

WHISPERING HILLS

Architecture and Land Site Design Guidelines



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Architecture and Land Site Design Guidelines for New Home Construction and Property Improvement

Introduction. These Site Design Guidelines (SDG) are prepared in accordance with the Whispering Hills Subdivision's Deed Restrictions, Articles 3, 4, 5, 7, 12 & 13 to ensure quality and consistency within the residential community. Additionally, the Board of Directors adopted a "Resolution Pertaining to Residential Construction & Property Improvements" in the Whispering Hills subdivision with an effective date of July 12, 2023. The SDG standards are intended to explicitly outline the requirements and procedures that apply to all building, modifications, additions and property improvement requests. These guidelines will be updated to reflect changing conditions. The most current document is available online at www.whisperinghillspoa.org.

These guidelines are supplemental to the Deed Restrictions, the Whispering Hills of Comal County Property Owners Association (WHPOA) Board of Directors (Board) and WHPOA Bylaws. In the event a conflict arises between the guidelines and any of the Governing Documents defined in the Deed Restrictions or subsequently adopted by the Board of Directors, the Governing Documents are controlling. The WHPOA Board is solely responsible for the administration of the WHPOA.

Organization and Responsibilities of the Architecture and Land Review Committee

Mission and Function. The WHPOA Board appoints all Architecture and Land Review Committee (ALRC) members. The ALRC is responsible for ensuring an attractive, consistent, and aesthetically pleasing community. In accordance with Whispering Hills Subdivision Deed Restrictions, Article 5 and the WHPOA's Bylaws, Article 1.1, no improvement or structure, including all preparatory site work, may be erected or initiated within the Whispering Hills Subdivision without prior approval by the ALRC.

The SDG and the Deed Restrictions are the documents used for the evaluation of all projects submitted to the ALRC. The ALRC strives to maintain a consistent approach and has sole responsibility for final approval. In making approval decisions, the ALRC takes into consideration location of improvements, proximity of improvements to other lots/residences, setback requirements, design, construction, materials, visibility from street or neighboring lots, consistency of structure or alteration with surrounding structures, and compliance with the Deed Restrictions.

The Whispering Hills (WH) architectural review is neither an endorsement nor approval of a contractor's construction techniques, engineering applications or the effects of such construction on neighboring lands. Our architectural review is limited to fundamental and basic verification of compliance with this document and the WH Deed restrictions.

Scope of Responsibility. The ALRC is responsible for:

- Evaluating all building plans for compliance with the Deed Restrictions and SDG;

- Monitoring every stage of lot development from site clearance to construction completion;
- Compliance with the SDG;
- Interpreting the provisions and requirements of the Deed Restrictions, the “Resolution Pertaining to Construction & Supplemental Improvements” and the SDG’s;
- Approving any changes subject to ALRC control to existing structures including but not limited to walls, material replacements, renovations, and additions.
- Amending the SDG with approval by the WHPOA Board.

Enforcement. Any property improvement (as defined by the Bylaws) whether new or altered, constructed or located on a lot is required to have prior ALRC written approval. Any structure or improvement without prior ALRC approval is in direct violation of the Deed Restrictions and the SDG. Failure to bring any non-conforming improvement into compliance may subject the builder/owner to enforcement actions.

Limitation of Liability. The WHPOA, the Board of Directors, the ALRC, any committee, or committee member of any of the foregoing shall not be held liable for any injuries, damages, or losses arising out of the manner or quality of approved construction on or modifications to any lot or improvement. In all matters, the committees and their members shall be defended, held harmless and indemnified by the WHPOA.

The Design Review Process – New Home Construction

Review of Plans. The ALRC reviews the Architectural Plan Review Request for New Construction and Property Improvement application form submitted as paper documents. The WHPOA website provides instructions for delivery of paper applications. Applications are generally reviewed within thirty (30) business days of receipt.

New Construction Application Review Fee. A review fee is required for all new home construction applications. The new home construction deposit must be included with the New Construction Application Form submission. All fees are payable to the WHPOA.

Property Improvement Request Review Fee. There is no fee for submittal of a Property Improvement Request application. A property improvement is defined in the third amended Bylaws.

Conditions of Approval/Rejection of Plans. Plans submitted for review may be rejected in whole or in part by the ALRC if they are deemed to be inconsistent with the SDG. If the plan, in whole or in part, is rejected, the ALRC will provide the lot owner a written explanation for the rejection.

