

Revised May 2025

MIMOSA BAY

DESIGN AND ARCHITECTURAL GUIDELINES

Table of Contents

SUMMARY OF CHANGES	3
1. INTRODUCTION	4
2. DESIGN AND ARCHITECTURAL REVIEW PROCESS.....	6
a. NEW HOME CONSTRUCTION.....	6
b. EXISTING HOME ALTERATIONS AND ADDITIONS.....	8
3. SITE STANDARDS	9
3.1 SITE ENGINEERING	10
3.2 BOARDWALKS, DOCKS, PIERS AND VIEWING AREAS.....	10
3.3 LANDSCAPE DESIGN	11
3.4 STRUCTURE SIZE AND PLACEMENT	12
3.5 STRUCTURE ORIENTATION	12
3.6 GARAGES, DRIVEWAYS, SIDEWALKS, PATIOS AND OUTBUILDINGS	13
4. ARCHITECTURAL STANDARDS	13
4.1 ELEVATIONS AND ROOFING	14
4.2 POOLS.....	14
4.3 ROOF ACCESSORIES	14
4.4 EXTERIOR LIGHTING.....	14
4.5 FENCES.....	15
4.6 EXTERIOR STAIRS AND RAILINGS	16
4.7 PORCH AND PATIO SCREENS	16
4.8 EXTERIOR FINISHES	16
4.9 SERVICE LINES	16
4.10 ADVERTISEMENT AND POLITICAL SIGNS.....	16
4.11 MAILBOXES.....	17
4.12 PRIVATE IRRIGATION WELLS	17
4.13 FLAG POLES AND FLAG DISPLAY	17
4.14 FIRE PITS.....	18
4.15 TREE HOUSES OR PLAY SETS.....	18
4.16 HOLIDAY DECORATION DISPLAYS.....	18
4.17 STATUARY	19
5. GENERAL PROVISIONS / PLANS	19
5.1 FEDERAL, STATE & COUNTY CODES	19
5.2 CONTRACTOR REQUIREMENTS.....	19
5.3 CONSTRUCTION STANDARDS.....	19
5.4 HOURS OF CONSTRUCTION, NOISE, AND PETS.....	20
6. VARIANCES	20

SUMMARY OF CHANGES

The following changes have been made to this document on the date specified below.

Minor formatting changes are not included.

DATE	LOCATION	DESCRIPTION
Apr '19	Paragraph 1	Added definitions that delineated and differentiated between the ARC and APMC.
Apr '19	Paragraph 1	Added definitions of "Initial Approval" and "Final Approval" in order to help clarify when work is allowed to begin and when work has ended.
Apr '19	Paragraph 1	Re-worded the paragraph on "Pre-Application Procedures" to emphasize to homeowners and/or applicants, the importance of consulting local and state agencies with regards to requirements for additional permits or approvals outside of the community ARC and/or APMC processes.
Apr '19	Paragraph 2	Re-organized the ARC and APMC application process/steps in order to make them more succinct.
Apr '19	Paragraph 2	Removed duplicate information found in paragraph 3.
Apr '19	Paragraph 2	Clarified the requirements for project applications for alterations or additions.
Apr '19	Paragraph 2	Eliminated the requirement for multiple applications for different types of projects by creating one all-inclusive application.
Apr '19	Paragraph 3	Added information about fishing/viewing platforms for owners of lakefront property.
Apr '19	Paragraph 3	Added "Patios" to paragraph 3.6 to fall under the same material requirements as walkways and driveways.
Apr '19	Paragraph 4	Clarified the requirements for metal roofs.
Apr '19	Paragraph 4	Clarified the requirements for 8' fences bordering Old Folkstone Road and/or the Nautical Reach Community or other properties external to Mimosa Bay.
Apr '19	Paragraph 4	Added fence placement verbiage to include information about invisible fencing.
Apr '19	Paragraph 4	Updated fence material and color requirements.
Apr '19	Paragraph 4	Added verbiage about recommending that homeowners obtain a property survey before installing fences to prevent improper construction on neighboring properties.
Apr '19	Paragraph 4	Moved the discussion about political signs from the <i>Mimosa Bay Supp/emerita/ Rules and Regulations</i> to this document.
Apr '19	Paragraph 4	Added information about in-ground/permanent flag poles
Apr '19	Paragraph 4	Moved the discussion about flag displays from the <i>Mimosa Bay Supplemental Rules and Regulations</i> to this document.
Apr '19	Paragraph 4	Added information about fire pits.
Apr '19	Paragraph 4	Added information about tree houses and play sets.
Apr '19	Paragraph 4	Moved the discussion about holiday decoration displays from the <i>Mimosa Bay Supplemental Rules and Regulations</i> to this document.
Apr '19	Paragraph 4	Added allowance of statuary with caveats to allow lot personalization without excessive applications.
Apr '19	Appendices	Combined "Existing Home Alterations Applications" for sheds, fences, landscaping, etc. into one application.
Apr '19	Appendices	Added "Certificate of Compliance".

May '25	Sec.2 -f5	Updated ARC/ACMC DOES NOT maintain impervious surface allocations
May '25	Sec.2- iii- Step 3	Updated ARC/ACMC review timeline and homeowner notification timeline and process
May '25	Sec. 3.3 Paragraph 2	Update on Removal of trees on lots AND timeline for landscaping to be completed after Certificate of Occupancy is issued
May '25	Section 3.4	Building Height updated
May '25	Section 4	Final sentence regarding vinyl siding requirements
May '25	Section 4.3 Paragraph 2	Solar panel added "to match roof" and removed the word "visible" and replaced with "seen"
May '25	Section 4.5 Paragraph 3	Updated to allow Shadowbox style fencing with 3 1/2 inch spacing
May '25	Section 4.10 Paragraph 1	Removed the word "furnished" Replaced with "approved" and "BOD"
May '25	Section 4.3 Paragraph 2	Removed NC State Flag. Added "any of the 50 United States State Flags" AND "Space Force"

1. INTRODUCTION

The goal of the Mimosa Bay *Design and Architectural Guidelines* are to encourage a community of well-designed residences, reflecting the individuality of their owners, that, when viewed together, produce an outstanding community environment. To date, the community of Mimosa Bay includes residences in traditional, coastal, and regional contemporary styles. The aesthetic quality of the design and construction materials are the focus of these guidelines within the context of the owner's selection of architectural style.

The mission of the Architectural Review Committee (ARC) and Architectural Control and Maintenance Committee (ACMC) is to create a superior living environment by establishing, maintaining, and enforcing high standards in order to sustain and enhance the beauty, character, and architectural aesthetics of Mimosa Bay.

Recognizing that a proposed new home, or changes to an existing home, will become a part of the fabric of the neighborhood and community, the ARC & ACMC review of design submissions evaluates the fit and impact of a design in the context of its surroundings - the existing vegetation, topography, and other natural features. Due to the diverse character of Mimosa Bay, the ARC & ACMC evaluate submissions on a case-by-case basis. The following *Design and Architectural Guidelines* have been prepared to help homebuyers, architects, builders, and residents of Mimosa Bay maintain and enhance the quality of the neighborhood while planning their projects. The ARC & ACMC shall exercise their discretion in a thoughtful, reasonable, and good faith manner. It is not the intent of the *Design and Architectural Guidelines* to make judgments as to what is beautiful, but to coordinate architectural diversity while creating a blend of home styles, which enhance the natural environment. The ARC & ACMC intend to be completely fair and objective in the review process and to maintain sensitivity to the individual aspects of design.

