

SECTION III CONSTRUCTION STANDARDS

A. COMPLETION OF CONSTRUCTION

Although the CC&Rs now in effect show 10 months to complete major construction, the DERC currently allows a one (1) year time period which is more in line with County requirements. Lesser projects are to be completed in accordance with a timetable based on the scope of the project.

B. CONCRETE USE IN FRONT YARDS

As stated in Article 3.3 of the CC&Rs, the use of concrete in a front yard requires DERC approval. In general, the use of concrete is not considered a form of "low maintenance" landscaping. When a property owner wants to cover areas with concrete, special attention will be given to the landscaping details and how the concrete enhances or detracts from the front yard appearance. (See also Section III – O. Parking Pad Construction.)

C. COVERING FOR BERTHING AREAS

GENERAL: The purpose of any cover structure for moored boats is to provide weather protection only for the boat and with the smallest structure possible. The architectural appearance must be appropriate to our community. Design, materials and color must be approved by DERC. A Boat Slip Cover Form (see EXHIBIT J) with all the dimensions must be completed and accompany Construction Application (see EXHIBIT A). Berthing area covers are not permitted on Willow Lake or Upper Willow Lake (land locked lake areas).

1. **CANOPY TYPE STRUCTURES (Boat Slip Cover)** will be permitted if all the following conditions are met:
 - a) **HEIGHT:** Not over 10 feet (10') from dock surface to highest point, with no more than forty (40) vertical inches down from the maximum height being opaque, with a valance of six (6) to twelve (12) vertical inches. Flat roofs are prohibited.
 - b) **FRAME:** Made from galvanized or other weather protected metal pipe or tubing, which is properly engineered to the size of the cover.
 - c) **COVERING:** Fabric is the preferred choice. Fabric covering shall have a neat, tight fitting, tailored appearance. If lightweight metal roofing material is used, it shall be a ribbed or standing seam sheeting with the exposed end truss trimmed out with a properly designed support frame. The roofing material shall have a non-glare finish using a baked, anodized or other similar permanent coloring process and will not support a live load. Galvanized, fiberglass or aluminum corrugated sheeting not meeting the above specifications will not be allowed.
 - d) **COLOR:** Covering color shall be a solid color and not offensively bright. Tasteful trim color may be used
 - e) **SIDE CURTAINS:** Side curtains are discouraged because they create a large visual structure. However, if side curtains are installed they must roll up and the material must be vinyl encapsulated woven polyester mesh with a minimum 30% openness factor and match the cover in style and color.
 - f) **MOUNTING:** When secured to dock, center line of support posts to be no more than 12 inches from inner face of dock. If secured to boat lift all other conditions must be met and height will be measured when boat is on the lift, in the stored position from the adjacent dock.

- g) **SIZE:** Not to exceed berthing area dimensions consistent with the mounting requirements.
- h) **APPEARANCE:** The overall dock covering structure must be architecturally consistent with the currently approved dock covers being supplied in Discovery Bay. (See EXHIBIT K for photos of acceptable dock covering structures.)

D. CURB CUTS

In general, DERC does not approve curb cuts other than for the driveway. Circular driveways requiring two curb cuts may be appropriate for good design for special lots or specially designed homes. Permits from the County are required for curb cuts.

E. DECKS and WALKWAYS

Decks and walkways most commonly are of a conventional wood type, but may incorporate lightweight concrete, plastic or tile, or similar material, surfacing. The DERC must approve the materials as part of its review. Surface dimension of columns extending above or below decks may not exceed twenty-four inches by eighteen inches (24" x 18").

Coverings: It is desired that first and second story decks be open, uncovered and unscreened, except that first story decks may be covered with a tight fitting, tailored appearing canvas cover, or a manufactured covering made from one of the plastic polymers, either extruded or laminated, or an aluminum extrusion or lamination material. Any deck covering must have appropriate color and architectural coordination with the home. None of the coverings either solid or open shall support a live load or otherwise serve as a second story deck. A covering may not be constructed using plywood, tar paper, shakes, shingles of any type, corrugated sheeting or other permanent types of roofing material. No deck covering is allowed on second-story decks or balconies that extend into the SCA or R.D.E.C.E. Fully enclosed decks, whether covered or uncovered, are not permitted.