Architectural and Contractor Requirements. Plans for construction of dwellings, buildings or significant structures are required to be designed by a licensed, registered architect or a professional home designer. If additional specifications or clarifications of

submitted plans are needed to fully evaluate a construction project, the ALRC may require the lot owner to submit supplementary documents. The thirty (30) day review period shall not commence to run until such time all required information is provided to the ALRC.

Forms. The ALRC requires lot owner submission of the following forms depending upon the activity:

- Architectural Review Request for New Home Construction application form or Property Improvement Request application;
- Septic System Installation Permit Form;
- Well Installation Permit Form unless Canyon Lake Water Company hookup service will be provided;
- Driveway location and approved Comal County or TxDOT driveway permit.

New Construction Deposit. A New Construction Deposit of \$5,000.00 is required from all building contractors for all new construction. The deposit is intended to ensure compliance with all Deed Restrictions and Site Design (SD) construction guidelines and requirements. A 1973 HUD report stated that special foundation measures and water drainage issues had to be considered when constructing homes in Whispering Hills. If the new home construction involves significant excavation, the owner/builder may be required to submit an additional deposit between \$1,000.00 and \$3,000.00 along with a landscaping plan. The ALRC will assess the terrain, excavation requirements and landscaping needs to establish the landscape deposit amount. The landscaping plan shall be compatible with the native hill country and the Whispering Hills community.

A builder of less than four homes within a two-year period may be subject to an additional deposit of up to \$3,000.00 and will be required to submit the names and contact information of their primary subcontractors.

Lots are periodically inspected by the ALRC to ensure compliance with all applicable restrictions and requirements. If the builder/owner is found to be in violation of any Deed Restriction or SDG, they will be notified. If the violation is not cured within an allotted time period, a deduction will be automatically assessed from the New Construction Deposit. The ALRC will conduct a final site inspection to ensure compliance and the balance of the deposit, if deductions are warranted, will be refunded upon full completion of construction, as determined by the ALRC in its sole discretion. In the event a deposit has been depleted, a Lien and \$25.00/day penalty will be assessed by the POA. Builder will notify WHPOA once the entire home is completed and request a refund. The deposit will be refunded within 30 days of construction completion.

Final New Construction Application Review. As part of the final plan review process, the lot owner must submit a complete and final set of construction drawings. The submission must include all SDG requirements in effect as of the date of the submission.

New Construction Approvals. An ALRC final plan approval letter, along with a copy of the approved construction plans drawings, is issued to the lot owner and the builder. No construction may commence without these two approved items.

Legal Agreement – The parties agree that any final submission of plans and requests which are approved by the ALRC shall constitute a binding contract, including all terms and details of such approved plans and requests which shall be enforceable by either party and subject to all remedies available to either party at law.

Special Meeting with the ALRC. If plan approval is subject to conditions the lot owner finds unacceptable or is denied, the lot owner may request a special meeting with the ALRC. If there is not a mutually acceptable agreement, then the lot owner may appeal to the WHPOA Board as outlined below.

Variances. If the Deed Restrictions or SDG guidelines or existing site conditions impose an undue hardship that substantially inhibits lot construction, the lot owner may submit a written variance request. The WHPOA Board retains all final decision authority in its sole discretion. For all variances, the lot owner shall pay WHPOA a variance application fee of \$250.00 plus the costs incurred by WHPOA for the preparation and recording of the variance with the Comal County Clerk.

Right of Appeal to ALRC Denial. If the ALRC denies construction in whole or in part, including variances, the lot owner has a right to appeal to the WHPOA Board. A lot owner must provide a written notice of appeal that clearly outlines their case to the WHPOA Board within thirty (30) days from the date the ALRC issued the rejection letter. The WHPOA Board must render an appeal decision in writing no later than forty-five (45) days from the date the Board accumulates all required information to reach its final decision.

ALRC Pre-construction Meeting with Builders/Lot Owners. After ALRC approval is tentatively granted and prior to new home construction commencing, the builder and lot owner(s) are required to meet with an ALRC member at the construction site to review all WHPOA Deed Restrictions and SDG requirements.

Prior to this on-site visit, the builder will ensure all four property boundary pins are identified and clearly marked. The proposed locations of the well and the septic field will be clearly marked with large red or orange paint circles. The forward and rear corners of the proposed foundation will be marked with easily identifiable stakes. Once all permits have been submitted and all ALRC questions/concerns have been resolved, final construction approval will be granted.

