

EXECUTION VERSION

SUPPLEMENTAL DECLARATION
TO THE
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AVIGNON WINDHAVEN

10240510 SJ9

[Annexation of Additional Land & Amendment as to Phase 3]

COUNTY OF COLLIN §
STATE OF TEXAS § KNOW ALL MEN BY THESE PRESENTS:
§

This Supplemental Declaration for Avignon Windhaven ("Supplemental Declaration") is executed by Windhaven Development, Ltd., a Texas limited partnership ("Declarant") on the date hereinbelow written.

WITNESSETH:

WHEREAS, Declarant executed a Declaration of Covenants, Conditions and Restrictions for Avignon Windhaven on the 14th day of March, 2006, applicable to certain real property described in Exhibit "A" thereto located in Plano, Texas, and recorded said Declaration March 20, 2006, as Document No. 20060320000359130, Real Property Records of Collin County, Texas; and

WHEREAS, Declarant filed that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avignon Windhaven applicable to Phases 1 and 2 of Avignon Windhaven on October 1, 2009, as Document No. 20091001001220650, Real Property Records of Collin County, Texas (hereafter the "Declaration"); and

WHEREAS, Section 7.17 of the Declaration provides that, "Declarant, in its sole discretion and without the approval of any party, may from time to time subject this Declaration to additional real property by recording in the Real Property Records of Collin County, a Supplemental Declaration describing the additional real property to be subjected to this Declaration. Any such Supplemental Declaration which is executed by Declarant or its assignee and recorded in the Real Property Records of Collin County shall not require the consent or approval of any other Owner or other person in order to be fully enforceable and effective to cause such additional real property to be incorporated herein. Such changes in the covenants, conditions, and restrictions of this Declaration and the Bylaws as may be desired with reference only to the subsequent phase or phases may be included in the Supplemental Declaration."; and

WHEREAS, Declarant desires to supplement the Declaration by adding to the properties currently described in the Declaration the property described in Exhibit "A" hereto and hereafter called "Phase 3"; and

WHEREAS, Declarant further desires to make certain amendments to the Declaration applicable only to Phase 3;

NOW THEREFORE, effective as of the date of recordation of this Supplemental Declaration in the Real Property Records of Collin County, Texas, Declarant hereby supplements the Declaration by the addition thereto of the property described in Exhibit "A" hereto, and known as Avignon Windhaven, ("Phase 3"), and declares that such additional land shall be subject to all of the covenants, conditions, and restrictions contained in the Declaration as fully as though the additional property had been included in the Declaration as originally written, except as otherwise provided below.

All Lot Owners in Phase 3 will be Members of the Avignon Windhaven Homeowners Association, Inc. (the "Association") and will have all rights and privileges established for the Association. The Association will be responsible for maintaining all Common Areas within Phase 3 and will also be authorized to, and responsible for, the enforcement of all restrictive covenants contained herein or in the Declaration.

Article III, entitled "Assessments," of the Declaration is hereby supplemented and amended to provide that Toll Bros., Inc., a Texas corporation, ("Toll Bros.") and its subsidiaries and affiliates will not be assessed or liable for Regular Assessments under Article III or Special Assessments under Section 3.3(a) of the Declaration on any Lot contained in Phase 3 for so long as fee simple title to such Lot is in the name of Toll Bros.

New Exhibit E, in form and substance as attached hereto, is added to the Declaration.

All initially capitalized words contained in this Supplemental Declaration shall have the meaning set forth in the Declaration if not defined herein.

The Declaration, as expressly supplemented and amended herein, remains in full force and effect and is hereby ratified and confirmed in all respects.

[Signature Page Follows.]

EXECUTED on the 25 of February, 2011.

DECLARANT:

WINDHAVEN DEVELOPMENT, LTD.
a Texas limited partnership

By: Windhaven Development One, LLC
a Texas limited liability company
Its: General Partner

By: [Signature]
Toby Haggard
Manager

Dallas
COUNTY OF ~~COLLIN~~ §
§
STATE OF TEXAS §

This instrument was acknowledged before me on the 25th day of February, 2011, by Toby Haggard, Manager of Windhaven Development One, LLC, General Partner, of Windhaven Development, Ltd., a Texas limited partnership, on behalf of said partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 25th day of February, 2011.



