



# ARCHITECTURAL DESIGN GUIDELINES

*A Residential Golf Course Community by  
Signature Properties and Nicklaus/Sierra Development*

2001 Ruby Hill Boulevard, Pleasanton, CA 94566  
(925) 417-2250 • (925) 417-8586 Fax

Updated January 2000

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### **1(d) Selection of Your design/ Construction Team — Consultant/ Builder Approval**

The selection of your design and construction team is one of the most important decisions that you will make in the process of designing and building your new home. The Committee requires that homesite owners at Ruby Hill utilize professional architects and builders who have thoroughly acquainted themselves with the Architectural Design Guidelines and have demonstrated an understanding of the quality and standards that will be required at Ruby Hill. Before selection of an architect or builder, homesite owners should check with the Committee to determine if the professional they are considering has been approved for work at Ruby Hill.

- *Selection of an Architect*

To assist in the selection of an architect, Ruby Hill has assembled a list of qualified architects which, in the opinion of the Committee, have demonstrated a high level of quality design. All approved architects have been reviewed by the Committee and deemed qualified to design homes at Ruby Hill. Homesite owners may utilize an architect which is not on the approved list only after he/she has been reviewed and approved by the Committee. Unlicensed designers will not be considered unless the Committee determines their design quality to be exceptional.

- *Selection of a Builder*

Ruby Hill has assembled a select group of featured builders who have demonstrated, in the opinion of the Committee, an excellent track record of high quality construction and customer satisfaction in development of custom homes. Homesite owners may elect to utilize a builder who is not in the Featured Builder Program if they have been approved by the Ruby Hill Architectural design Committee prior to starting construction. If a homeowner wants to act as his/her own builder, he or she must be licensed and meet all builder qualifications and be approved by the Committee.

As mentioned above, all architects and builders, unless they are Featured Builders, must be approved by the Ruby Hill Architectural design Committee prior to performing any work at Ruby Hill. Approval of an architect or builder by the Committee is not a guarantee that designs and plans will be approved or that the quality of construction will be acceptable.

- *Consultant/Builder Approval Process*

If you are considering an architect or builder who is not approved for work at Ruby Hill, you may obtain a Builder/Designer Approval form from the Sales and Information Center. The architect or builder will need to complete the application and submit it to the Committee for review and approval. The Committee may conduct additional research to determine the qualifications of architects or builders.

protection provisions for heritage trees, if any are present on the homesite, should be provided;

- j. Show the length, design, height, finish and location of all walls (retaining and freestanding) and fences. Both walls and fences must conform to the Ruby Hill Master Fencing Plan;
- k. Show the proposed structures including accessory structures.

## 2. Floor Plans

- a. Indicate decks, patios, stoops, retaining walls, trash enclosures, air conditioning screening, front entry step sizes, materials and finishes, and all interior floor spaces;
- b. Walk-out basements should indicate windows, doors, patio areas, stoops, deck columns, retaining walls and roof pitches.

## 3. Roof Plan

- a. Indicate lower roof projections, roof overhangs, chimney and roof pitches.

## 4. Elevations

- a. Building elevations should be labeled to match the site plan orientation
- b. The elevations should show all sides, including hidden or courtyard elevations. All exterior elevations should be drawn with enough detail to allow the Committee to make an effective review of the plan. All oblique elevations should be drawn "straight on."
- c. Items to be included in the elevation drawings are:
  - (1) Identification of exterior material(s);
  - (2) Roof pitch(es);
  - (3) Plate height(s);
  - (4) Window and door treatment(s) and operation;
  - (5) Deck(s);

- (6) Chimney(s);
- (7) Exterior posts and railing(s);
- (8) Walls and fences that are an integral part of the elevation;
- (9) Street address number(s);
- (10) Fire alarm bell(s);
- (11) Downspout location(s);
- (12) Denote where color changes occur;
- (13) Provide primary exterior architectural details such as eaves, gables, corbels, window trim, etc.

- d. Show the proposed finish grades against elevations, garbage screens, air conditioner locations, other screens, decks, and rear stairs;
- e. Show the maximum height from the existing grade to the uppermost roof peak, *section V(f), Height restrictions, for maximum height;*
- f. Note the architectural style on the drawings.

## 5. Elevation Renderings

Elevation renderings can be in black and white or color and should include shadowing and texturing that accurately illustrates how the home will look (minimum of front elevation required; on corner lots both street facing elevations are required).

## 6. Schematic Landscape Plan

Schematic Landscape Plan drawn 1/8" = 1'-0" scale showing:

- a. Existing and final grades, this should be coordinated with the grading plan;
- b. Home and driveway location;
- c. Patios, walks and decks;
- d. Fences and/or walls;
- e. Schematic lawn and plant bed layout;

- (b) Indicate Floor Area, FAR, Lot Coverage, Site Area;
- (c) All other site plan information, *see Section II(b), Preliminary Design Review Submittal.*
- 2. Grading and Drainage Plan**
- (a) Existing and finish grades;
- (b) Site drainage;
- 3. Floor Plans**
- (a) Note door and window sizes and operation;
- (b) Fully dimensioned floor plans;
- (c) Area of each floor;
- (d) All other floor plan information, *see Section II(b), Preliminary Design Review Submittal.*
- 4. Elevations**
- (a) Articulate with detail bubbles all typical architectural details;
- (b) Specify or detail the size, height and color of all precast exterior materials including foam trim;
- (c) Specify stucco finishes and all exterior colors, finishes and materials
- (d) Indicate maximum height.
- (e) Indicate architectural style on each elevation sheet.
- (f) All other elevation information, *see Section II(b), Preliminary Design Review Submittal.*
- 5. Roof Plan**
- (a) Note plate heights and downspout locations;
- (b) All other elevation information, *see Section II(b), Preliminary Design Review Submittal.*
- 6. Building Sections**
- (a) Indicate floor to floor heights, plate heights and relevant architectural details;
- (b) Show interior volumes.
- 7. Architectural Details (1-1/2" = 1'-0" min.)**
- (a) Architectural details may be combined on other sheets;
- (b) Detail and/or specify all exterior architectural details.
- 8. Site Soils Report**
- Landscape and Irrigation Design Submittal
- 1. The Landscape Design Submittal** should be in order as numbered and include any of the additional information stated below. Include the street address, lot and tract number in the title block. *See Section VI, Landscape Plan.*
- (a) Home location drawn to scale;
- (b) Driveway, patios, walks and decks fully dimensioned with materials specified;
- (c) Fences and Walls — Fences should conform to the Ruby Hill Fence Master Plan. All other walls and fences must be dimensioned and detailed in plan and elevation. *See Section IV(h), Walls and Fences;*
- (d) Lawn and bed areas with shrubs drawn and spaced to scale and labeled;
- (e) Tree locations labeled;
- (f) Shade structures with details in plan and elevation with materials and colors noted;
- (g) Pool/Spas, *see Section VII(d), Pools/Spas;*
- (h) Plant legend including size, spacing, common and botanical names and quantity.
- 2. Irrigation Plans (1/8" = 1'-0"): See Section VI(e), Irrigation System Requirements.**
- (a) Detailed Drainage Plan
- 3. Design Details**
- (a) Elevation(s) of structure(s) detailing height, width, materials, and color.

all construction to confirm that homes are built according to approved plans.

## II(e) Remodeling and Additions

Remodeling and additions to existing improvements are required to meet the same criteria as new construction. All criteria concerning aesthetics, color, site location, architecture, landscaping, grading and excavation, roof, height limit, solar collectors, satellite television, setbacks, lighting etc., will be of significant concern to the Architectural Design Committee. An approval from the Committee is required for this work just as it is for new construction. **In addition, approval is required from the City of Pleasanton. Homeowners should check with the City of Pleasanton Planning Department to determine if administrative design review will be required.**

Prior to starting any work on any changes to the existing home or homesite, the Homeowner should contact the Architectural Design Committee to determine which plans will be required for the review process. All fees and deposits will be applicable, but may be reduced or waived, if the Committee feels the degree of review needed does not warrant the full fee.

## II(f) Fees and Deposits

The owner will be charged a \$1,500.00 processing fee for the design submittal, which is collected with the Preliminary Design Review Submittal. The Architectural Design Committee shall have the right to increase this amount as stated in the *Covenants, Conditions, and Restrictions, Article XI, Section 11.4.2.*

This fee has been established to partially cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, inspectors or attorneys retained by the Committee. The Committee may charge an owner a reduced fee or bulk fee if he is processing plans for more than one home or is processing plans for remodeling, additions or landscaping, that, in the opinion of the Committee, do not warrant the full processing fee.

The owner or the contractor shall place a cash deposit with the Architectural Design Committee prior to construction. The construction deposit, as established by the Committee, is \$3,500.

This deposit will be fully refunded upon completion of all improvements, including landscaping, clean-up and acceptance by the Committee, provided there is no damage by the owner and/or his/her contractor(s) to the public or private improvements, common areas, or other lots within the community. Re-submittal may require an additional processing fee. Fees and deposits noted above are subject to change by the Architectural Design Committee.

The Application for Plan Approval, processing fee, damage deposit, and all other materials necessary for the Committee to approve a residence must be sent to:

Ruby Hill  
Architectural Design Committee  
2001 Ruby Hill Boulevard  
Pleasanton, California 94566  
(925) 417-2250  
(800) 887-RUBY  
(925) 417-8586 (Fax)

## IV. Site Planning

The siting of a house is a critical and important design decision. The site plan concept developed for each homeowner should reflect functional needs and also be sensitive to the property's unique characteristics and inherent design opportunities.

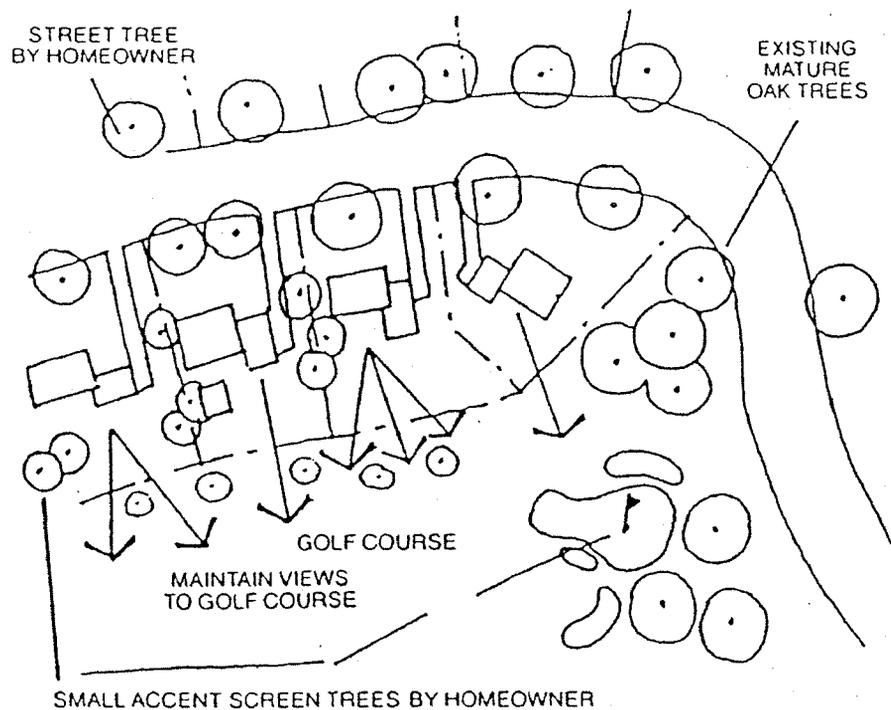
The larger homesites and open vistas of the community and golf course will mean that most residences will be seen from many different angles and views. It is therefore important that the three-dimensional character of each home be carefully studied.

The Architectural Design Committee shall consider each site independently, and give extensive consideration to the individual impact of each plan upon adjacent homesites, common areas, and the appearance from the golf course. Care must be taken to locate the landscaping and each structure, whenever possible, so as not to infringe upon view corridors, adjacent structures, homesites, and natural amenities of the land

Special consideration should be given to the topographical features of the homesite. It is important to the community that homes are located on the property in a manner that does not adversely affect views from the adjacent homes, golf course or open areas. Proper treatment must be given to the site's natural amenities including existing vegetation, environmentally sensitive areas and stream channels. Driveway access and the height of structures will be studied closely by the Architectural Design Committee.

### IV(a) Setbacks

The Architectural Design Committee has provided setback requirements for homesites, based on their size, to ensure that the community will be pleasing in appearance from views not only from the street but also from the golf course. Each architect should carefully consider the natural characteristics of the site and work within the review process to achieve the long-term aesthetic goals of the community.



case of unique Site characteristics, which the Committee may consider on a case-by-case basis.

