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* Note: The modifications included herein should not be viewed as an all-inclusive list. They represent only those changes that the ACC reviews most frequently

ARTICLE X (SECTION 1) OF THE DECLARATION OF COVENANTS

Except for original construction or as otherwise in these covenants provided, no building, fence, wall or other structure shall be commenced, erected, or maintained upon The Property, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) members appointed by the Board of Directors. In the event the Board of Directors, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specification have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

GENERAL CONSIDERATIONS

PURPOSE OF THE GUIDELINES

- * Be sure that planned work will comply with all local laws and building codes, including the securing of any necessary permits or licenses. New Mark's guidelines are an adjunct to, not a replacement for, these laws and codes.*
- * Quality of materials and workmanship are important. They must at least equal the standard existing throughout the community.*
- * Do not rely solely on the design of a neighbor's additions and changes. Those projects might not have received approval for reasons that do not apply in your own situation, or they might even be out of compliance with the covenants and/or objectionable to neighbors.*
- * Use the architectural review process even when you intend to remove existing exterior features, since these too can substantially alter the appearance of the property.*
- * In all proposed architectural modifications, any structural elements, even those essential to the project, which **encroach** upon adjoining property, must receive prior written permission from adjoining property owners.*

New Mark Commons, like many other neighborhoods, has adopted an architectural control policy to preserve the community's high standards of building design and physical appearance and to protect property values. Article X of the Covenants establishes the principle of Architectural Control and has as its basic requirement that no "exterior addition or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography". This policy, which is legally binding on all residents, is one of the many reasons that New Mark's reputation endures as one of the most distinctive and attractive neighborhoods in Rockville.

A typical planned community usually consists of a number of similar units reflecting one architectural style. New Mark, by contrast, has townhouses of varying types and single family homes that may be either traditional or contemporary. Uniform design solutions are rarely appropriate, but it is important that the process be the same for all. This requires Association members (you!) to play an active part by complying with the Covenants. In return, you have the right to expect that every other property-owner will do the same.

The task of the Architectural Control Committee (ACC) is not an easy one. It must seek to balance the rights and expectations of property owners with those of their neighbors

and the community. In making decisions, the ACC will consider everyone's input. It is the intention of the Board to preserve New Mark's unique nature while stopping short of over-regulating community members.

The following guidelines are intended to help residents determine whether the exterior changes or additions they are planning are consistent with New Mark's standards, and therefore likely to be approved by the Architectural Control Committee. ACC applications still must be submitted for any change unless specifically noted otherwise below.

APPLICATION PROCEDURES

Architectural control forms must be submitted for any exterior modification, even if it is (for example) only a change in paint color or roof color. These forms must be submitted before you commence any work.

How to Apply

Architectural control forms are included in the back of this booklet. They may also be found at the back of your New Mark Commons Phone Directory or they may be obtained from the Administrator. Following is a checklist to insure your project will receive prompt consideration:

- ___ Review the guidelines in this booklet that most closely relate to your project.
- ___ Gather information about your planned modification. Whether seeking bids, working with your prospective contractor, or designing a do-it-yourself project, you should provide, in writing, as many details as possible. This will benefit all parties (you, the contractor, your neighbors, and the ACC) and will help head off future misunderstandings.
- ___ Obtain construction documents (or drawings) prepared by a qualified person. Except for relatively minor modifications, informal diagrams are not likely to be sufficient for ACC consideration. Documents should include details of construction, materials, waterproofing, drainage, plans, sections, elevations, code requirements, etc.
- ___ Obtain the signatures of all adjacent property owners and others who will see the exterior modifications. Their signature DOES NOT indicate their approval of the planned project-only that they are aware of it.
- ___ Call the City of Rockville (309-3250) to determine whether any permits will be needed for the work. If a building permit is required, the City will want to see written approval of the project from the ACC. It is important to remember that a project may be acceptable as far as the City is concerned but remain unacceptable to the ACC. In all cases, New Mark's covenants take precedence.

___ Make sure your forms are submitted to the NMC Administrator. They can be:

Mailed to P.O. Box 4206, Rockville, MD 20849

Faxed to (301) 340-0288

Dropped off at 514 New Mark Esplanade

WORKING WITH THE ARCHITECTURAL CONTROL COMMITTEE

You will receive a postcard from the Administrator stating the date the application was received.

The ACC has 30 days from the date of receipt to act upon the application (meaning accept or deny it, or request additional information). If action is not taken within the 30-day period, the application is automatically approved.

