, except that Declarant only shall have the right to remove a representative of the Architectural Committee, with or without cause, during the period that Declarant is vested with authority to appoint representatives thereto.

Section 3. Architectural Fee. The Architectural Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to this ARTICLE. In the event a fee is charged the applicant shall be notified of the amount of such fee, and such fee shall be due and payable before such plans and specifications are approved or disapproved by the Architectural Committee. The amount of such fee shall not exceed the cost of considering the plans and specifications, which shall include, but not be limited to, costs incurred in connection with the consultation with or employment of any architect, landscape architect, engineer, or other individual or entity for the purpose of obtaining advice respecting said plans and specifications.

Section 4. General Provisions.

(a) The representatives on the Architectural Committee shall not be entitled to any compensation for services performed pursuant to this Declaration.

(b) The powers and duties of the Architectural Committee shall cease on and after forty (40) years from the date of the recording of this Declaration. Thereafter, any and all approvals referred to in this ARTICLE shall not be required unless, within one (1) year prior to said date and effective thereon, a written instrument shall be executed and duly recorded by the then Owners of a majority of the

Lots then subject to this Declaration, appointing a representative or representatives and granting unto said representative or representatives any and all authority and powers theretofore vested in the Architectural Committee.

Section 5. Development Standards. The Architectural Committee, in its discretion may, from time to time, promulgate, and cause to be published and distributed to Members, standards for work and materials related to landscaping, including, but not limited to, the planting or placement of Plants, Hedges, and other Owner Improvements.

Section 6. Architectural Approval. No Owner Improvement shall be constructed, erected, or Maintained on the Property, or any part thereof, nor shall any exterior addition to or change or alteration thereof, including, but not limited to, the stuccoing, restuccoing, siding, residing, painting, repainting or coloring with a shade, hue, or color different from the original such shade, hue, or color, or any other method of alteration or modification of the appearance of the exterior of any Improvement, or part thereof situated upon a Lot within five (5) feet of any Lot, be commenced unless and until the plans and specifications showing the materials of which the Owner Improvement will be composed and the height and location (including, but not limited to, setback lines) of the Owner Improvement have been submitted to, and approved in writing, as to harmony of external design and location in relation to surrounding Improvements and topography, by the Architectural Committee. In the event the original shade, hue, or color is not known or ascertainable, then any of the aforementioned alterations or modifications of the appearance of an Improvement shall be approved by the Architectural Committee in accordance with this ARTICLE.

Section 7. Time Limit. In the event the Architectural Committee fails to approve or disapprove the plans for an Owner Improvement within sixty (60) days after the plans and specifications have been submitted to it, the requirements of this ARTICLE shall be waived as to said plans and specifications only, but not as to any alteration, modification, or other change in said plans and specifications, or any alteration, modification, or other change in any Owner Improvement constructed, erected, or maintained pursuant to said plans and specifications. The aforementioned sixty (60) days shall be measured from the earlier of the date on which (a) all representatives on the Architectural Committee have received a copy of the plans and specifications; or (b) the first meeting of the Architectural Committee after the plans and specifications have been submitted to any one representative on the Architectural Committee, provided, however, that, in no event shall the sixty (60) days be measured from a date earlier than the date on which the fee, if any, for consideration of such plans and specifications has been paid pursuant to "Section 3. Architectural Fee" of this ARTICLE, and provided further, however, that the Architectural Committee shall have the power to disapprove of any such plans and specifications at any date prior to the commencement of construction or work pursuant to such

plans and specifications. The date of commencement shall be the date on which substantial work has been completed or expenditures have been incurred other than expenditures incurred in connection with the preparation of plans and specifications and other expenditures made in connection with compliance with the requirements for approval under this ARTICLE.

Section 8. Landscaping and Fence Approval. No Plant, Hedge, or Fence shall be planted, placed, erected, constructed, or installed in or on a Relevant Lot and no Fence shall be placed, erected, constructed, or installed on a Lot unless and until the plans and specifications for the placement or planting of such Plant or Hedge, or erection, construction, or installation of such Fence have been submitted to and approved in writing by the Architectural Committee, which Committee shall take into consideration as a substantial factor in determining whether to approve or disapprove of such plans and specifications the preservation of the natural view and aesthetic beauty which Declarant intends the Owner of each Relevant Lot to enjoy; provided, however, that,

(a) the aforementioned plans and specifications shall show in detail the proposed elevations and locations of each and every Plant, Hedge, or Fence intended to be planted, placed, erected, installed, or constructed including the location and elevation of same in relation to each and every Relevant Lot subject to this Declaration, at the time that said Plant, Hedge, or Fence is intended to be planted, placed, erected, installed, or constructed, and respecting each and every Plant and Hedge, at the time of their expected maturity. The Architectural Committee may disapprove of said plans and specifications if, in the reasonable opinion of the Architectural Committee, the view from any Relevant Lot would be impeded or otherwise adversely affected by the intended location of such Plant, Hedge, or Fence. The Architectural Committee shall have the right and power to require any Member, from time to time, to remove, trim, "top", or prune any Plant or Hedge and Maintain any Fence which the Architectural Committee reasonably believes impedes or might impede or otherwise adversely affects or might adversely affect the view from or aesthetic beauty of any Relevant Lot;

(b) under no circumstances shall any Plant or Hedge be placed or planted in or on a Relevant Lot by an individual or entity other than Declarant, which, upon achieving its normal maturity, might reasonably be expected to extend above the ridgeline of the residence on the Relevant Lot of the Owner desirous of planting or placing such Plant or Hedge, except to replace such a Plant or Hedge planted by Declarant and only if such replacement is with a Plant or Hedge of identical species;

(c) no Owner shall be permitted to construct, erect, or install a Fence on a Lot, and the Architectural Committee shall not have the discretion nor authority to

approve the construction, erection, or installation of a Fence, and such lack of authority or any failure to act in connection therewith; shall not cause nor result in automatic approval under "Section 6. Architectural Approval" next above, if the Fence (i) will be greater than six (6) feet in height measured from ground level, at any point along the Fence line; (ii) is to be constructed, erected, or installed on a Relevant Lot and that portion of the Fence which extends ten (10) feet or more beyond the original rear building line of the residence on such Relevant Lot is less than eighty percent (80%) transparent for any portion of the Fence exceeding four (4) feet in height; or (iii) is not, in the sole discretion of the Architectural Committee, of a quality and composition equal to or better than the five (5) types of Fences described in Exhibit "B" attached hereto and incorporated herein by this reference (hereinafter "Exhibit 'B'"); and

(d) no Owner shall be permitted to construct, erect, or install a Fence on a Lot, and the Architectural Committee shall not have the discretion nor authority to approve the construction, erection, or installation of a Fence, and such lack of authority shall not cause nor result in automatic approval under "Section 6. Architectural Approval" next above, if the Fence (i) will be greater than six (6) feet in height measured from ground level; or (ii) is not, in the sole discretion of the Architectural Committee, of a quality and composition equal to or better than the five (5) types of Fences described in Exhibit "B".

