

AMEND  
Y

FIRST AMENDMENT

TO THE RESTRICTIVE COVENANTS OF THE

SEVEN OAKS NORTH SUBDIVISION

STATE OF TEXAS §

COUNTY OF HARRIS §

This First Amendment to the Restrictive Covenants of the Seven Oaks North Subdivision (the "First Amendment") is executed on the dates below to be effective upon recordation with the County Clerk of Harris County, Texas. 1EE

I.

Recitals

WHEREAS, a Declaration of the Restrictive Covenants of the Seven Oaks North Subdivision was filed on September 4, 2007, under Harris County Clerk's File No. 20070541806 (the "original Deed Restrictions"), for the purpose of establishing a uniform plan of development for the Seven Oaks North Subdivision (the "Subdivision"), a subdivision in Harris County, Texas, according to the map or plat thereof recorded under Film Code No. 608256 of the Map Records of Harris County, Texas;

WHEREAS, Woodforest National Bank became the successor "Declarant" under the original Deed Restrictions by virtue of its acquisition of all unimproved lots in the Subdivision owned by Modelo Development, L.P., a Texas limited partnership, by Substitute Trustee's deed dated December 2, 2008, recorded under Harris County Clerk's File No. 2008-0606857; as corrected by Correction Substitute Trustee's Deed dated December 23, 2009, recorded under Harris County Clerk's File No. 20100044429;

WHEREAS, Newport Seven Land Company, LLC, a Texas limited liability company (the "Declarant"), is now the successor "Declarant" under the original Deed Restrictions by virtue of its acquisition of all seventy-two (72) unimproved lots in the Subdivision owned by Woodforest National Bank by Special Warranty Deed With Vendor's Lien dated February 2, 2010, recorded under Harris County Clerk's File No. 20100044432;

WHEREAS, Declarant purchased nine (9) additional lots in the Subdivision by deed from Stock Loan Services, L.L.C., dated July 8, 2010, recorded under Harris County Clerk's File No. 20100325261;

WHEREAS, as the successor Declarant and owner of 81 lots in the Subdivision (out of 84 total lots in the Subdivision [the "Lots"] owned by one or more owners [the "Owners"]), Declarant is a member in the Association and may cast 81 of 84 total votes held by members ("Members/Owners") in The New Property Owner's Association of Newport, Inc., a Texas non-profit corporation (the "Association"). Pursuant to Section J, Paragraph 4 of the original Deed Restrictions, the original Deed Restrictions may be amended by a vote of Owners/Members owning at least seventy-five percent (75%) of the Lots in the Subdivision;

WHEREAS, a meeting of Owner/Members was held on October 14, 2010, to approve the amendments to the original Deed Restrictions that are set forth in this First Amendment; and the amendments were approved and adopted at the meeting by the vote of Owners/Members owning more than of 75% of the Lots in the Subdivision.

NOW, THEREFORE, the original Deed Restrictions are hereby amended by this First Amendment.

## II.

### Amendments

The Basic Information section of the original Deed Restrictions currently contains the following information and/or definitions:

*Declarant:* Modelo Development, L.P.

*Declarant's Address:* [none stated]

The foregoing provisions are hereby amended and restated to provide as follows:

*Declarant:* Newport Seven Land Company, LLC, a Texas limited liability company

*Declarant's Address:* 5005 Riverway, Suite 100, Houston, Texas 77056

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Section C, Paragraph 2(I) of the original Deed Restrictions currently provides as follows:

*Prohibited Activities.* The following activities are prohibited:

1. the display of any sign except:

- i. one sign of not more than five square feet, advertising the Lot for sale or rent or advertising a garage or yard sale; and
- ii. political signage not prohibited by law or the Governing Documents.

Section C, Paragraph 2(l) of the original Deed Restrictions is hereby amended and restated to provide as follows:

*Prohibited Activities.* The following activities are prohibited:

1. the display of any sign except:
  - i. one sign of not more than five square feet, advertising the Lot for sale or rent or advertising a garage or yard sale;
  - ii. political signage not prohibited by law or the Governing Documents;
  - iii. a permanent monument sign at the entrance to the Subdivision installed and landscaped by Declarant; provided such design has been approved by the ACC.

