

Hayesbury Townes



Architectural Guidelines

INTRODUCTION

Purpose of Design Guidelines

Hayesbury Townes is a Residential Townhouse Development (RTD). Simply stated, this means that the original tract of property was designed and approved as a self contained, deed restricted community, having its own covenants and order of rule under which all property owners would live and abide and which would provide for the maintenance of all Common Areas and improvements thereon. Restrictions were established so that aesthetics, appearance, and continuity could be defined and written based on the covenants and on precedence established by the Board of Directors and the Board of Directors reviews all architectural requests. These Design Guidelines provide an overall framework and comprehensive set of standards and procedures for the development of the community in an orderly and cohesive manner. In addition, these Design Guidelines are established to give the homeowner some degree of assurance that the actions of all members of the community would be directed so as not to adversely impact their enjoyment or property values.

The architectural standards and use restrictions set forth in this document are for the purpose of protecting the value and desirability of the real property located in the Siena Townes Community. The Hayesbury Townes Homeowners Association By-laws and Declaration of Covenants, Conditions and Restrictions supports the Board's ability to adopt and publish from time to time amend written architectural standards and construction specifications.

No improvement of any kind shall be erected, placed or maintained, and no addition, alteration, modification or change to any improvement shall be made without the prior written approval of the Committee. Any building, wall fence, swimming pool, or screened enclosure constructed, installed or placed by or with the approval of the

Committee prior to the termination of the Declarant control. Nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or re-landscaping of any Lot be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements") until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Board. Construction must be accomplished in strict conformity with such plans as approved, unless otherwise expressly agreed to in writing by the Board. The Board shall have the sole right, authority and complete discretion to approve or disapprove the plans and specifications for any reason, including, but not limited to, exterior colors and appearance, landscaping, location of the structure or structures and aesthetics. In addition to setting standards, the Design Guidelines establish a process for review of proposed modifications to Lots and Dwellings to ensure that all sites within the community are developed and maintained with the consistency and quality that attracted you to Hayesbury Townes.

Government Permits

To the extent that Town of Cary and County Ordinances or any local government ordinances, building code or regulation requires a more restrictive standard than the standards set forth in these Design Guidelines or the Declaration of Covenants, the local government standards shall prevail. To the extent that any local government standard is less restrictive, the Declaration and the Design Guidelines (in that order) shall prevail.

Review Structure

The Board of Directors of The Hayesbury Townes Homeowners Association, Inc., handles architectural control and design review for the community. The Board has exclusive jurisdiction over all matters relating to modifications to existing structures and landscaping, as set forth in the Declaration of Covenants. The Board shall review plans and specifications for all modifications and landscaping on any Dwelling or Lot, shall be the conclusive interpreter of these Design Guidelines, shall monitor the effectiveness of these Design Guidelines, and may promulgate additional design standards and review procedures consistent with these Design Guidelines. Information regarding the "appeals process" can be found on page 4.

DESIGN REVIEW PROCESS

Review of Modifications

The review of modifications shall require the submission of an application to the Board. An application form can be found as APPENDIX A to this document. Additional application forms can be secured through Charleston Management. Depending on the scope of the modification, the Board may require the submission of all or some of the plans and specifications listed below. In the alternative, the Board may require a less detailed description of the proposed modification.

Application Process

The Board will require two (2) sets of any modification plans in addition to the submission of an application. These sets of plans should be submitted to the following address: Charleston Management, P.O. Box 97243, Raleigh NC 27624. FAX: 919-848-1548. Do not fax if the Board needs to review colors.

Generally, drawings of the proposed change should be submitted (to scale) which show relationships to existing structures, landscaping, lot lines, and setbacks (distance from property lines) for all proposed improvements. These drawings should include a "site plan" and an elevation plan along with any additional information, which could help the Board visualize the project. For further descriptions of the five (5) elements that follow [floor plan, elevations, exterior finishes, landscaping plan, and other], please refer to applicable sections of this document.

Floor Plan

Showing decks, patios, related to the residential dwelling, trash enclosures, HVAC equipment and utilities.

Landscaping Plan

Showing location of trees, protection of existing vegetation, use of plants and other landscaping details. For further information see "Landscaping and Site Standards" section of this document.