These *Design and Architectural Guidelines* are subject to change from time-to-time. The guidelines in effect at the time plans are submitted will be applied. The design review is authorized by the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision* that contain important information that must be complied with during the building design process.

a. DEFINITIONS

- i. Architectural Review Committee (ARC). The ARC is responsible for receiving, reviewing, and responding to all applications for new construction of all homes including accessory structures such as sheds or fences that will be constructed at the same time as the new home. The ARC is also responsible for any applications having to do with pre-construction issues such as land clearing and/or utilities. Typically, but not always, these requests originate from a lot owner or their designated representative such as a builder or contractor.
- ii. Architectural Control and Maintenance Committee (ACMC). The ACMC receives, reviews, and responds to all applications for post-construction alterations or additions to a home or lot. This includes but is not limited to

installing a fence or shed, screening a patio, extending a driveway, etc. The body of this document details the requirement for approval for various alterations or additions. Most often these requests originate from a homeowner but could originate from a designated representative such as a builder, contractor, or realtor prior to the sale of a completed, newly constructed home.
- iii. Initial Approval. Approval of the application package by the ARC or ACMC after which work can begin on a project.
- iv. Final Approval. Approval of the completed project that serves as termination of the application package approval after which time any alterations or additions shall require a new application.

b. LIMITATIONS OF RESPONSIBILITY

The primary goal of the ARC & ACMC is to review submitted applications, plans, specifications, materials, and samples to determine if the proposal conforms in appearance and construction criteria to the standards and policy set forth in both these guidelines and the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision*. The ARC and/or ACMC do not assume responsibility for the following:

- i. The structural adequacy, capacity or safety features of the proposed improvement or structure.
- ii. Soil erosion or unsuitable soil conditions.
- iii. Compliance with any or all building codes, manufacturer

specifications or instructions, safety requirements, governmental laws, regulations or ordinances of any type or nature.

- iv. Performance or quality of work of any contractor or quality of any product, feature, fixture or improvement, whatsoever.

c. TIME LIMITATIONS

After Initial Approval by the ARC and/or ACMC, work must be completed within one year from the date of approval or all approvals shall be forfeited. Additional requirements are outlined in the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision*. If an extension is required, one may be requested through the ARC or ACMC in writing. The ARC or ACMC may grant an extension subject to any new regulations.

d. APPEAL

If an application has been denied, or the approval is subject to conditions which the applicant feels are harsh, the applicant may request a hearing before the Mimosa Bay Homeowners Association, Inc.'s Board of Directors (BOD) to justify their position. After the hearing, the BOD will notify both the ARC and/or ACMC and the applicant of their final decision within ten (10) days of the hearing.

e. PRE-APPLICATION PROCEDURES

Homeowners should familiarize themselves and their contractors with the Design and Architectural Guidelines and Declaration of Covenants, Conditions, and Restrictions

for Mimosa Bay Subdivision. The owner is obligated to ensure that their project is in compliance with these documents at all times whether or not they designate an authorized representative to act on their behalf. Additional permits may be required by other governmental agencies. It is recommended that owners consult state and/or county agencies including but not limited to the Onslow County Planning Department and/or Coastal Area Management Act Officer to ensure that their plans are in compliance with all state, county or other governmental regulations. The ARC and ACMC do not review applications for compliance with any regulations other than the Design and Architectural Guidelines and Declaration of Covenants, Conditions, and Restrictions for Mimosa Bay Subdivision and approval thereof does not constitute approval by other agencies or compliance with their regulations. Compliance with other agencies' minimum standards may not be adequate for meeting the Design and Architectural Guidelines. For example, Mimosa Bay, per these guidelines, may require different set-backs in some instances which may be more restrictive than county standards.

Initial approval by the ARC or ACMC must be received in writing prior to the start of any work including but not limited to clearing, grading, or

construction. The review procedure has been structured to achieve a timely review from conceptual plan submittal to final inspection and approval.

2. DESIGN AND ARCHITECTURAL REVIEW PROCESS

a. NEW HOME CONSTRUCTION

All plans for every proposed new home in Mimosa Bay shall be reviewed by the ARC. Any questions regarding the Design and Architectural Guidelines as part of an application of this nature should be submitted to the ARC. All applications and supporting

documentation should be submitted electronically to **Innovative Property Solutions (IPS)** HOA@ips-nc.com or mailed to **IPS c/o Mimosa Bay HOA, 155 Brynn Marr Rd, Suite 400, Jacksonville, NC 28546.**

- i. STEP 1: (Optional): Submission, by the property owner or their authorized representative, hereinafter referred to as "applicant", of a "conceptual" plan for approval by the ARC. This "conceptual" plan may be a rendering of the proposed home, a photograph of a similar home or the actual plans for the home, structure, outbuilding, deck, fence, etc. The intent here is to establish that the proposed home will blend well within the community without having the property owner incur any substantial expense.
- ii. STEP 2: Completed application package including the following:
 - (a) A complete set of Architectural Plans for the proposed house to be retained by the ARC.
 - (b) A completed ARCHITECTURAL REVIEW CHECKLIST (Appendix A).
 - (c) An executed copy of the MIMOSA BAY RULES FOR OWNERS, CONTRACTORS, AND SERVICE PERSONNEL (Appendix B).
 - (d) A completed copy of the MIMOSA BAY CONSTRUCTION NEW CONSTRUCTION APPLICATION (Appendix D)
 - (e) An executed copy of the MIMOSA BAY OWNER AND BUILDER AGREEMENT (Appendix E).
 - (f) A professionally prepared "SITE PLAN" by a surveyor or engineer that indicates the following:
 1. Setbacks
 2. The location of all well sites and, if required, approval by the County Health Department.
 3. The location of the driveway and walkways.
 4. The location of any proposed fencing, retaining walls, drainage swells, ponds, berms, etc.

5. The ARC/ACMC committee does not maintain any documentation that identifies impervious surface allocations per lot, therefore it is the owner's responsibility to maintain their impervious surface allowed cited by the Mimosa Bay covenants and Onslow County guidelines for their lot.
- (g) A landscaping plan, conforming to paragraph 3.3 of this document, shall be submitted identifying planting beds including the plant and tree selections by name, natural areas, and lawn areas that must be sodded, including the front drainage swale up to the road's edge. In addition, all service utilities, garbage receptacles, fuel tanks and HVAC units are to be shown on this plan with proposed screening, either by a wall or vegetation buffer.
- (h) A copy of the contractor's Building License along with a copy of their liability insurance and builder's risk insurance.
- (i) Samples or pictures of the roofing materials, exterior siding selections, the exposed portion of the foundation, and colors used on all exterior surfaces. All colors shall be identified by their manufacturer and color name and number.
- iii. STEP 3 (Optional): A face-to-face meeting with the ARC is available at the request of the applicant, at which time the ARC package will be reviewed for completeness and to explain any extraordinary conditions or concerns.
- iv. STEP 4: The applicant shall identify the location of the house, driveway, primary septic field and reserve septic field on the lot with colored tape and corner stakes on each of these items (referred to as the "Stake-Out"). All trees, requested for removal, must be identified with a different colored surveying tape in accordance with paragraph 3.3 of this document.