Setbacks for accessory structures, which include pool houses, detached garages, guest houses, play structures, storage sheds, and the like are subject to the same setback criteria as the main residence. See *Section IV(a), Setbacks*.

Shade structures, which include arbors, trellises and gazebos, must be set back a minimum of ten feet (10') from side and/or rear yard property line(s), with the exception of the golf course property line(s). Shade structures are not allowed to encroach into the golf course easement or within five feet (5') of the golf course easement. Therefore, the minimum setback is twenty-five feet (25') from the golf course property line(s). See *Section IV(c), Golf Course Easement*. There can be no encroachment into the front yard. The front yard is defined as the area between the front elevation of the home and the back of curb.

Patios, walks, seat walls and raised planters may encroach into setback areas but must be kept a minimum of three feet (3') from the property line, except within golf course easement where no encroachment is permitted. See *Section IV(c), Golf Course Easement*.

Pools and spas may encroach into the setback areas but must be kept a minimum of ten feet (10') from the side and/or rear yard property line(s) with the exception of the golf course property line(s). The measurement should be taken from the property line(s) to the water line. Pools and spas are not allowed to encroach into the golf course easement or within five feet (5') of the golf course easement. Therefore, the minimum setback is twenty-five feet (25') from the golf course property line. See *Section IV(c), Golf Course Easement*. There can be no encroachment into the front yard. The front yard is defined as the area between the front elevation of the home and the curb.

Pool decks and equipment may encroach into the setback areas but must be kept a minimum of three feet (3') from the side and/or rear property lines with the exception of the golf course property line. The pool decks and equipment are not allowed to encroach into the golf course easement or within five feet (5') of the golf course easement. Therefore, the minimum setback is twenty-five feet (25') from the golf course property line. See *Section IV(c), Golf Course Easement*.

Wooden decks are required to be set back a minimum of three feet (3') from the side and/or rear property line(s) with the exception of the golf course property line(s). Wooden decks are not allowed to encroach into the golf course easement. See *Section IV(c), Golf Course Easement*. There can be no encroachment into the front yard. The front yard is defined as the area between the front elevation of the home and the back of the curb.

Built-in barbecues and garbage enclosures are required to be set back a minimum of five feet (5') from the side and/or rear property line(s) with the exception of the golf course property line(s). Built-in barbecues and garbage enclosures are not allowed to encroach into the golf course easement or within five feet (5') of the golf course easement. Therefore, the minimum setback is twenty-five feet (25') from the golf course property line. See *Section IV(c), Golf Course Easement*. There can be no encroachment into the front yard. The front yard is defined as the area between the front elevation of the home and the back of curb.

Retaining walls are required to be set back a minimum of three feet (3') from the property line. See *Section IV(h), Retaining Walls, for additional requirements*.

Sport courts can not encroach into the front yard. Sport courts are required to be set back ten feet (10') from the side property line(s) and twenty feet (20') from any rear property line(s), with the exception of the golf course property line(s). Sport courts are required to be set back fifty feet (50') from the golf course property line(s). See *Section VII(e), Sport Courts, for additional requirements*.

#### IV(b) Easements

Some lots at Ruby Hill contain easements which need to be considered in the site planning process. These should be identified and carefully considered when locating your home, driveway, sidewalks, patios, pool, landscaping and any other elements proposed on your homesite.

Landscaping and the building of driveways or fencing within sewer, water, and storm easements may be permissible, but any cost associated with the removal of such features to access underground pipes and improvements, is the responsibility of the homesite owner. No permanent structures may be constructed within easements.

#### IV(e) Driveways/Parking

Decorative driveways are encouraged. Concrete or pavers should be used in construction of all driveways and parking areas. **Asphalt cannot be used on any driveway or parking areas.** The maximum width permitted for driveways at Ruby Hill is twelve feet (12') unless a variance is granted by the Committee. Since no on-street parking is allowed in the Custom Home Areas of Ruby Hill, driveway layouts should include a provision for a minimum of two guest parking spaces. These should be designed so that access to the garage can still occur when guest parking is occupied. On-street parking is permitted only for special events that are approved by the Homeowners Association.

#### IV(f) Grading

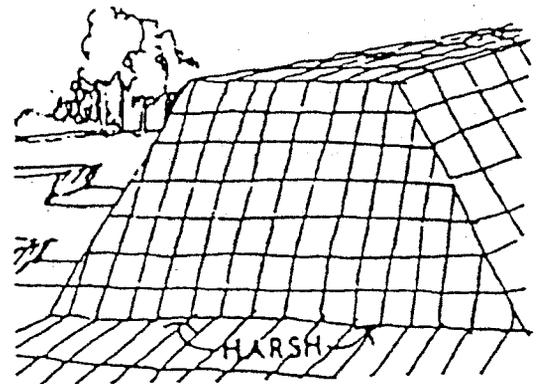
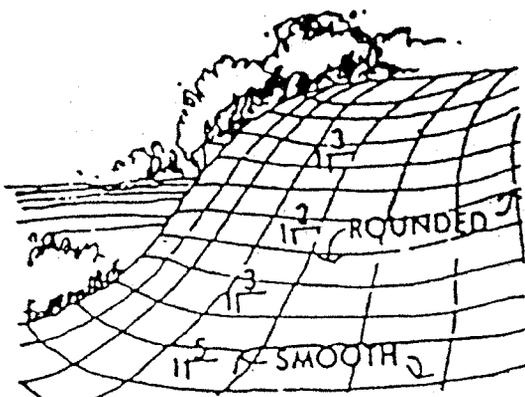
The design and development concepts of the Community call for the maintenance of the existing grades in as much of the original condition as possible. Of particular importance are the homesites which have been developed to reflect the natural contours of the surrounding property. Many of these homesites surround the golf course and will require creative architectural design considerations.

The Committee is particularly conscious of site utilization and desires not to disrupt the natural terrain in most cases. The Architectural Design Committee is keenly aware that, whenever possible, structures should be designed around the specific homesite. Homes located on sloping lots should be sited to take advantage of the hillsides by stepping down the slope. It is important to remember that the beauty of our development is the land and its natural features and that the architecture should complement

and enhance rather than compete with or detract from this beauty.

Grading approval must be obtained from the Committee before earth is moved. Building page grades may be altered only with the approval of the Committee. Grading shall be limited to the Building envelope. "Benching" of lots will not be permitted. Cross-section drawing at property line of the lot on both sides shall be submitted to show grade change, drainage flow and hardscape. If alterations to pad grade elevation are determined to impact adjacent lots and causes improvements such as retaining walls, drainage modifications, etc., builder or owner of subject property shall bear the cost of those improvements or modifications caused by grade elevations. Individual lot grading for home foundations must be balanced on site and not exceed 500 cubic yards of earth moved. The intent of this requirement is to prevent padding of the naturally contoured lots. No import or export will be allowed with the exception of topsoil for landscaping and disposal of pool excavation materials. Grading that is required for pools, patios, etc. should incorporate the same design philosophy as that used in siting a residence. Absolutely no grading whatsoever shall be permitted without first obtaining design review approval.

All grading reviews shall be subject to the jurisdiction of the Committee and shall be considered individually for each lot. Recommendations or demands will be based upon individual homesite locations, terrain, soil conditions, drainage, cuts and fills, and whatever other conditions the Committee feels impact upon the site grading design. Changes from existing grades and drainage patterns and subsequent liability is the responsibility of the owner and his/her professional design team.





#### IV(h) Walls and Fences

Walls and fences should be considered as an extension of the architecture of the residence. They should serve to make a transition between the mass of the architecture and the natural forms of the site. All walls and fences should be designed to be compatible with the total surrounding environment and should not block natural views. Fences, walls and hedges should be considered as design elements to enclose and define courtyards, to extend and relate the building forms to the landscape, as well as to assure security and privacy elements. Homeowners will be encouraged to screen boundaries, with natural trees or shrubs whenever possible.

All fences must conform to the Ruby Hill Master Fencing Plan. This plan designates the location and design of minimum fencing requirements for individual homesites. This plan may restrict or prohibit certain fence or wall treatments desired by homeowners. The purpose of the plan is to create continuity within the community as viewed from the golf course, roads, open space areas and natural areas. This Master Fencing Plan should be reviewed prior to starting any design work.

All walls and fences must be approved by the Committee prior to their installation. Walls that face the street should be constructed of material that match or complement the architectural style of the residence. Acceptable materials include stucco, stone, brick, or wrought iron with masonry columns. This requirement also applies where side fences face the street on corner lots.

All front yard fences should utilize the standard Ruby Hill wrought iron fence and return to the residence at least ten feet (10') behind the front corner of the elevation. Consequently, there should be no fences

located within the front yard setback area. This also applies to courtyard treatments and privacy walls for security. Low screen walls (48") maximum height above existing grade may encroach into the front yard setback a minimum 10'-0". Side yard fences should utilize Ruby Hill Wrought Iron Fence as shown in the Master Fencing plan unless located on a corner lot. In this case the same criteria used on front yard fences should be applied. Upgraded side yard fencing will be considered on a case by case basis by the Committee. Chain link fences will not be permitted on residential homesites. Maximum height for fences is six feet (6'), measured from existing grade. The Committee has the authority to grant variances for fence height if, in its sole opinion, the circumstances warrant an increase or decrease. Additional approval from City of Pleasanton is required for walls and fences over six feet (6'), measured from finished grade.

Fencing visible from the street or golf course must be landscaped. Long stretches of bare fences or walls will not be allowed. Purchasers of homesites with rear yard slope areas should carefully review the Master Fencing Plan and pay special attention to the restrictions on their homesite.

Homes located adjacent to the golf course will be subject to additional fencing requirements. It is the goal of the Committee to blend the golf course landscape with rear yards of adjacent homesites. For this reason, no fencing will be allowed on the property line abutting the golf course. Fences will be allowed only if located outside the twenty foot (20') golf course easement which has been established on each golf course homesite. See Section IV(c), Golf Course Easement. Please note that all fencing facing the golf course must conform to the design specified in the Ruby Hill Master Fencing Plan, unless otherwise approved by the Committee.



## V. Architecture

It is not the intent of these guidelines to dictate specific architectural styles that must be used within the community, but rather to give property owners, their architects or designers a set of guidelines that will make the entire community a more attractive place to live. These guidelines are created to encourage a community of individual outstanding architectural statements that, when viewed together, produce a pleasant living environment.

Architectural designs should be customized for each homesite to maximize the natural features that exist.

The Ruby Hill property in Pleasanton has played a prominent role in the history of the Livermore Valley's Wine Region. Our commitment to viticulture is evidenced by the surrounding Ruby Hill vineyards, and the restoration of the Ruby Hill and Fenestra Wineries.

It is only appropriate that the architectural theme of the Ruby Hill Clubhouse, the Ruby Hill Park, entrances, street features, and residential homes, reflect this continued commitment. Traditional styles that are prevalent in the warm weather wine regions of Europe are preferred. Examples of these architectural styles would be English Country, French Country, Mediterranean and Italian Villa. Architectural styles prevalent in the San Francisco Bay Area, such as Craftsman/Bay Area Traditional, Prairie and Monterey/Spanish Eclectic, will also be encouraged. Contemporary interpretations of approved styles are acceptable when they are consistent with traditional features such as massing, proportions, roof lines and materials.

### V(a) Architectural Examples

Refer to Appendix A.

### V(c) Design Features

1. The main roof pitches should be consistent with the architectural style of the home. As an example, more traditional architectural styles such as French Country should have a minimum of 8 vertical to 12 horizontal pitched roof, either gabled, hipped or a combination of the two. **Flat roofs will not be allowed regardless of the architectural style.** Roof forms should be well organized and demonstrate the same character on all sides of the residence. Shed roof forms are discouraged. Eaves and rakes should be articulated by multiple fascia boards, cove and crown molds or gutters. Gutters and downspouts shall be used at all eave lines unless deemed inappropriate. All roof structures such as attic vents, plumbing vents, gutters, etc., should be painted to match the roof colors and be positioned behind the roof crown.
2. Windows and doors should reflect restraint in the number of types, styles and sizes. Consistency of detailing on all elevations must be maintained. All openings should be articulated through the use of shutters, flat or arched lintels, projecting sills or surrounds. All window and door trim must be either wood, precast, or an approved "cool stone" finish (i.e., no stucco over foam trim). Windows should be located on all elevations and be properly spaced and proportioned. Shutters, if incorporated, should be sized to the opening and be located on all elevations. Shutters should be traditional in design and in keep with the architectural style.
3. The main entrance should have a sense of prominence that is reflected on the design. It should include either a pair of doors with or without sidelights or a single door with sidelights. The main entrance should contain more detail than other openings but be consistent in styling.
4. Quoins, when utilized in the design, should be expressed on all elevations when used.
5. A raised deck and its supports should incorporate materials which relate to the residence such as brick, stucco or stone. If wood posts are used, they should be a minimum of 6" by 8" with base and capital detailing.
6. In most instances, bay windows should be carried down to grade or express visual support of a cantilevered condition. When bay windows are stacked in a 2-story condition, the blank panel between all facets should be articulated.
7. Masonry or stone facing used as a veneer material on the front of a residence should return around a corner to a logical point of termination such as an inside corner. Ending the veneer at an outside corner which would expose the edge of the material is not acceptable. It would be preferable to carry the material completely around the residence.
8. All roof penetrations for vents should be on the rear side of the roof ridge and as low as possible. All roof vents should be painted to match the roof color. Skylights are strongly discouraged, and will only be approved on a case-by-case basis. If proposed, skylights should be flat so as not to protrude from the roof surface and not be visible from the street, golf course or open space.
9. Chimneys should be properly located and in correct proportion to the mass of the home. Chimneys should be designed with appropriate breaks for character. Flue pipes are required to be encased with a chimney enclosure of masonry or stucco and be supported by a foundation at grade.
10. Dormers should be designed in keeping with the architectural style. Dormers must be correctly located on the roof and not be too large or out of proportion.