Other

Such other information, data and drawings as may be reasonably requested, including, without limitation, irrigation systems, drainage, lighting, and other features.

Review Criteria: Recommendations I Variances

While the Design Guidelines are intended to provide a framework for modifications, they are not all inclusive. In its review process, the Board may consider the quality of workmanship and design, harmony of external design with existing structures and location in relation to surrounding structures, topography, and finish grade elevation among other factors; however, the Board will not grant approval for a proposed modification that is inconsistent with the Design Guidelines, unless the Board grants a variance.

Variances may be granted in some circumstances, which include, but are not limited to, topography, natural obstructions, hardship, or environmental considerations. The Board shall have the power to grant a variance from strict compliance in such circumstances so long as the variance does not result in a material violation of the Declaration of Covenants. No variance shall be effective unless in writing and supported by all members of the Board.

Review Period

Each application and plan submittal shall be approved or disapproved within 60 days of receipt of all materials required by the Board. One set of plans shall be returned to the Applicant accompanied by the Board's decision. The other copies are for the Association's records. **The Board's decision shall be based upon a majority vote of the Board and shall be rendered in one of the following forms:**

1. "Approved" - The entire application as submitted is approved.
2. "Approved as Noted" - The application is not approved as submitted, but the Board's suggestions for curing objectionable features or segments are noted. The applicant must correct the plan's objectionable features or segments and the Applicant may be required to resubmit the application and receive approval prior to commencing the construction or alteration.
3. "Disapproved" - The entire application as submitted is rejected in total.

4. "Variance" - Designated as an exception from the stated guidelines for a specific reason.

If the Board fails to respond within 60 days, approval shall be deemed granted.

As a condition of approval under this section, each Owner and all successors- in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration.

Approval of plans for any proposed modification shall not set a precedent for future applications.

Appeal

If an initial application is disapproved, an Applicant shall have the right to appeal by resubmitting the application information, documents and fees set forth above to the Board. The second submittal shall be considered only if the Applicant has altered the plans for modification or has new information, which would in the Board's opinion, warrant a reconsideration. If the Applicant fails to appeal a decision of the Board, the Board's decision is final. Appeals will be reviewed at the next regularly scheduled Board Meeting provided the basic design guidelines set forth in this document are met and the Board is supplied with the application documents at least 7 days prior to the scheduled board meeting. This final appeal shall be only deemed approved if the applicant receives written notification from the Board. As the Board may only meet quarterly, approval shall not be assumed to be granted if the Board does not respond within 30 days.

City / County Approval

The review and approval of plans and specifications by the Board shall not be a substitute for compliance with the permitting and approval requirements of the City, County or other Governmental Authorities. It is the responsibility of the Applicant to obtain any and all necessary permits and approvals.

Implementation of Approved Plans

All work must conform to approved plans. If it is determined by the Board that work completed or in progress on any Dwelling or Lot is not in compliance with these Design Guidelines or any approval issued by the Board, the Board shall, directly or through the Board, notify the Applicant in writing of such noncompliance specifying in reasonable detail the particulars of noncompliance and shall require the Applicant to remedy the same. If the Applicant fails to remedy such noncompliance or fails to commence and continue diligently toward achieving compliance within the time period stated in the notice, then such noncompliance shall be deemed to be in violation of the Declaration of Covenants and these Design Guidelines and the homeowner (property) shall be subject to a daily monetary fine.

Time to Commence

If construction does not commence on a modification for which plans have been approved within one year of approval, such approval shall be deemed withdrawn unless the applicant requests, in writing, additional time from the Board.

Time to Complete

The Board shall include, in any approval, a maximum time period for the completion of any modification. If no maximum time period is specified in the approval, the modification shall be completed within 180 days of its commencement. The Applicant may request an extension of such maximum time period not less than three days prior to the expiration of the maximum time period, which the Board may approve or disapprove.

Changes After Approval

All proposed changes to plans, including, but not limited to, changes that affect the exterior of any building, colors, windows, grading, paving, utilities, or landscaping made after plan approval must be submitted by the Applicant and approved in writing by the Board prior to implementation of such changes. Close cooperation and coordination between the Applicant and the Board will ensure that changes are approved within 15 days.

If the Town of Cary or County, or any other authority having jurisdiction, requires that changes be made to final modification plans previously approved by the Board, the Applicant must notify the Board of such changes and receive approval from the Board prior to implementing such changes.

Enforcement Waiver

In the event of any violation of these Design Guidelines, the Board may take any action set forth in the by-laws or the Declaration, including levying a Specific Assessment pursuant to the Declaration. The Board may also remove or remedy the violation and/or seek injunctive relief requiring the removal or the remedying of the violation. In addition, the Board shall be entitled to recover the costs incurred in enforcing compliance and/or impose a fine against the Dwelling/Lot upon which such violation exists.

DESIGN STANDARDS

The following specific site criteria shall apply to all proposed modifications within the community unless the Board grants a variance. These guidelines may be modified from time to time and are not inclusive of all architectural standards which may be adopted by the Homeowners Association, Inc. Applicants are responsible for obtaining all necessary building permits.

Air Conditioning Equipment

No air-conditioner shall be installed in any window of any building located on any Unit, nor shall air-conditioner be installed on any building located on any Unit so that the same protrudes through any exterior wall of such building.

Antennae and Satellite Dishes

No radio or television transmission or reception towers, antennas or satellite reception dishes or discs shall be erected on a lot unless approved as provided in the Declaration of Covenants. A satellite dish or disc may be located on a Lot, provided that (i) the disc or dish is not more than 30" in diameter and height; (ii) the dish is screened from public view and located behind the Living Unit either in the rear yard or affixed to the rear roof; and (iii) the disc or dish is located or screened in such a way that it cannot be seen from any street within the Subdivision.

Awnings

The installation of awnings on the front of the residence or side(s) of the dwelling that faces the street is prohibited. Other instances of installation are on a case-by-case basis for approval by the Board.

Boats, Trailers, and Unlicensed, Unregistered or Inoperable Vehicles

No vehicle may be left upon any portion of the Property except upon a driveway, a designated parking space or within a garage. With the exception of emergency vehicle repairs or commercial vehicles which are temporarily parked for the purpose of serving a Unit or the Property, no Person shall park any commercial vehicles (including but not limited to any type of vehicle with equipment racks, advertising, or lettering). Recreational vehicles, mobile homes, trailers, campers, boats or other watercraft, or other vehicles, stored vehicles or unlicensed or inoperable vehicles within the Property except within a garage. Any "No Parking Area" must be approved by the City.

Guests of Owners may park in parking spaces located on Common Areas for no more than seventy-two (72) hours.

The Board shall have the right and authority to have towed any vehicle parked or maintained in violation of these or subsequently adopted parking rules and regulations.

Exterior Lighting

Exterior lighting visible from the street shall not be permitted except for the following with the prior approval of the ARC:

1. Approved lighting as originally installed on a Unit
2. One approved decorative post
3. Pathway lighting
4. Street Lights in conformity with an established street lighting program for the Property
5. Seasonal decorative lights
6. Front house illumination of model homes

Paint

Owners may repaint in accordance with the original color scheme of any dwelling or improvement without approval of the Board. The approval of the Board is required for all changes in exterior painting.

Parking

All owners and occupant vehicles must be kept and stored when not in use within the Unit's garage space or driveway. Garage doors must remain closed at all times except for entry and exit by vehicles and except for periods not to exceed two consecutive hours for homeowner related maintenance activities. No conversion of garage space to living space shall be permitted.

The association may enforce additional rules and restrictions regarding vehicles and parking privileges on the Units and Common Areas.

Patios

Grills, patio furniture, potted plants and other items are permitted on patio areas, subject to local ordinances. Any items placed on front stoops and driveways must comply with any rules promulgated by the Association.

Pets

No Owner may keep any more than two pets on any portion of the Property. No animals shall be left unattended while outside. Animals must be kept on a leash and be under the control of a responsible person at all times while outdoors. Any feces left upon the Common Areas by an animal must be removed by the owner or the person responsible for the animal. Detached storage building, sheds, or animal pens are prohibited.

Owners shall accept full responsibility for their animals and their animal's waste or be subject to a monetary fine.

Rooftop Equipment

The approval of the Board is required for all rooftop equipment and accessories, unless specifically accepted in this section. All rooftop equipment must match roofing colors or be of a color that complements the house and must be placed as inconspicuously as possible. Exposed flashing, gutters and downspouts must be painted to match the fascia and siding of the structure. No exposed attachment straps will be allowed. Any installed solar energy equipment shall have the appearance of a skylight, shall have a finished trim material or curb, and shall not be visible from the street. Landscaping or other buffering is required for solar panels. Please note when the roofing has been altered the Association no longer accepts responsibility for roof repairs / replacement.

Siding

Owners shall seek the approval of the ARC before installing or replacing siding, **which differs from original material and style.**

Signs

No sign of any kind or character shall be erected on any portion of any Unit, or displayed to the public on any portion of the Unit, without prior written consent of the Board of Directors, except for customary name and address signs, one customary "for sale" sign advertising a Unit for sale and any sign required by legal proceedings.

Temporary Structures

Temporary structures are prohibited. The approval of the Board is required for tents other than camping tents that are used for occasional overnight sleeping. Approval by the Board is also not required for temporary canopies that are erected for special occasions.

Trash Containers

All Owners shall roll any street side refuse and recycling bins from the street into an area of each Owner's respective Unit within twenty-four (24) hours of pickup.

Clotheslines and outside clothes drying

No clothesline or clothes poles shall be erected, and no outside clothes drying is permitted.

Utilities

Pipes, wires, and other utility facilities shall be kept and maintained underground. Utilities include water, sewer, power, telephone, cable television, and miscellaneous conduits.

LANDSCAPING AND SITE STANDARDS

Landscaping is an essential element of design in the neighborhood and is also an integral part of maintaining property value and neighborhood continuity. Preservation of existing vegetation must be considered in establishing and maintaining the landscape design.

Drainage

Drainage of the property must conform to all Town of Cary and County requirements. All drainage and grading must be indicated on the proposed plans submitted to the Board. There shall be no interference with the established drainage pattern over any property except as approved in writing by the Board.

The established drainage pattern is defined as the drainage pattern engineered and constructed by the original builder prior to (or in some cases, immediately following) conveyance of title from the builder to the individual homeowner.

Landscaping shall conform to the established drainage pattern, shall cause water to drain away from the foundation of the house, and shall prevent water from flowing under, pounding near, or against the foundation of the dwelling. Water should flow fully over walkways, sidewalks, or driveways into the street.

CONSTRUCTION GUIDELINES***Inspections***

The Board may perform periodic informal inspections to ensure that work is being performed in conformance with approved plans and the design guidelines. All inspections are observations only and will not relieve the owner's obligation to obtain inspection approvals from the City and or County and other organizations having jurisdiction.

Job sites not in compliance with these Design Guidelines or approved plans will be issued a Notice of Violation. Further construction is prohibited until the homeowner addresses the violations.

Construction Damages

Any damage to vegetation or common area facilities caused by the Applicant, their contractors, subcontractors, agents or employees must be corrected immediately to the satisfaction of the Board and the owner of the damaged property. If the damage is not corrected, the Association may repair such damage and assess the costs of repair to the Applicant.

Conduct

The applicant must ensure that all contractors and subcontractors control the conduct of their employees while working in the community. Loud music, profanity and other behavior, which is unbecoming, will not be tolerated. Employees violating this policy may be asked to leave the premises and may be denied future access to the community.

Site Cleanliness

All **work sites** must be maintained in a clean and orderly manner at all times. The storage of materials should be in an inconspicuous location within the site and stored neatly and orderly. All construction debris shall be cleared on a regular basis.

CHANGES AND AMENDMENTS TO THE DESIGN GUIDELINES

These Design Guidelines may be amended only upon the affirmative vote of two-thirds of the members of the Board and the consent of a majority vote of the Board. Such amendments shall be communicated to homeowners from time to time. All amendments shall become effective upon adoption. Such amendments shall not be retroactive and will not apply to previously APPROVED work, APPROVED work in progress, or Variance.

LIMITATION OF LIABILITY

Plans and specifications are not approved for engineering or structural design or quality of materials and by approving such plans and specifications, neither the Board of Directors, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications. Neither the Association the Board of Directors nor the officers, directors, members employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval or to any Owner affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that such person or Owner will not bring any action or suit against the Association, committees, or the officers, directors, members employees, and agents of any of them to recover any damages.