- v. STEP 5: New Construction Fees and Fines — All fees and fines will be made payable to "Mimosa Bay Homeowner's Association" or "MBHOA". **A \$1 ,000 construction bond (in accordance with Appendix B), a \$250 Architectural Review fee, and a \$200 mailbox and mailbox post fee shall be submitted with a new application if mailed. If submitted via email, check copies should be attached and mailed as indicated below.** Fines are assessed in accordance with Appendix D and are due within 10 days of being notified of such fine assessment.
- v. STEP 6: The ARC will meet monthly to review submitted applications. While the ARC will attempt to expedite the process, it may not be able to do so in every instance. In any event, the ARC shall respond to applications within 45 days. This response will be made by the ARC to the applicant in writing advising them of the initial approval, conditional approval, or denial of the application. This aforementioned timeline may be extended for a short time under unusual circumstances such as the illness of committee members or the absolute need to obtain outside consultation. Incomplete applications or applications that lack "equivalent information or supporting documentation or information will result in delays in the approval process. Work may begin only after Initial Approval is granted by the ARC.
- vi. STEP 7: The applicant shall provide ARC with an estimated time for the start and completion of construction.
- vii. The ARC has the right to periodically monitor construction via walk-throughs or requests for information from the applicant, from the beginning of site work through completion of the project. Anything found to be out of compliance with the approved application or stake-out will result in an immediate revocation of project approval until the issues are remedied. A final walkthrough will be conducted by the ARC upon completion of the project to ensure compliance with the approved application. Upon receipt of Final Approval, all future requests for alterations or additions shall be routed to the ACMC.

b. EXISTING HOME ALTERATIONS AND ADDITIONS

Existing home or lot alterations or additions that involve any of the items in paragraphs 3 and 4 below, require approval by the ACMC. Paragraphs 3 and 4 are meant to cover the most common home or lot alterations or additions but do not constitute an all-inclusive list. Any item not listed below is not necessarily indicative of an exemption from ACMC approval. Applicants should contact the ACMC to verify approval requirements for any item not listed below. Any questions regarding the Design and Architectural Guidelines as part of an application of this nature should be submitted to the ACMC. All applications and supporting documentation should be submitted electronically to IPS at HOA@ips-nc.com or mailed to IPS, c/o Mimosa Bay HOA, 155 Brynn Marr Rd Suite 400, Jacksonville, NC 28546. **If submitted electronically, the applicable charges will be posted to the homeowner's account. If mailed, please include your checks with the application. made payable to**

Mimosa Bay HOA.

- i. STEP 1: Submission of "MIMOSA BAY EXISTING HOME ALTERATIONS APPLICATION" (Appendix F) the property owner or their authorized representative, hereinafter referred to as "applicant" for approval by the ACMC. Incomplete applications or applications that lack adequate

- information or supporting documentation or information will result in delays in the approval process. The ACMC recommends that an applicant be thorough and provide as much information and supporting documentation as possible during the application process.
- ii. **STEP 2: Fees and Fines** - All fees and fines will be made payable to "Mimosa Bay Homeowner's Association" or "MBHOA". A \$50 Architectural Review fee shall be submitted with a new application. This fee will only be deposited upon Initial Approval of the application. The fee will be returned to the applicant in the event the application is denied or withdrawn before Initial Approval. This fee is assessed in an effort to recover a portion of the administrative costs assessed by the HOA management company. Fines are assessed in accordance with Appendix D and are due within 10 days of being notified of such fine assessment.
 - iii. **STEP 3:** The ACMC will meet monthly to review submitted applications. All applications received from Innovative Property Solutions before the scheduled monthly meeting will be reviewed in that month and notification of approval, conditional approval, or denial shall be made to the applicant in writing by Innovative Property Solutions no later than 7 days after the scheduled meeting. While the ACMC will make every attempt to expedite the process, it may not be able to do so in every instance. The aforementioned timeline may be extended for a short time under unusual circumstances such as the illness of committee members or the absolute need to obtain outside consultation. The applicant will be notified in writing of this delay. Work may begin only after Initial Approval is granted by the ACMC.
 - iv. **STEP 4:** The owner shall provide ACMC with an estimated time for the start and completion of work or construction. Upon the start of work or construction, the owner shall notify the ACMC in writing.
 - v. **STEP 5:** The ACMC has the right to periodically monitor construction via walk-throughs or requests for information from the owner, from the beginning of site work through completion of the project. Anything found to be out of compliance with the approved application or stake-out will result in an immediate revocation of project approval until the issues are remedied. The applicant shall notify the ACMC, in writing, when the project is completed. A final walk-through will be conducted by the ACMC upon completion of the project to ensure compliance with the approved application. Upon completion of the final walk-through, final approval for the project will be provided to the owner and filed by the HOA. This final approval will serve as termination of application approval and any further alterations or additions shall require a new application.

3. SITE STANDARDS

One of the unique qualities of Mimosa Bay is the diverse character of the site, from tall pines to oak clusters, from natural water features to marsh wetlands, to habitats for birds and other wildlife. It is the intent of these *Design and Architectural Guidelines* to

ensure that these natural features are maintained. All projects should emphasize these

features.

It is desirable for the homes at Mimosa Bay to exhibit the individuality of their owners as well as to adhere to the *Design and Architectural Guidelines* within the context of the selected architectural style. It is also important to observe basic design principles inherent in good design. The following are some of the questions that the applicant should consider when developing the design:

- a. Is the residence located on a site in a sensitive manner with minimum disruption to the natural topography, vegetation and unique site features?
- b. Is there consistency in the site planning, architecture and landscaping?
- c. Will the various building materials allow for pleasing and harmonious exterior appearance?
- d. Are the colors appropriate and used with restraint?
- e. Is the home placement sensitive to the location of existing homes, other lots, and potential homes on other lots? For example, homes on Lots 19, 20 and 21 should be located so as not to block the view of the next-door lot.
- f. Does the plan provide privacy and screening from neighbors to the extent possible?

3.1 SITE ENGINEERING

All homes must connect to their own septic system or connect to the sewer system provided by Pluris Holdings, LLC (whichever is applicable) and must also connect to telephone and electrical utilities offered at the lot line.

Drainage of finished lots must utilize existing roadway and other ditches and must not drain into neighboring lots except through natural ditches already in place. Draining may not cause the silting of creeks, ditches or marshes.

Lot owners may not exceed the allowable impervious surface area as detailed in the Water Quality Certification Permit for Mimosa Bay as referenced in the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision*.