[Signature]
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

Windhaven Development Ltd.
800 East Central Parkway, Ste. 100
Plano Tx 75074

403449.5

Exhibit "A"

Being a tract of land situated in the Maria C. Vela Survey, Abstract No. 935, City of Plano, Collin County, Texas and being part of a tract of land described in deed to Acres of Sunshine, Ltd. recorded in Volume 4227, Page 835, Land Records of Collin County, Texas and part of a tract of land described in deed to Haggard Enterprises Limited, Ltd., recorded in Volume 2523, Page 172, Land Records of Collin County, Texas and being more particularly described as follows:

Beginning at a 5/8 inch iron rod with "KHA" cap set in Windhaven Parkway (a variable width right-of-way); said point being the southeast corner of a 55-foot wide portion of Windhaven Parkway dedicated by plat of Avignon Windhaven Phase 1, an addition to the City of Plano, Texas according to the plat recorded in Cabinet R, Slide 204, Map Records of Collin County, Texas;

Thence with said east right-of-way line, North 00 degrees 12 minutes 41 seconds West, a distance of 55.00 feet to a 5/8 inch iron rod with "KHA" cap set for corner; said point being in the south line of Lot 3, Block J, Avignon Windhaven, Phase 2, an addition to the City of Plano, Texas according to the plat recorded in Cabinet 209, Slide 380, Map Records of Collin County, Texas;

Thence departing said right-of-way line and with the south line of Lot 3, North 89 degrees 47 minutes 16 seconds East, a distance of 24.11 feet to a 5/8 inch iron rod with "KHA" cap found for corner; said point being the southeast corner of said Lot 3;

Thence with the east line of said Block J, the following courses and distances:

North 00 degrees 12 minutes 46 seconds West, a distance of 496.58 feet to a 5/8 inch iron rod with "KHA" cap found for corner;

North 26 degrees 59 minutes 58 seconds East, a distance of 20.38 feet to a 5/8 inch iron rod with "KHA" cap found for corner;

North 00 degrees 12 minutes 46 seconds West, a distance of 176.57 feet to a 5/8 inch iron rod with "KHA" cap found for corner;

South 87 degrees 48 minutes 48 seconds East, a distance of 27.75 feet to a 5/8 inch iron rod with "KHA" cap found for corner;

North 00 degrees 04 minutes 36 seconds West, a distance of 83.72 feet, passing the southernmost southeast corner of Cognac Street (a 50-foot wide right-of-way), continuing with the easterly terminus of said Cognac Street, a distance of 95.22 feet to a "X" cut in concrete found for corner;

Thence continuing with said terminus, the following courses and distances:

North 89 degrees 56 minutes 51 seconds East, a distance of 34.51 feet to a 5/8 inch iron rod with "KHA" cap set for corner;

North 00 degrees 04 minutes 36 seconds West, at a distance of 38.50 feet, passing a 5/8 inch iron rod with "KHA" cap found at the northeast corner of said terminus and the southeast corner of Lot 42, Block A, continuing with the east line of said Block A, in all a total distance of 472.43 feet to a 5/8 inch iron rod with "KHA" cap found for corner in the south line of an Easement and Right of Way to Texas Utilities Electric Company recorded in Clerk's File No. 92-005646, Land Records of Collin County, Texas; said point being the northeast corner of Lot 38, Block A;

Thence with the south line of said Easement and Right of Way, North 81 degrees 36 minutes 56 seconds East, a distance of 691.05 feet to a point for corner in Creek Number 5B29;

Thence generally along the meanders of said creek, the following courses and distances:

South 01 degrees 19 minutes 19 seconds East, a distance of 42.45 feet to a point for corner;

South 55 degrees 43 minutes 33 seconds East, a distance of 62.96 feet to a point for corner;

South 16 degrees 21 minutes 03 seconds West, a distance of 80.0 feet to a point for corner;

South 33 degrees 27 minutes 16 seconds East, a distance of 99.90 feet to a point for corner;

South 54 degrees 46 minutes 57 seconds East, a distance of 34.91 feet to a point for corner;

South 74 degrees 43 minutes 26 seconds East, a distance of 58.86 feet to a point for corner;