Section D, Paragraph 2(c) of the original Deed Restrictions currently provides as follows:

*Required Area.* The total area of a Residence, exclusive of porches, garages, or carports, must be at least fifteen hundred square feet.

Section D, Paragraph 2(c) of the original Deed Restrictions is hereby amended and restated to provide as follows:

*Required Area.* (a) Except as set forth in subparagraph (b) below, the total area of a Residence, exclusive of porches, garages, or carports, must be at least fifteen hundred (1,500) square feet.

(b) The total area of a Residence may be less than fifteen hundred (1,500) square feet if each of the following conditions are met: (i) the total area of the Residence, exclusive of porches, garages, or carports, will be at least one thousand two hundred and fifty (1,250) square feet, (ii) no more than twenty-five percent (25%) of the Lots have been (or will be upon acceptance of the waiver request) designated as ones for which the 1,250 minimum applies, and (iii) at the request of the Declarant, the ACC provides a written waiver of the 1,500 minimum area requirement for the Lot on which the home will be built. If the Declarant still owns Lots in the Subdivision, no waiver/variance shall be granted unless the Declarant has requested same.

The following new Paragraphs 2(m), 2(n) and 2(o) are hereby added to Section D:

m. *Perimeter Fencing.*

(1) For Lots Adjacent to Golf Club Drive or the Green Space Area. Lots that share a common boundary with either Golf Club Drive or the Green Space area situated between Block 1 and 3 of the Subdivision (the "Green Space Area") shall be separated from Golf Club Drive (or the Green Space Area, as applicable) by uniform perimeter fencing installed along the boundary line between such Lot and Golf Club Drive (or the Green Space Area, as the case may be). This provision applies to the following Lots: Lots One (1) through Thirteen (13), inclusive, in Block One (1); Lots Forty-Four (44) through Fifty-One (51), inclusive, in Block One (1); and Lots Eighty (80) through Eighty-Four (84), inclusive, in Block Three (3). The fencing shall be a six foot tall wooden fence made of 1" X 6" cedar planks, include trim and rot board, and meet the specifications shown on Appendix A attached hereto. All of such fencing shall be installed so that the "Front View" of the fence faces Golf Club Drive (or the Green Space Area, as applicable). Owners of Lots to which this provision applies (other than the Declarant) shall be obligated to install, maintain and replace perimeter fencing on their property, as necessary, so that the perimeter fencing along Golf Club Drive and the Green Space Area is uniform in appearance and kept in good condition.

(2) For Other Lots. Uniform perimeter fencing shall be installed along the rear lot line of all other Lots in Block 1 of the Subdivision. The fencing shall be a six foot tall wooden fence made of 1" X 6" cedar planks and meet the specifications shown on Appendix B attached hereto. All of such fencing shall be installed so that (i) the "Front View" of the fence faces out and (ii) the "Back View" of the fence faces the house built on the Lot. Owners of Lots to which this provision applies (other than the Declarant) shall be obligated to install, maintain and replace perimeter fencing on their property, as necessary, so that such perimeter fencing is uniform in appearance and kept in good condition.

n. *Alternative Metal Perimeter Fencing at Declarant's Option.* Notwithstanding Paragraph (m) of this First Amendment, the Declarant, at its sole option, may require alternative metal perimeter fencing for the following six (6) Lots (collectively, the "Detention-Facing Lots"): Lots Fourteen (14) through Seventeen (17), inclusive, in Block One (1); and Lots Eighty-Two (82) and Eight-Three (83) in Block Three (3). If Declarant exercises its option under this Paragraph (n), each Owner of a Detention-Facing Lot (other than the Declarant), to the extent the fence will border their property, shall be obligated to install, maintain and replace metal fencing (i) along the common boundary between their Lot and the Green Space Area; (ii) along the side lot line between Lot 82 and Lot 83, Block 3 for fifteen linear feet (15') extending from the Green Space Area; and (iii) along the side lot lines between Lot 14 and Lot 15, Block 1;

Lot 15 and Lot 16, Block 1; and Lot 16 and Lot 17, Block 1 for fifteen linear feet (15') extending from the Green Space Area. Such fencing shall meet the specifications shown on Appendix C attached hereto and shall be uniform in appearance and kept in good condition.

o. "Good Neighbor" Fencing between Lots. Each Owner other than the Declarant shall be obligated to install, maintain and replace wooden fencing on the common boundary line between their respective Lots. The fencing shall be One Foot by Six Foot (1' X 6') cedar planks and meet the specifications for "Good Neighbor" fencing shown on Appendix D attached hereto. This provision is intended to apply (i) to all side fences that separate Lots situated in either Block 1 or Block 3 of the Subdivision and (ii) to both the side and rear fences that separate Lots situated in Block 2 of the Subdivision.