Applicants should be aware that approval by the DERC of a deck covering does not eliminate the need for homeowners to obtain approval from other permitting agencies (most notably, Rec. 800 and Contra Costa County).

Enclosures: First-story decks may be enclosed with a see-through windbreak constructed of clear glass, clear Plexi-glass, or equivalent, not exceeding twenty feet (20') in length on any side, and along not more than two (2) sides of the first-story deck on the prevailing wind exposure. Insect screening of a type approved by the DERC may be allowed to enclose the entire first-story deck or a portion thereof. Framed walls will not be allowed. The windbreak or screening should not extend more than one story in height or twelve feet (12') above the deck surface, whichever is lesser. Any enclosure should be designed in a manner to facilitate easy removal without damage to the principal structure, and, specifically, should be capable of being removed in sections, each of which should not exceed 200 pounds in total weight and should be capable of being removed by hand.

Railing: Only see-through railings not exceeding forty-two inches (42") in height will be allowed along all sides of both first and second story decks.

See also Setback Requirements.

F. DUPLEXES & OTHER SHARED WALL STRUCTURES

Recitals

1. The Discovery Bay Property Owners' Association (DBPOA) and its Design and Environmental Review Committee (DERC) are charged with certain responsibilities under the Discovery Bay Declaration of Covenants, Conditions and Restrictions which include the duty and responsibility of approving the materials and colors that are used on the exterior surfaces of buildings within the DBPOA jurisdiction.
2. Within DBPOA'S jurisdiction there are some homes that are of a shared wall design. Conflicts have arisen as a result of adjoining property owners desiring to undertake a construction, painting or improvement project involving the exterior of a shared wall structure or a shared fence located along a common property line which is opposed by the neighboring owner.
3. In order to reduce the number of such disputes and to clearly state the role of the Association and DERC, when such disputes arise, the following policy is adopted:

Statement of Policy Regarding Shared Walled Improvement Projects

Section 1. General Rules of Law to Apply. Each wall and fence which is built as a part of the original construction of the Residences upon the Properties and placed on the dividing line between the Lots shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the wall in equal proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, they shall contribute to the cost of restoration thereof in equal proportion without prejudice, however, to the right of any such Owners to call for a large contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his or her negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Approval of Exterior Alterations. In accordance with the authority conferred by the Discovery Bay Declaration of CC&Rs, the DERC must approve any exterior modification to any duplex residence, including any project to paint the exterior of such residences. It shall normally be the policy of the DERC to require that all owners of residence units with Party Walls mutually agree on the color or appearance of exterior building modifications and that the applicant submit written verification that such agreement has been reached. In the absence of confirmation of support for the project from all owners of the units with Party Walls, the DERC may, in its sole discretion, proceed to consider the applicant's proposal as a variance pursuant to Article 1.5 of the CC&Rs, if the DERC determines that the application would be granted, but for the absence of unanimous support from all owners of the affected units. A hearing shall be conducted on the variance proposal and the owner(s) of the adjoining unit shall be entitled to attend and to participate in the hearing on the proposed variance.

Unless the adjacent owner(s)' consent is obtained during that hearing, a variance may only be granted upon findings by the DERC that: (i) the exterior of the duplex building is all or partially in need of maintenance and restoration in order for the building, in its entirety, to comply with Article 3.21 of the CC&Rs (relating to owner maintenance responsibilities), (ii) that the color or stain proposed by the applicant is of a quality and appearance that is equal to, or better than, the color and appearance of other similar units in the same neighborhood, and that (iii) any alternative proposal for exterior maintenance or restoration proposed by the adjacent owner(s) would result in an exterior appearance of the building structure that is, in the DERC's opinion, significantly less attractive than the applicant's proposal. As a further condition to granting a variance permitting an exterior unit painting or modification project to proceed without the approval of all owners' of units sharing common Party Wall, the DERC may require the applicant to execute an acknowledgment that the adjacent owner(s) have not supported the applicant's proposal and that neither the Association nor DERC have any duty to initiate action to compel the adjacent owner(s) to cooperate with the applicant.

G. EXTERIOR CHANGES INCLUDING RE-PAINTING AND RE-ROOFING

Any change to the exterior (for example windows, colors, roof design or a change in roofing materials), of an existing house requires approval from D.E.R.C. Interior changes do not require approval unless for a garage conversion. Materials and colors should be consistent with the appearance of the surrounding area. Natural appearing materials and colors in the earth tone and wood tone range are generally preferred. Other colors and materials may be used which are appropriate to the architectural style, harmonious with the site and/or compatible with the character of the neighborhood. Earth tone/wood tone colors are considered to be various natural shades of reddish-brown, brown, gray, tan, umber, sand, and some shades of blue and green. Natural appearing materials include brick, stone, stucco, shiplap wood siding, shingles and manufactured, textured wood appearing siding. A sample must be submitted for approval on all exterior paint, or pre-finished siding, as well as roofing materials in addition to a photograph of the house.

DERC is particularly concerned with guarding against unappealing, bright and/or clashing colors that do not harmonize on the home or with the neighborhood and the community.

In duplex and condominium units, DERC rejects contrasting colors, especially, in connected units. The intent is to maintain the general theme of the development through using colors similar to those originally used by the developer. Subtle color changes from the original are welcome. What is not wanted is a radical departure from the original color scheme that might adversely affect property values.

There is no fee for re-painting and re-roofing approval.

H. FENCES/WALLS

Fences/Walls can be six feet (6') by the side of house, three feet (3') and of open design everywhere else. Nothing on the slope control area. If approved by the neighbor, and the neighbor's house protrudes beyond the applicant's house, a six feet (6') fence/wall can be built to the edge of the neighbor's house. If a house is on a levee and viewing through lots is not possible, fencing may be placed on both side yards at the discretion of the DERC. Materials used for fences/walls, as well as fence/wall design, require DERC approval. In general, DERC will not approve chain link fencing or materials of an "industrial" nature.

DERC does not encourage fences/walls in the front yard area but feels that it is in the best interest of the Association to have fences/walls whenever possible that are open, attractive and

constructed of appropriate materials. DERC will consider reviewing and approving fences/walls that meet the following guideline.

1. **FENCES/WALLS NEAR TO AND PARALLEL TO THE SIDEWALK & ACROSS BACK YARDS:** Only fences/walls under three feet (3') with a design that is at least 50% open will be considered. Chain link fences will not be considered. Attractiveness of design will be a major consideration. Front yard fences/walls must be set back from the sidewalk a minimum of one foot.
2. **FENCES/WALLS ENCLOSING VACANT LOTS:**
 - a) Landscaped lots may be enclosed on all sides with fencing up to six feet (6') high if all required County or Rec. 800 setbacks are met. The fencing alongside neighboring houses may be solid, but elsewhere must be of at least 50% open design. Attractiveness of design will be a major consideration. Chain link fences will not be considered.
 - b) The fencing of un-landscaped lots will not normally be approved and will be considered on a case-by-case basis.

I. GARAGE CONVERSION

Requires approval from DERC.

J. GARDEN OR BAY WINDOW SEAT

A two foot deep garden or bay window without open floor space may extend into the side yard setback. Nothing, other than a chimney, may intrude into the setback that utilizes floor space.

K. GAZEBOS

Location, design and appearance require DERC review and approval.

L. JET SKI BOAT HOLDERS

Jet Ski boat holders will be allowed and can be built on side of dock. If it intrudes into the lot setback easement, a Grant of Easement (available from the Rec. 800's office) must be obtained from the owner of the adjacent property.

M. LANDSCAPING DESIGN

The time limit for landscaping is six (6) months from the time of occupancy for a new home or the approval date from DERC for re-landscaping. This limit will ensure the well-kept appearance of our community and demonstrate our pride of ownership in Discovery Bay.

Landscaping plans must be submitted for approval to the DERC.

Landscaping designs will generally contain at least four of the areas listed below, and cover at least one-third of the front yard area from the front of the house to the street. The design will be orderly, neat and attractive and consistent with existing landscaping in our Association.

The Committee recognizes the fact that some homeowners want low maintenance landscaping. The Committee has no objection to a low-maintenance plan, but does expect an adequate amount of living plant material to diminish the visual impact of the non-living material.

A well landscaped front yard will have some of the following areas:

- Lawn
 - Flower beds/Planter Boxes
 - Shrubbery
 - Trees
 - Living ground cover
 - Inert ground cover (rocks, gravel, bark, etc.)
- Landscaping in this standard does not include concrete drives, parking pads or walkways. Odd shaped lots with very small front yards will be given special consideration.