South 24 degrees 18 minutes 15 seconds East, a distance of 30.22 feet to a point for corner;

South 21 degrees 04 minutes 32 seconds West, a distance of 160.27 feet to a point for corner;

South 46 degrees 12 minutes 01 seconds West, a distance of 30.73 feet to a point for corner;

South 04 degrees 45 minutes 01 seconds West, a distance of 34.37 feet to a point for corner;

South 84 degrees 02 minutes 31 seconds East, a distance of 27.36 feet to a point for corner;

South 62 degrees 09 minutes 38 seconds East, a distance of 43.19 feet to a point for corner;

North 70 degrees 31 minutes 34 seconds East, a distance of 105.43 feet to a point for corner;

South 81 degrees 53 minutes 42 seconds East, a distance of 60.18 feet to a point for corner;

South 17 degrees 55 minutes 59 seconds East, a distance of 40.94 feet to a point for corner;

South 32 degrees 51 minutes 06 seconds West, a distance of 73.41 feet to a point for corner;

South 13 degrees 10 minutes 00 seconds West, a distance of 118.29 feet to a point for corner;

South 24 degrees 55 minutes 10 seconds West, a distance of 135.65 feet to a point for corner;

South 65 degrees 36 minutes 08 seconds East, a distance of 68.85 feet to a point for corner;

North 87 degrees 37 minutes 44 seconds East, a distance of 106.17 feet to a point for corner;

South 23 degrees 33 minutes 17 seconds East, a distance of 153.63 feet to a point for corner;

South 65 degrees 25 minutes 10 seconds East, a distance of 80.28 feet to a point for corner;

South 33 degrees 12 minutes 49 seconds East, a distance of 241.49 feet to a point for corner;

South 28 degrees 37 minutes 26 seconds East, a distance of 94.13 feet to a point for corner;

Thence departing said creek, South 69 degrees 37 minutes 37 seconds East, a distance of 85.66 feet to a 5/8 inch iron rod with "KHA" cap set for corner in the north line of Windhaven Parkway dedicated by plat recorded in Cabinet N, Slide 582, Map Records of Collin County, Texas;

Thence with said north right-of-way line, the following courses and distances:

South 89 degrees 47 minutes 16 seconds West, a distance of 429.23 feet to a 5/8 inch iron rod with "KHA" cap set for corner;

South 00 degrees 12 minutes 44 seconds East, a distance of 55.00 feet to a 5/8 inch iron rod with "KHA" cap set for corner;

South 89 degrees 47 minutes 16 seconds West, a distance of 1116.45 feet to the Point of Beginning and containing 32.486 acres or 1,415,101 square feet of land.

EXHIBIT E
TO SUPPLEMENTAL DECLARATION

ARCHITECTURAL GUIDELINES FOR PHASE 3

The intent of this publication is to serve as a further illustrative guide for construction requirements that are not detailed as found in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Avignon Windhaven Property, hereinafter referred to as the Declaration.

The Architectural Guidelines set forth herein shall apply only to Phase 3 and the Architectural Guidelines set forth in Exhibit C of the Declaration shall not apply to Phase 3.

All initially capitalized terms shall have the meaning set forth in the Declaration unless defined in this Exhibit.

All exterior improvements are subject to approval by the Architectural Control Committee of Windhaven Homeowner's Association, hereinafter referred to as the Committee.

1. **BUILDING LINES, SET BACKS, & LOT COVERAGE:**

- A. Front Yard Setback:
The minimum front yard setback is 10 feet.
- B. Rear Yard Setback:
Rear yard setback is 15 feet.
- C. Side Yard Setback:
Side yard Setback is 5 feet. Adjacent to a side street the side yard setback is 10 feet.
- D. Garage Door Setback:
Garage door setback is 20 feet from the property line.
- E. Minimum Square Footage:
Each residence must contain a minimum of 2,000 square feet of contiguous, air-conditioned living space. There is no maximum square footage limitation

2. **ARCHITECTURE:**

All residences must conform to the French Country or European style and character. Other architectural styles will be considered with the exception of contemporary architecture. All street front exteriors are subject to aesthetic determination by the Committee. The Committee encourages continuity in architectural style and the use of complimentary materials throughout the community. The Committee also encourages

architectural diversity through variances of hip and gable roofs, roof pitch, building offsets, garage entrances, garage sizes, etc. While each home should compliment adjacent structures, every home should have a unique identity through the use of detailing such as: cast stone, wrought iron, window treatments, dormers, turrets, flat work, tree placement, brick details, natural stone, combining brick and natural stone, gas lights, landscape illumination, etc. The Committee encourages the use of wood timbers, plywood architectural structures, finials, decorative cornices, copper vents, fypon decorative features, paint grip sheet metal, copper guttering and European architectural details that individualize each residence.