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Section D, Paragraph 3(c) of the original Deed Restrictions currently provides as follows:

*Exterior Walls.* All Residences must have at least seventy-five percent (75%) of their exterior wall, including exposed foundation, of stone or brick, minus windows and doors, unless otherwise approved by the ACC. The rear must be hardiplank or other material approved by the ACC.

Section D, Paragraph 3(c) of the original Deed Restrictions is hereby amended and restated to provide as follows:

*Exterior Walls.* Unless otherwise approved by the ACC, the front and side facades of all Residences must have an exterior finish that is at least 75% masonry (stone, brick and/or stucco) for the entire first story of the Residence, including any exposed foundation but excluding windows and doors. The rear facade of the Residence and the second story of the Residence, if any, may have an exterior finish of hardiplank or other material approved by the ACC.

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Section F of the original Deed Restrictions currently provides as follows:

1. *Establishment.*

- a. *Purpose.* The ACC is established as a committee of the Association to assist the Association in assuring that all Residences, Structures, and landscaping within the Subdivision are aesthetically compatible and conform to the Governing Documents.

- b. *Members.* The ACC consists of at least five persons appointed by the Board. The Board may remove or replace an ACC member at any time.
- c. *Term.* ACC members serve for one (1) year and may be reappointed or replaced by the Board as provided in the By-laws.
- d. *Standards.* Subject to Board approval, the ACC may adopt guidelines that do not conflict with the other Governing Documents to carry out its purposes. Upon request, Owners will be provided with a copy of any guidelines

Section F of the original Deed Restrictions is hereby amended to add the following new paragraph e after the existing paragraph d:

- e. *Variances.* The ACC shall have the power to and may grant all reasonable variances and adjustments to the restrictions set forth in the original Deed Restrictions as amended by this First Amendment in order to overcome practical difficulties and to prevent unnecessary hardships in the application of the restrictions contained herein; provided however, that such is done in conformity with the intent and purposes hereof; and, provided further, that in every instance such variances and adjustments may not be materially detrimental or injurious to other property, improvements or the owners thereof. Such variances and adjustments as may be granted hereunder may include, without limitation, the height, size and building set back restrictions as set forth in the original Deed Restrictions as amended by this First Amendment or on the Plat.

Notwithstanding the foregoing, all requests for variances made by a builder (or that otherwise relate to the initial construction of a new home on a Lot) shall be subject to the approval of the Declarant, and the Declarant shall have the power to approve all such variance requests at its discretion; provided, however, that the Declarant's power to approve such variance requests shall terminate, as to a specific Lot, when the Lot in question has been conveyed to a third-party homebuyer who has finally accepted, and taken possession of, a newly-constructed home built on such Lot. In addition, the Declarant shall no longer approve variance requests, and the ACC shall have the exclusive power to approve all variance requests, upon the occurrence of either of the following events: (i) the Declarant no longer owns any Lots in the Subdivision; or (ii) no construction activities have occurred in the Subdivision for a period in excess of twelve (12) consecutive months (or for such longer period as is agreed to by the ACC and the



Declarant) and Declarant shall have failed to maintain the Lots in the Subdivision that are owned by it (after written notice from the ACC and a reasonable cure period of no less than 14 days).

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Section G, Paragraph 4 of the original Deed Restrictions currently provides as follows:

*Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by the Declarant.

Section G, Paragraph 4 of the original Deed Restrictions is hereby amended and restated to provide as follows:

*Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by the Declarant, and consequently, the Declarant is not obligated to pay Assessments.