### V(d) Acceptable Materials

1. Exterior walls may incorporate any of the following: brick, stucco, stone, or wood. Bricks should be earth-tone in color. Brick textures should not have contrived surfaces.
2. Acceptable roofing materials are: slate, concrete clay tile (flat or barrel), architectural grade composition, wood, or standing seamed copper. Any substitute roofing material must be approved by the Architectural Design Committee. All roof materials must be rated Class B fire retardant or better.



## VI. Landscape Plan

A strong emphasis is placed on landscaping in the architectural review process. Quality landscaping is important to both the appearance of each individual home and the overall community. The landscape design for the homes at Ruby Hill should attempt to blend the picturesque natural features of the site with the rolling turf of the golf course in such a way that the aesthetic qualities of both are emphasized. The Site offers a foothill/woodland environment with many large, mature oaks and native sycamores which have become the theme trees for the development.

To ensure that the overall beauty of the community is preserved and enhanced, the Architectural Design Committee has the authority to approve or disapprove landscape plans for individual residences.

Furthermore, for lots that border the golf course, the Ruby Hill Golf Club also has the authority to approve landscape plans. It is for these reasons Ruby Hill requires that a landscaping plan be submitted for both the preliminary and the final review process.

Ruby Hill has been designed utilizing the natural elements of the property. Various hardwoods are present within the community and adjacent open space which set the theme for Ruby Hill. It is the intent of the Architectural Design Committee to maintain this landscape integrity.

The determining factor of good landscape design should always be the architecture and location of the residence. The Architectural Design Committee will take into account the various relationships between the home, the site, and adjacent homes, views, prevailing breeze, golf course and other amenities in making decisions regarding specific landscape plans.

• **Trees**

<u>Botanical Name</u>	<u>Common Name</u>
* Acer macrophyllum	Bigleaf Maple
Alnus cordata	Italian Alder
R Betula jacquemontii	"Jacquemontii" Birch
R Betula nigra	River Birch
Cercis occidentalis	Western Redbud
Lagerstroemia indica	Crape Myrtle
Liriodendron tulipifera	Tulip Tree
Crataegus phaenopyrum	Washington Thorn
Faxinus O. "Raywoodii"	"Raywood" Ash
Magnolia soulangiana	Saucer Magnolia
Olea europea	European Olive
Pistacia chenensis	Pistache
Plantanus A. "Columbia"	London Plan Tree
R* Platanus racemosa	California Sycamore
R Salix babylonica	Weeping Willow
Prunus lyonii	Catalina Cherry
Pyrus kawakami	Evergreen Pear
Pyrus calleryana "Aristocrat"	Aristocrat Pear
* Quercus agrifolia	Coast Live Oak
Quercus ilex	Holly Oak
* Quercus kelloggii	California Black Oak
* Quercus lobata	Valley Oak
Quercus suber	Cork Oak
R* Umbellularia californica	California Bay
Zelkova serrata	Sawleaf Zelkova

• **Shrubs**

<u>Botanical Name</u>	<u>Common Name</u>
Buxus Species	Boxwood
* Arctostaphylos Emerald Carpet	Manzanita
* Arctostaphylos "Hookeri"	Monterey Manzanita
* Arctostaphylos "Howard" McMinn	Manzanita
* Ceanothus "Concha"	Wild Lilac
* Ceanothus "Park Star"	Wild Lilac
* Ceanothus "Emily Brown"	Wild Lilac
* Ceanothus "Sierra Blue"	Wild Lilac
* Ceanothus "Ray Hartman"	Wild Lilac
Chacnomeles "Pink Lady/ Stanford Red"	Dwarf Flowering Quince
Cistus ladanifer	Crimson-Spot Rockrose
Cistus purpureus	Orchid Rockrose
Diestes bicolor	Fortnight Lily
Escallonia Species	Escallonia
* Fremontodendron Cal. San Gabriel	Southern Flannel Bush
* Galvezia speciosa	Island Bush Snapdragon
* Garrya elliptica	Silktassel
* Heteromeles arbutifolia	Toyon
Leptospermum S. "Gaiety Girl"	New Zealand Tea Tree
Leptospermum S. "Helene"	New Zealand Tea Tree
* Mahonia aquifolium	Oregon Grape
* Manonia pinnata	California Holly Grape
Pittosporum tobira	Tobira
Rhaphiolepis indica "Rosca"	Indian Hawthorn
Rosa floribunda "Red"	Floribunda Rose
Rosmarinus "Tuscan Blue"	Rosemary
* Romneya coulteri	Matilija Poppy
Viburnum tinus	Laurustinus
Viburnum tinus "Dwarf"	Dwarf Laurustinus

• **Groundcovers and Vines**

<u>Botanical Name</u>	<u>Common Name</u>
* Arctostaphylos E. "Danville"	Danville Manzanita
* Arctostaphylos "Pt. Reyes"	Point Reyes Manzanita
* Baccharis pilularis "Pigeon Pt."	Dwarf Coyote Brush
Cerastium tomentosum	Snow-in Summer
* Cistus skanbergii	Rockrose
Cistus saalvifolius	Sageleaf Rockrose
Convolvulus mauritanicus	GroundMorning Glory
Coprosma pumila "Verde Vista"	Verde Vista Coprosma
Cotoneaster Species	Cotoneaster
Ficus pumila	Creepint Fig
Gazania Species	Gazania
Hardenbergia violacea	Happy Wanderer
Hypericum calycinum	St. Jon's Wort
Lonicera jap. "Hall's"	Hall's Honeysuckle
Parthenocissus tricuspidata "Veitchii"	Dwarf Boston Ivy
Ribes viburnifolium	Evergreen Currant
Vinca minor	Vinca
Wisteria floribunda	Wisteria

**V(b) Prohibited**

The following trees and plants should be avoided since they are not in keeping with the major planting themes established for Ruby Hill. Other trees and plants may be prohibited upon review of the landscaping plans.

• **Trees**

<u>Botanical Name</u>	<u>Common Name</u>
Acacia Species	Acacia
Calocedrus decurrens	Incense Cedar
Cupressus glabra	Smooth Arizona
Cypress	
Eucalyptus Species	Eucalyptus
Palmac Species	Palms
Picea Species	Spruce
Pinus Species	Pines

• **Shrubs and Groundcover**

<u>Botanical Name</u>	<u>Common Name</u>
Cortoderia Selloana	Pampas Grass
Juniper Species	Juniper

**VI(c) Planting Requirements**

To achieve the overall theme, some minimum landscape requirements have been established by the Committee. These requirements are intended to ensure that a consistent thread is woven through the community that ties the individual homesites, golf

on site can be preserved. Some homesites contain these existing trees and every effort should be taken by your design team to preserve them. However, the Committee understands that this is not always possible. Therefore, prior to removal of any existing trees a written consent from the Committee must be received. The Committee will allow the removal of an existing tree if the applicant can demonstrate that (a) the tree has a trunk diameter less than 6" at three feet above ground; or (b) there are no reasonable design alternatives that would save the tree. Some homesites may contain existing trees which are classified as Heritage Trees by the City of Pleasanton. These trees are protected by a City Ordinance which requires a permit, in addition to Committee approval, if removal is required. Heritage Trees will be marked on the individual plot maps, distributed in the Sales and Information Center. The City of Pleasanton Planning Department should be consulted for permitting procedure if a Heritage Tree on your homesite requires removal. It is the homesite owners responsibility to obtain a permit from the City of Pleasanton if removal is required.

Care must be exercised during construction, and afterwards, not to change the soil environment within the "drip line" (area underneath branches where roots are concentrated to soak up rainwater) of existing trees. The native Oak trees (many over 100

years old) are particularly sensitive to development. The following activities shall not be allowed within the drip line of any existing oaks:

1. Trenching;
2. Grading, cutting, filling, or soil compaction;
3. Landscaping with plant material requiring summer irrigation, particularly lawn.
4. Paving with materials of limited permeability (asphalt, concrete, flagstone, brick, or other pavers in mortar).

The Committee shall require that a temporary fence be erected at the drip line of an existing tree during construction if it is located precariously close to any home construction or lot grading.

Care must also be taken when developing outside the drip line. Newly constructed barriers (e.g. concrete foundations, swimming pools, garden walls, etc.) often act as dams that trap water and cause root or crown rot, eventually killing the tree. Where instances like this are likely to occur, the landscape plan must provide for the necessary drainage mitigation to ensure continued health of the existing tree.



rate for infiltration into the soil and plant root zone and to avoid runoff or ponding.

3. Bubbler and drip emitters may be used in groundcovers, shrubs, combination groundcovers/shrubs, and tree hydrozones where "point-of-emission" water application to planting within the hydrozone is appropriate.
  - a. Bubbler and drip emitter zones shall be controlled to apply water at an appropriate rate for infiltration into the soil and plant root zone, and to avoid runoff or ponding.
4. Check valves shall be utilized in sprinkler bodies and/or lateral piping where necessary to prevent low outlet drainage after each control zone completes its programmed operation cycle.
5. Detailed Drainage Plan

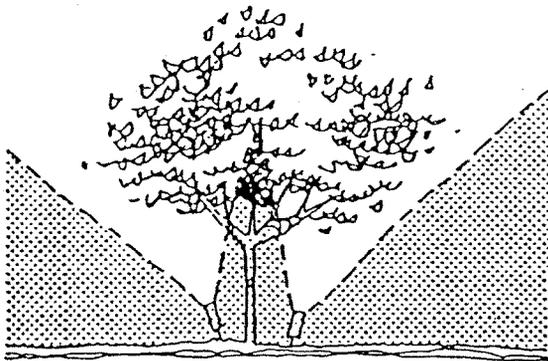
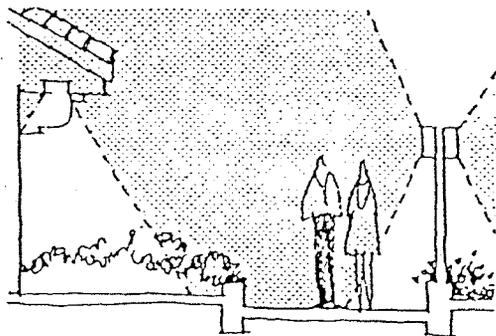
#### *System Maintenance*

1. All irrigation systems shall be monitored on a regular basis; not less than once every two weeks during peak season operation, and not less than once per month during off season operation.
2. Maintenance monitoring shall include a valve-by-valve system observation sequence, with necessary adjustments or repairs noted and corrected. Seasonable programming adjustments shall be made at each monitoring session as well.

Residents should be aware that the City of Pleasanton, Zone 7 Water Agency, the State of California, or other public agencies may also set restrictions on watering times, amounts, and equipment, etc.

## VII(f) Exterior Lighting

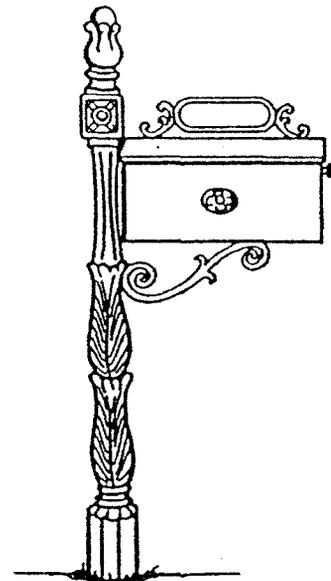
As with all exterior design work, lighting should be used to enhance the overall design concept of the home in an aesthetically pleasing manner. Exterior pool and landscape lighting must not infringe upon adjacent neighbors. Therefore, glare shields may be required to eliminate bright spots and glare sources. Exterior lighting should utilize low voltage or similar type fixtures and should be as close to grade as possible. No bare light bulbs are permitted to be shown. All light conduit and fixtures must be as inconspicuous as possible. Exterior lighting must meet national and local codes and must be approved by the Architectural Design Committee prior to installation. No lights will be allowed on entry monuments or landscape walls if located within twenty-feet (25') of the back of the curb.