3. EXTERIOR MATERIALS & DETAILING:

- A. Exterior materials shall be 100% masonry (brick, cast stone, plaster (stucco) and stone) on all first floor walls visible from any street or common areas and 85% masonry on each remaining side and rear elevations. All exposed portions of the fire breast, flu and chimney shall be clad in brick, stone or brick and stone, matching the materials used on the residence. All window headers, sides and sills, which are exposed to the street, shall be constructed of cast stone, natural stone, decorative shaped brick, brick projections, rollocks or a combination thereof. No EIFS is allowed on any exterior elevation or chimney.
- B. Mortar dye will not be permitted.
- C. The entire structure shall be guttered with downspouts.
- D. All windows visible from front or side streets or adjacent to Common Areas shall be vinyl windows. Vinyl single light, single hung windows are approved on side and rear elevations
- E. Each structure shall have a minimum plate height of 10 feet on the first floor and a minimum plate height of 9 feet on garages. The maximum building height is 35 feet.
- F. Window Restrictions:
 - 1. [Intentionally Omitted]
 - 2. Second story rear windows are restricted on those Lots that back to Phase 2.
 - 3. Second story clear windows are permitted on the restricted side provided such windows are on second story walkways, balconies, catwalks, etc. and such windows have limited or no visual impact to adjacent properties.
 - 4. The window restrictions are intended to minimize and eliminate view encroachments. There may however be certain conditions due to grade and Lot configuration whereby the Committee reserves the right to use discretion with

consideration to setback, landscape screening or other means to minimize view encroachments in addition to mutual consent of adjacent owners.

5. Translucent windows to include glass block or other obscure window types will be considered on restricted elevations.

G. Uniform house numbers and house number locations are preferred.

H. Uniform mailboxes and mailbox locations are preferred.

I. Stone:

Granbury stone; or
Millsap stone - chopped and random; or
Luters Rough Back Stone, Chopped and Random; or
Limestone - Chopped and Random; or
Rattlesnake Chopped and Random.

J. Cast Stone: Light brown, white or cream color with or without pitting.

4. ROOF:

A. All roofs shall have a minimum slope 12:12 roof pitch on any front or side visible from a street and a minimum 8:12 roof pitch from rear and sides not visible from any street. Architectural designs that warrant flatter roof sections will be given consideration by the Committee. Vent stacks and other roof penetrations shall try to be placed on roof planes on the rear of the roof behind the ridge lines. Solar Collectors, if used, must be integrated into the building design and constructed of materials that minimize their visual impact. Cornice, cave and architectural details may project up to two feet six inches.

B. Roof material shall be standing seam copper, approved standing seam metal, natural slate shingles, approved imitation slate shingles and approved composition 30 year laminated shingles or other approved roof materials. All laminated composition roof shingles shall be of the colors: Weathered Wood, Oxford Grey or Thunderstorm. Roof materials for Mediterranean, mission and tuscan style roofs will be barrel tile or flat tile.

C. Roof form shall be limited to hip, Dutch hip, Dutch gable or gable. Roof forms should be randomly distributed throughout each street scene.