Violation Notices. Violation notices will be issued directly to the builder/owner's authorized agent or point of contact. A five (5) business day cure time will be authorized. If not corrected by the end of the five (5) day notice period, the ALRC will be authorized to deduct monies ranging from \$25/day up to \$200/day depending on the severity of the violation as determined by the ALRC.

Construction

Construction Time Limitation. The exterior of dwellings, structures, wells, septic system, dirt/rock and general lot clean up must be completed within six (6) months after the foundation has been poured. Failure to begin framing within two (2) weeks after the foundation is poured will result in a \$25/day fine. In the event of a strike, fire, national emergency or natural disaster this time limit may be extended only by written ALRC exception. If an extension is requested, the lot owner must submit a brief written justification for the delay and include a new estimated completion date. It is possible to request additional extensions if the builder incurs added delays and submits a documented request to the ALRC.

Lot Clearing and Clean Up. In accordance with Article seven (7) of the Deed restrictions “No removal of trees or excavation of any other materials other than for landscaping, construction of buildings, driveways, etc., will be permitted without the written permission of Grantor”. Advance approval from the ALRC is required for the removal of trees for excavation purposes. In the event a property owner or an employee or contractor hired by the property owner proceeds to remove trees/initiates land clearing activities or excavation without advance review and approval from the ALRC, the property owner will be charged an additional non-refundable, non-compliance fee as stated on the application plus any attorney fees incurred by WHPOA. This fee must be paid prior to final construction approval. The ALRC will authorize such tree removal on a case-by-case basis provided that the owner properly and promptly agrees to remove all discarded trees and brush. Excavation will be **approved only in conjunction with an approved new home construction application.** Builder and owner are responsible for the removal of all left over construction materials and debris to include the removal or restoration of disturbed timber, soil or rocks anywhere on the lot within the six (6) month construction time frame.

Builder Sign. A builder sign must be installed at the beginning phase of lot clearing and grading. The sign cannot be larger than 4 feet by 4 feet. The sign must remain properly installed and maintained throughout construction. The sign must include builder company name and phone number. At the builder's discretion, the sign may also contain an address, email, and logo.

Portable Toilet and Trash Dumpster. During new home construction, a portable toilet and trash dumpster shall be required at each lot. During a property improvement requiring a concrete pad, a portable toilet and trash dumpster is required at each lot. The toilet must be placed no closer than fifteen feet (15) from the front lot line and no closer than twenty-five feet (25) from the lot sideline. At a minimum, toilets must be maintained weekly but always be in functioning and sanitary condition. In the event construction or improvement of a lot is terminated or abandoned, the toilet and dumpster shall be removed by the builder or lot owner and returned once construction resumes. A trash dumpster must be provided by the builder or lot owner at all construction projects not later than slab pour completion. Failure to have a dumpster and toilet on site during new home construction will result in a \$25/day fine. The trash dumpster must be emptied when full. In the event the trash dumpster is not emptied, the ALRC reserves the right to have the trash dumpster emptied at the lot owner's

expense. If the construction or improvement of a lot is terminated or abandoned, the ALRC has the right to remove the toilet and construction dumpster at the builder/owner's expense.

ALRC Right to Enter and Inspect Property. The WHPOA and the ALRC, including its agents and representatives, have the right of entry and inspection on any portion of a lot to verify compliance with WHPOA Deed Restrictions and the SDG's. The ALRC may conduct inspections before, during and after construction. If violations are discovered, the ALRC will notify the lot owner or builder in writing of the requirement to cure the violation within the stated time period contained in the notice of violation.

Conduct of Workers. Animals, firearms, loud noises (including music), harassing behavior, inappropriate attire, trespassing on adjacent lots, consuming or possessing alcohol and illegal drugs are strictly prohibited on or around construction sites. Workers are prohibited from using WHPOA amenities.

Construction Revisions and Changes. Once construction has commenced, a change to any approved ALRC plan design, including revised plan documents, must be approved by the ALRC. Revisions in construction are not permitted to begin until ALRC approval in writing is granted. Failure to obtain written ALRC approval for revisions will result in deductions from the New Construction Deposit as determined by the ALRC to be appropriate in its sole discretion.

Slab Surveys. Whenever a building slab or a supplemental improvement (does not include or apply to fences) is built fifty-five (55) feet or less from the front property line setback or within ten (10) feet of the side easements (15 feet for a corner lot), the builder must submit a slab survey prepared by a certified surveyor to the ALRC prior to pouring the concrete slab that displays the exact location and distances from the front and side boundaries of the lot.