## VII(g) Mailboxes

One of the items that the Architectural Design Committee will control is the selection and construction of all mailboxes for residences within Ruby Hill. Community standard mailboxes are recommended. However, if an estate homesite purchaser prefers, the Committee will allow mailboxes to be incorporated into an individual entry monument subject to the following criteria. The entry monument that surrounds the mailbox shall not exceed five feet (5'-0") in height and two feet six inches in width (2'6"). The materials used to construct the monument shall match or complement the materials utilized on the home elevation and/or hardscape. Mailbox doors shall be brass or approved alternate material that complements the selected architectural style. Mailbox location and design (if other than Ruby Hill standard) must be shown on the landscape and architectural plans. The Pleasanton Post Office should be consulted to determine acceptable mounting height for box.

Mailboxes must be installed by Homesite owner prior to final inspection by the Architectural Design Committee. Prior to installation, Homeowner should consult Underground Service Alert, phone number (800) 642-2444 to locate any existing utilities. This should be done to ensure that no utilities will be damaged during installation. Community standard mailboxes must be purchased from the Developer for \$450. The check should be made payable to "Ruby Hill Development Joint Venture, L.P." Please contact the Sales and Information Center to place your order (minimum of 4 weeks prior to installation).



## VIII. General Rules for all Ruby Hill Contractors and Service Personnel

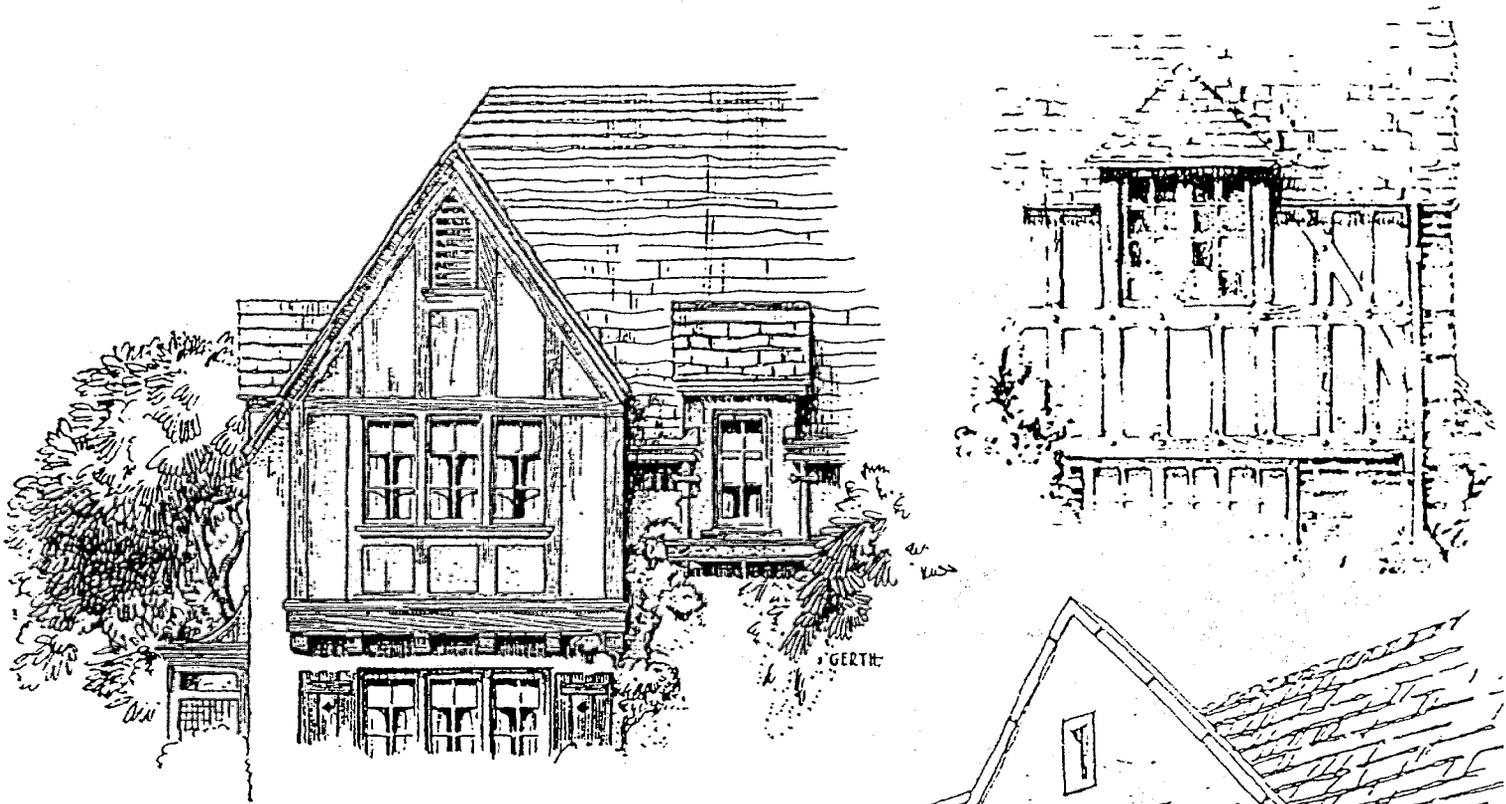
It is the responsibility of the homesite owner to present their builder, contractor, or subcontractor(s) with a copy of these rules and to make sure that they are obeyed and understood. The Architectural Design Committee and the Homeowners Association will enforce these rules and pursue any necessary remedies to the full extent of the law.

1. All contractor personnel are required to enter and leave through the designated construction gate. A construction pass or permission to enter is required for admittance.
2. The construction gate will be open during the following construction hours (Monday -Friday hours are 6:00 a.m. - 6:00 p.m. and Saturday hours are 8:00 a.m. - 6:00 p.m.) or as designated by the developer. If it is necessary to move special equipment or have deliveries on Sunday, or when the construction gate is closed, it will be opened by special request, with 24 hours notice.
3. Contractors are required to keep their job sites as neat and clean as possible. Trash and discarded materials shall be removed daily. All trash stockpiled for removal shall be located in the rear of the residence until removed. There will be no stockpiling or dumping on adjacent lots or on streets. Trash not removed will be removed by Ruby Hill and billed to the responsible contractor, subcontractor, or homeowner.
  - a. Contractors must enter and exit only on the lot on which they are working. They cannot use adjacent lots for entering, exiting or parking.
  - b. Streets in front of the site should be kept clean from mud, dirt and debris deposited by construction vehicles entering and exiting the job Site.
4. Contractors will use only the utilities provided on the immediate site on which they are working.
5. Any damage to streets and curbs, drainage inlets, street lights, street markers, mailboxes, walls, etc. will be repaired by Ruby Hill and such costs billed to the responsible contractor or taken from the construction deposit.
6. The established speed limit within the Community is 25 miles per hour, unless otherwise posted, for construction vehicles, including light trucks and autos. This must be obeyed.
7. There will be no washing of any truck on the streets. Any concrete delivery truck washed out must be on the construction site.
8. Operators of vehicles are required to see that they do not spill any damaging materials while within the Community. If spillage of a load occurs, operators are responsible for clean up. Clean up done by the Ruby Hill personnel will be billed to the responsible party. Please report any spills as soon as possible.
9. If any lines are cut (i.e. telephone, cable television, electrical, water, etc.) it is the contractor's responsibility to report the accident to security personnel immediately.
10. Ruby Hill has a program of vehicle search that provides for the inspection and/or search of all vehicles arriving and leaving the property. This program does not require a forced search of any vehicle whose operator does not wish to comply. However, parties who do not agree to the search, or change their minds after agreement, may not be allowed within the subdivision in the future.
11. All personnel working in the Community are to keep all areas in which they work free of discarded materials such as lunch bags and odd materials. Objects should not be thrown out of cars and trucks. Stockpiling of any materials on adjacent lots is not allowed.
12. Loud radios or noise will not be allowed within the subdivision. This is distracting and discomforting to property owners and golfers alike. Normal radio levels are acceptable. Do not mount speakers on vehicles or outside of homes under construction. Remember that sound travels a long way on a windy day.
13. No short cuts across the golf course are allowed. Any contractor doing work on or adjacent to the course must have a full-time golf employee show them paths of ingress and egress.

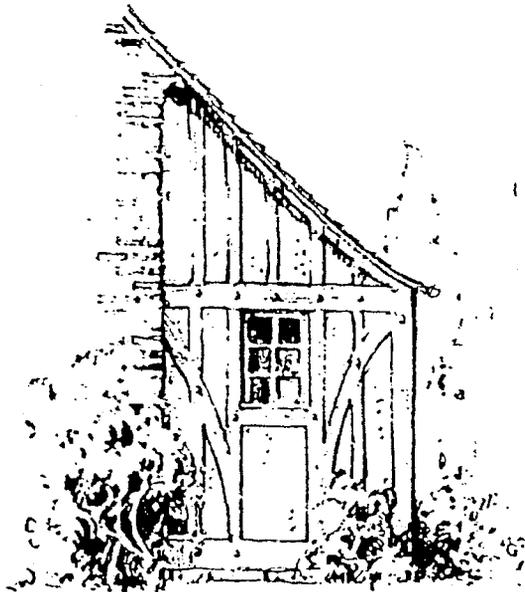
# APPENDIX A

## Examples of Architectural Styles

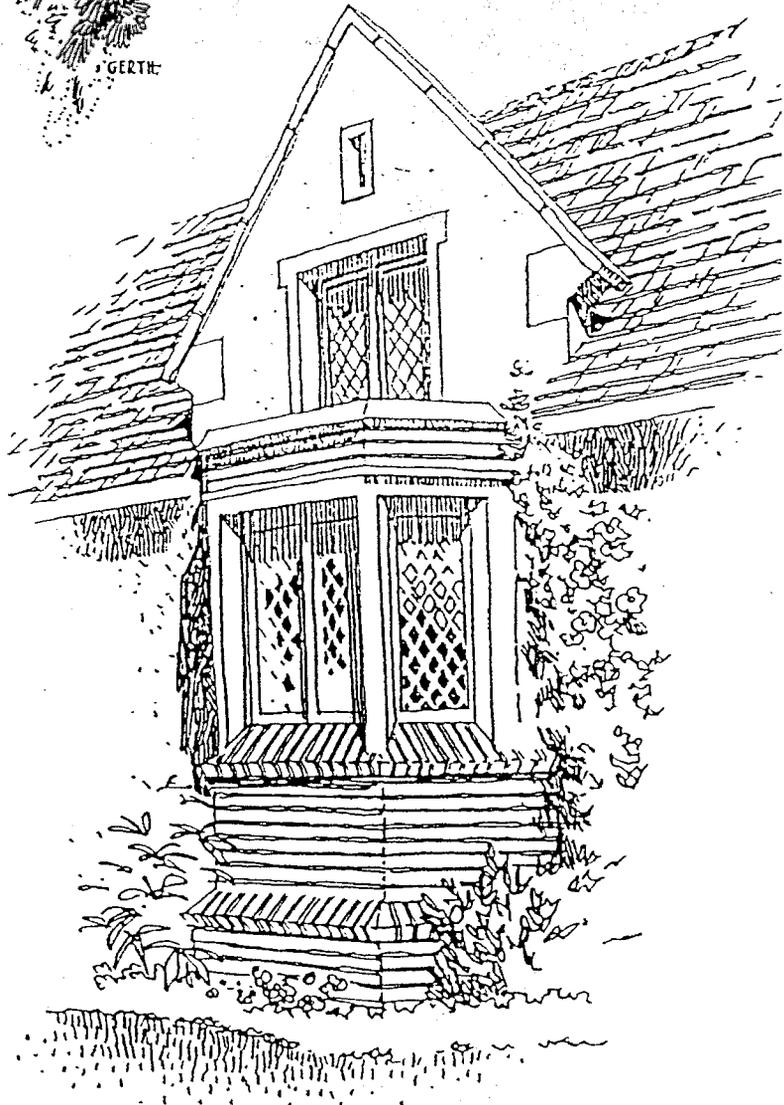
# ENGLISH COUNTRY



- Dormers and end gables are used in varying combinations to provide variety for the prominent steeply-pitched roofs.



- Cascading roof with curved eave.



- Bay window with brick wainscot.