5. [INTENTIONALLY OMITTED]

6. WALLS/FENCING/SCREENING:

A. The fee owner of each Lot, in connection with the construction of a Residence on such Lot, shall construct or cause to be constructed, and shall thereafter maintain

in good repair and condition, a screening fence along the rear and the sides of the Lot. The screening fence shall, unless otherwise approved in writing by the Committee:

1. be immediately inside the applicable property line of such Lot;
 2. extend from the rear Lot line to a point which will enclose all utility fixtures (exclusive of electric utility company transformers) when connected to the fence that connects with the side of the house that is constructed on the Lot, but shall not extend closer to the front Lot line than fifteen (15) feet and no closer than five (5) feet from the front of the house.
 3. comply with City and FHA requirements;
 4. [Intentionally Omitted];
 5. be constructed in accordance with the fence criteria promulgated and published by the Board including the following:
 - (a) All fences must conform to the fence detail attached hereto as Exhibits "1" and "2".
 - (b) Fences on all Lots adjacent to a side street or a Common Area will have masonry columns (see detail on Exhibit "2" attached hereto) at 20' intervals or as determined by the Committee, and will be a minimum of sixty feet (60') in length subject to variance by the Committee if reasonably required.
 - (c) All fences must be parallel with the applicable property line of such Lot.
 - (d) All fences must be constructed so that the side of the fence containing the horizontal structural supports is not visible from the public right-of-way.
 - (e) [Intentionally Omitted].
 - (f) The fence guidelines and criteria may be altered at the discretion of the Committee so as to allow the Committee flexibility.
- B. Service yards, storage piles, woodpiles, garbage receptacles and similar items must be located so as to not be seen from any street, common area or neighboring Lots.
- C. Retaining walls built or abutting front yards, side or rear yards facing a greenbelt area shall be constructed of mortar jointed brick matching the residence or mortar

jointed Millsap stone. For retainer walls in other locations, concrete and rock are also permitted. The Committee shall approve all retaining wall materials, locations and detailing.

1. [Intentionally Omitted].
 2. The builder or property owner on the high side of the Lot shall be responsible for installing retaining walls between properties along side yards.
 3. Builders and property owners of adjacent Lots are encouraged to coordinate the placement and grades or retaining walls so as to eliminate Lot to Lot drainage.
- D. A board on board fence in compliance with this Section 6 or a wrought iron fence detail at least 6' in height is required for all rear and side fencing that is adjacent to any greenbelt, flood plain or Common Area.

7. GARAGES/DRIVEWAYS/WALKWAYS:

- A. Each residential dwelling erected on any Lot shall provide garage space and parking for a minimum of 2 conventional automobiles. Each Lot shall also provide for a minimum of 2 off-street parking spaces. Wood-faced or wood-like (subject to approval) garage doors are required on all garage doors. Carports will not be allowed.
- B. All driveways fronting on a street shall be constructed of the following materials: brick pavers, stone, interlocking pavers, stamped concrete, exposed aggregate or concrete with a salt finish. All sidewalks and steps from the public sidewalk or front driveway to the front entry must be constructed in brick, stone, interlocking pavers, slate or flagstone, stamped concrete, exposed aggregate or concrete with a salt finish.

8. LANDSCAPING REQUIREMENTS; PLAN SUBMITTAL AND LANDSCAPE INSTALLATION:

- A. Each fee owner of a Lot shall landscape the Lot according to the following minimum provisions:
 1. All yards shall be sod with 419 bermuda. These areas must be irrigated.
 2. Landscape requirements include a minimum of two (2) five (5") inch caliper live oak or red oak trees; or one (1) seven (7") inch caliper live oak or red oak tree plus one (1) six (6') to eight (8') foot ornamental tree to be located in the front yard. Corner lots adjacent to a street shall plant one (1) additional five (5") inch caliper live oak or red oak tree. For landscape maintenance see Section 7.4 of the Declaration.

3. All elevations adjacent and visible to a street, including a side street, must have landscaped beds across the entire elevation. All yards shall be sod with 419 Bermuda and irrigated. The landscape installation shall be completed no later than 30 days after occupancy. All landscaping required under this Section shall be installed by a builder at the time of and in conjunction with the construction of a Residence on a Lot. No material changes will be made in the landscaping without the written consent of the Committee.

B. [Intentionally Omitted].

C. [Intentionally Omitted].

D. Landscape Installation

The landscape installation shall be completed no later than 30 days after occupancy in accordance with the approved Landscape Plan.

9. [Intentionally omitted.]

10. AMENDMENTS AND/OR CHANGES:

The Architectural Control Committee and the Board shall have the right to amend the Architectural Guidelines for Phase 3 for clarification, amendments or corrections as necessary. This authority to amend will govern as to any conflicts with provisions contained in the Declaration.