A 12 foot wide by 15 foot deep construction entrance driveway, including a cement culvert pipe in the drainage swale, must be installed on the lot prior to starting construction of the house. The cement culvert pipe shall be installed a depth level to the grade of the existing drainage swale to maintain the flow of storm water. Drainage swale elevations shall not be altered without the prior approval of the ARC. The requirement for this entrance driveway to be covered with gravel will be handled on a case-by-case basis. These items shall be maintained until construction and landscaping have been completed.

3.2 BOARDWALKS, DOCKS, PIERS AND VIEWING AREAS

These guidelines will assist in preserving the pristine view corridor of the Mimosa Bay Shoreline.

Owners of waterfront home sites adjacent to Alligator Bay or Mill Creek, after approval

of the ARC or APMC, may build boardwalks which provide access to these bodies of water. These boardwalks shall be limited to 6 feet wide. Gazebos may be approved if they are of an acceptable size and don't block neighboring views of Alligator Bay and Mill Creek.

Applications from owners of privately owned lakefront home sites that wish to construct a small viewing or fishing platform will be handled on a case-by-case basis.

3.3 LANDSCAPE DESIGN

Landscaping is an essential element of your home and should be utilized to reinforce and extend its livability. It is the intent of Mimosa Bay that the homes and sites preserve as much of the natural elements as possible, consistent with the minimum tree removal required to site the house, driveway and septic drain field.

Preservation of existing vegetation must be taken into consideration in establishing the landscape design as follows:

Within the driveway, primary septic field, the building site, and within 10 feet of the main dwelling, any hardwood or pine tree may be removed without APMC approval. Between 10 feet and 20 feet of the main dwelling, any pine trees may be removed without APMC approval while any hardwoods 6 inches or larger within this same area may not be removed without the prior approval of the ARC or APMC committee. Pine trees and hardwood trees greater than 6 inches in diameter that lie 20 feet or more from the main dwelling may not be removed from any lot without the prior approval of the ARC or APMC. Mimosa Bay encourages the removal of dead trees to prevent damage to persons or property. Requests to remove dead trees require ARC or APMC approval but are exempt from associated application fees.

No gravel or rock shall substitute as lawn. However, the pristine nature of this community does not demand lawns in each instance and instead, properly maintained and design natural areas are acceptable under certain circumstances. If a lawn is included in the approved plan, then it must be sodded and irrigated.

Landscaping vegetation is encouraged to meet the requirements that outside utility areas be screened and to funnel wind and buffer intruding noises. (Suggested types of bushes are: azaleas, loropetalum, evergreens, holly, Ligustrum).

Great care must be taken not to block easement areas described in the *Declaration of Covenants, Conditions and Restrictions for Mimosa Bay*. For example, a site plan must consider the easements that exist fifteen feet on the rear and front of all lots and fifteen feet along all roads and ten feet on each side of all lots (except for sides which front a road where the fifteen foot easement applies)

Within 45 days but no longer than 60 days, weather permitting, after the date of issuance of a Certificate of Occupancy (CO) by the County, landscaping must be completed as shown on the plans approved by ARC unless there is an extreme weather situation to include but not limited to hurricanes, extended cold snaps and freezing weather.

3.4 STRUCTURE SIZE AND PLACEMENT

The lots in Mimosa Bay shall be used for residential purposes only, and no structure shall be erected, placed, altered or permitted to remain on any lot other than one detached single-family dwelling and related structures incidental to the residential use of the lot.

Each dwelling shall have an enclosed heated living area provided for in the *Declaration of Covenants, Conditions and Restrictions for Mimosa Bay*. For example, with respect to Phase I:

LOTS NUMBERED 1 through 24 (consecutively); 82 through 87 (consecutively); and A1, A2 and A3 shall have a minimum square footage of 2500 square feet of enclosed, heated dwelling area.

ALL OTHER LOTS IN PHASE I -V shall have a minimum square footage of 1800 square feet of enclosed, heated dwelling area.

Absent extraordinary circumstances set forth below, the ARC or ACMC shall approve no plans unless the following minimum setback requirements are met:

Phases 1 -4:

Front yard:	60 feet from Lot Line
Side yard:	10 feet from Lot Line
Side yard adjacent to street:	15 feet from Street
Rear yard:	15 feet from Lot Line

Phase 5 Sections One-A and One-8:

Front yard (Lot# 1 - 5)	25 feet from Lot Line
Front yard (all other lots)	30 feet from Lot Line
Side yard	8 feet from Lot Line
Side yard adjacent to street	20 feet from Street
Rear yard	15 feet from Lot Line

There are a few cases where individual lots will be permitted different setbacks because of unique situations that must be substantiated by the applicant and approved by the ARC or APMC. The ARC or APMC shall have the right to approve deviations from each of these setback requirements upon application of an individual lot owner if, for reasons of topography or septic approvals, strict compliance creates a hardship if such approval does not violate the applicable governmental regulations or approvals.

Building Height - The vertical distance from the finished grade at the building line to the highest point of the building shall not exceed 42 feet.

3.5 STRUCTURE ORIENTATION

Site orientation should consider the existing native vegetation, shape of the lot, adjacent residences and views from and to the structure. Air conditioning units, utilities, pool equipment and garbage receptacles should be located so as not to be visible from the roads or adjacent areas. These may be placed in setback areas and should be screened using landscaping.

3.6 GARAGES, DRIVEWAYS, SIDEWALKS, PATIOS AND OUTBUILDINGS

Garages for at least two vehicles are required, along with an uncovered space for parking 2 additional vehicles outside the garage. This can be in the driveway or other area. Residents parking on other than designated and approved areas is not permitted. Curved or turnaround capability should be provided where space permits. Examples of approved paving materials are:

- a. Concrete or hard surface.
- b. Impressed or pattern concrete.
- c. Paver blocks or bricks.
- d. Fixed exposed aggregate.

No driveway may be constructed of any other material unless approved in writing by the ARC or APMC. Driveways must be installed within 30 days of issuance of a Certificate of Occupancy and all driveway culverts must be concrete and installed as outlined in paragraph 3.1 above.

Side-facing garages must have a driveway apron of at least 24 feet in width opposite the garage doors unless otherwise approved by the ARC.

Sidewalks shall provide entry from the driveway to the house. Sidewalks shall be of pavers or the same material as the driveway unless otherwise approved by the ARC or APMC.

The location and materials of all animal housing will be subject to approval by ARC or APMC. Animal fencing must be disguised with adequate landscaping and approved individually by the ARC or APMC.

Outbuildings for storage of tools, garden equipment, etc., shall be constructed from the same materials (type and color) as the main house or as approved by the ARC or ACMC. Detailed plans must be submitted to the ARC or ACMC for approval.

Miscellaneous yard, garden and construction material must be contained entirely on your lot and not be visible from the street. Landscaping can be used to shield these items from view.

4. ARCHITECTURAL STANDARDS

The exterior of all dwellings should be designed to be compatible with the existing vegetation and the adjacent structures. All buildings within Mimosa Bay should be in harmony with their surroundings. The use of materials such as wood, cement board and brick are encouraged. Only hard-coat stucco is permitted; no synthetic stucco is allowed. Regular vinyl siding and lap vinyl siding are not allowed, ONLY Premium vinyl siding is allowed.