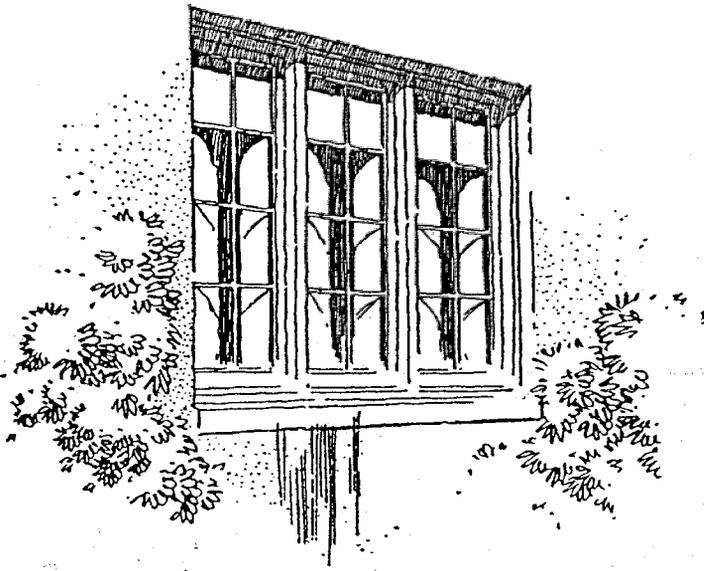
# FRENCH COUNTRY



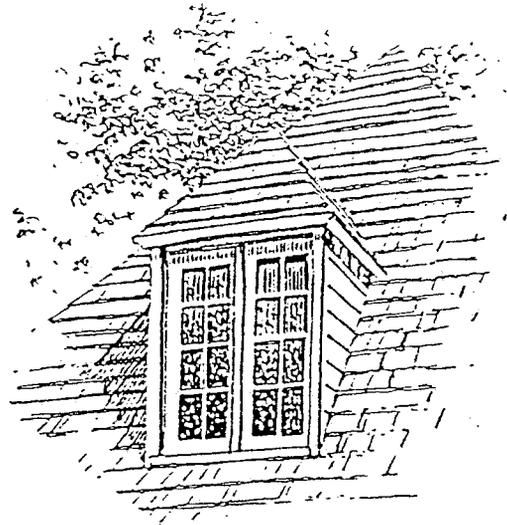
- Towers, dormers and gables break up large roof forms. Porches and verandas use heavy timber for beams. Casement windows with divided
- The composition of the massing elements is an important design feature. Roof pitches are generally very steep. Hip and gable roofs need to be carefully composed
- Stucco walls combine with a restrained use of brick and stone in this style. Roofs are primarily



# FRENCH COUNTRY

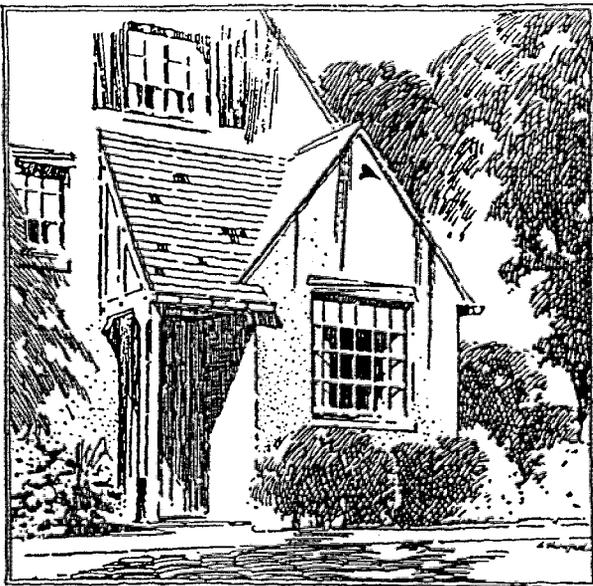
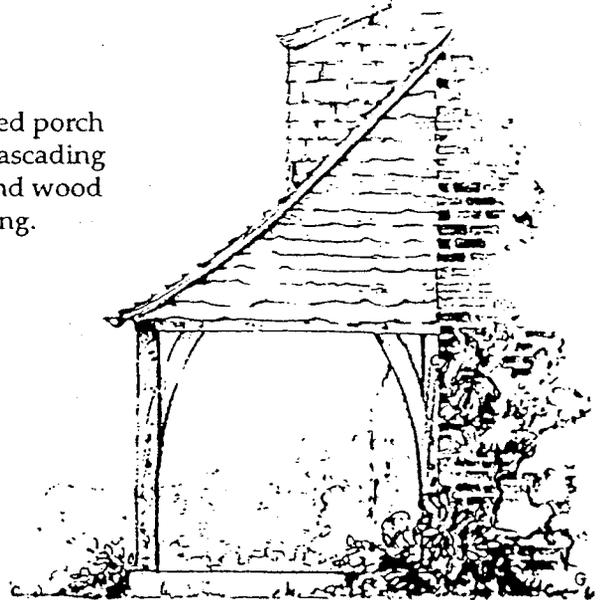


- Simple recessed windows.

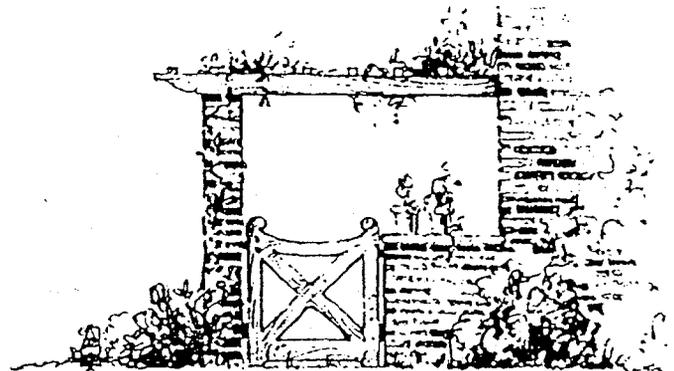


- Divided light casements at dormer.

- Covered porch with cascading roof and wood detailing.



- Gable with complementing porch.



- Low walls with trellis as extensions of the architecture.

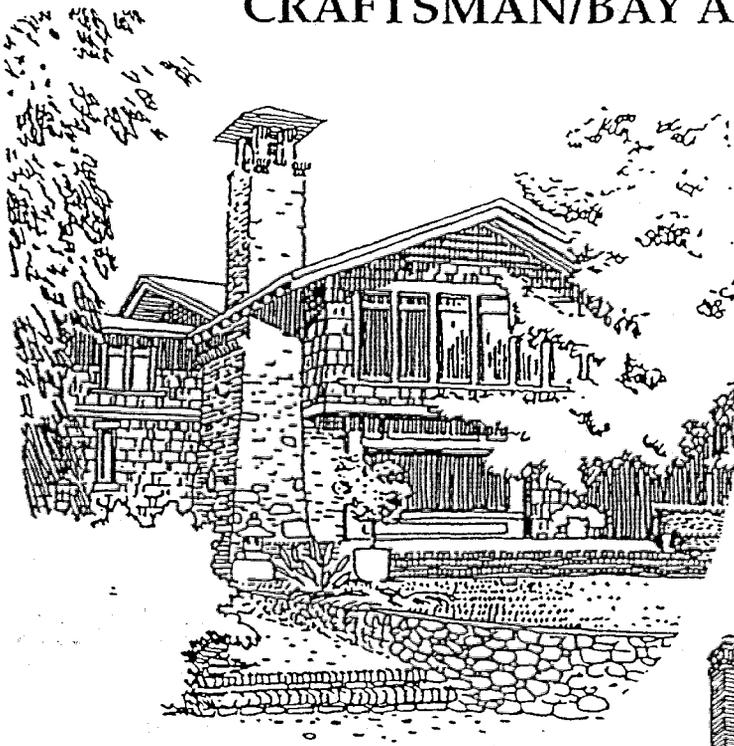
## MEDITERRANEAN



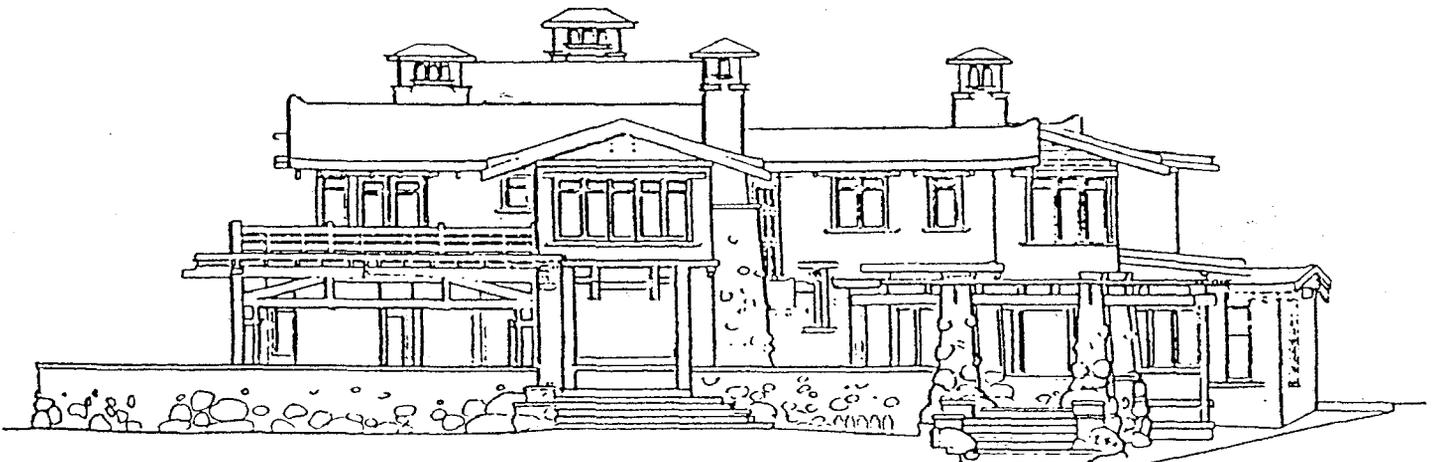
- Plans are usually U-shaped or L-shaped. Elevations are commonly single story with simple proportions and restrained detailing. Barrel tile roof with 4:12 pitch is typical.
- The typical wall material is a relatively smooth stucco in warm toned earth colors.
- Doors and windows are generally recessed in thickened walls. Arches are used in restraint. Windows are typically wood-framed, three-light casements. Major openings are accented with molded concrete or tile surrounds, wrought iron or occasionally with turned wood.



# CRAFTSMAN/BAY AREA TRADITIONAL



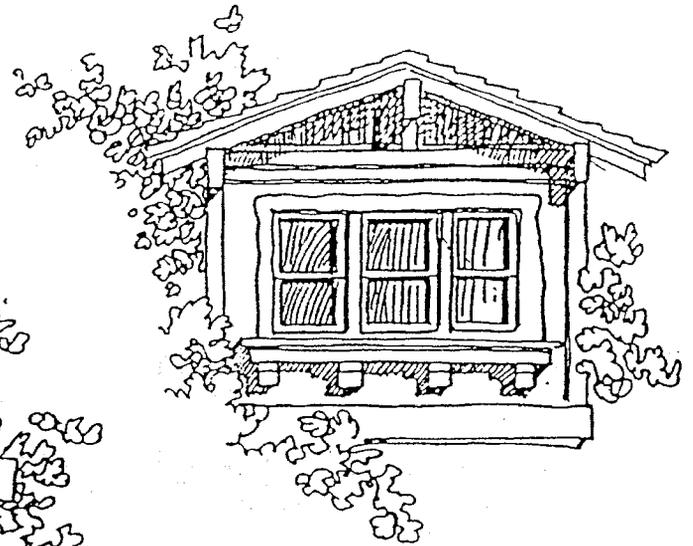
- Low-pitched gabled roofs with wide overhangs and exposed rafter tails are typical of this style.
- The most common wall cladding is wood clapboard with shingles ranking second. Stone and brick are used primarily as accents at the porch column bases, porch surrounds, and chimneys.
- Decorative false beams or braces are commonly added under gables. Porches are covered with gabled, shed or trellised roof and typically supported by tapered square columns, frequently extending to ground level. Windows