Section 9. Unauthorized Owner Improvements and Plants. If any Owner Improvement shall be constructed, installed, erected, placed, altered, Maintained, placed in or planted upon a Lot otherwise than in accordance with the provisions in this ARTICLE such construction, installation, erection, alteration, maintenance, placement, or planting shall be deemed to have been undertaken in violation of this ARTICLE and without the approval required herein. Any and all work to be performed pursuant to plans and specifications approved under this ARTICLE shall be prosecuted diligently to completion in accordance with such plans and specifications and completed within twelve (12) months after the date of approval. Failure to so complete such work shall cause such approval to be automatically withdrawn without action by the Architectural Committee, unless the Architectural Committee affirmatively extends such approval for a period not to exceed six (6) months. After such automatic withdrawal of approval, the Structure being or to be constructed, installed, erected, placed, Maintained, or altered shall not then or thereafter be permitted to remain on any Lot for a period longer than three (3) months; provided, however, that any prevention, delay, or stoppage in the construction, installation, erection, placement, alteration, or Maintenance undertaken due to Acts of God, war, inability to obtain labor or materials or reasonable substitutes therefor, or governmental regulations or controls, shall serve to extend the provisions of this section respecting limits of time for completion for a period of time equal to any such delay, prevention, or stoppage.

Section 10. Prohibited Owner Improvements. The Architectural Committee shall not have authority to approve, and such lack of authority or any failure to act in connection therewith, shall not cause or result in automatic approval under "Section 6. Architectural Approval" above, nor shall any Owner install, erect, construct, reconstruct, or Maintain

(a) any Owner Improvement of any kind, decorative or otherwise, upon the roof of an Improvement;

(b) a basketball hoop or hoops or backboard or backboards therefor, if, when complete, same are visible from the front of a Lot other than the Lot on which same is installed, erected, constructed, reconstructed, or Maintained;

(c) any Owner Improvement on a Slope;

(d) any patio cover, as same are commonly referred to and known, the exposed portion of the roof of which is composed primarily of steel, metal or metallic substance similar thereto;

(e) any Fence not meeting the requirements of "Section 8. Landscaping and Fence Approval" above;

(f) any Owner Improvement, the construction, installation, erection, placement or primary use of which conflicts with the terms and conditions of this Declaration and Declarant's intent and purpose as expressed herein;

(g) any Owner Improvement in an Open Space Area;
and

(h) landscaping consisting primarily of rock, sand, or gravel in the front yard of any Lot, including, but not limited to, the parkway between the sidewalk in front of each Lot and the curb of the street on which the Lot borders.

ARTICLE VIII DUTIES AND POWERS OF THE ASSOCIATION

Section 1. Duties and Powers. In addition to any and all duties and powers vested in the Association under the Articles of Incorporation and Bylaws, and without limiting the generality thereof, the Association shall

(a) Maintain the Slopes and any irrigation systems thereon, and electric timers and other equipment used in connection with such systems and, in the event an Owner fails or neglects to Maintain an Open Space Area which said Owner is required to Maintain hereunder, Maintain such Open Space Area;

(b) provide for drainage facilities and any other system or method reasonably necessary to prevent the erosion of the Slopes;

(c) have the power to construct, reconstruct, erect, Maintain, and repair the Developer's Walls as determined in the sole discretion of the Board of Directors;

(d) have the authority to procure, all water, electric, and other appropriate utility services, as reasonably necessary to prevent the erosion and insure the safety of the Slopes;

(e) procure and maintain a policy or policies of insurance reasonably necessary to protect the Association and its Members from any liability relating to the Association's duties and powers with respect to the Slopes, including, without limitation, to the extent reasonably necessary, bodily injury liability, property damage liability, and workmen's compensation insurance;

(f) have the authority to employ such individuals and entities as are reasonably necessary to perform all or any part of the duties and responsibilities of the Association; provided, however, that any contract or agreement for the performance of said duties and responsibilities shall not be for a period longer than one (1) year, unless approved by a majority of the Members; and provided, further that, in the event Declarant or a successor in interest to Declarant who is the Owner of five (5) or more Lots casts a vote or votes for such approval, such vote or votes shall be excluded from the number of votes required to determine the number of votes constituting a majority and from the number of votes required for approval;

(g) have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors;

(h) have the power, in accordance with the Articles of Incorporation and the Bylaws, to borrow money for the purpose of performing its rights and duties under this Declaration;

(i) have the power to suspend the voting rights of a Member or Members for (i) any period during which an Assessment against such Member's or Members' Lot is delinquent; and (ii) for a period not to exceed thirty (30) days for each infraction of the Rules and Regulations of the Association; provided, however, that any suspension of a Member or Members' voting rights, except for failure to pay Assessments, shall be made only upon a majority vote of the Members, or upon a majority vote of a committee appointed by the Members for the purpose of enforcing the Rules and Regulations, after delivery of a notice to the Member or Members whose voting rights are the subject of the suspension under consideration by the Association or the aforementioned committee, which notice shall state the date, time and place of a meeting at which such suspension will be considered; and

(j) have the power to enforce the provisions of this Declaration by reasonably appropriate means, including, but not limited to, the expenditure of the Association's money, the employment of legal counsel, and the commencement and prosecution of a legal action or actions.

Section 2. Rights of Entry. The Association shall have a limited right of entry in and upon each and

every Lot for the purpose of performing its rights and duties under this Declaration. Nothing in this ARTICLE shall in any manner limit the right of an Owner to exclusive control over his Lot; provided, however, that each and every Owner shall grant a right of entry to the Association in case of any emergency originating on or threatening his Lot or any Improvement located thereon. In case of such an emergency, such right shall be a right of immediate entry.

Section 3. Conflict in Articles. In the event that any provision of this Declaration conflicts with or is contrary to provisions contained in the Articles of Incorporation or the Bylaws, applicable State law shall control, and, in the absence of such State law, this Declaration shall control, in which case the order of supremacy shall be this Declaration first, the Articles of Incorporation second, and the Bylaws third.

ARTICLE IX EASEMENTS

Section 1. Easements on Tract Map. Easements over the Property, or any portion thereof, for the installation and Maintenance of Services as shown on the recorded tract map of the Property, are hereby reserved by Declarant, together with the right to grant and transfer the same.