All buildings must be completely enclosed from ground level to the lower portion of the outside walls so as to hide posts or piers from view.

Application Submission Requirements

A completed 'Architectural Plan Review Request for New Construction' application form by property Owner and General Contractor/Builder.

The Site Plan/Plat must be a minimum scale 1"=20' or in a digital pdf format to fit an 8x11 page or paper copies not to exceed 24" by 36". Plans must include the following:

- A construction deposit \$5,000.00;
- North arrow and scale;
- Property lines with dimensions and bearings;
- Setback and Easement lines;
- Adjacent street names;
- Proposed location of home on the lot.
- Outline of exterior walls, patios, decks and driveways;

- Distances from four (4) corners of foundation to adjacent property lines;
- Proposed driveway including specified construction material;
- **Driveway location and approved Comal County driveway permit;**
- Proposed retaining walls;
- Proposed accessory structures (i.e., out-building, trellis, a/c units, etc.);
- Topological lines;
- **Septic system location and approved Comal County septic system permit;**
- **Water well location and approved Comal Trinity Ground Water District permit;**
- All decks and terraces.

Primary House Plans must be a minimum scale 1"=20' or in a digital pdf format to fit an 8x11 page or paper copies not to exceed 24" by 36". Plans must include the following:

- Interior rooms dimensioned and labeled;
- All window and door openings noted and size included;
- Structure's total area in square feet;
- Front, rear and two side elevations with clearly labeled rock/stone and stucco areas;
- Front, rear and two sides will clearly identify surface square footage and the calculated percentage (%) of rock/stone/stucco on each elevation;
- Elevations labeled with height and length distances corresponding to the site plan;
- Structure's highest elevation measurement.

Secondary or Supplemental Improvement Structures:

- Identify structure's purpose and diagram the total area's square footage layout;
- Front, rear and two side elevations with clearly labeled rock/stone and stucco areas;
- Refer to guidelines (pages 11 & 12) regarding supplemental improvements that are located in front or in the rear of the primary house. Supplemental improvements on corner lots have additional requirements.

Review and Action by the Architecture and Land Review Committee. All submissions must be complete and include all deposits and copies of all permits before an ALRC review will be undertaken. The WHPOA ALRC **will attempt to review and act on all completed applications within ten (10) business days of receipt.** In the event that the WHPOA ALRC fails to respond within thirty (30) days of a completed application, the application must be resubmitted.

Architectural Guidelines

General Standards. Residential homes must be designed in compliance with all Deed Restrictions and Site Design Guidelines and standards. All structures must be wholly located within setbacks unless a variance has been approved by the ALRC.

Modular Construction. No manufactured mobile home shall be placed, erected, constructed nor permitted within Whispering Hills Subdivision.

Dwelling Size. 1,100 square feet of living space, exclusive of patios, porches or garages, is the minimum.

Setback and Building Height Requirements. There is a mandatory 50-foot setback from the front of the property line. Front and rear setbacks are measured between the lot's property lines and the building foundation slab. Side lot setbacks are measured between the lot's property lines. Interior lots have a 5-foot utility variance on all four corners of the lot. Corner lots have a 10-foot utility variance on those sides having a street boundary.

Masonry Requirement. Front and side exterior walls must be constructed with masonry materials. Masonry materials are natural stone and rock, brick or stucco. Manufactured stone and Hardie-plank will be treated as non-masonry material. Twenty-five percent (25%) masonry coverage is the minimum required for all homes. Measurement is on the exterior walls and all exposed roof gables.

Owners may desire to cover a portion or all of their foundation however, coverage of the foundation does not count towards the 25% masonry coverage of exterior walls and gables. The ALRC recommends the front of the house have a minimum of 50% stone, rock, brick/stucco coverage. Any part of a building constructed of lumber must have no less than two coats of paint.

Water Wells and Pump Houses

Water Wells and Pump Houses. Water wells must be located more than one hundred feet (100) from an aerobic spray head and more than fifty feet (50) of any property line. The location of the water well must be identified on the plat plan. Water wells cannot be drilled before the new home application has been submitted and approved. In most cases a representative of the ALRC desires to meet with driller on site prior to drilling to identify the exact location of the well. Requests for a 'Variance' must be submitted and approved in advance to well drilling otherwise the property owner may not receive a favorable approval.

Wells that are drilled inside the 50-foot set back requirement must mandatorily submit to a 'Variance' and place all above ground apparatus inside their garage or in a supplemental structure immediately next to the primary house.