4.1 ELEVATIONS AND ROOFING

Exposed foundations must have a brick face, stucco type covering, or other materials approved by the ARC.

Monolithic slab foundations are allowed. A minimum of 12" of the slab must be exposed above the final lot grade or landscaping cover and below the beginning of the siding; the exposed surface of the slab must also be stucco, parged, brick or stone.

Roof pitches and overhangs may vary as necessitated by architectural design. However, no flat roofs are allowed, as a major structural element.

Roof shingles shall be at least 25-year "architectural".

Metal roofs are permitted provided that they meet or exceed the aforementioned 25-year standard. However, neutral colors and specific product materials that minimize reflectivity shall be selected.

4.2 POOLS

Pools, when approved by the ARC or ACMC, must be enclosed by fencing for safety. Pool fencing must tie in or match the building structure and must be shown on the submitted Plans. Raised pools 2' above existing grade will require stem walls. No pool enclosure is allowed to extend beyond the side of the home except where buffered from view of street.

4.3 ROOF ACCESSORIES

Plumbing stacks and roof vents must be placed as inconspicuously as possible, preferably located on the rear elevation.

Any solar installations shall be installed to give the appearance of a skylight, and installed with a finished trim material or curb to match the roof. Solar panels should not be seen from the street.

Dormers shall appear to be finished when viewed from the outside of the structure. Unfinished framing should not be visible.

Chimneys shall be brick or covered with the same siding material as the house or a complimentary material and shall terminate with an identifiable cap.

4.4 EXTERIOR LIGHTING

Exterior light fixtures should be subtle, with emphasis on function and not a dominant architectural element. Light sources should be concealed where possible, with all light in shades of white. Lights may not spillover into neighboring properties and lighting must be shielded to prevent glare. Garden lights or walkway bollards must be directed downward.

4.5 FENCES

In order to maintain the views within this wooded, natural setting, above ground fences are discouraged. Consideration should be given to the use of invisible-type fencing for pet applications when possible. Invisible-type fencing shall require ARC or ACMC approval and shall conform to the fence placement guidelines below.

Fence placement shall be planned to enclose the rear yard only. Where the fence abuts the house, it shall do so as close to the rear corners of the house as possible. Consideration will be given to irregular placement requests for lot designs that might not be able to conform to normal placement due to useable space and yard issues.

Fences shall be between 4 and 5 feet tall. 4 foot privacy or solid fences (no spacing between pickets, also referred to as board-on-board) are permitted. Any fence over 4 feet tall must be a vertical or horizontal picket-style fence with slat spaced between 2" – 3 ½". Shadowbox fences are allowed but must be vertical picket style with slats spaced no smaller than 3 1/2 inches apart. Fences surrounding pools must follow both Mimosa Bay ARC/ACMC guidelines and Onslow County requirements. No fences over 5 feet tall will be approved unless a variance request is submitted to the Mimosa Bay BOD and approved or, in accordance with the exception listed below.

Homes with property lines adjacent to Old Folkstone Road may construct an 8 foot privacy fence just outside the 20 foot JOEMC easement along the rear property line. Fences constructed must be of the same style and material as neighboring fences in order to create a fluid appearance. Homes with property lines adjacent to the Nautical Reach community, or any adjacent property outside of Mimosa Bay, may also to construct an 8 foot privacy fence along the rear property line. Fences should be oriented such that the posts, rails and braces face into the property and the finished side or pickets face the street or adjacent neighbor.

All fencing that faces the street must have additional landscaping installed on the street side of the fence. The required landscaping shall be a minimum of 3 gallons in size and a "bushy" plant (Examples: azaleas, loropetalum, evergreens, holly, and ligustrum) which should grow to the height of the fence and shall be planted no further than 4 feet apart.

The ARC and ACMC are very concerned about fencing being installed where it encroaches on the neighboring property. It is highly recommended that applicants have a property survey conducted to properly identify property lines prior to fence construction. Fences that are improperly constructed outside of the owner's property lines shall be moved by the owner at their own expense upon identification of the issue. We recommend that the fence be constructed inside the property line a sufficient distance to be able to maintain both sides of the fence. This does not prevent neighboring homeowner's from sharing a common fence line between their properties, however, this agreement shall be obtained in writing from both homeowners and provided as part of the application package. In the event the fence is located within the side or rear easements and the easement is needed in the future, it will be the homeowner's responsibility and at their own expense to move the fencing.

Acceptable materials for fencing will include wood, iron, vinyl, and aluminum. Preferred colors for fencing shall be black, white, or natural wood color. Consideration should be given to the longevity and maintenance requirements of chosen materials.

4.6 EXTERIOR STAIRS AND RAILINGS

Front and rear porches must be constructed of materials that compliment the house style and design.

Exterior staircases to upper floors are discouraged. Plans for such structures must be submitted to the ARC or ACMC. If allowed, these stairs and railings must be located on the rear of the house and not be visible from the street.

4.7 PORCH AND PATIO SCREENS

Porch and patio screens should be constructed such that they face the rear yard. Screen replacement for screened porches and patios that already exist are exempt from the requirement for ACMC approval.

4.8 EXTERIOR FINISHES

Repainting using the original color scheme as approved by the ARC during original construction of the home shall not require approval by the ACMC. Any change to the originally approved color scheme requires approval by ACMC.

4.9 SERVICE LINES

All electrical, telephone, and television service lines shall be underground.

4.10 ADVERTISEMENT AND POLITICAL SIGNS

All advertisement signs, including "For Sale", "For Rent", "Contractor", "Sub-contractors", "Architect", "Landscape Architect", "Real Estate Companies", etc., other than those approved by Mimosa Bay BOD will not be allowed on lots. *(Exception: Preferred Builders with approval by the ARC may have an approved company name sign as outlined in the Mimosa Bay Builders Sign Policy. Builders should contact the*

ARC for a copy of this policy.)

"Political sign" is defined as a sign referencing political candidates, parties or groups supporting the candidates of any individual for office or waging public support of, or opposition to, any public issues to be voted upon.

Political sign displays are excluded from the requirement for ACMC approval. Lot Owners, and Renters with pre-approval of their Lot Owners, may display one political sign on the Owner's Lot, subject to the following restrictions:

- a. The display of a political sign on an Owner's Lot shall be at a distance no less than 15 feet from all adjacent roadways.
- b. No political sign shall be displayed on any community common area or easement.
- c. No political sign shall be displayed earlier than 45 days before the election nor later than 7 days after the election.

- d. All political signs shall be ground-mounted, self-supporting and freestanding at a height not exceeding 40 inches.
- e. A political sign shall not exceed maximum dimensions of 24 by 24 inches, and the sign's surface shall not be disfigured, cracked, ripped, or show peeled paint or poster paper.
- f. Illumination of political signs is prohibited.
- g. No more than one (1) political sign may be displayed at any time.
- h. Display or mounting of political signs on trees, structures, or utility poles are prohibited,

4.11 MAILBOXES

All houses require mailboxes and newspaper holders that will utilize the same design. These mailboxes are available through the MBHOA. Each owner will be required to pay for the cost of the mailbox and mailbox post during the ARC approval process. Replacement mailboxes and mailbox posts are also available through the MBHOA.