You should expect to be contacted by the ACC. In its review of an application, the ACC not only determines whether it is consistent with the covenants and architectural guidelines but also works with the applicant to develop mutually acceptable changes in a design that might otherwise not be approved.

If the ACC deems that the application form and other material submitted are not sufficient or are incomplete, the application will be rejected with a notation about what additional information is needed. Once the additional information has been gathered, you must resubmit the application, and the 30-day period will begin anew.

Once a project has been approved, written notification will be sent to the applicant. Work cannot begin until written approval has been received. Approval by the ACC is good for only one year!

RESOLVING DISPUTES

Work can begin as soon as ACC approval is granted. However, from time to time, the ACC will deny an application. If you disagree with the ACC's decision, you may request an appeal before the entire Board of Directors. The Board, generally at its next regularly scheduled meeting (given sufficient advance notice by the applicant), can review the ACC's decision and consider any additional information, presented either in writing or orally. In most cases, the Board will inform adjacent property owners and other affected parties of their opportunity also to comment. The Board can decide to:

Uphold the ACC decision;

Overturn the ACC decision in favor of the applicant;

Suggest a compromise mutually acceptable to all parties;

Recommend one of the following courses of action:

A. You and the Board can agree to submit the case to the Rockville Common Ownership Community Association (RCOCA) for dispute resolution. RCOCA will review the facts and render a decision. Although RCOCA provides mediation, not binding arbitration, it is hoped that the parties can formally agree beforehand that the opinion rendered by RCOCA will be binding on all parties.

B. You and the Board can agree to submit the case to binding arbitration, through a group such as the American Arbitration Association. In binding arbitration, both parties agree in advance to abide by the decision of an impartial arbitrator selected by the participants from a panel of arbitrators. More informal than a court procedure, binding arbitration is usually less expensive and involves fewer delays. Either side may still choose to be represented by legal counsel.

C. If there is a failure to resolve the dispute through the above options or through any other attempts at a compromise, and you undertake the denied project, New Mark Commons Homes Association will turn the case over to its attorney to pursue formal legal action. This action shall commence with the filing of a lawsuit seeking relief in the District Court of the State of Maryland.

SPECIFIC GUIDELINES

Note: The items covered herein should not be viewed as an all-inclusive list. These items represent only the changes that the ACC is most frequently asked to review.

ADDITIONS - MAJOR

Major additions include but may not be limited to new rooms, garages, the conversion of existing garages into living spaces (or vice versa), carports, porches (also see DECKS, below), and sunrooms. They may also include the expansion of existing rooms, such as the enlargement of a garage or extension of a room or rooms, when such expansions result in a change to the exterior of the house. When reviewing major additions, the ACC will take into account the Covenants' general guidelines on harmony in relation to surrounding homes and topography; how well the addition matches or "blends" with the present structure; the impact on neighbors' views and privacy; changes in grading and drainage; and the extent of destruction of surrounding natural features, including trees.

AIR CONDITIONERS/HEAT PUMPS

Approval for the replacement of central air conditioning units and heat pumps is not required if you are replacing units of similar size in the same location. Relocated or larger units will be reviewed on a case by case basis. Through-window units are not permitted in New Mark.

ANTENNAS

Article X, Section 3(h) of the Covenants expressly prohibits the placement of television aerials or radio antennas for reception or transmission within view of the street or adjoining living units. The Board interprets this to mean all similar devices including satellite dishes, etc.

ATTIC VENTILATORS

Ventilators will generally be viewed favorably if they are appropriate in size for their location and use. Except in unusual cases, ventilators shall be placed in a location least visible to adjoining properties and shall be no higher than 10 inches above the roof surface. Wall units shall not extend more than 8 inches beyond the wall.

AWNINGS

Awnings over doors, windows, patios, or decks shall have a straightforward design and shall be consistent with the architectural style and scale of the home to which they will be attached. Fabric color must be compatible with existing building colors, and any exposed frames should match the trim or the dominant color of the unit. The ACC will consider the visual effect an awning will have on adjoining properties.

BASKETBALL POLES & BACKBOARDS

Basketball backboards for single family homes will be reviewed on a case by case basis. The ACC will consider their relation to surrounding structures and topography; as well as the potential for noise and physical damage to adjoining properties. Basketball hoops will not be approved in the townhouse areas.

CHIMNEYS/METAL FLUES

New and/or replacement chimneys, and any extensions such as spark arresters and caps, shall be harmonious with the design, color, and material of the home and surrounding homes. Chimney/flue enclosures on houses with siding shall use materials matching the existing siding; those on brick houses shall use matching brick, and so on. "Freestanding" metal flues shall be no higher than the minimum local code requirements and designed so as not to require visible bracing.