Section H of the original Deed Restrictions is hereby amended to add the following new paragraph 8 after the existing paragraph 7:

8. *Association's Right to Cure.* The Association shall have the right, but not the obligation, to cure an Owner's violation of this Declaration. Prior to curing any violation, the Association shall provide the Owner at least thirty (30) days written notice of, (i) the violation, (ii) the Association's intention to cure the violation on the Owner's behalf, and (iii) notice of the Owner's right to have a hearing before the Board. Except as provided below, the Association's right to cure shall accrue upon the expiration of such thirty days or, in those instances where an Owner requests a hearing and the result of the hearing is a finding that a violation exists, upon the board providing notice of its decision. Any funds spent by the Association in exercising its right to cure shall be reimbursed to the Association by the applicable Owner and shall be considered "costs" secured by the Association's lien (as referenced in Section G, Paragraph 3 of this Declaration). The Association shall have a right to access an Owner's Lot (and any Residence or Structure built on such Lot) for the purpose of exercising its cure rights under this Paragraph 8. All amounts reimbursable to the Association by an Owner under this Paragraph 8 shall accrue interest at ten percent (10%) per annum. Violations for failure to keep grass cut to an acceptable length are subject to this provision, except that the notice to the Owner shall inform the Owner that despite the right to request a hearing within thirty days, the Association shall have the right to enter their Lot and cut the grass should the condition continue to exist after the expiration of ten days from the date of the notice. The costs for any lawn cutting services will not be charged to the Owner unless no hearing is requested or the outcome of a hearing is a finding that

the condition was a restriction violation. Notwithstanding the foregoing, the Association's right to cure shall not apply to Lots owned by the Declarant.

Section I, Paragraph 1 of the original Deed Restrictions currently provides as follows:

1. *Common Area Easements.* Each Owner has an easement in and to the Common Area, subject to the right of the Association to:
  - a. Charge reasonable admission and other fees for the use of recreational facilities situated on the Common Area. If an Owner does not pay these fees, the Owner may not use the recreational facilities.
  - b. Suspend an Owner's rights under the Governing Documents.
  - c. Grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes.
  - d. Dedicate or convey any of the Common Area for public purposes, upon approval by a vote of two-thirds of the Directors at a meeting in accordance with the Bylaws.

Section I, Paragraph 1 of the original Deed Restrictions is hereby amended and restated to provide as follows:

1. *Common Area Easements.* Upon the Declarant's conveyance of the Common Area to the Association, each Owner has an easement in and to the Common Area, subject to the right of the Association to:
  - a. Charge reasonable admission and other fees for the use for recreational facilities situated on the Common Area. If an Owner does not pay these fees, the Owner may not use the recreational facilities.
  - b. Suspend an Owner's rights under the Governing Documents.
  - c. Grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes.
  - d. Dedicate or convey any of the Common Area for public purposes, upon approval by a vote of two-thirds of the Directors at a meeting in accordance with the Bylaws.

Prior to the Declarant's conveyance of the Common Area to the Association, the Declarant may grant an easement over the Common Area



for utility, drainage, or other purposes and/or dedicate or convey any of the Common Area for public purposes with the written consent of the Board, provided such consent shall not be unreasonably withheld.

### III.

#### Miscellaneous

1. Severability. This First Amendment is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this First Amendment, or the application thereof to any person or circumstance, shall for any reason and to any extent be invalid or unenforceable, then the remainder of this First Amendment and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

2. General Provisions. This First Amendment shall be governed by and construed under the laws of Texas. Exclusive venue for any action to enforce the Declaration shall be in Harris County, Texas.

Executed on the dates set forth below.

#### Declarant:

Newport Seven Land Company, LLC, a Texas 10R  
limited liability company

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

John B. Howenstine, Manager

#### Agreed and acknowledged:

The New Property Owner's Association  
of Newport, Inc., a Texas non-profit corporation

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

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

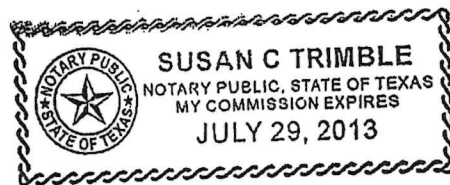
Title: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was executed before me on  
NOVEMBER 3, 2010, by John B. Howenstine, Manager of Newport Seven Land  
Company, LLC, a Texas limited liability company, on its behalf.