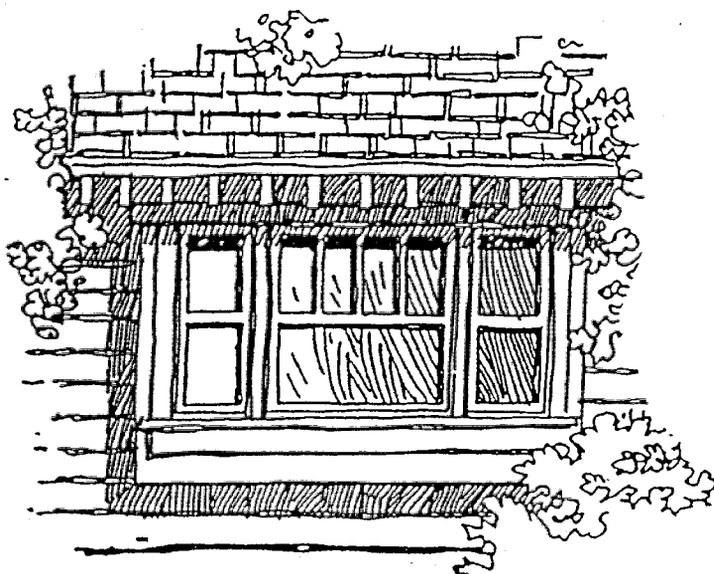
# CRAFTSMAN/BAY AREA TRADITIONAL



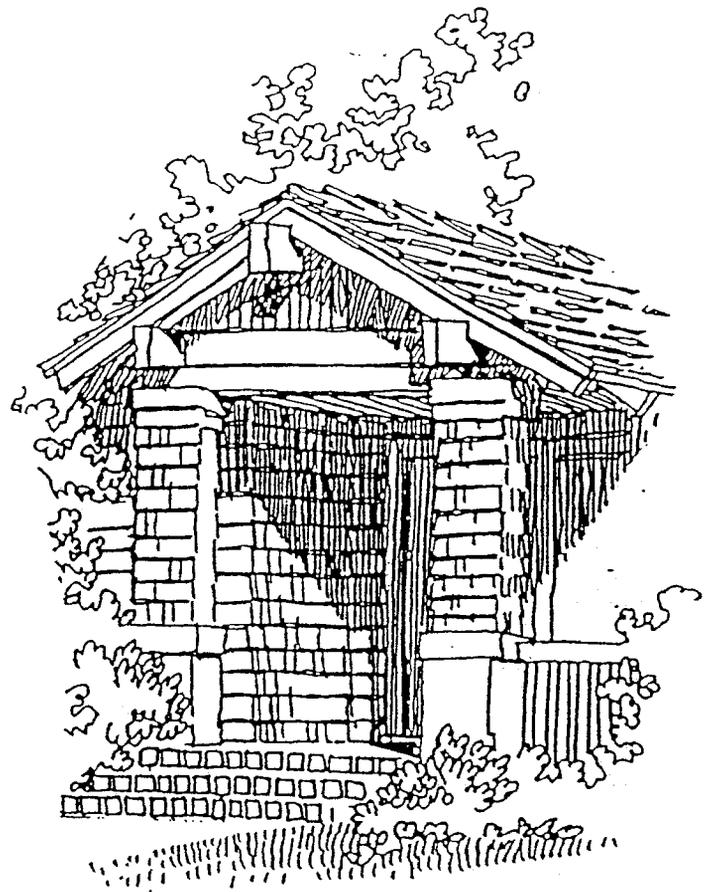
• Trellis at entry.



• Divided light transom at dormer.

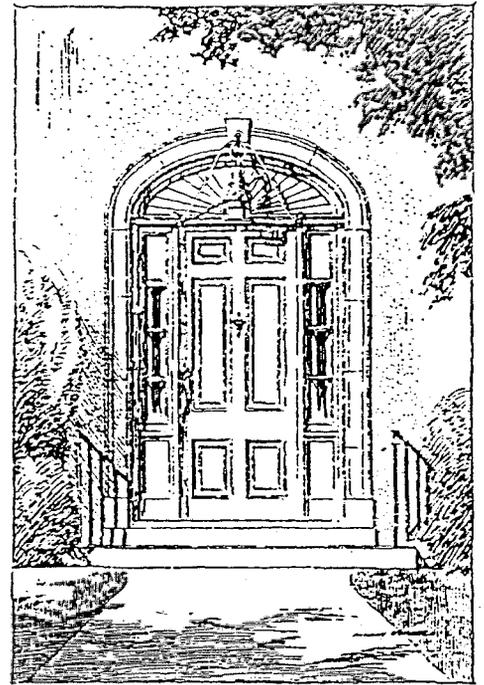
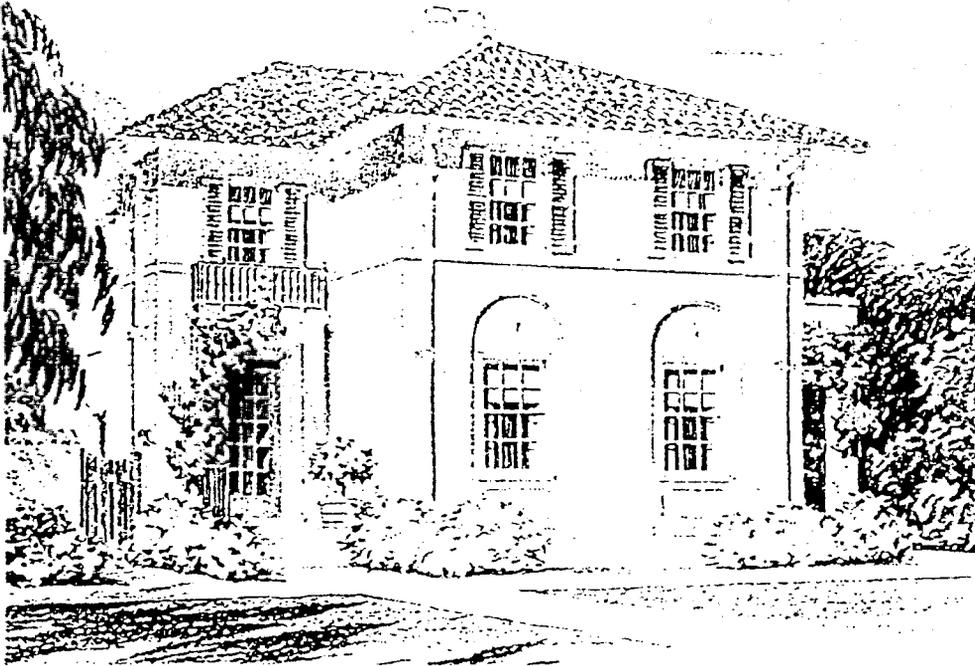


• Typical window configuration.



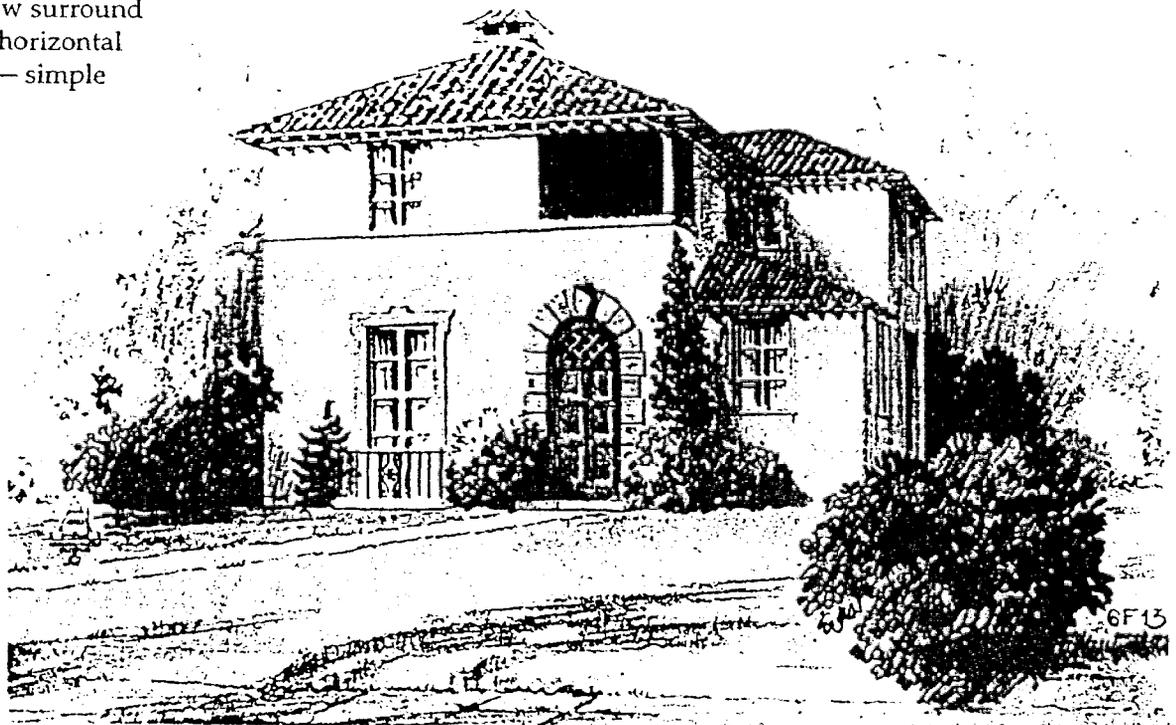
• Covered porch entry.

# ITALIAN VILLA

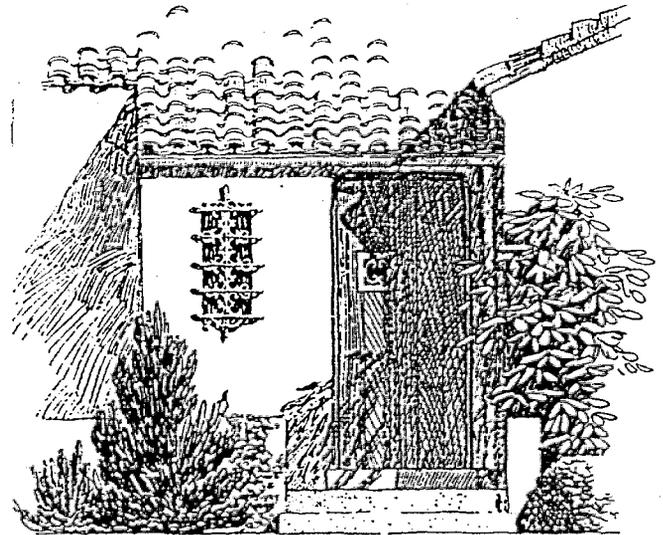
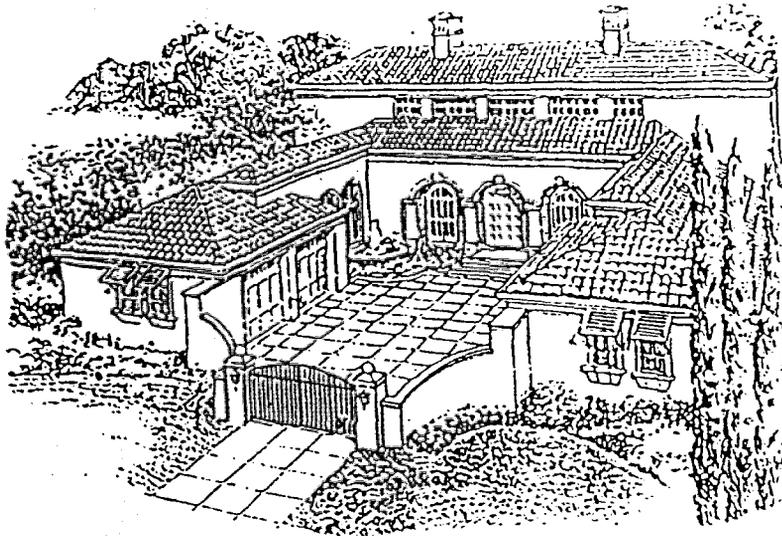
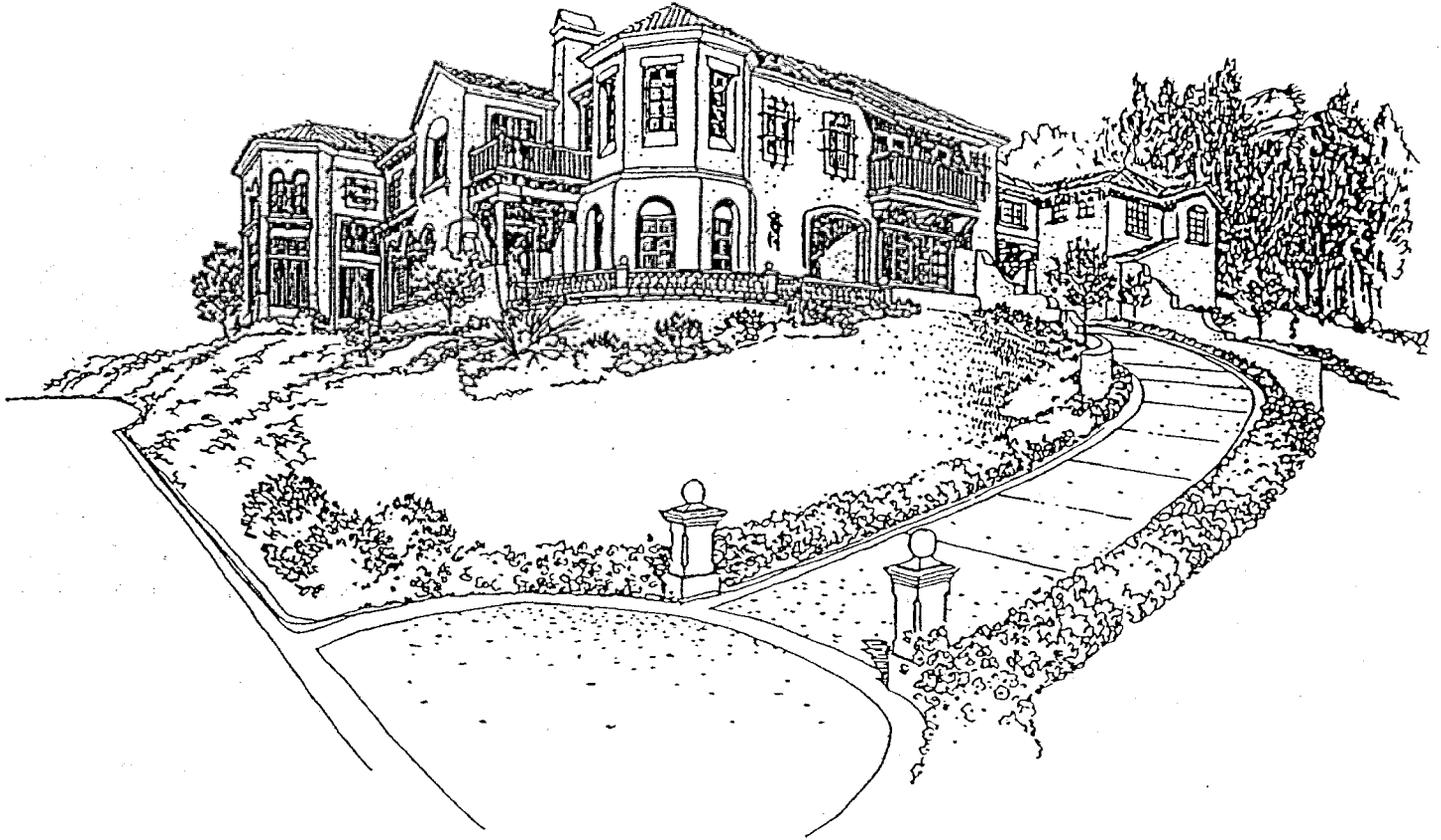