4.12 PRIVATE IRRIGATION WELLS

All private irrigation wells must be approved by the ARC or APMC.

4.13 FLAG POLES AND FLAG DISPLAY

In-ground flag poles are permitted with APMC approval. Minimum requirements for in-ground flag poles include fiberglass or aluminum construction, a maximum pole height of 24 feet, and internal rigging, or telescopic flag poles to eliminate the sound of slapping halyards. Standard installation of an in-ground flagpole shall include securing the pole by manufacturer supplied brackets set in an appropriate concrete-filled foundation hole.

Flag displays themselves are excluded from the requirement for APMC approval. Flags authorized for display on Owner Lots, and by Renters with the Lot Owner's permission, are limited to: United States flags, any of the 50 United States State Flags, flags of the United States Armed Forces (United States Army, Navy, Marine Corps, Air Force, Coast Guard, Space Force) and registered collegiate and professional sports flags.

Authorized flags shall be mounted on an approved in-ground flagpole described above or house-mounted only, on a bracket sufficient to hold a durable pole not exceeding 6 feet in length, and a flag size not exceeding 3 x 5 feet. All flag display by means other than house-mounting including but not limited to mounting flags on trees, sheds, and utility poles is prohibited.

Authorized flag materials include cotton, 1-ply or 2-ply polyester, and nylon. Owners are responsible for removing and replacing any flag which has become unsightly due to fading, tears, or other degradation.

Owners are encouraged to familiarize themselves with the customs described in federal law for appropriate display and handling of the United States flag. For instance, it is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness.

4.14 FIRE PITS

Fire pits may be wood-burning, propane, or natural gas.

Portable fire pits are excluded from the requirement for ACMC approval. Portable fire pits are defined as those fire pits that are constructed as a single piece or unit that can be moved as a whole unit.

Permanent fire pits are defined as those fire pits that are constructed from pavers or other materials that cannot be moved as a whole unit.

All fire pits shall be located at a safe distance from any structure on the property. Wood-burning fire pits shall have a safety screen installed during use to prevent embers from leaving the pit

4.15 TREE HOUSES OR PLAY SETS

Free-standing/non-permanent play sets are exempt from the requirement for ACMC approval. Tree houses or play sets that are installed using trees or dug-in footings require ACMC approval.

4.16 HOLIDAY DECORATION DISPLAYS

The term "holidays" is broadly construed to include the observance of federal holidays including but not limited to Independence Day, Memorial Day, Thanksgiving, Christmas, etc. and other traditional religious and non-religious observances, including but not limited to Easter, Halloween, Kwanzaa, Rosh Hashanah, etc.

The term "decorations" is broadly construed to include the display of various forms of ornamentation and/or lighting on an Owner's Lot or dwelling subject to the limitations specified herein.

Holiday decorations are excluded from the requirement for ACMC approval and are authorized subject to the following limitations:

- a. Holiday decorations may not be displayed earlier than 30 days before the date of the observance, and must be removed no later than 15 days after the date of the observance.
- b. All holiday decorations must be grounded physically and electrically.

Holiday decoration displays may not be distasteful, play music, feature blaring lights, or cause a physical disturbance to other residents.

4.17 STATUARY

Any exterior decorative item(s), including but not limited to: flags and banners; lawn art and statuary; bird baths, houses and feeders; trellises and arbors; house numbers and ornaments; wind chimes and catchers; flower pots, outdoor furniture, fountains and other similar item(s) may be displayed in harmony with the natural and surrounding setting. Any decorative item(s) may require an ACMC submission if brought to the attention of the Association as a possible nuisance. The ACMC can approve, deny or limit its approval as to the size, quantity, location, color, etc. as the ACMC shall deem appropriate in its sole discretion.

5. GENERAL PROVISIONS / PLANS

5.1 FEDERAL, STATE & COUNTY CODES

In addition to the provisions of the Mimosa Bay Design Review Guidelines and those regulations, all construction is subject to Federal, State and County building codes. All reviews and inspection procedures described in these regulations and the design approval process are intended to ensure compliance with aesthetic considerations. Mimosa Bay, its affiliates and the ARC or ACMC are not responsible for design or construction defects or structural failure or failure of the building to meet appropriate building codes.

5.2 CONTRACTOR REQUIREMENTS

The general contractor and all subcontractors shall be licensed as required by the state of North Carolina and the Onslow County Building Department. All permits must be obtained and fees paid prior to construction. The general contractor shall warrant all materials and workmanship to be good quality and remain so for a period of one year. The general contractor is responsible for all work and the work of any subcontractor.

All contractors shall carry Workmen's compensation and liability insurance and Builder's Risk during the construction process.

Contractors must comply with North Carolina and Onslow County codes.

5.3 CONSTRUCTION STANDARDS

Any cracking, chipping, staining, movement of the street or other damage thereto that is caused by a contractor or material supplier must be remedied by the Owner to the existing Department of Transportation standards. Parking of vehicles during construction shall not prevent normal traffic flow.

Lot owners and Contractors are responsible for keeping the job site clear of trash and debris daily with a thorough cleaning each Friday. Storage of all construction materials shall be contained within property lines in trash containers or enclosures.

Per ordinance, portable toilets will be maintained to clean, healthy standards.

5.4 HOURS OF CONSTRUCTION, NOISE, AND PETS

Construction activities shall occur no earlier than 7:00 AM Monday through Friday and no earlier than 9:00 AM on Saturday. There will be no construction permitted on Sundays. Construction noise shall cease at 6:00 PM daily Monday through Saturday.

Radios cannot be played at a volume on construction sites, which will disturb residents.

Domestic animals on construction sites must be on a leash or under the control of any owner at all times. The contractor is responsible for any noise or damage caused by any animal brought onto the site and for cleaning up after the animal. The contractor shall remove any pet if requested by the ARC or APMC.

6. VARIANCES

If the owner and/or architect feel that certain portions of these Design Review Guidelines are inappropriate, based on the design elements of his/her particular residence, then the owner may apply for a variance. The burden of establishing the reasons why a specific requirement is not appropriate lies with the owner. The owner should make reasonable assurance in the variance request submitted that the overall intent of the Design Review Guidelines will be accomplished. Granting of the variance for one particular situation does not warrant or imply that such a variance will be granted for the same situation of another home site. Each variance will be reviewed on a case-by-case basis in keeping with the overall objectives of the Design Review Guidelines.