Susan C Trimble  
Notary Public, State of Texas

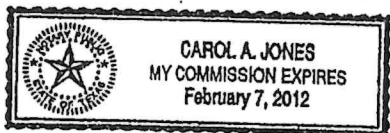


UNOFFICIAL COPY

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was executed before me on  
November 14, 2010, by DAN KASPRZAK,  
PRESIDENT of The New Property Owner's Association of Newport,  
Inc., a Texas non-profit corporation, on its behalf.



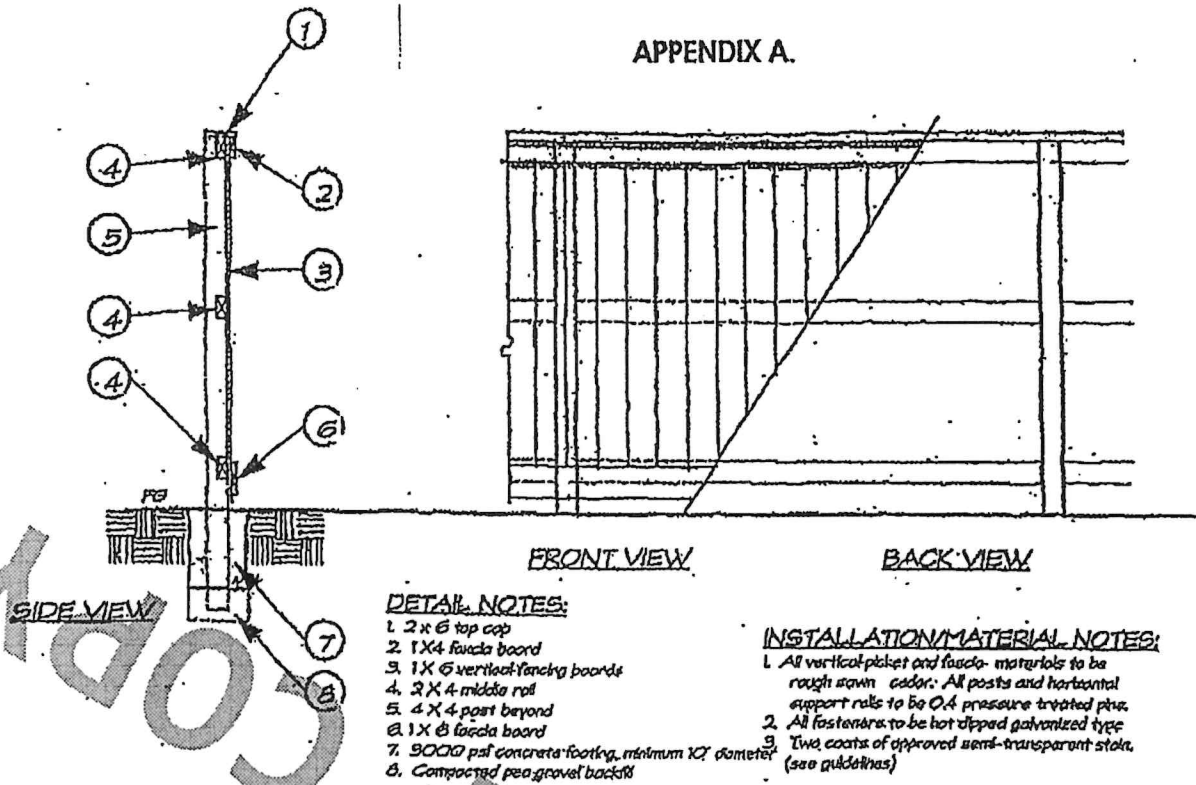
Carol A. Jones  
Notary Public, State of Texas

After recording, return to:

Jeffrey L. Gilman  
Coats Rose Yale Ryman & Lee, P.C.  
3 E. Greenway Plaza, Suite 2000  
Houston, Texas 77046