- Simple forms and detailing, horizontal band at upper floor.
- Decorative eave, window surround detail horizontal band — simple form.

- Entrance with simple and elegant details.



# MONTEREY/SPANISH ECLECTIC



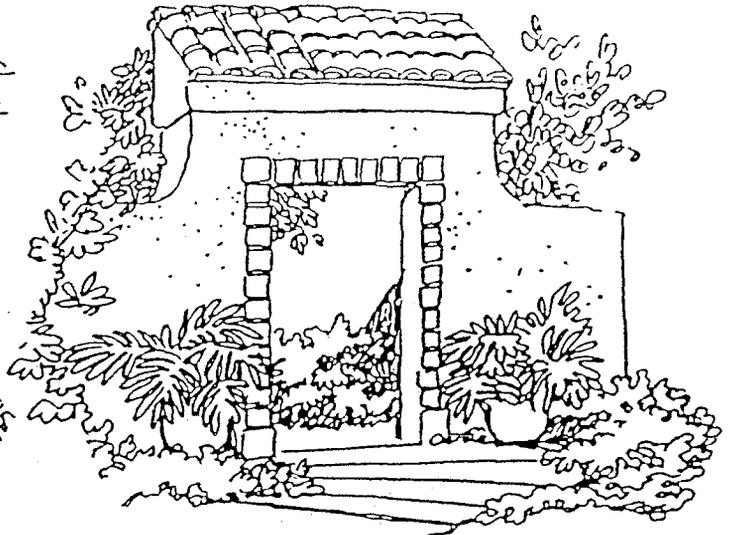
- The form may be single or double story. The floor plan is informal. The roof is usually 4:12 pitch, using simple hip and gable forms, and may be barrel tile, clay tile, or concrete tile. Rafter tails may be exposed and/or corbelled.

- Colors are muted earth tones with brighter hues used for trim work. Stucco and wood are used for wall materials with the rock or brick used for accents.
- Windows are used to establish a strong indoor-outdoor relationship. Large balconies overlook outdoor courtyards or verandas.

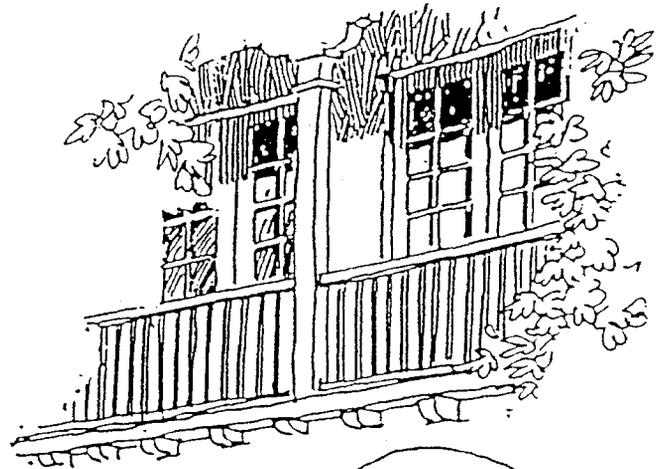
# MONTEREY/SPANISH ECLECTIC



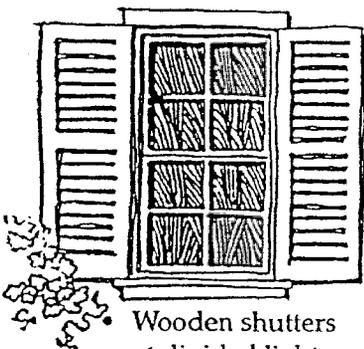
• Balcony over entry doors.



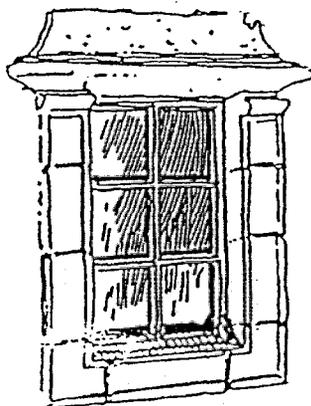
• Inset tile at courtyard entry.



• Balcony overlooking courtyard.



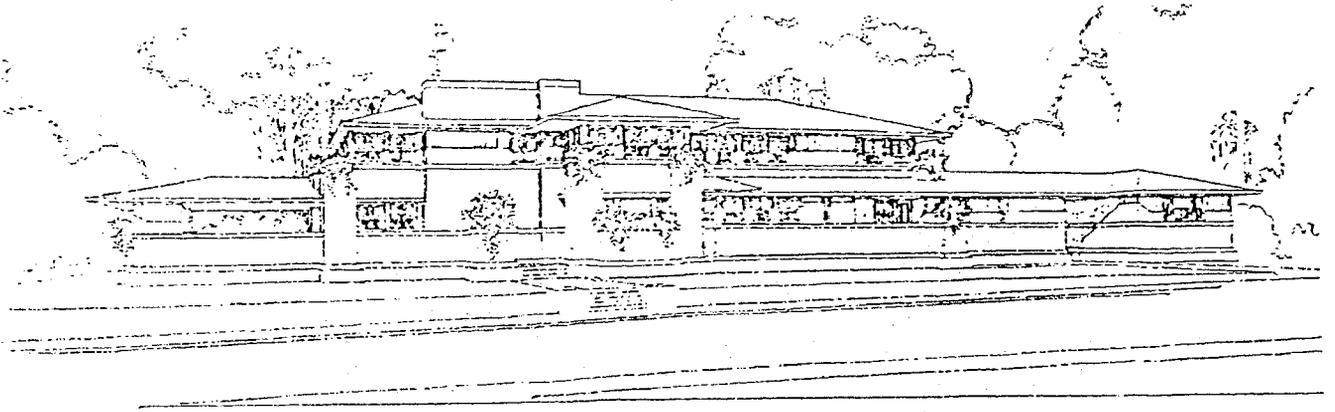
Wooden shutters at divided light windows.



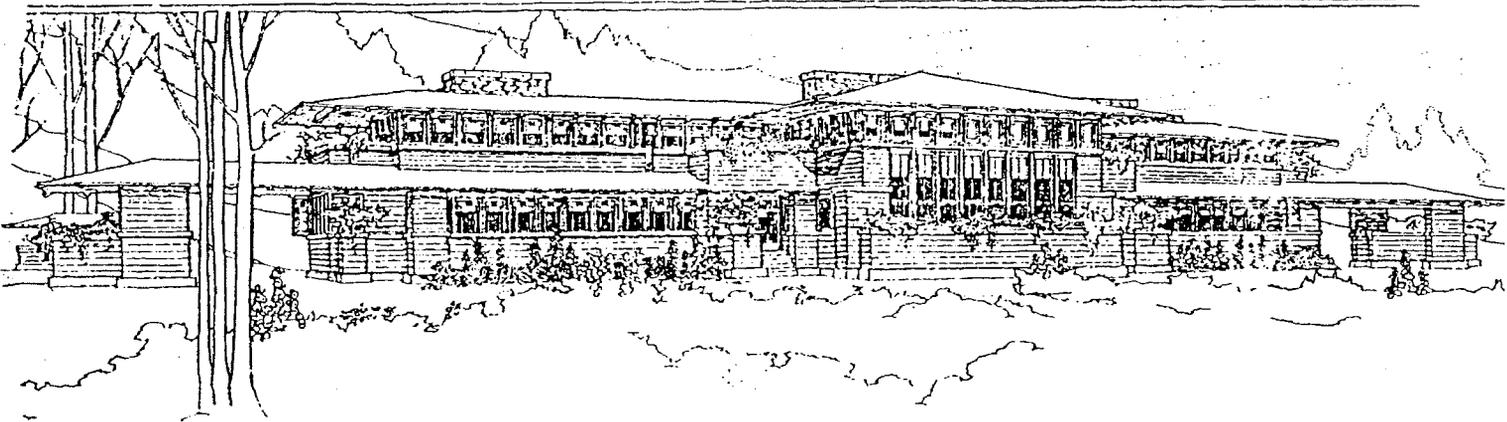
• Precast surround at window.



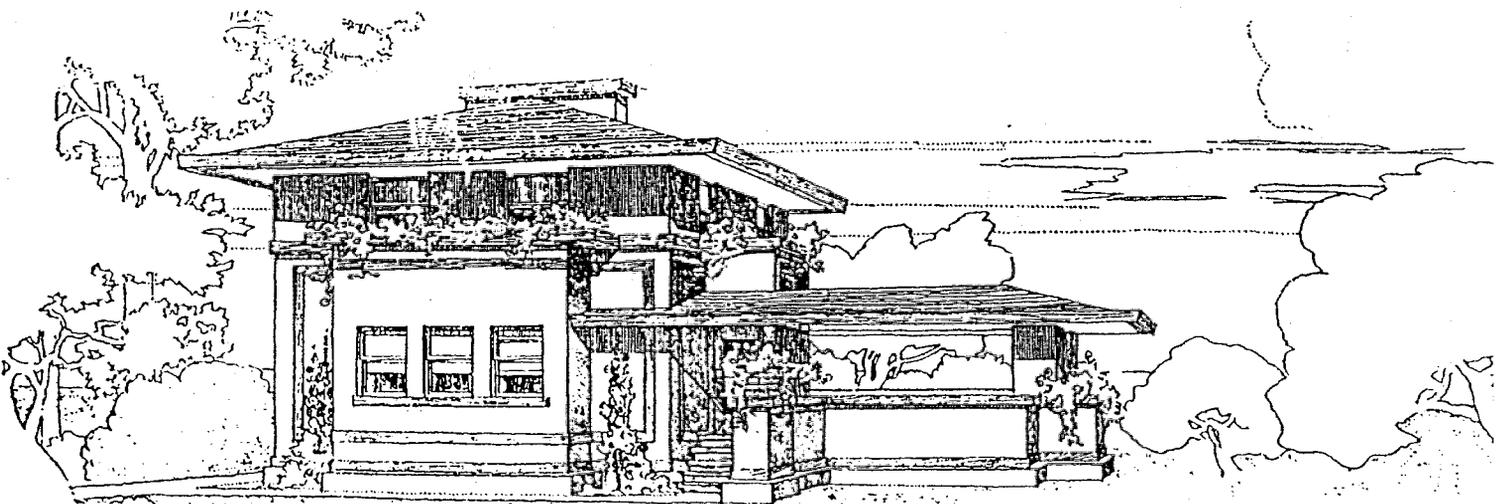
# PRAIRIE



- Windows are vertical and grouped together.



- A combination of stone, stucco and wood is not uncommon.