N. OTHER PERMITS

Many projects in addition to DERC approval require permits from other governmental bodies. Applicant is expected to get the necessary permits prior to construction.

O. PARKING PAD CONSTRUCTION

Must conform to the following:

1. Design is harmonious with existing house and landscaping. Front yard is not to become a parking lot.
2. Material (some form of concrete) produces a hard surface, so that, unlike rock, bark or gravel, it will not permit weed growth, become rutted, and eventually look unattractive
3. Supports the same weight as a regular driveway.
4. Properly drained.
5. Has adequate access to a curb cut.
6. Contiguous with the driveway. Other locations will be reviewed on a case-by-case basis.
7. Requires approval by DERC. _____

See also Section IV – H. Parking and Storage of Vehicles.

P. REAR YARDS (ACCESSORY USES IN)

An accessory building or accessory use may occupy not more than 30% of a required rear yard (County Code 82-14.006).

Q. SETBACKS

1. HOUSES – SIDE YARDS

The combined total of both sides to be 15 feet (15') minimum with 5 feet (5') minimum on one side.

2. HOUSES – REAR YARDS

No part of any principal structure shall encroach into the Slope Control Area (SCA).

3. HOUSES – FRONT YARDS

20 feet (20') minimum measured perpendicular to the property line from the closest point of the structure to the property line. On five (5) sided corner lots which front on a street on two sides and have a build able lot on each side down the street, the 20-foot setback will apply to both street frontages. DERC may consider an encroachment variance after processing a variance application (see EXHIBIT H) if the following is met: The location of the garage door face must be at least 20 feet (20') from the front property line measured perpendicular from the property line to the nearest point on the door.

4. DECKS

Where the SCA is, or is less than, thirty-five feet (35'), decks will not be allowed to extend any farther than a twenty foot (20') setback from the rear property line or the main water line (elevation +3.0' U.S.G.S. Datum), whichever is greater. Second-story decks and/or balconies will not be allowed to extend any farther than four feet (4') into the SCA. Where the SCA exceeds thirty-five feet (35'), encroachments in excess of these Standards may be allowed to elevation +3.0 or the property line, whichever is lesser.

Elevated decks will be allowed to go into the side yard setback but must maintain at least a five feet (5') setback from each property line. Decks/walkways less than seven (7) inches above grade can go all the way to the side yard property line. Stairways and dock ramps with appropriately sized landings can be located in the side yard setback area.

5 DOCKS

Rec. 800 requirements are that docks must be within the mooring area with a 10 feet (10') setback from the side property lines.

R. SIDE YARD STRUCTURES(Canopies, sheds, cabinets, trellis, etc.)

1. Structure has a minimal visual impact when viewed from the street, water, or neighboring properties.
2. Any portion of the structure that is visible above a fence or shrubbery screen, or the entire structure in unscreened side yards, must have an attractive appearance and be compatible with the house in style and/or color.
3. Canvas covers must be the same as dock covers – tight fitting with a tailored appearance. (See Exhibits J and K).
4. Open structures must be screened with fencing or shrubbery for the lower six (6) feet so that any items under the structure are completely hidden from view.
5. All parts of the structure must be lower than the eave of the house, and generally less than eight (8) feet in height.
6. If supporting posts for the structure are part of the fence, any portion of the structure above the fence must be totally open between the posts with no lattice or side curtains.
7. Use of a common fence at the property line as part of the structure requires the written consent of the other property owner.
8. No water drainage from the structure shall go onto the adjoining property.
9. A minimum three foot (3') passing space is advisable from the front to the rear of the side yard for fire crew access.
10. Structures that are fifty (50) square feet or less and that do not exceed the height of the fence do not require DERC approval. All other structures require DERC approval.

NOTE: Storage structures exceeding 120 square feet and over will also require a County permit.

S. SLOPE CONTROL AREA (S.C.A.)

No slope improvements, launching and/or facilities will be allowed on the slope control area except for specific lots located on Indian Slough as previously approved by Rec. 800.

T. WINDSCREENS ON DECKS

See Decks and Walkways - Enclosure (Section III – E).