Section 2. Community Antenna Television System. Declarant hereby reserves in itself and its successors and assigns the right to place on, in or across the Property, or any part thereof, any and all transmission lines and other facilities and equipment reasonably necessary for the operation of a community television antenna system and the right to enter upon the Property, or any part thereof, to service, maintain, repair, reconstruct, and replace said lines and other facilities; provided, however, that the exercise of such right does not unreasonably interfere with each Owner's reasonable use and enjoyment of said Owner's Lot.

ARTICLE X USE RESTRICTIONS

Section 1. Residential Use. All Lots in the tract shall be known and described as residential Lots and shall be used for no purpose other than residential purposes. No Owner Improvements shall be erected, constructed, altered, placed, or permitted to remain on such Lot other than a building used as or related to the use of a single-family dwelling.

Section 2. Unauthorized Uses. No part of the Property shall ever be used or caused to be used or allowed or authorized for use in any way, directly or indirectly, for any purpose or purposes other than residential, except that Declarant and its successors and assigns may use the Property for one or more model home sites, and a display and sales office for a period ending two (2) years after the date of the Sale of the first Lot sold.

Section 3. Signs. No sign, billboard, or other means of advertisement similar in kind shall be displayed or open to the public view on any portion of the Property or any Lot, except (a) one sign for each Lot, of not more than eighteen (18) inches by thirty (30) inches, advertising such Lot for sale or rent; and (b) signs used by Declarant and its successors and assigns to advertise the Property or any portion thereof for sale until the earlier of (i) two (2) years after the date of the Sale of the first Lot sold; or (ii) the date of the Sale by Declarant of the last Lot owned by Declarant.

Section 4. Nuisances. No obnoxious, noxious, or offensive business trade or activity shall be carried on upon any Lot or any part of the Property, nor shall anything be done thereon which may be, or become, an annoyance or nuisance to the Project, or which shall in any way interfere with the quiet enjoyment of each Owner of his respective Lot, or which shall in any way increase the insurance premiums paid by any other Owner to insure said Owner's Lot and any Improvements or personal property thereon.

Section 5. Use of Unauthorized Owner Improvements and Vehicles. No Owner Improvement of a temporary character, trailer, camper, mobile home, recreational vehicle or other vehicle similar in kind, basement, tent, shack, garage, barn, or other outbuilding shall be used for any purpose on any Lot at any time, either temporarily or permanently. No trailer, camper, mobile home, recreational vehicle or other vehicle similar in kind, boat, commercial vehicle, motorcycle, or other similar equipment shall be permitted to remain upon a Lot except within a closed garage. Further, no maintenance, construction, reconstruction, repair, dismantling, painting, repainting, or servicing of any kind may be performed on any kind of equipment described in this Section, or on any other type of vehicle, with exception of normal waxing, washing, and polishing incident and necessary to such equipment, except within a closed garage. No abandoned or nonoperating vehicle shall be stored on a Lot except within an enclosed garage. Each Owner covenants that he will not park or cause to be parked a trailer, camper, mobile home, recreational vehicle, or other vehicle similar in kind, including, but not limited to, any boat or boat trailer, on a street within the Project.

Section 6. Animal Regulations. No animals, including, but not limited to, birds, dogs, cats, reptiles, and other household pets, livestock, poultry, bees, or other insects of any kind shall be raised, bred, or kept on a Lot which results in an annoyance or are obnoxious to any Owner. All dogs permitted to be kept within the Project under this Section shall be kept on a leash when within the Project, except when within an enclosed area on a Lot.

Section 7. Mining or Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, or mineral excavations or shafts be permitted upon the surface of any Lot

or within five hundred (500) feet below the surface of the Property. No derrick or other structure designed for use in a mining activity or boring for water, oil, or natural gas shall be constructed, erected, installed, Maintained, or permitted upon any Lot.

Section 8. Trash Removal. Each Owner shall regularly remove any and all rubbish, trash, and garbage from such Owner's Lot, and shall not allow same to accumulate thereon. Any and all clothes lines, refuse containers, woodpiles, storage areas, and machinery and equipment shall be obscured as far as practical and reasonable from the view of adjoining Lots and streets, by an appropriate screening device installed, constructed, or erected in accordance with the terms and conditions of this Declaration. Any refuse container placed on or near the curb of a street on which a Lot borders for the purpose of refuse collection shall be removed therefrom within twenty-four (24) hours after removal of the refuse.

Section 9. Deleted and combined with other sections.

Section 10. Completion and Maintenance of Landscaping. Within (i) one hundred eighty (180) days after the sale of a Lot, the Owner thereof shall plant lawns or otherwise landscape the front and side yard of said Owner's Lot, the parkway between the sidewalk in front of each Lot and the curb of the street on which the Lot borders, and any slopes not Maintained by the Association; and (ii) one (1) year after the sale of a Lot the Owner thereof shall plant lawns or otherwise landscape the rear yard of said Owner's Lot; including, but not limited to, any slopes not Maintained by the Association, in accordance with the terms and conditions of this Declaration, and thereafter Maintain said landscaping and drainage in good condition, without in any way impeding the proper drainage of the Property, or any part thereof. The work required to be performed under this Section shall, in any event, notwithstanding multiple resales of a Lot, be completed within eighteen (18) months after Declarant first sells the Lot in question. Each and every Plant and Hedge growing on any Lot shall be Maintained such that insects and other pests and diseases shall not be a menace to another Plant or Hedge in the vicinity, nor detrimental or a nuisance to any other Lot. Each Owner covenants to Maintain the aforementioned landscape work, including, but not limited to, the landscaping of the aforesaid parkway, in a condition that will not cause the Property to depreciate in value. In the event an Owner fails to Maintain said landscape work, the Association may, after giving reasonable notice to said Owner, Maintain or cause said landscaping to be Maintained, and said Owner shall pay the Association the cost of such Maintenance work. Further, in order to Maintain the beauty of the area, no Plant, Hedge, rubbish, debris, objects, or materials of any kind, or seed infected with noxious insects or diseases, shall be planted, placed, grown, or permitted to accumulate upon any portion of the Property which renders such portion of the Property unsanitary, unsightly, offensive, or detrimental to any Lot or the occupants thereof. As used herein, the term "rubbish" shall not include ordinary domestic refuse, placed in a container,

in a suitable location, for the purpose of usual periodic disposal.

Section 11. Side Yard Fence. No Owner Improvement exceeding six (6) feet in height shall be erected, constructed, installed, Maintained, placed, or planted between dwellings in that area commonly referred to as the "sideyard" without the prior written approval of the Owner or Owners of the Lot or Lots adjoining such Owner Improvement. The granting of approval by the Architectural Committee for the erection, construction, installation, Maintenance, planting, or placement of such an Owner Improvement, without the adjoining Owner or Owners prior written approval shall be void and shall not constitute a waiver of the requirements of this Section.