DECKS

Decks and deck enclosures can have a significant impact on a home's appearance and affect the privacy and rights of enjoyment of neighbors. Therefore, suitability of any given deck will be decided on a case by case basis. General guidelines for acceptable decks are given below:

Upper-Level Decks: These must relate to the mass of the house in size and conform to the architectural style of the residence. Privacy screens shall be in proportion to the deck and shall be compatible in terms of design, material and construction with the rest of the deck. The treatment of the space under the deck, including stairs or landscaping, is an area of architectural concern and must be included in the application. In keeping with the original design of the community, no placement of a deck to the front of a dwelling is allowed unless the ACC determines that the siting of the house is unique.

Ground-Level Deck: Depending on the elevation of the ground level deck, it must include a skirt board to screen any exposed structural elements. Appropriate landscaping shall be used to "soften" or hide the visual effect.

Modification of Existing Deck: Material, color, and design of the proposed modification shall be in harmony with both the existing deck and the rest of the house.

DOORS

Townhouses and contemporary single family homes shall have single panel doors with no glass inserts. Colonial homes shall have doors in keeping with the style of the house and the doors on surrounding homes, as determined by the ACC. Doors, including storm and screen doors, shall be compatible with the architectural style of the property and shall not detract from the appearance of the entryway. The color of the doors must be compatible with the siding or trim color.

DRIVEWAYS/PARKING PADS

Approval for the enlargement of driveways is difficult due to the proximity of the homes within New Mark and the wish to preserve green space. The ACC must determine that enlarging or adding a parking pad will not adversely affect adjacent property, natural areas, or drainage and will not overwhelm the house to which it is being attached. No asphalt extensions will be considered.

FENCES AND FENCE-LIKE ALTERNATIVES

The construction offences are governed by Article X, Section 2 of the Covenants. Since fences often intrude on the open character of New Mark Commons and may have both a visual and physical impact on adjoining property, it is recommended that, wherever possible, alternatives such as landscaping and plant materials are employed instead.

Fences must harmonize with adjacent structures and with the topography. The location of a proposed fence is extremely important. Except for original construction, the Covenants prohibit any fences to the front of a living unit or within thirty feet of any street. In addition, privacy fences immediately adjacent to the bike path would be viewed unfavorably since a "tunnel effect" would be created for pedestrians.

Split rail fencing shall be no higher than 48 inches. If wire mesh is also used, it must be placed on the inside of the fence and must be no higher than the top horizontal rail. Privacy fences shall be no taller than six feet. Except for "open" fences, all fence tops must be level. If the ground slopes, step the fence. Gate design, material, height and color must conform to the fence. The gate top must not extend above the fence top. Non-functional ornamentation on the top of a fence is not acceptable.

GUTTERS/DOWNSPOUTS

Requests for extending or reconfiguring gutters and downspouts must include a certification or other assurance from the contractor that the modification will not result in damage to any other lot or the common areas. The color of gutters and downspouts should be harmonious with the design and color of the adjoining structure. Downspout extensions should be concealed as much as possible.

LIGHTING

These specifications and guidelines address design considerations only. They do not address safety, security and County code requirements. The installation of security lights, such as flood lights, will be considered by the ACC if such lights are placed under roof eaves, directed downwards, and shielded so they do not create a "hot" glare spot visible to neighbors. The fixture color and any shielding shall be compatible with the building, (continued on next page)

The outdoor light to be used on all contemporary single family homes and townhouse units is a non-ornamental, rectangular fixture. Replacement with Lightolier #6776 need not be submitted for approval; any other fixture must be approved. Replacement lights for colonial homes should conform to the architectural style of the residence and require the approval of the ACC. The addition of any pole type fixture in the front yard of a residence (such as a gas lamp) must be submitted for review to the ACC.

MAILBOXES

Except on Tegner Way and Tegner Court, no free standing mailboxes are permitted. If the door of the residence does not have a mail slot, any receptacle appropriate to the style of architecture may be acceptable to the ACC, provided it is small and does not detract from the appearance of the front facade.

PAINTING/STAINING/COLOR CHANGES

The following guidelines apply to all paintable exterior surfaces of the residence: Since there are no approved colors of paint for homes within New Mark, any color change requires the approval of the ACC. Proposed color changes should be in keeping with the predominant colors found in the immediate neighborhood and should be consistent with the architectural style of the house.