UNOFFICIAL COPY

# APPENDIX A.



## DETAIL NOTES:

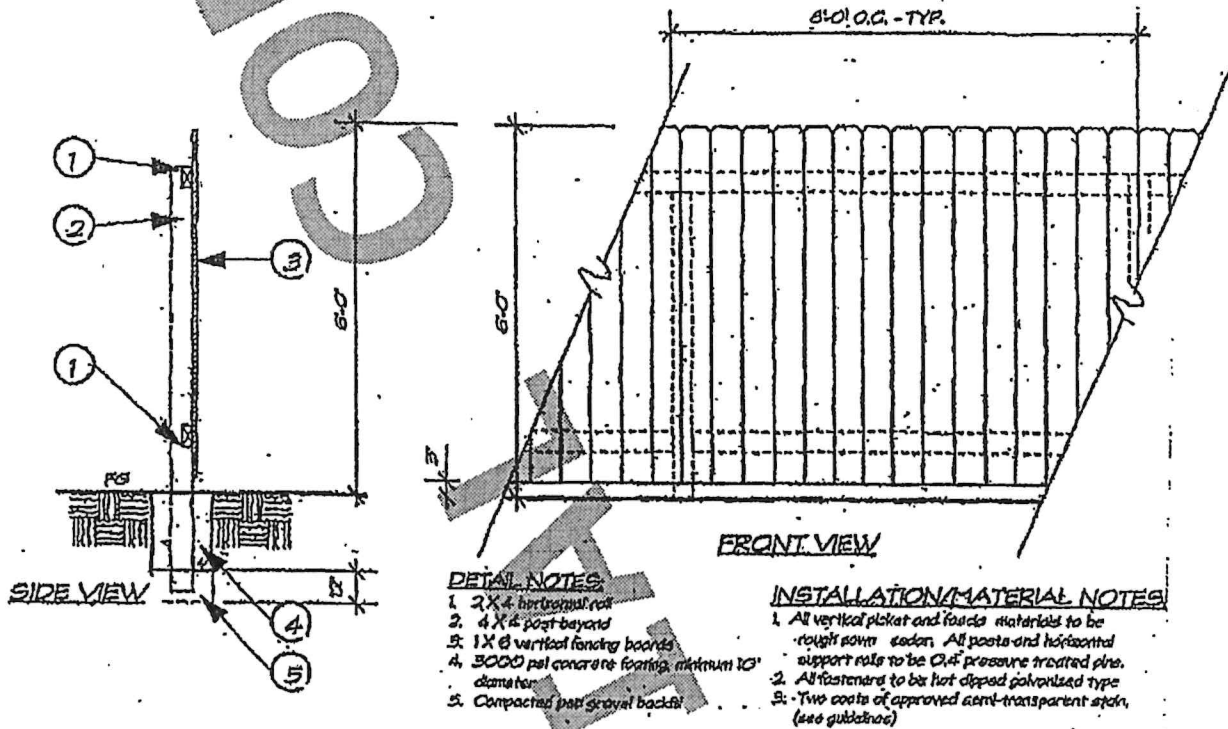
- 2 x 6 top cap
- 1 x 4 fascia board
- 1 x 6 vertical picket boards
- 2 x 4 middle rail
- 4 x 4 post beyond
- 1 x 6 fascia board
- 5000 psi concrete footing, minimum 10" diameter
- Compacted pea gravel backfill

## INSTALLATION/MATERIAL NOTES:

- All vertical picket and fascia materials to be rough sawn cedar. All posts and horizontal support rails to be O.A. pressure treated pine.
- All fasteners to be hot dipped galvanized type.
- Two coats of approved semi-transparent stain (see guidelines)