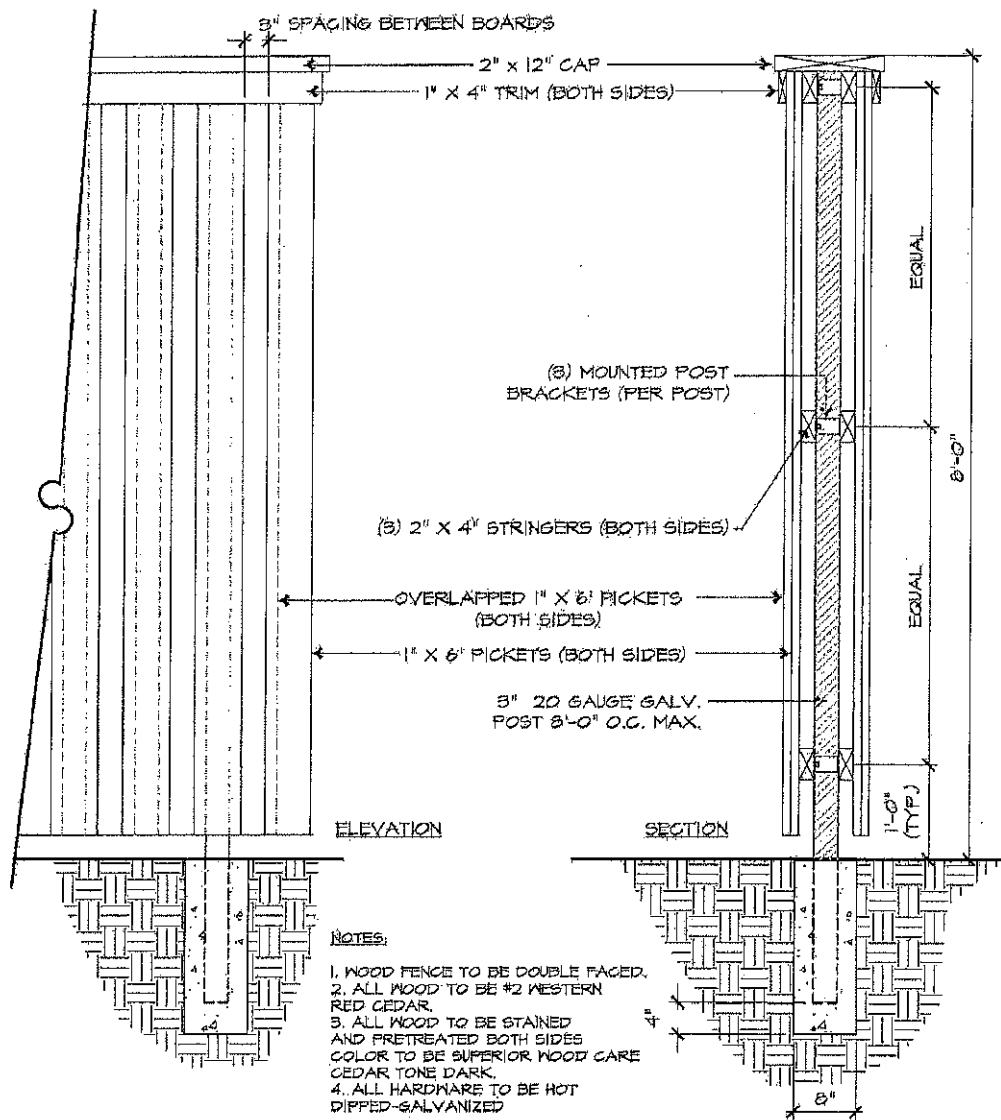
Exhibits to Exhibit E:

Exhibit "1"----- Board on Board Fence Detail

Exhibit "2"----- Fence Columns

EXHIBIT "1"

Board on Board Fence Detail



NOTES:

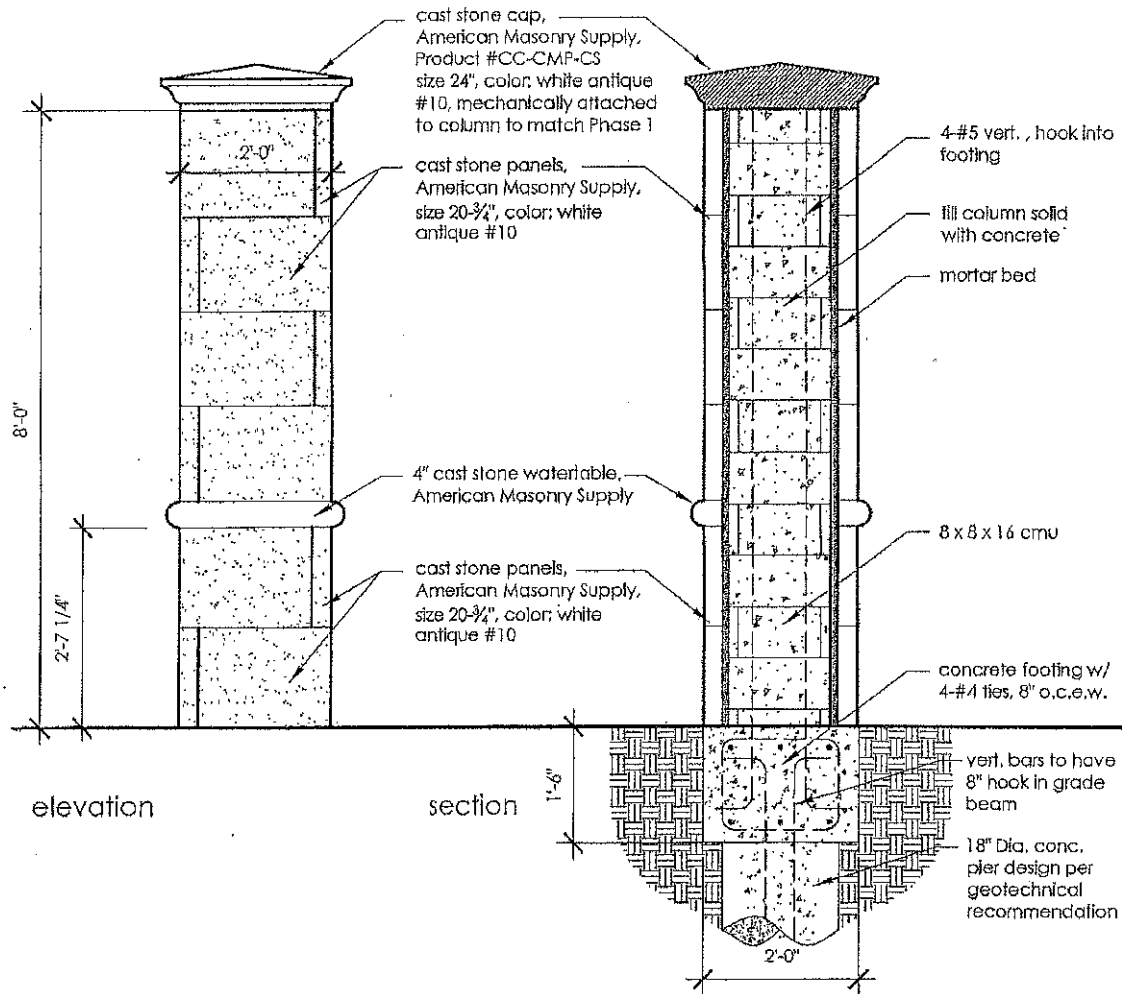
1. WOOD FENCE TO BE DOUBLE FACED.
2. ALL WOOD TO BE #2 WESTERN RED CEDAR.
3. ALL WOOD TO BE STAINED AND PRETREATED BOTH SIDES COLOR TO BE SUPERIOR WOOD CARE CEDAR TONE DARK.
4. ALL HARDWARE TO BE HOT DIPPED-GALVANIZED

8'-0" TALL BOARD ON BOARD WOOD FENCE

SCALE: 3/4" = 1'-0"

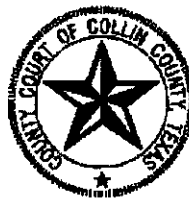
EXHIBIT "2"

Fence Columns



A 8' ht. Fence Column Detail

1/2"=1'-0"



Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
02/25/2011 12:24:26 PM
\$72.00 DLAIRD
20110225000208070

Stacey Kemp