Section 12. Setbacks. All front setbacks, side setbacks, and rear setbacks shall be those approved by the County of Orange, State of California, but shall not be less than twenty (20) feet from the street in the front, twenty-five (25) feet from the rear Lot line, and five (5) feet from each side Lot line.

Section 13. Antennae. No towers, antennae, aerials, or other facilities for the reception or transmission of radio (including citizens' band) or television broadcasts or other means of communication, shall be erected or maintained or caused to be erected or maintained on any Lot except by installations made wholly inside of the dwelling house or underground, except as provided under "ARTICLE IX, EASEMENTS, Section 2. Community Antenna Television System" above.

Section 14. No Relocation of Structural Walls. All solid walls of buildings located within five (5) feet of the property line of any Lot shall not have their integrity changed or broken at any time, but shall be Maintained in their original state.

Section 15. Drainage. Any and all drainage of water from a Lot and the Improvements thereon shall drain from any Lot and the Improvements thereon into adjacent streets and not onto or upon an adjoining Lot or Lots, unless there is an easement for such purpose. All slopes or terraces forming a part of any Lot, whether Maintained by an Owner or the Association, shall be Maintained so as to prevent the relocation, transport, or deposit, whether permanent or temporary, of any soil caused by the erosion thereof upon or in any street or Lot. Any relocation, alteration, or modifications of the original grades of such slopes or terraces shall be done in a manner that will prevent any additional water run-off to adjacent property.

Section 16. Sewage Disposal System. No cesspool, septic tank, or other sewage disposal system or device shall be installed, Maintained, or used in or upon any Lot without

the approval of the Health Department of the County of Orange, or such other governmental entity which may assume the duties of said Health Department.

Section 17. Plumbing. No water pipe, gas pipe, sewer pipe, or drainage pipe shall be installed or Maintained on any Lot above the surface of such Lot, except as installed or Maintained by Declarant or the Association, or as approved by the Architectural Committee, except temporary hoses and sprinkler heads and sprinklers used for irrigation purposes.

Section 18. Water Softening Devices. No on-site regenerative device of any kind for the softening or purification of water may be installed or Maintained in or upon any of the Lots unless same is located in the garage of the residence on the Lot for which same is or will be installed, or unless such device is completely enclosed or screened by an Owner Improvement approved by the Architectural Committee in accordance with "ARTICLE VII. ARCHITECTURAL CONTROL".

Section 19. Developer's Walls. Any provision in this Declaration to the contrary notwithstanding, and without regard to any approval granted by the Association, Architectural Committee, or adjoining Lot Owner, no gate, breach, grate, lattice, extension or other similar structure or decorative modification of any kind shall be constructed, installed, erected, or Maintained upon or in conjunction with any Developer's Wall, except as originally constructed, installed, or erected by Developer.

Section 20. Christmas Lights. No ornamental lights of the kind commonly referred to as Christmas Holiday Lights shall be erected, installed, attached, or otherwise affixed to an Improvement before the fifteenth day of November of each calendar year, and all such lights shall be removed from the Improvements on which they are exhibited on or before the first day of February of the calendar year next following the calendar year during which they were erected, installed, attached, or otherwise affixed.

Section 21. Garage Doors. No garage doors through which vehicles are intended to ingress to and egress from the garage shall be left "open" except as reasonably required to permit such ingress and egress.

ARTICLE XI DEVELOPER'S WALLS

The Declarant, prior to the Sale of the first Lot sold, shall have constructed Developer's Walls on certain Lots within the Project. Except as otherwise provided in this Declaration, the Maintenance and repair of the Developer's Walls shall be the responsibility and duty of the Owner or Owners of each Lot on which a Developer's Wall is located, to the extent that the Developer's Wall is located on said Owner or Owners' Lot.

ARTICLE XII
MAINTENANCE

Each and every Owner shall, at all times, keep said Owner's Lot and all Improvements thereon in a safe, clean, and wholesome condition and in good repair and adequately painted or otherwise finished, comply in all respects with any and all governmental health, safety, fire, and policy requirements and regulations.

ARTICLE XIII
LEASES

Declarant intends this Declaration to be binding upon any and all individuals and entities owning a leasehold estate in a Lot or any portion thereof. Each Owner, and each and every other individual or entity (hereinafter "Sublessor") that grants a leasehold estate in a Lot, by and upon acceptance of a deed to or leasehold estate in a Lot, covenants to incorporate this Declaration in the instrument creating such leasehold estate by reference thereto, or, in the event such leasehold estate is created pursuant to an oral agreement, make reference to this Declaration at the time such oral agreement is consummated, and include as a term or condition to such leasehold estate (a) a covenant by the owner of the lessee's interest in said estate to perform all of said Owner's or Sublessor's obligations under this Declaration; and (b) the right in the Association to enter on such Lot and perform any Maintenance and other work reasonably necessary for compliance with this Declaration. In the event an Owner or Sublessor fails to make such a covenant a condition to the leasehold or sale, the agreement respecting same shall be deemed to so provide.

ARTICLE XIV
GENERAL PROVISIONS

Section 1. Enforcement. The Association, and any Owner or Owners or the successor in interest of any Owner or Owners, individually or together, shall have the right to enforce by proceedings at law or in equity, any and all Restrictions and Liens and charges now or hereafter imposed under the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such Restrictions, and the right to recover damages or other dues for such violation; provided, however, that with respect to liens created by virtue of an Assessment, the Association shall have the exclusive right to the enforcement thereof. Failure by the Association, the Architectural Committee, or any Owner to enforce any Restriction or abate any violation of this Declaration shall not constitute a waiver of the right to do so thereafter.

Section 2. Enforcement by County of Orange. The Restrictions shall run to the benefit of the County of Orange, and the County may enforce said Restrictions insofar as they apply to "ARTICLE VII, ARCHITECTURAL CONTROL", and "ARTICLE X, USE RESTRICTIONS".

Section 3. Severability. Invalidation of any Restriction or other provision of this Declaration by judgment or court order shall in no way affect any other provision or provisions contained in this Declaration.

Section 4. Term. The Restrictions contained in this Declaration shall run with and bind each and every Lot, and shall inure to the benefit of and be enforceable by the Association and the Owner of each and every Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, individually or together, for a term of forty (40) years from and after the date this Declaration is recorded, after which time said Restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners of the Lots, has been recorded, agreeing to or changing the Restrictions in whole or in part.

Section 5. Construction. The provisions of this Declaration shall be liberally construed so as to effectuate its purpose of creating a uniform plan for the development of a residential community or tract and for the Maintenance of the Slopes. The Article and Section headings are for convenience only, and shall not be considered in resolving questions of interpretation or construction.

Section 6. Amendments. This Declaration and every part hereof may be amended only by the affirmative assent or vote of not less than seventy-five percent (75%) of the Owners; provided that, in the event Declarant or a successor in interest to Declarant who is the Owner of five (5) or more Lots casts a vote or votes for approval, such votes shall be excluded from the number of votes required to determine the number of votes constituting a majority and from the number of votes required for approval; provided further that "ARTICLE VI, FAILURE TO PAY ASSESSMENT", Section 6, Subordination of Assessment Liens, and Section 6, Amendments, and Section 7, Mortgage Protection Clause of this ARTICLE shall not be amended without the additional prior consent of the lien holder under any recorded Security Instrument. The consent of the County of Orange to any amendment which would substantially modify any of the terms or conditions of "ARTICLE VII, ARCHITECTURAL CONTROL", or "ARTICLE X, USE RESTRICTIONS", must be obtained prior to such amendment's becoming effective.

Section 7. Mortgage Protection Clause. No breach of the Restrictions nor the enforcement of any Lien provision herein, shall defeat or render invalid a lien created by any Security Instrument made in good faith and for value, but all of said Restrictions shall be binding upon and effective against any Owner whose title is derived through judicial foreclosure, foreclosure by power of sale, or delivery of a deed in lieu of foreclosure.

Section 8. Gender - Singular includes Plural. Whenever the context of this Declaration requires, the singular shall include the plural and the masculine shall include the feminine.

Section 9. Nuisance. The result of every act or omission, whereby any provision of this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such act or omission.

Section 10. Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, th former's properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation or other appropriate entity pursuant to a merger. The surviving or consolidated association may administer and enforce this Declaration, together with any other declaration under which such other association is granted rights, powers, and duties with respect to property. In the event that subsequent to such merger or consolidation, this Declaration conflicts with said other declaration, this Declaration shall govern the Property subject hereto prior to such merger or consolidation.

Section 11. Disclaimer. Exhibit "A" is attached hereto for identification of the Slopes and Open Space Area only and for no other purpose. Declarant makes no representations or warranties, including, but not limited to, implied warranties, with respect to any information contained in said exhibit.

Section 12. Attorney's Fees. If an Owner defaults in the performance or observation of any provision of this Declaration, and any party entitled to enforce this Declaration obtains the services of an attorney or files an action in a court of law of appropriate jurisdiction with respect to the defaults involved, such Owner covenants and agrees to pay to such party any fees and costs, whether or not taxable, including, but not limited to, reasonable attorneys' fees, incurred in the enforcement of this Declaration and the curing of said default.

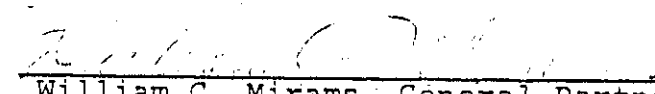
Section 13. Subordination. Fidelity Federal Savings and Loan Association, as successor in interest to Mariner's Savings and Loan Association, by its signature below, agrees that any interest it has in the Property shall be subordinate to this Declaration.

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first hereinabove written.

"DECLARANT"

TRACT 9604 JOINT VENTURE,
a California general partnership

By: 
J. Scott Fawcett, General Partner

By: 
William C. Mirams, General Partner

CAPRI BUILDERS, INC.,
a California corporation, general partner

By: _____
W. C. Mirams, President

FIDELITY FEDERAL SAVINGS AND LOAN
ASSOCIATION

By: Spencer Scott
Title: President

By: Heald D. Barrow
Title: SECRETARY

STATE OF CALIFORNIA)
County of Orange) ss.

On 1-22-79, 1979, before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. Scott Fawcett and William C. Mirams, known to me to be general partners, respectively, of TRACT 9604 JOINT VENTURE, a California general partnership, known to me to be the persons who executed the within instrument on behalf of the general partnership therein named, and acknowledged to me that such general partnership executed the within instrument.

WITNESS my hand and official seal.

Dorothy R. Welker
Notary Public

My commission expires:

5/1/81

STATE OF CALIFORNIA)
) ss.



NO 1984 CA (8-74)
(Corporation as a Partner of a Partnership)

STATE OF CALIFORNIA)
COUNTY OF Orange) ss. 3K 13031 PG 52



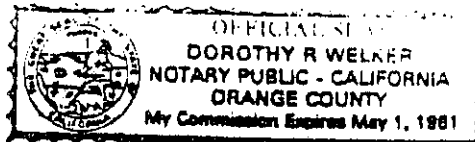
On January 22, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared W. C. Mirams, known to me to be the President, and _____ known to me to be the _____

a
actively,
me to
f the

Secretary of _____ the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be one of the partners of Tract 9604 Joint Venture, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature Dorothy R. Welker



(This area for official notarial seal)



STATE OF CALIFORNIA)
)
County of Orange) ss.

On January 30, 1979, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Spencer Scott and Gerald D. Barrone, known to me to be officers of FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION, known to me to be the persons who executed the within instrument on behalf of FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION, and acknowledged to me that FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION executed the within instrument.

WITNESS my hand and official seal.

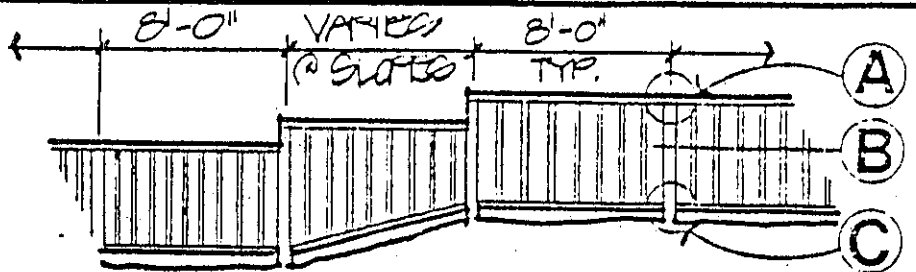
Stephanie Ann Summers
Notary Public Stephanie Ann Summers

My commission expires:

4-19-82



TOP RAIL LEVEL
MINIMUM STEP - 6"



VERIFY WITH COUNTY OF ORANGE COPE FOR CURRENT FOL REQUIREMENTS.