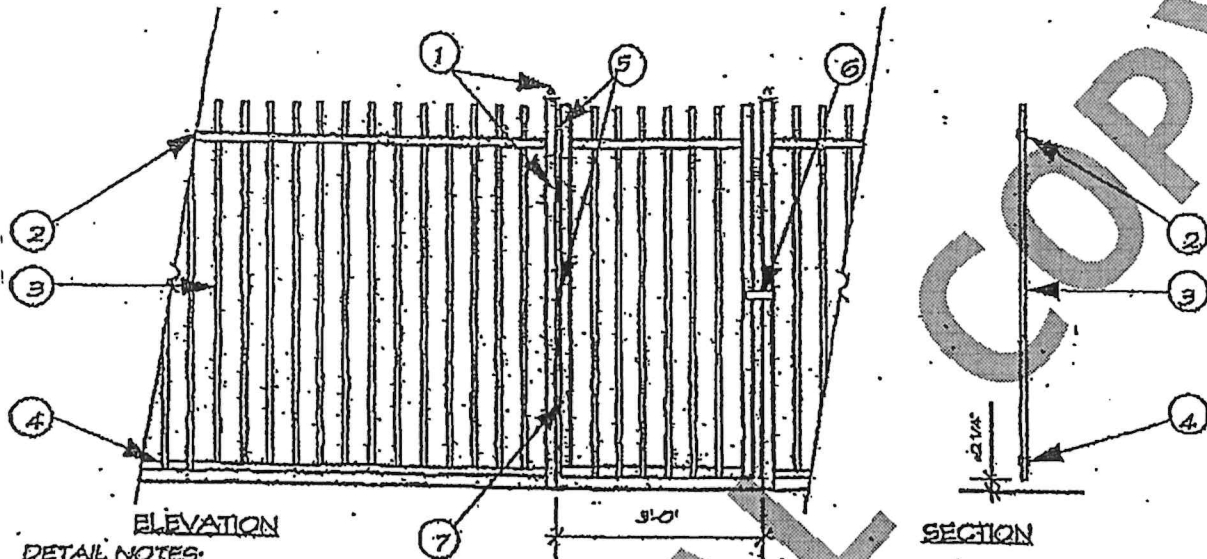
## CAP AND RAIL WOOD FENCING

## APPENDIX B



STANDARD 6'-0" HIGH WOOD FENCE

## APPENDIX C



### DETAIL NOTES:

1. 2" square tubular post with standard spear top.
2. 1 1/2" x 1 3/8" U-channel rail
3. 1" sq tubular picket or 3/4" solid
4. 1 1/2" x 1 3/8" U-channel bottom rail
5. Spring loaded, self-closing gate hinges (3 total)
6. Self-latching, lockable gate latch.
7. 1/2" x 1 3/8" U-channel gate frame

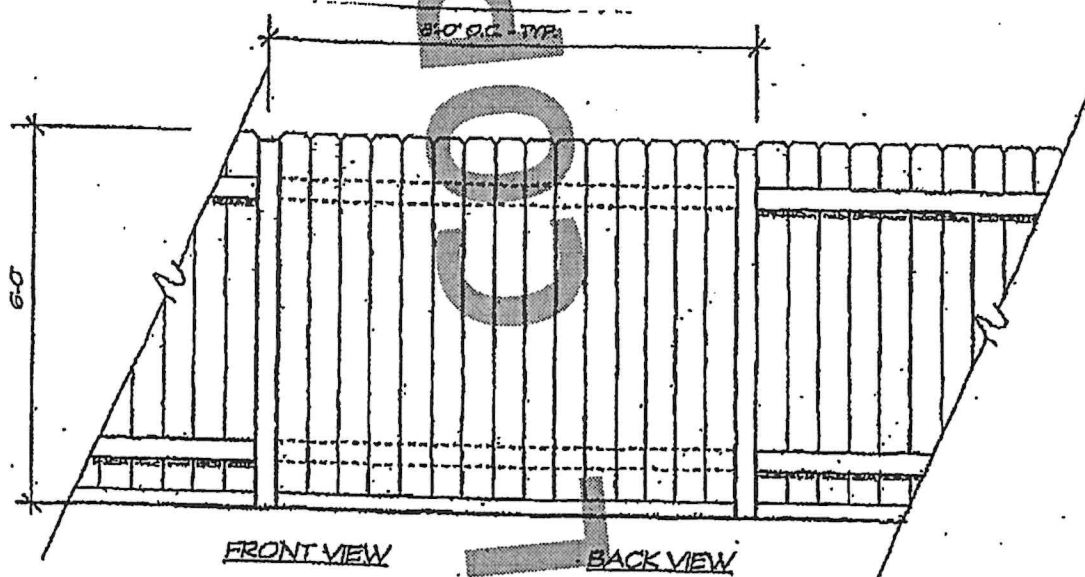
### NOTE

1. All metal to be galvanized, inside and out, and pretreated with phosphate with a final non-chromated solution prior to applying finished coat.
2. Finished treatment shall be applied by a minimum of two coats approved, high quality, commercial grade paint suitable for application over galvanized metal, to a minimum thickness of 2.5 mil thickness. Paint shall be applied in a controlled shop environment and weather pointing shall be kept to a minimum.
3. Color to be semi-gloss black.