APPENDIX A

MIMOSA BAY ARC/ACMC CHECKLIST

- Site Plan
- Architectural Plans
- ___ Landscaping Plan
- ___ Appendix B - *Mimosa Bay Rules for Owners, Contractors, and Service Personnel* (required for new and existing construction)
- ___ Appendix D - *Mimosa Bay New Construction Application* (required for new construction only)
- ___ Appendix E - *Mimosa Bay Owner and Builder Agreement* (required for new construction only)
- ___ Appendix F - *Mimosa Bay Existing Home Alterations Application* (required for existing construction only)
- ___ Copy of Contractor's Building License
- ___ Copy of Builder's Insurances
- ___ Sample Color of Brick/Stone
- ___ Sample Color of Siding
- ___ Sample Color of Roofing Material
- ___ Architectural Review Fee (\$250 for new construction or \$50 for existing construction) (check payable to Mimosa Bay HOA)
- ___ Road Bond Fee (\$1,000) (check payable to Mimosa Bay HOA)
- ___ Mailbox Fee (\$200) (check payable to Mimosa Bay HOA)
- ___ Work Completed and Inspected by ARC/ACMC (Owner is responsible for reporting work completion to the ARC/ACMC for inspection to ensure that work completed was as approved)

ARC/ACMC Chairman: _____

Signature: _____ Date: __/__/__

APPENDIX 8

MIMOSA BAY RULES FOR OWNERS, CONTRACTORS, AND SERVICE PERSONNEL

The following rules apply to all owners, contractors, and service personnel. Questions or concerns may be directed to the ARC or APMC.

- a. Contractors are required to keep the job sites neat and clean. If trash and debris become a noticeable problem, notification to the responsible party will be given by the HOA Office to clean up the site. If this notice does not bring acceptable action within 5 days, then the Mimosa Bay HOA may remove the debris at the property owner's expense. Use of adjacent lots is not permitted unless the adjacent lot owner grants written permission.
- b. Proper erosion control is the responsibility of the contractor. Adequate silt fencing, gravel at the entry drives and other erosion control measures must be properly installed and maintained. The streets shall be kept free of mud, silt and debris from erosion.
- c. Contractors will use only the utilities provided at the site on which they are working. It is the property owner/contractor's responsibility to have all utilities activated.
- d. Portable toilets are required and are the responsibility of the contractors. They are to be located off the right-of-way.
- e. Vehicles are to be parked on the site on which the contractor is working. No vehicles, (cars, trucks, vans, etc.) may be left in Mimosa Bay overnight. Construction equipment may be left on the site while needed but must be kept off the street.
- f. Washing of any truck or vehicle on the street is not permitted. Any washing of concrete delivery trucks must be on the construction site.
- g. The contractor must clean up spills of damaging materials. (Please report spills to Mimosa Bay HOA, MBARC or APMC as soon as possible.) Clean ups done by Mimosa Bay personnel will be charged to the responsible party.
- h. The established speed limit within the community is 25 miles per hour for all vehicles, unless otherwise posted.
- i. Damages to streets, curbs, drainage inlets, street lights, street markers, walls, or other Mimosa Bay property will be repaired by the Owner/Contractor and if it is not repaired in an acceptable manner within a reasonable timeframe, then the

Mimosa Bay HOA will cause the repairs to be made and will bill the Owner and Contractor.

- j. It is the responsible party's obligation to **immediately** report to the HOA office any cutting of water, telephone, cable TV, electrical or any other utility lines.
- k. Loud radios or noise will not be allowed within the community. Normal radio levels are acceptable. Do not mount speakers on vehicles or outside of homes under construction.
- l. Only bonafide workers are allowed on the property. Spouses and family members may drive workers to the site and pick them up but must not remain on the property unless they are employees of the contractor.
- m. If properly permitted and constantly attended to, burning in barrels shall be allowed.

Notification of violation will be sent to the responsible party and property owner defining those items not in compliance with the rules and regulations. Upon receipt of the notification, the involved parties must correct the violation or Mimosa Bay HOA will take the necessary actions to correct the violation. Those actions could include charging the property owner for the corrections done by Mimosa Bay HOA, withholding project approval for construction, or denying the entry to the contractors and personnel.

This Application Agreement made this, the _ day of _____ 20

----- , ---	(Seal)	_____ (Seal)
Owner		Builder/Contractor
<hr/>		
Owner	(Seal)	

APPENDIX C

MIMOSA BAY DESIGN AND ARCHITECTURAL GUIDELINES
SCHEDULE OF FINES

Littered site - non-compliance after first notice:	\$100*
Parking of vehicles or equipment on adjacent property without written permission from the owner - non-compliance after first notice:	\$100*
If work requiring ARC or APMC approval which is started without approval, the lot owner may be called to a hearing at which daily fines may be assessed until the work is reversed and/or an appropriately submitted application is approved.	\$100*
Work conducted outside of permitted hours:	
1 st Notice:	No Fine
2 nd Notice:	\$100
3 rd Notice:	\$250
4 th Notice:	\$500
Unauthorized removal of trees:	\$1000 (per tree)*

*If clean-up and/or repair is conducted at the expense of the Mimosa Bay HOA, those costs will be assessed to the owner or contractor in addition to the fine listed above.

Unpaid fines are subject to legal action as necessary, to include the placement of a lien.

APPENDIX D**MIMOSA BAY NEW CONSTRUCTION APPLICATION**

Submission for (circle on): CONCEPTUAL PRELIMINARY FINAL REVISION Phase:

Lot#: _____ Number of Bedrooms: _____

Site Address: _____

Owner(s) Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: _____ Work Phone: _____

Fax#: _____ Cell Phone: _____

EMail: _____

Architect/Designer's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Work Phone: _____ Cell Phone: _____

Fax#: _____ E-Mail: _____

Builder's Name: _____

License#: _____

Address: _____

City: _____ State: _____ Zip: _____

Work Phone: _____ Cell Phone: _____

Fax#: _____ E-Mail: _____

SQUARE FOOTAGE

Single Story:	first level	_____ (heated)
Two Story:	second level	_____ (heated)
Garage:		_____
Decks/Patios:		_____
Porches:		_____
Driveway:		_____
Total Impervious Surfaces:		_____

EXTERIOR MATERIALS

(Paint chip samples of all exterior colors, roofing samples, siding samples, and brick and/or stone samples must be submitted to the ARC for approval.)

	<u>Manufacturer</u>		
Brick/Stone:	_____	_____	_____
Grout:	_____	_____	_____
Stucco:	_____	_____	_____
Siding:	_____	_____	_____
Windows:	_____	_____	_____
Roof:	_____	_____	_____
Chimney:	_____	_____	_____

PAINT COLORS

	<u>Manufacturer</u>	<u>Color Name</u>	<u>Color Number</u>
Front Doors:	_____	_____	_____
Side Doors:	_____	_____	_____
Rear Doors:	_____	_____	_____
Garage Doors:	_____	_____	_____
Siding:	_____	_____	_____

Shakes:	<div></div>	<div></div>	<div></div>
Trim:	<div></div>	<div></div>	<div></div>
Shutters:	<div></div>	<div></div>	<div></div>
Gutters:	<div></div>	<div></div>	<div></div>
Terrace:	<div></div>	<div></div>	<div></div>

OTHER MATERIALS

	<div>Description</div>	<div>Manufacturer</div>	
Terrace:	<div></div>	<div></div>	<div></div>
Front Entry Stairs:	<div></div>	<div></div>	<div></div>
Walks:	<div></div>	<div></div>	<div></div>
Driveway:	<div></div>	<div></div>	<div></div>
Walls & Screens:	<div></div>	<div></div>	<div></div>
Decks/Railing:	<div></div>	<div></div>	<div></div>
Other:	<div></div>	<div></div>	<div></div>
Other:	<div></div>	<div></div>	<div></div>