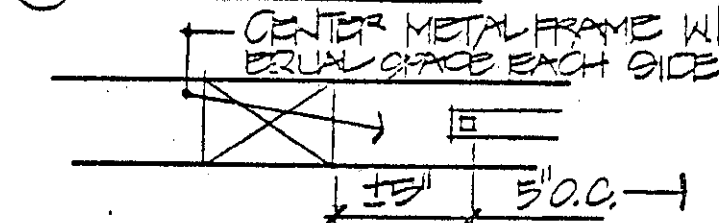
FENCE ELEVATION

MATERIALS: CEDAR and REDWOOD
CEDAR: SELECT TIGHT KNOT
REDWOOD: CONSTRUCTION GRADE
ALL LUMBER TO BE SAW SIZE.

HORIZ. RAILS SHALL BE FLUSH WITH FACE OF POST-CUT TRUE and FIT TIGHT, GALV. NAILS

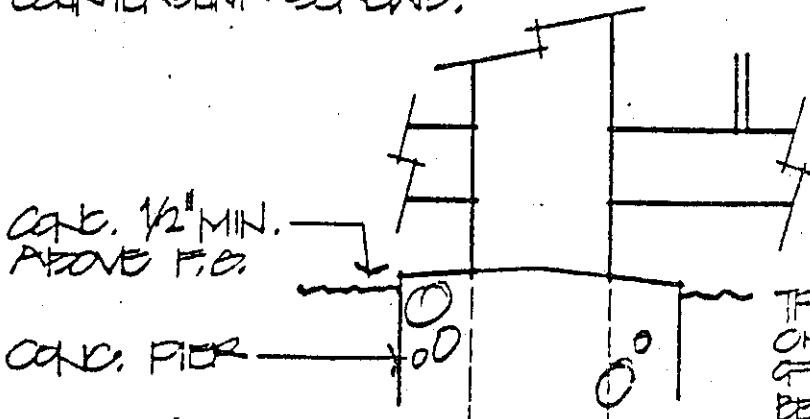
WHERE JOINT OCCURS CENTER ON TOP OF POST.

(A) POST @ CAP



(B) POST PLAN

1/2" STEEL EAR - TACK WELD 2 SIDES TO 3/16" X 1" FLAT EAR, ATTACH BY 1/4" X 1/4" FLAT HEAD COUNTERSINK SCREWS.



(C) POST @ BASE

5'-0" METAL FENCE

HEIGHT OF FENCE OFF FINISH GRADE

- 1X2 TOP and BOTTOM RAILS
- 1 COAT METAL PRIMER - 2 COATS SEMI-GLOSS ENAMEL
- GALV. ALL STEEL AFTER FABRICATION
- 1/2" SQUARE PICKETS
- 2" SQUARE POSTS

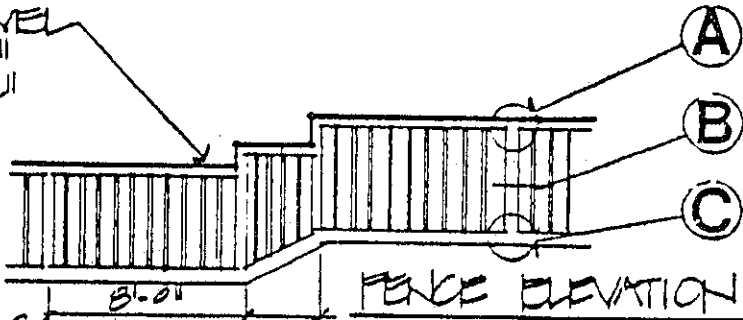
HEIGHT VARIES

FINISH GRADE

CONC. PIER
TREAT WITH ONE COAT OF PRESERVATIVE BELOW GRADE

SECTION

TOP CAP LEVEL
MIN. STEP 12"
MAX. STEP 24"



NOTES:

SWIMMING POOL FENCE

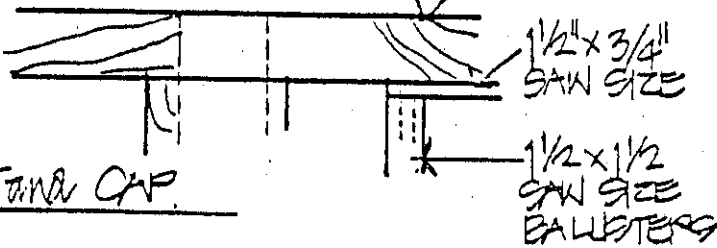
1. MIN. HEIGHT OFF FINISH GRADE - 5'-0"
2. MAX. HEIGHT BETWEEN BOTTOM RAIL AND MIN. GRADE 4'
3. GATE SHALL BE SELF CLOSING WITH LATCH - 5'-0" OFF F.G.

MATERIALS: CEDAR OR REDWOOD
CEDAR - SELECT TIGHT KNOT
REDWOOD - CONSTRUCTION HEART
ALL WOOD TO RECEIVE ONE COAT OF STAIN,

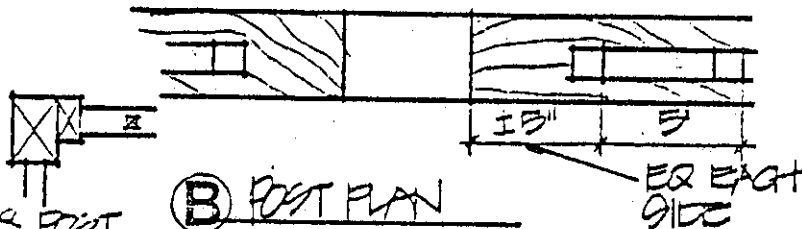
3x4 TOP & BOTTOM RAIL SHALL BE FLUSH W/ FACE OF POST - CUTS TRUE AND FIT TIGHT.

MAX. HT. 6'-0"
MIN. HT FOR POOL 5'-0"

A POST AND CAP



B POST PLAN



CORNER POST
ADD 2x4 SAW TEXTURE
FLUSH WITH FACE
OF 4x6,

POST @
BASE
TOE NAIL RAILS
TO POST.

1/2" MIN.
ABOVE F.G.

CONCRETE
BASE

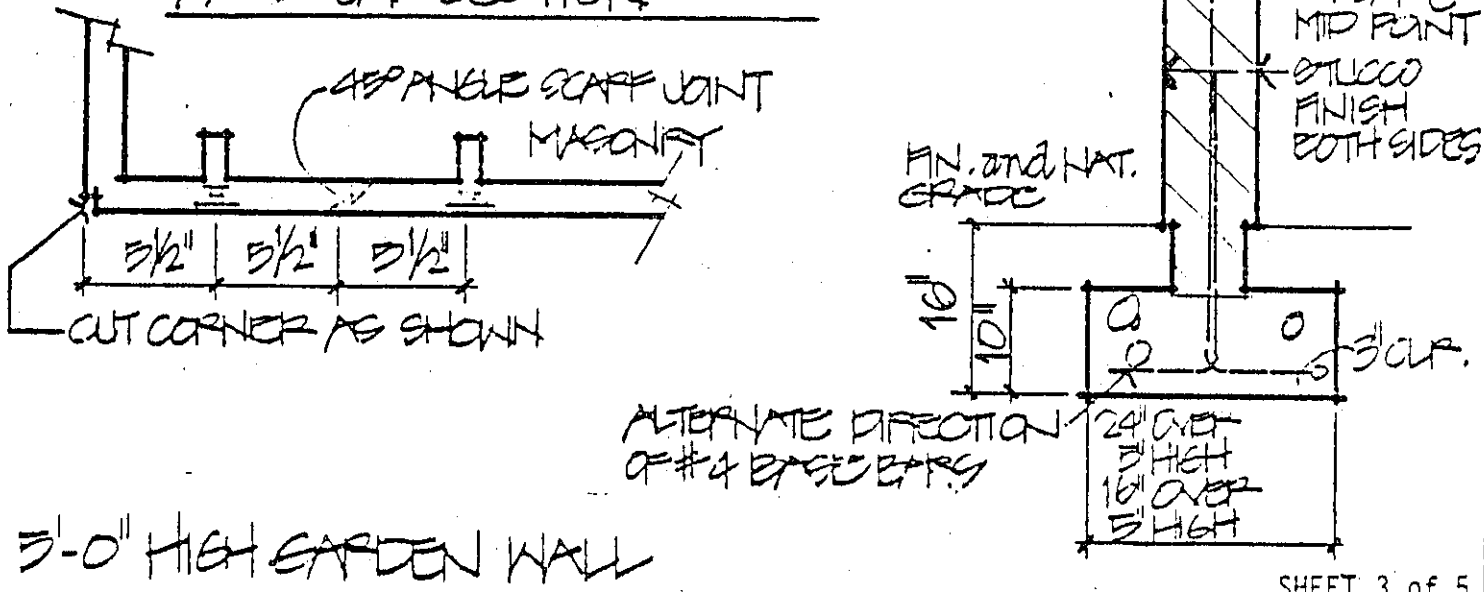
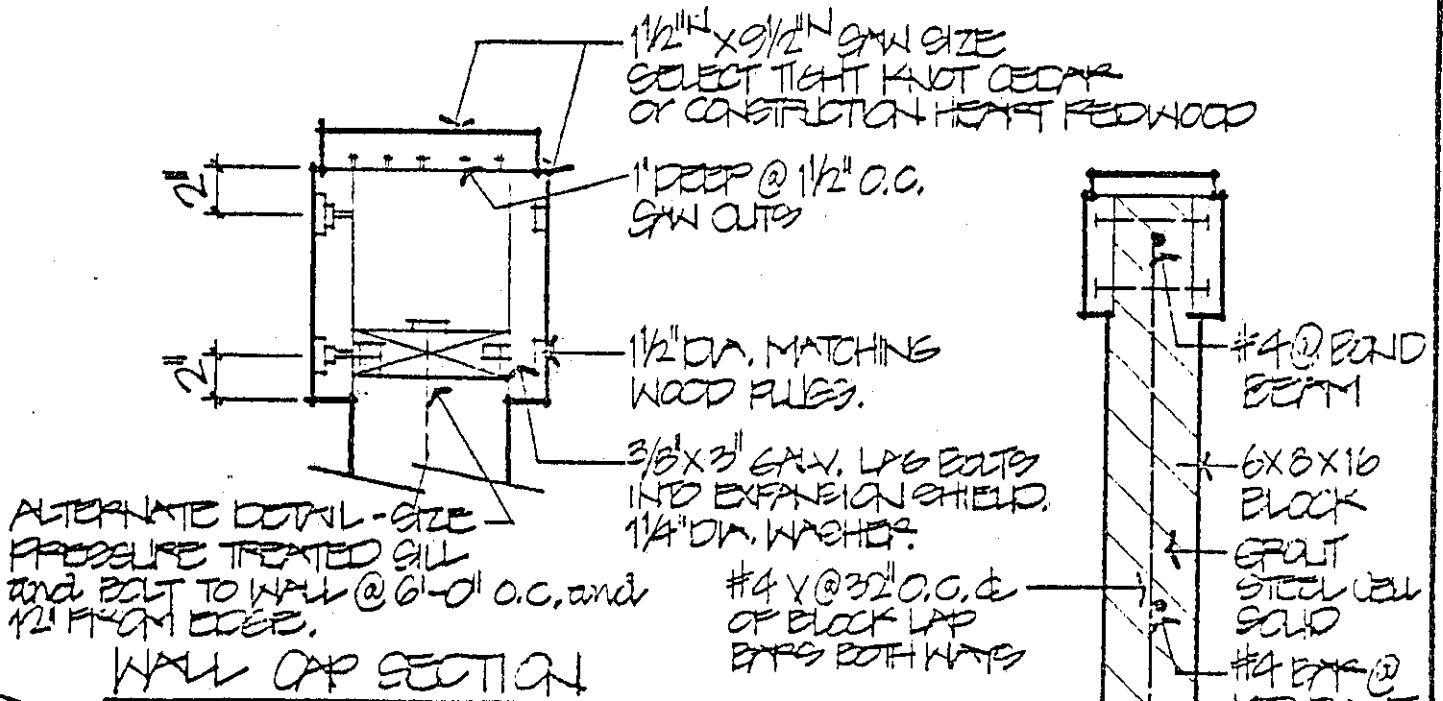
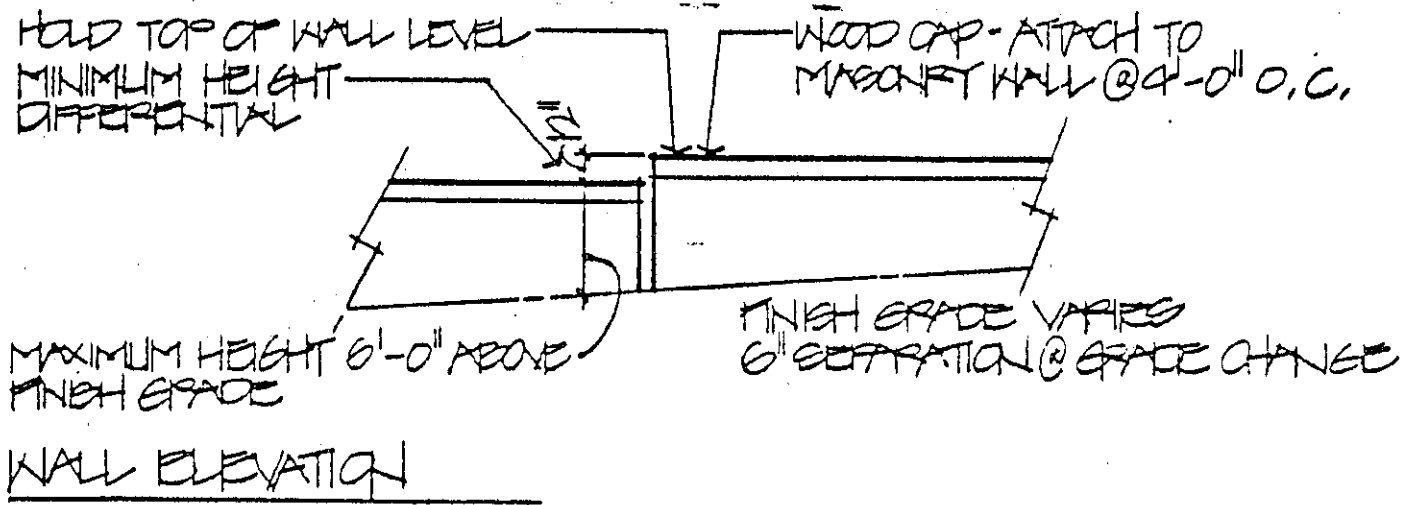
CONC.
FOOTINGS