Water Well Permit. The lot owner is required to obtain all applicable County or State permits. The Comal Trinity Groundwater Conservation District controls and authorizes the drilling of new wells. The owner or builder will pay the requisite fees and provide the ALRC with an approved and signed Comal Trinity Boring Authorization and Plugging Form.

During the construction phase, the builder shall pinpoint the exact location of the proposed well and submit a well location survey prepared by a certified surveyor to the ALRC prior to drilling the well that displays the exact location and distances from the front and side boundaries of the lot if the well is closer than 55-feet from the front property line and closer

than 55-feet from any property line. The ALRC will issue an approval authorization upon verification that the approved well does not violate any setback requirements.

Water Well Pump House. Water well pump houses are required when the well is in front of the house or visible on a corner lot. Wells installed to the rear of house and not visible do not require a well house. The well house color must be similar to the primary house' exterior color. Refer to 'Supplemental Improvements' for related guidelines.

Water Tanks. With ALRC approval, lot owners may install a water tank. Plans must show the proposed location, material(s), screening, dimensions and visibility from the street, surrounding lots or Common Areas, including the distance (in feet and inches) the improvement(s) are from the side, front, and back property line.

Texas Water Company. Properties that have access to commercial water provided by Texas Water Company may chose that supply option. Provide a copy of the agreement for water in lieu of a water well.

Water Catchment Systems. An engineered water catchment and containment system may be chosen instead of a water well. Property owner/builder will provide details and design data outlining the relevant details of collection and storage for the ALRC's review. Catchment tank(s) location will be identified on the plat and will depict height, dimension and construction materials.

Septic Systems

Septic Systems. Septic systems are prohibited within twenty feet (20') of the side and rear lot lines. The septic system location must be specified on the site plan and include a copy of the Permit for Authorization to Construct an On-Site Sewage Facility and License to Operate issued by Comal County.

Driveways

Driveways. The Comal County Engineer's Office issues driveway permits. TxDOT issues driveway permits for highway frontage properties. Driveway permits are required for all new home construction. Driveway materials will be specified and described in the application. If an owner intends to build at a later date and needs access to their property, a driveway permit should be obtained and submitted with a Property Improvement Request application for ALRC action.

Fencing

Fencing. Fencing is permitted on lots. Privacy fencing is defined as a solid fence consisting of wood, rock or other approved materials. Privacy fencing is permitted along the

back and sides of the house only. Fencing extending beyond the house towards the front and along the front perimeter should be constructed of metal, wire or wood rails. Due to the abundance of wildlife in the neighborhood no fence shall exceed eight feet in height. Brick, rock, barbed-wire or other materials that the ALRC determines is unsuitable for the Whispering Hills neighborhood will not be approved.

Supplemental Improvements

Supplemental Improvements. Whispering Hills POA does not charge a fee when an owner wants to add a property improvement but the owner should submit a “Property Improvement Request” and obtain an approval prior to proceeding with the improvement.

Effective July 12, 2023, the Board of Directors adopted a “Resolution Pertaining to Residential Construction & Property Improvements in the Whispering Hills Subdivision”. Property improvements, as defined by Article 1.8 of the Amended Bylaws, will henceforth have to meet the following basic criteria for approval and installation on lots in Whispering Hills:

- i. Improvements such as well houses, garages, gazebos, carports, outdoor kitchens and similar types of structures must be constructed on a cement foundation. Identified improvements not visible from the front of the property are relieved of this requirement subject to item iii below.
- ii. Improvements noted above will be constructed in such a manner that they will match the basic exterior of the primary residence if they are in front of or parallel to the primary residence. Improvements that are not visible to the front of the property are relieved of this requirement.
- iii. Small sheds (no larger than 8’ x 10’ x 8’ high) will not need to be on a concrete slab and they do not have to match the exterior of the primary residence.
- iv. Workshops and other structures will be within the following size guidelines:
 1. The height of these structures shall be limited to 125% of the primary residence, not to exceed 30 feet in height.
 2. The square footage of these structures shall be limited to 3,000 square feet.
- v. All supplemental structures should have reduced exposure to other neighbors. This can be accomplished by the thoughtful installation of trees, shrubs, and plants in addition to matching the color scheme of the primary residence and shall be consistent with paragraph 3 of the Deed restrictions. Property owners and the ALRC will seek to attain a common balance however, the Board shall ultimately be the final arbiter in the event of disagreements.