# RUBY HILL

## Landscape and Irrigation Plan Review

(See attached checklist)



Dhillon & Smith LLP  
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Suite 700  
San Francisco, CA 94108

Bernard, Balgley & Bonaccorsi, LLP  
Attn: Bonaccorsi, David P.  
3900 NewPark Mall Road,  
3rd Floor  
Newark, CA 94560-5242

**Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse**

<p>Reddy  Plaintiff/Petitioner(s)</p> <p style="text-align: center;">VS.</p> <p><b>RUBY HILL OWNERS' ASSOCIATION</b>  Defendant/Respondent(s) (Abbreviated Title)</p>	<p>No. <u>HG13671895</u></p> <p style="text-align: center;">Order</p> <p style="text-align: center;">Motion for Preliminary Injunction Denied</p>
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The Motion for Preliminary Injunction was set for hearing on 05/23/2013 at 09:00 AM in Department 16 before the Honorable Lawrence John Appel. The Tentative Ruling was published and has not been contested.

There is no appearance by any party.

**IT IS HEREBY ORDERED THAT:**

The Motion for Preliminary Injunction, filed by Plaintiffs Anil Reddy and Divya Reddy ("Plaintiffs") on March 29, 2013, is DENIED.

In deciding whether to issue a preliminary injunction, a court must weigh two interrelated factors: (1) the likelihood that the moving party will ultimately prevail on the merits; and (2) the relative interim harm to the parties from issuance or non-issuance of the injunction. The court's determination is guided by a mix of the potential merit and interim harm factors. (*Butt v. State of California* (1992) 4 Cal.4th 668, 677-678.) The scope of available preliminary relief is necessarily limited by the scope of the relief likely to be obtained at trial on the merits. (*Id.*) A trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim. (*Id.*)

Based on a consideration of the above factors and all the papers before it on the present motion, the court finds an insufficient showing of a likelihood that Plaintiffs will prevail on the merits of any of their causes of action so as to be entitled to the preliminary injunctive relief they seek in the instant motion. Further, the showing of interim harm to Plaintiffs is weak and Plaintiffs do not sufficiently demonstrate that the requested relief (permitting occupancy) is something the named defendant can be ordered to provide.

Plaintiffs seek an order requiring Ruby Hill Owners' Association ("RHOA") "to perform such tasks as necessary to allow [Plaintiffs] occupancy of their home until resolution of this action on the merits." (Notice of Motion, p. 1.) Plaintiffs have not sufficiently specified which such tasks they seek to have the court require RHOA to undertake or how RHOA's failure to perform such tasks violates any of their contractual or other rights.

The First Cause of Action in the Verified Complaint is for breach of contract, and alleges that Plaintiffs entered into an agreement with RHOA in which Plaintiffs agreed to abide by the Covenants, Conditions and Restrictions ("CC&Rs") and Architectural Design Guidelines ("Guidelines"). (Complaint, ¶¶ 44-

45.) Plaintiffs allege they abided by them but "were continually faced with delays, discrimination, and most recently, denial of [RHOA's] approval to occupy the home." (*Id.*, ¶ 46.) Plaintiffs do not, however, specify which provision of the CC&Rs or Guidelines the RHOA breached, or which such provision requires RHOA to give occupancy approval or upon what conditions. Neither the complaint nor the memorandum filed on March 29, 2013 identifies or discusses any such provision of the CC&Rs or Guidelines. In the reply memorandum filed on May 17, 2013, Plaintiffs identify section 10.2.1 of the CC&Rs for the proposition that RHOA "is not permitted to prevent the habitation" of their residence, but instead allows only alternative remedies such as a fine or temporary suspension of the use of recreational facilities or voting rights. As Plaintiffs did not raise or address this provision in their complaint or moving papers, they have deprived RHOA of an opportunity to respond to it and the court need not consider the argument. (See, e.g., *Rotolo v. San Jose Sports and Entertainment, LLC* (2007) 151 Cal.App.4th 307, 318 n. 4.)

Even if the court does consider the argument, however, it is not persuasive. Section 10.2.1 does not specifically address occupancy rights or the procedure by which RHOA is to grant final approval of a design or construction, the latter of which is expressly addressed in Article XI of the CC&Rs. Instead, section 10.2.1 addresses RHOA's remedies for enforcing its rights under the CC&Rs in general. While section 10.2.1 states that RHOA shall not have the power to undertake enforcement actions which result in the "forfeiture or abridgement of an Owner's right to the full use and enjoyment of the Owner's individually owned Lot," it does not address the circumstances under which an owner is to be granted construction approval or occupancy rights in the first instance.

Plaintiffs also refer in their reply memorandum to section 11.11 of the CC&Rs, which articulates the process to be followed after the Architectural Design Committee ("ADC") determines that an improvement was not performed in substantial compliance with the approval granted or that approval was not obtained. That section allows for a Board hearing, in which the owner may present proof of compliance, followed by a ruling requiring remedy or removal within 45 days. Even if Plaintiffs had raised section 11.11 in their complaint or moving papers (which they did not), they have not specified how this provision was breached or how it entitles them to occupy the residence. To the contrary, RHOA presented evidence that the Board set a special meeting for September 24, 2012, to provide Plaintiffs with a hearing as contemplated in section 11.11, but that Plaintiffs and their counsel failed to attend. (McKeehan Decl., ¶¶ 14-16, Exhs. B and C.) The hearing proceeded anyway, after which the Board upheld the ADC's decision to deny written approval of the final construction. (Fonte Decl., ¶¶ 7-17, Exhs. A and B.) Thereafter, the Board informed Plaintiffs of the basis of the decision and invited them to reschedule another appeal hearing so they could present their evidence in person. Plaintiffs never rescheduled. (Somsen Decl., ¶¶ 3-5, Exh. A.)

Plaintiffs have not identified any provision of the CC&Rs (or any other alleged contract or law) that provides them with a right to occupy their residence despite their failure to appear at the Board hearing or to establish their compliance with the approvals required for final construction of the improvement. Indeed, it is not clear that RHOA has even prohibited Plaintiffs from occupying their residence. Instead, it appears that Plaintiffs are required to obtain an occupancy certificate from the City of Pleasanton (the "City"), not from RHOA. (See Complaint, ¶ 41; see also Jones Decl., ¶¶ 30-32.) If Plaintiffs believe the City has unjustifiably withheld an occupancy certificate, that is a matter to take up with the City, which is not a party to this lawsuit or this motion and as to which the court is powerless to order injunctive relief.

Aside from the failure to provide a sufficient contractual basis for any breach by RHOA, Plaintiffs' request for injunctive relief as to RHOA's approval process suffers from numerous additional deficiencies. First, Plaintiffs have not sufficiently explained why they failed to appear at the hearing on September 24, 2012 or to reschedule it. Failure to exhaust an administrative remedy such as that is an independent (and jurisdictional) basis for denying relief. (See, e.g., *Gupta v. Stanford University* (2004) 124 Cal.App.4th 407, 411; *Hood v. Hacienda La Puente Unified School Dist.* (1996) 65 Cal.App.4th 435, 439.) Second, mandatory injunctive relief, such as to compel RHOA to perform unspecified "tasks" so as to allow Plaintiffs to occupy their home, "is not permitted except in extreme cases where the right thereto is clearly established." (*Teachers Ins. & Annuity Assn. v. Furlotti* (1999) 70 Cal.App.4th 1487, 1493.) Third, substantial deference is afforded to decisions by community association boards exercising discretion within the scope of their authority under CC&Rs. (*Lamden v. La Jolla Shores Clubdominium Homeowners Assn.* (1999) 21 Cal.4th 249, 265.) Not only have Plaintiffs failed to explain why they did not appear and present evidence at the scheduled Board hearing of their purported compliance with the required design approvals, as they seek to do in this lawsuit, but

Plaintiffs have failed to address numerous areas of asserted non-compliance including deviations from the submitted design, encroachments on the neighbor's property, interference with a water easement, and removal of a berm. (See, e.g., Fonte Decl., Exh. A, Exh. 3; Alexander Decl., ¶¶ 2, 4, 6-10, 13, and Exh. C; Townsend Decl., ¶¶ 30-48 and Exh. F.)

The Second Cause of Action is labeled as a "constructive taking of property." Plaintiffs have not submitted authority that this is a legally tenable claim, particularly in the context of enforcement of CC&Rs in a common interest development such as Ruby Hill. "Thus, subordination of individual property rights to the collective judgment of the owners association together with restrictions on the use of real property comprise the chief attributes of owning property in a common interest development." (Nahrstedt v. Lakeside Village Condominium Assn. (1994) 8 Cal.4th 361, 374.)

The Third Cause of Action is for promissory estoppel. This requires, among other things, "a promise clear and unambiguous in its terms" and reasonable and foreseeable "reliance by the party to whom the promise is made..." (Aceves v. U.S. Bank, N.A. (2011) 192 Cal.App.4th 218, 225.) The promise alleged in the Complaint is that "upon review and approval of the architectural and landscaping design plans and samples, implementation of those plans would be approved by the ADC and the Association." (Complaint, ¶ 62.) Plaintiffs do not allege when such a promise was made or who made such promise or what the specific terms thereof were. They also fail to demonstrate that they "implement[ed]" such plans consistently with what had been approved or that they obtained approval for all aspects of the improvement including the aspects identified as non-compliant or unapproved by RHOA. RHOA submitted evidence to the contrary and, while Plaintiffs submitted evidence showing that they remedied many of the asserted non-compliances, they have not submitted evidence showing that all have been addressed.

As to interim harm, while Plaintiffs submitted evidence that their inability to occupy their residence could affect their ability to enroll their children in the local public schools, they have not sufficiently demonstrated why occupying the second residence they purchased in the same development could not address this asserted harm. Although Plaintiffs state that the second home was purchased for their parents, they also introduced evidence that their parents are not yet living there and have not sufficiently demonstrated that an interim arrangement cannot be worked out whereby they would temporarily occupy that home so as to permit enrollment in the public schools. In any event, even if Plaintiffs sufficiently addressed all such deficiencies, the more fundamental deficiency is that Plaintiffs have not demonstrated what relief is available as to RHOA to address their request for occupancy. Instead, as discussed above, the record reflects that the City, which is not a party to this lawsuit or this motion, is responsible for issuing a certificate of occupancy.

RHOA's Objections to Plaintiffs' Complaint, filed on May 10, 2013, and numbered 1-40, are **OVERRULED**. Although RHOA is correct that many of the allegations in the Verified Complaint are conclusory and lacking in specific details, and that some allegations are not directly relevant to the issues in this motion, pleadings often contain the "ultimate facts" supporting the causes of action rather than all the supporting factual or evidentiary details. The court views RHOA's objections as going primarily to the weight or persuasive value of the challenged verified allegations rather than their admissibility. While the court will not exclude the allegations from its consideration altogether, it has considered their conclusory and often vague nature as affecting the extent to which such allegations support a "requisite degree of belief" concerning the facts Plaintiffs must establish to meet their burden of proof on this motion. (See Evid. Code § 115.) RHOA's Objections to the Reply Declarations of Anil Reddy and Harold P. Smith, filed on May 20, 2013, are **OVERRULED** for the same reasons.

Plaintiffs' Objections to Evidence, filed on May 17, 2013 and numbered 1-128, are **OVERRULED**. It appears that, with perhaps some exceptions, Plaintiffs are objecting to virtually every statement in every declaration submitted by RHOA. The court finds this tactic oppressive. (See, e.g., Reid v. Google, Inc. (2010) 50 Cal.4th 512, 531 [recognizing "that it has become common practice for litigants to flood the trial courts with inconsequential written evidentiary objections, without focusing on those that are critical," and noting that this imposes an "extreme burden on trial courts...."].) Further, for the same reasons discussed above, most or all of the objections go to the weight, generality or persuasive value of the proffered evidence rather than its fundamental admissibility. As with the sometimes conclusory and general nature of the verified allegations to which RHOA objects, the court will not exclude the challenged evidence but has considered Plaintiffs' objections in weighing its persuasive value.

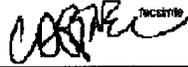
RHOA's Amended Request for Judicial Notice, filed on May 10, 2013, is **GRANTED**. Nevertheless,

the court does not take judicial notice of the truth of any matters asserted in the attached exhibits.

RHOA's objection to Plaintiffs' late-filed reply brief, filed on May 20, 2013, is **OVERRULED**. It appears that Plaintiffs' reply papers were not filed until 4 court days before the hearing instead of 5 court days and were served on RHOA by regular mail 5 court days before the hearing instead of by overnight mail or another method required by C.C.P. § 1005(c). Nevertheless, while the court does not condone the irregularity, it does not appear to have resulted in prejudice and the court exercises its discretion to consider the reply papers. (See C.C.P. § 475.)

The clerk is directed to serve endorsed-filed copies of this order, with proof of service, to counsel and to self-represented parties of record by mail.

Dated: 05/23/2013



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Judge Lawrence John Appel