BUILD BALLISTERS IN SECTION & SET INTO PLACE TIGHT TO TOP RAIL. BRING RAIL UP TIGHT & NAIL SOLID. F.G.

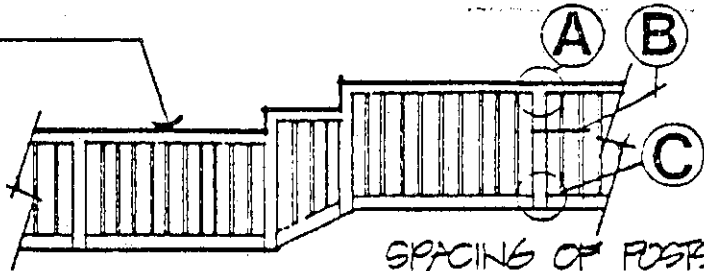
ROCK BED

POSTS SET INTO CONCRETE SHALL RECEIVE ONE COAT OF WOOD PRESERVATIVE

5'-0" WOOD BALLISTER FENCE



TOP OF FENCE LEVEL
 MINIMUM STEP 12"
 MAXIMUM STEP 24"



SKIMMING POOL FENCE
 MIN. HT. 5' OVER FIN. GRADE
 BOTTOM RAIL 4" OVER
 FIN. GD. MAX.

GATE SELF CLOSING WITH
 LATCH 5' OFF FIN. GD.

MATERIALS:

CEDAR - SELECT TIGHT KNOT
 REDWOOD - CONSTR. HEART

ALL FENCES SHALL RECEIVE
 ONE COAT SEMI-TRANSPARENT
 STAIN.

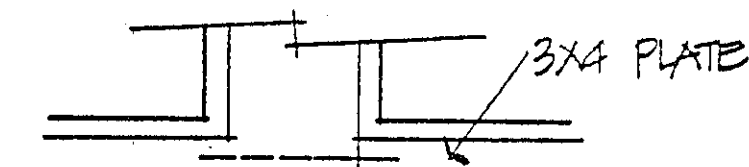
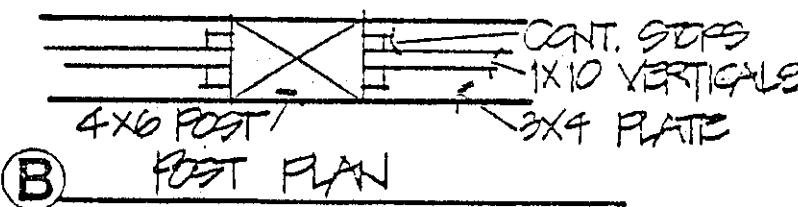
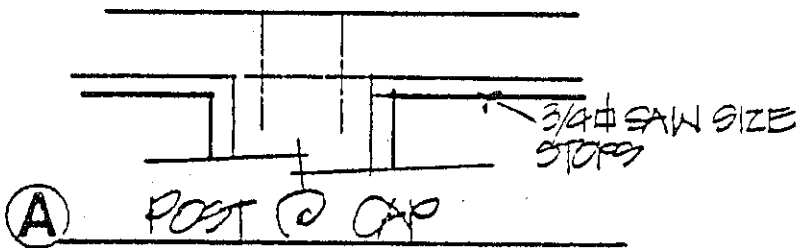
SPACING OF POSTS ON
 SLOPES VARIES, BOTTOM
 TO FOLLOW FINISH GRADE.

FENCE ELEVATION

ADD 2X4 TO SIDE
 OF 4X6 CONT. FENCE



6' MAX HEIGHT
 50 MIN FOR POOL FENCE

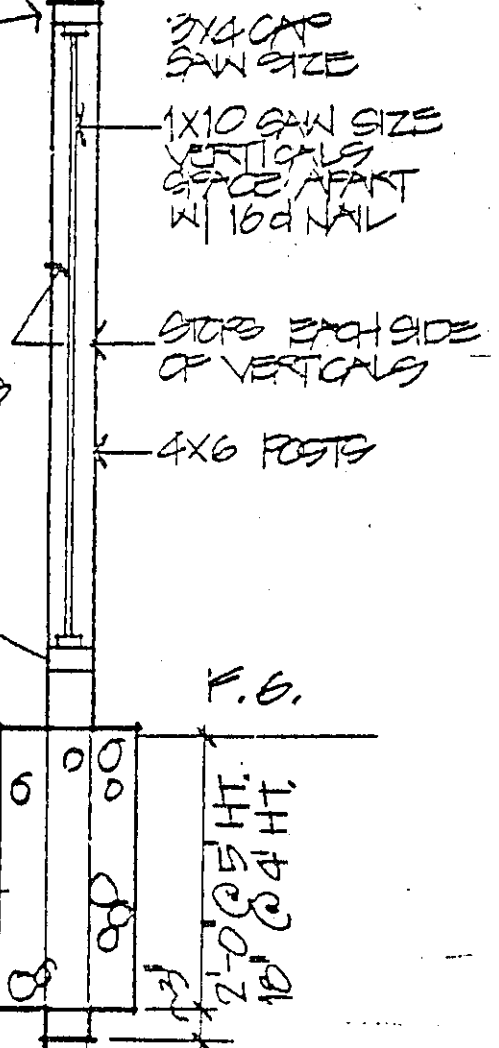


FTB. 1/2' ABOVE
 F.G.

ONE COAT WOOD
 PRESERVATIVE BELOW
 F.G.

POST @ FOOTING

5' HIGH WOOD SOLID FENCE



SECTION