APPENDIX E**MIMOSA BAY OWNER AND BUILDER AGREEMENT**

Phase: ____ Lot#: _____ Site Address: _____

Owner(s) Name: _____

Address: _____

City: _____ State: ____ Zip: ____

Home Phone: _____ Work Phone: _____

Fax#: _____ Cell Phone: _____

E-Mail: _____

Builder's Name: _____

License#: _____

Address: _____

City: _____ State: ____ Zip: ____

Work Phone: _____ Cell Phone: _____

Fax#: _____ E-Mail: _____

Approval is hereby granted to the above-named Owner and/or Builder/Contractor, as authorized by the Mimosa Bay ARC, to install landscaping and construct a residence and/or make other improvements on the above property (such installation and construction being referred to herein as the "Improvements"), subject to the following conditions:

- a. The person(s) above as Owner is/are all of the owners, in fee simple, of the property described above. Builder is the general contractor hired by Owner to construct the Improvements, and hereby represents to Owner and to the ARC that he is properly licensed to construct the Improvements.
- b. Owner and Builder have received copies of and have read and understand the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision* and any applicable amendments and the *Mimosa Bay Design and Architectural Guidelines*. Owner and Builder agree to comply with the

requirements of these documents in connection with the construction of the Improvements.

- c. All Improvements shall be constructed in accordance with the plans and specifications which Owner and Builder have submitted to the ARC, and which have been approved by the ARC. Owner and Builder agree to complete the Improvements within one (1) year of approval of the Improvements as stated in the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision* or some other date of completion has been agreed upon in writing. The date of completion for this one (1) year deadline shall be the date Owner or Builder obtains a final satisfactory inspection of the property. The ARC shall have sole and unfettered discretion in connection with granting or denying extensions of time for completion. The ARC's granting or denying an extension in any particular case shall not constitute a waiver of the ARC's right to grant or deny an extension in any other case.
- d. All requests for revisions to exterior materials must be submitted prior to the use or installation of such revised materials. The unapproved use or installation of unauthorized exterior materials will result in forfeiture of the total Owner Deposit described below. In addition, the unapproved use or installation of unauthorized exterior materials will result in the immediate suspension of the review and approval process of all plans and specifications, which Builder may have submitted to the ARC as to any property in Mimosa Bay, until such time as the unauthorized materials have been removed.
- e. Notification of any violations of this Agreement, the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision*, or the *Mimosa Bay Design and Architectural Guidelines* will be sent to the Builder and Owner, defining those violations. Upon notification, the Builder/Owner agree to cease construction of the Improvements until such violations have been corrected. Neither the ARC, the Mimosa Bay Homeowners Association or Declarant, nor any of their employees or agents shall be liable for any expenses or damages incurred by Owner or Builder due to the cessation of construction because of such violations.
- f. Owner agrees to install landscaping according to approved landscaping plans. The Owner shall request a final inspection when the landscaping has been installed and shall correct any discrepancies between the approved plans and the installed landscape.
- g. The Builder agrees to protect all adjoining street rights-of-way, adjacent properties and common areas. If such properties are damaged, Builder will restore all damaged property to its original state, subject to the approval of the ARC, and Owner. In addition, Builder agrees to maintain the work site in a clean and orderly condition during construction and shall not cause or allow trash and/or debris to accumulate on the property or anywhere within Mimosa Bay. If

after notification by the ARC that these conditions have not been maintained, and the same unacceptable condition is not remedied within five (5) days, then Builder/Owner will be fined. In the event of Builder's failure to perform such restoration and/or cleanup within ten (10) days of being notified, Owner and Builder hereby agree that the ARC, Mimosa Bay Homeowners Association, or Declarant, may perform such restoration and/or cleanup, charging Owner for the cost thereof.

- h. In order to ensure compliance with the conditions of this Agreement, the Declaration and the Guidelines, Owner shall provide a cash construction bond of \$1,000.00 (the "Bond"). The Bond shall be held by the ARC in an account until construction of the Improvements is completed and any discrepancies identified at final inspection have been corrected. Any monies paid by the ARC, Mimosa Bay Homeowners Association, Inc. (i) to correct changes not approved by the ARC, (ii) to repair damages to adjacent property or common areas, or (iii) to clean up the job site or other construction debris, will be deducted from the Bond, as will fines which may be assessed against the lot for violations, as set out in the attached Schedule. Owner agrees to replenish the Bond to the original amount upon notification that the account balance is \$1,000.00 or less. Builder agrees to cease construction if the Bond is not replenished within seven days of notification to the Owner. Any principal funds remaining in the account following final inspection and any deductions authorized under this paragraph will be returned to the Owner, less \$500.00 which will be placed with the Mimosa Bay HOA. As construction Bonds are paid to the Mimosa Bay Homeowner's Association, they shall be maintained in a separate account by the Mimosa Bay Homeowner's Association and may be co-mingled with other such deposits paid to the Mimosa Bay Homeowner's Association by other owners in Mimosa Bay.
- i. Owner and Builder agree to notify the ARC of any changes of lot ownership or Builder of the Improvements. In the event of any such change, a new Agreement must be executed before work may continue the Improvements.
- j. This Agreement constitutes approval by the ARC only and does not constitute an approval or permit required by any governmental entity or agency having authority over the work proposed on the above referenced lot.
- k. Builder agrees to notify his employees, agents and sub-contractors of the provisions of this Agreement and acknowledges that they shall be bound by the provisions of this agreement. Builder and Owner shall be responsible for the conduct of their employees, agents, and subcontractors.
- l. The ARC has the right to have its agents enter and inspect the property from time-to-time and without prior notice, to verify that construction of the Improvements is proceeding in accordance with this Agreement, the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision*, and the

Mimosa Bay Design and Architectural Guidelines, and to make such remedial maintenance and repairs authorized under this agreement.

- m. Owner agrees to pay all attorney fees and other associated costs incurred by the ARC, Mimosa Bay Homeowners Association, and Declarant, that result from violations of this agreement, the *Declaration of Covenants, Conditions, and Restrictions For Mimosa Bay Subdivision*, and the *Mimosa Bay Design and Architectural Guidelines* applicable to the above-development.

This Application Agreement made this, the __ day of _____ 20

_____(Seal) _____(Seal)
Owner Builder/Contractor

_____(Seal)
Owner

APPENDIX G**CERTIFICATE OF COMPLIANCE**

This certifies that the _____
(structure / project)

at _____, lot _____
(Address) (Lot Number)

has been completed in accordance with the approved application dated _____
and is in compliance with the Mimosa Bay Design and Architectural Guidelines.

Homeowner Print Homeowner Signature Date

ARC/ ACMC Chairman Print ARC/ ACMC Chairman Signature Date

Note: Approval by the ARC or ACMC does not constitute a representation of warranty as to the quality, fitness, or suitability of the design or materials specified in the plans. The placement or location of structures in relation to property lines or setbacks are the responsibility of the homeowner. In addition, approval by the ARC or ACMC does not ensure other approval that may be required by other governmental agencies. The Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any home site. In all matters, the committees and their members shall be defended and indemnified by the Association.