PATIOS

Patios shall be constructed of natural colored concrete, slate, flagstone, brick, or wood (no synthetic turf is permitted). Patios must be harmonious in design with the adjoining structure and must not impinge in any way on the privacy of neighboring properties.

PLAY EQUIPMENT

Structures such as tree houses, forts, and large-scale swing sets require the approval of the ACC which will consider the visual and acoustic impact the equipment will have on neighboring properties.

RETAINING WALLS

Retaining walls built with brick, stone or wood will be considered by the ACC but the use of pressure treated timber is preferred. Retaining walls shall be at the minimum height needed to serve their function. The top of the wall should be integrated into the terrain, terraced, if necessary, but level.

ROOFING

Location is important when choosing a roof color. Single Family homeowners may have some flexibility in selecting a color since they are not immediately adjacent to another unit. However, they shall always submit an ACC application, unless they are matching the original color. Townhouse owners (except for Tegner Court and Tegner Way) are expected to replace their roofs with Certaineed "Oakwood". Choosing any other color requires ACC approval. Tegner townhouse owners can match the original roof color with Tamko colors "Weathered Wood" and "Tweed Blend" and Owens Corning color "Autumn Brown". Any other colors would require ACC approval. Although the original roofing in New Mark consisted of cedar shake shingles, replacement roofs consisting of

either asphalt or fiber glass shingles are acceptable since these are less expensive and wear better.

SHEDS

Article X, Section 3(j) of the Covenants states that no structure of a temporary character, shack or outbuilding shall be used on any lot at any time. Therefore, for a shed to be acceptable it must be attached to the house. Sheds shall be simple in design and harmonize with surroundings. They shall be of the same material and color as the house and must not adversely affect the appearance of the neighborhood.

SIDING

Siding must harmonize in color and material with the remainder of the house and neighborhood and be of equal or better quality than the original material. Although aluminum siding was used during original construction, the ACC will consider the use of vinyl siding on a case by case basis. In order to preserve the character of the community, like should replace like. For example, if you currently have cedar shake siding, the ACC will deny requests to replace it with aluminum or vinyl siding.

SIGNS

The type of signs allowed in New Mark is expressly governed by Article X, Section 3(K) of the Covenants. Any allowable signs shall be simple, unadorned, and of low profile. In all cases, they must harmonize with the surroundings.

SKYLIGHTS

Skylights must have a low profile and be flat or only slightly curved. The frames shall be painted to match or harmonize with the roof color. Skylights shall be installed so that their upper edge is parallel to the roof ridge.

SPAS/HOT TUBS

Spas and hot tubs must be (1) located in the rear yard as far away as possible from adjacent properties so that their normal use, presence and mechanical noise do not adversely affect those properties; (2) integrated into a deck, patio or the topography, and (3) screened from view by permissible fencing or landscaping. All mechanical equipment, pipes and wiring shall be concealed. When set into above-ground decks, the understructure of the spas/hot tubs should be screened. The installation of a spa or hot tub may be denied due to its adverse affects on adjoining properties.

TREE REMOVAL

Article X, Section (3)(i) of the Covenants provides that "No sound hardwood trees shall be removed from any lot without written approval of the Association acting through its Board of Directors or duly appointed committee." Ornamental and evergreen trees will be subject to the same restriction on removal. The Board has assigned responsibility in this area to the Landscaping and Grounds committee. Authorization for removal generally will not be granted unless there is physical intrusion by the tree's trunk, limbs, branches or roots on a living unit which could cause damage to property or blockage of paths and sight lines from vehicles and pruning will not solve the problem.

TRELLISES

A trellis shall harmonize and integrate with the architectural style, design and visual scale of the structure to which it is attached. Free standing trellises may not be approved if found to be awkward or visually disjointed.

WALKWAYS

Walkways must harmonize with adjacent structures and with the topography. Creation of a new walkway requires ACC approval.

WINDOW TREATMENTS

Replacements/Additions - In all homes, replacement windows and replacement glass must match the design details and color of the existing windows. Window additions in townhouses generally will not be approved because of the difficulty in harmonizing them with the design of the structure and the placement of existing windows. In single family homes, window additions must match the design details and color of the existing windows and their size and location must harmonize with the architectural style and composition of the structure.

Storm Windows - Storm windows shall not alter the appearance of the existing windows. Storm window frames shall resemble the existing window frames and have the same general configuration. The frame color must match the color of the existing window frames.

Shutters - Shutters shall harmonize with the house, and be appropriately proportioned.