5'-0" METAL FENCE AND GATE



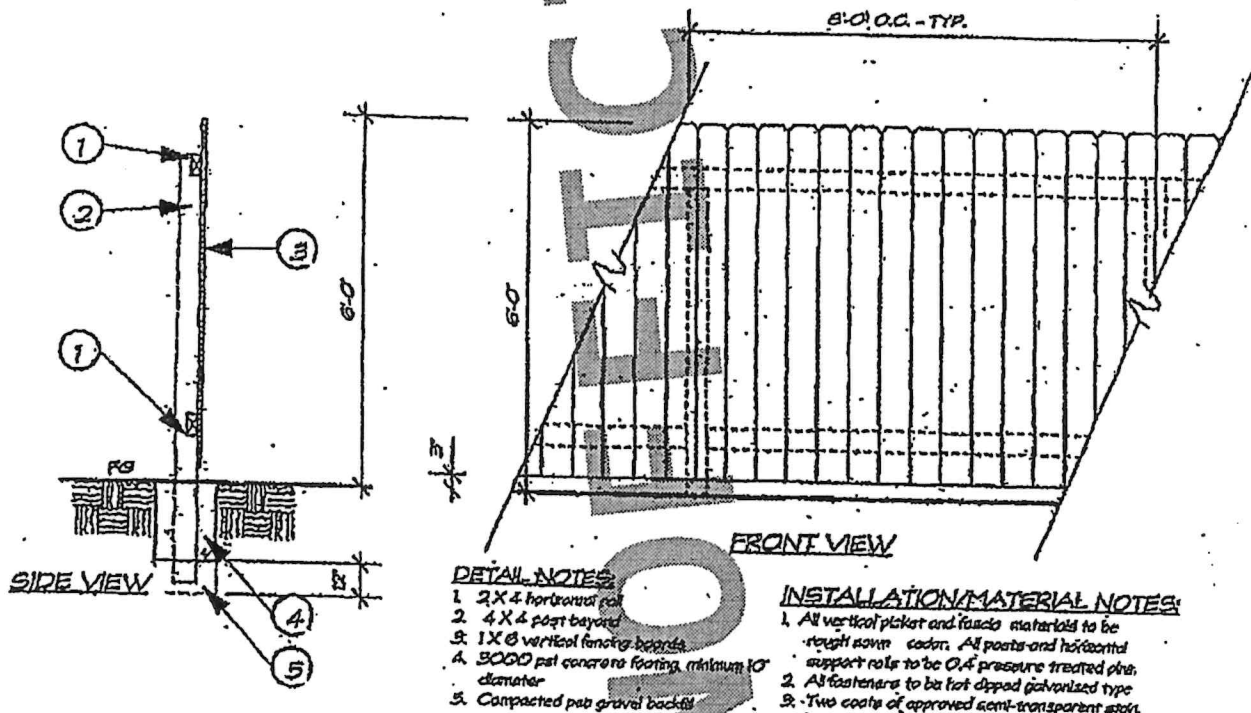
## APPENDIX D



### INSTALLATION/MATERIAL NOTES:

1. Alternate 8'-0" panel sections.
2. See standard wood fence for additional notes and installation comments.

## 'GOOD NEIGHBOR' FENCING LAYOUT



### DETAIL NOTES:

1. 2" X 4" horizontal rail
2. 4" X 4" post bayonet
3. 1" X 6" vertical fence boards
4. 3000 psi concrete footing, minimum 10" diameter
5. Compacted sub gravel backfill

### INSTALLATION/MATERIAL NOTES:

1. All vertical picket and fascia materials to be rough sawn cedar. All posts and horizontal support rails to be O.A. pressure treated pine.
2. All fasteners to be hot dipped galvanized type.
3. Two coats of approved semi-transparent stain (see guidelines).

## STANDARD 6'-0" HIGH WOOD FENCE

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# Pages 16

11/18/2010 09:14:25 AM

e-Filed & e-Recorded in the  
Official Public Records of

HARRIS COUNTY

BEVERLY KAUFMAN

COUNTY CLERK

Fees 72.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically  
and any blackouts, additions or changes were present  
at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or  
use of the described real property because of color or  
race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in  
File Number Sequence on the date and at the time stamped  
hereon by me; and was duly RECORDED in the Official  
Public Records of Real Property of Harris County, Texas.



*Beverly L. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS