

# Design Approval and Construction Guidance

## Pathways of Solomon Jones

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In an effort to maintain the historic, “road less traveled” natural beauty of Mt. Hebron and to minimize the negative impacts of home construction in the neighborhood the Board of Directors (the Board) has developed guidelines to help you and your contractors throughout the period your home is under construction. Much of this guidance is derived directly from the Association’s Covenants. Specific Covenants will be referred to and noted in the following text. The Board has developed additional guidance regarding construction to prevent, as much as possible, problems that have occurred in the past during home construction.

The Architectural Resource Committee is your primary contact during the construction process. It is the ARC’s responsibility to receive your plans for submission to the Board-appointed architect, to interface with you on behalf of the architect and the Board, to answer any questions that you may have, and to ensure that your construction project follows the covenants and these guidelines

The Pathways Property Owners Association Board requires that you and your general contractor meet with representatives of the ARC, and the Landscape and Roads Committees, as needed, to discuss your planned construction and your obligation to follow the guidance specified in this document.

### **DESIGN APPROVAL PROCESS**

*First*, you must submit to the ARC the following:

1. Professionally designed set of ***House Plans***. Including exterior elevations, details and a site plan.
2. ***Erosion and Sedimentation Control Measure Plan***, to be used during construction.
3. ***Topographical Grading Plan***, showing trees to be removed and the final drainage plans.
4. Professionally designed ***Landscaping Plan***, depicting the driveway, drainage and erosion control devices, and general layout of planting beds and naturalized areas.
5. Complete set of ***Exterior Finish Materials*** keyed to the exterior elevations in the submitted drawings. This submission shall:
  - a. be of actual materials and colors specified,
  - b. be on a 3 foot square sample board,
  - c. include any catalog cuts to further illustrate the exterior appearance.

If you choose to submit your package electronically – you can either submit a sample board or show the materials and finishes on the elevation pages or your package.

At that time, you will also provide a check made payable to ***Pathways Property Owners Association, Inc.*** The fee will cover the cost of the architect to review your plans, a Road and Roadside Impact Fee and the cost for your mailbox stanchion. You will be quoted the current rate for both portions of the fee upon contacting us at the start of the **Design Approval Process**.

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Once the ARC has determined that all required documents and samples have been received, the package will be submitted to the architect. The architect will review the plans, elevations and exterior finishes. If all is acceptable the ARC will then recommend to the Board that the project be approved. If all is not acceptable, the ARC will request additional information from you to address any issue(s) identified. If your approval includes a variance to the covenants, all related fees, including legal and filing fees, are your responsibility.

Written authorization by the Board is required before any construction or tree clearing may begin on your lot, regardless of whether house construction is imminent.

*Second*, after the Board receives the ARC's recommendation for approval of your plans, you and your general contractor will meet with representatives of the ARC to discuss your planned construction and your obligation to follow the guidelines specified in this document. Any required exceptions to the guidance must be documented and approved in advance by the Board and/or the ARC/Architect.

*Third*, after the property owners, the general contractor, a member from the Board and a representative of the ARC sign this document, you may proceed with the construction of your new home. We ask that your builder provide the ARC with the actual start date of construction in order to inform the community.

*Finally*, you will provide progress reports to the ARC quarterly throughout the construction process. These may be provided in any manner that you and the ARC agree. Report timing will begin with the start date of your project. They will be used to make sure that the project is progressing as planned.

**Note:** Any changes to the submitted plans or finishes after initial approval is granted must be reviewed by the ARC before implementation. Additional review by the architect and related fees may be required.

### **DESIGN AND CONSTRUCTION GUIDANCE**

The Board and its committees will work with property owners to ensure a smooth and uninterrupted construction process, however, the Board reserves the right to impose fines or special assessments on property owners if it determines that the owners or their contractors are in violation of any of the guidance in the Covenants or the Board's guidance. It is the property owner's responsibility to ensure that their contractors faithfully adhere to the Association's guidance.

The following sections of this guidance are taken from the covenants in their entirety and where appropriate the ARC includes further guidance or clarification. They apply to all construction and remodeling projects within the Pathways.

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### **ARTICLE 11 - RESTRICTIONS ON USE, SIZE, AND OCCUPANCY**

**Article 11A. Residential Use.** All lots shall be used, improved, and devoted exclusively to residential use. No buildings shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling with attached garage or with a detached garage, and where applicable, a detached guest house. Any detached garage or detached guest house shall be architecturally in harmony with the home in that it is built substantially of the same exterior material as the residence. No rental of less than the entire single family dwelling is permitted.

**Note:** The Board prefers that any rental be of a minimum of 2 months.

**Article 11B. Restriction on Further Subdivision.** No Lot may be subdivided by sale or otherwise, so as to reduce the total area of the Lot as shown on the recorded plat of the Subdivision. Where a residence has been erected on a plot consisting of two or more Lots and such residence crosses the common boundary line of the lots or is built so close to the common boundary of the lots that another residence would violate the side setback lines, the Lots thereafter be considered for all purposes as one Lot, except as noted in Article 10E relating to assessments by Developer of Property Owners Association.

**Article 11C. Prohibition Against Commercial Use or Nuisance.** No trade or business (other than a home office which requires no regular visitation by customers, suppliers or salesmen or freight or partial delivery services) shall be allowed and no substance, thing or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property or which shall be a general nuisance. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or in any residential dwelling or outbuilding except that dogs, cats, or other ordinary household pets may be kept or maintained provided they are not kept, bred, or maintained for commercial purposes. All dogs must be restrained or under control at all times. The number of household pets kept or maintained shall not exceed three (3) in numbers except for newborn offspring of such household pets which are under nine (9) months in age.

**Note:** During construction or renovation, all contractors and subcontractors working in the Pathways are to conduct themselves professionally and refrain from any particularly loud or offensive behavior.

### **Construction and Renovation Operating Hours**

Working hours at your home/property or at a construction site, including work inside the dwelling and landscaping or lawn maintenance, are restricted as follows:

- Monday thru Friday 7am to 6pm,
- Saturday 8am to 5pm,

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- No work on Sundays or New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, or Christmas without written permission from the ARC.
- Emergency activities are exempted – i.e. unplanned tree removal, utility failures, etc.

Prior approval from the Board is required for any work outside of those hours. The Board reserves the right to further restrict any contractor’s work hours.

The Board prefers that all dogs are restrained in accordance with Henderson County ordinances.

### **Article 11D. Size of Residence in Pathways of Solomon Jones Subdivision**

Maximum height of a residence measured from the average elevation of the structure foundation to the highest point of the roof shall be thirty-five (35) feet. No residence shall be erected or allowed to remain on a Lot unless such residence shall comply with the following minimum and maximum size requirements:

In the case of the **ONE-STORY RESIDENCE**, the main floor of the residence shall contain no less than two thousand four hundred (2,400) square feet of heated, finished living area, with no more than three thousand (3,000) square feet on any one level, and no more than four thousand two hundred (4,200) square feet of heated living area.

In the case of **ONE AND ONE-HALF STORY RESIDENCE**, or a **TWO-STORY RESIDENCE**, such residence shall contain no less than three thousand (3,000) square feet of heated, finished living area with no more than three thousand (3,000) square feet on any one level, a minimum of two thousand (2,000) square feet on the first floor, and no more than four thousand two hundred (4,200) square feet of total heated living area.

A **SINGLE DETACHED GUEST HOUSE**, containing not less than five hundred and seventy six (576) square feet, and no more than 1,200 square feet of heated, finished living area, in a location approved by the Developer and Architectural Resource Committee, shall also be permitted on each Lot. During the period of Developer control, the Developer may permit the construction of the guest house prior to commencement of construction of the primary residence. Provided such owners shall submit reasonable plans for construction of the primary residence within three (3) years of completion of the guest house, and construction shall commence thereon within one (1) year of approval of said plans. In the event of failure to comply with these time restrictions, if same are not extended, the Developer or Property Owners Association may levy an annual impact fee in their discretion not to exceed five (5) times the annual association assessment.

All computations of square footage shall exclude basements (whether daylight or underground), open porches and garages. No floor or level of any residence which is wholly or partially below the natural grade of the front elevation of the residence constructed on the Lot shall be included in the computation of the required square

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footage. Developer may in its sole discretion allow variances from the size requirements herein of up to twenty (20%) percent.

**Note:** The Pathways Subdivision noted above includes all lots on Solomon Circle, Village Springs Lane, and Mt. Hebron Rd.

If you choose to build a guest house before building the main house, we prefer seeing plans for both before giving approval for the guest house. Final review and approval of the plans for the guest house must occur before construction of the main house can begin.

### **Article 11E. Size of Residence in Eastgate of Solomon Jones Subdivision.**

Maximum height of a residence measured from the average elevation of the structure foundation to the highest point of the roof shall be thirty-five (35) feet. No residence shall be erected or allowed to remain on a Lot unless such residence shall comply with the following minimum and maximum size requirements:

In the case of the **ONE-STORY RESIDENCE**, the main floor of the residence shall contain no less than two thousand four hundred (2,400) square feet of heated, finished living area, three thousand (3,000) square feet on any one level, and no more than four thousand two hundred (4,200) square feet of total heated living area.

In the case of a **ONE AND ONE-HALF STORY RESIDENCE**, or a **TWO-STORY RESIDENCE**, such residence shall contain no less than three thousand (3000) square feet of heated, finished living area with a minimum of two thousand (2,000) square feet thereof on the first floor, no more than three thousand (3,000) square feet on any one level, and no more than four thousand two hundred (4,200) square feet of total heated living area.

All computations of square footage shall exclude basements (whether daylight or underground), open porches and garages. No floor or level of any residence which is wholly or partially below the natural grade of the front elevation of the residence constructed on the Lot shall be included in the computation of the required square footage. Developer may in its sole discretion allow variations from the size requirements of up to twenty (20%) percent.

**Note:** The Eastgate of Solomon Jones Subdivision includes all lots on Gateway Dr.

**Article 11F. Garage.** An enclosed garage with space for not less than two (2) automobiles and with no more than a second story shall be attached to, built within a residence or may be detached if the detached garage is architecturally in harmony with the home, as herein above specified. No garage entrance shall face the main street or roadway, unless approved by Developer. A covered connector from a garage to a residence is permitted. No covered and unenclosed carports, or similar storage structures, shall be erected, placed, or permitted on any Lot.

**Article 11G. Driveways and Parking Areas.** A single driveway shall be constructed from the main street to the residence garage paved with Portland cement concrete,

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asphaltic concrete, or other paving material approved in advance by the Developer as to material and as to the location of the point of intersection of the driveway to the street. Gravel drives are not permitted. Parking on the main street, shoulders, and roadway right-of-way are prohibited. Each Owner shall provide at least two parking spaces in addition to the enclosed garage parking for off-street parking and these spaces may be on the driveway. Each driveway shall have an entry from the access road of no less than thirty (30) feet, tapering to no less than twenty (20) feet over the first ten (10) feet from the entry, to create turnouts for traffic. An additional access point to a lot may be approved at the discretion of the Board to enable an owner to reach a portion of the lot inaccessible by the driveway but this access point may not be paved, gravel or finished with other hard materials. **Henderson County Registry Book 3378 Page 706 Dated 8/28/2019**

**Note:** During construction, the general contractor must supervise the transit and parking of contractors' vehicles within the Pathways. Adequate on-site parking (i.e. not on neighboring lots) must be provided to accommodate contractors' vehicles. Contractors may not use private driveways or common areas for turnaround or parking. No overnight parking of construction vehicles along the street is permitted. The general contractor is responsible for advising contractors of the appropriate entry and exit points for the size of vehicle that will be in the neighborhood (Mt. Hebron Road or Indian Cave Road for smaller vehicles and Gateway Drive for any larger vehicle. Reliance on "GPS" systems is not advised).

In the event a contractor/subcontractor's vehicle blocks any of the Pathways' roads due to an accident or weather related situation, the contractor will assume responsibility for removing such vehicle in a timely manner or the property owner will be subject to a fine based on the costs incurred by Pathways to remove the vehicle.

**Article 11H. Greenway Setbacks.** No building shall be located within the Greenway Area on any Lot. Open porches, eaves, and overhangs shall be considered as a part of the building in determining compliance with this setback requirement. Driveways and walkways may be located within the Greenway Area.

**Article 11I. Easements.** In addition to any other easement provisions herein, and unless otherwise shown on the recorded plat for the lot, permanent easements ten (10) feet in width are reserved around all lot lines of the subdivision for the installation and maintenance of above or below ground utilities and drainage facilities. There is reserved for all storm drain lines a twenty (20) foot easement, ten (10) feet on each side of drain lines or ditches and outside of road right of way. There is reserved for all future sewer lines a twenty (20) foot easement, ten (10) feet on each side of sewer lines and outside of road right of way.

Neither Developer nor any utility company using the easements herein referred to shall be liable for any damage done by them to shrubbery, trees, or flowers, or to the property of the owner situated on the land covered by said easement.

**Note:** Please consider this easement requirement as you prepare your landscaping plans.

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On the Recorded Plat are shown trails and pathways, upon which are reserved easements for walking for the benefit of all owners of Lots and their guests. Developer shall have the right to designate additional trails and pathway easements during the period of Developer control, as well as the right to alter the location of existing trails and pathways.

**Article 11J. Temporary or Manufactured Residences or Modular Residences.** No trailer, tent, shack, storage shed, or other outbuilding shall be erected or placed on any Lot for use as a temporary or permanent residence or any purpose. No manufactured home or modular home shall be permitted upon any lot. Partially completed dwelling shall not be used as a residence. This restriction shall not apply to construction buildings used by contractors during construction.

**Note:** The purpose, placement and appearance of construction buildings must be reviewed with the ARC prior to placement. This includes construction Port-a-Johns and dumpsters.

**Article 11K. Vehicle/Equipment Parking and Storage.** No parking of unlicensed, uninspected, or non-operable vehicles shall be allowed outside of a garage. Except for emergency repairs; no person shall repair, restore, or store any vehicle, boat, trailer or recreational vehicle upon any portion of a lot which is visible from the road adjoining a lot or to the occupants of other lots. No truck or other vehicle in excess of one-ton load capacity shall be parked or kept overnight on any lot.

**Note:** During construction, vehicles over one-ton may be parked overnight, not along the roadside, but otherwise on the lot. After construction, there will be times when short term parking along the street is permissible. As an example, one may wish to have a car available when maintenance vehicles are in the driveway, or when driveway asphalt sealing causes the driveway to be blocked, etc.

**Article 11L. Screening of Objectionable Items.** All outdoor HVAC units, poles, clotheslines, trash receptacles and similar equipment shall be screened or placed so as not to be visible to the occupants of other lots or from any subdivision road.

**Note:** Trash receptacles should be placed at roadside no more than 24 hrs. before pickup and removed and stored by the end of pickup day.

**Article 11M. Utilities Connections.** Connections for all utilities including but not limited to water, electricity, gas, telephone and television shall be placed underground from the authorized connecting points to the dwelling structure in a manner acceptable to the appropriate utility authority.

**Article 11N. Outside Recreation and Gardening Activity.** All play or sports equipment (with the exception of a basketball goal), vegetable gardens, and below-ground swimming pools shall be located only in the rear yard of a lot or at a point least

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visible from any subdivision road. Above ground swimming pools are prohibited. No sports equipment such as basketball goals are allowed within road rights-of-way.

**Note:** Please refer to Article 11V Fencing, et.al. in relation to this article.

**Article 11O. Outside Antennae.** No rooftop or other structure-mounted or freestanding radio or television receiving or transmitting antennae or satellite dishes above two (2) feet in diameter shall be erected, except that one ground mounted satellite dish per lot may be permitted, provided such dish is shielded from view by a hedge, fence or other device which must first be approved in writing by the Developer.

**Note:** While this covenant prohibits roof mounted satellite dishes, etc., in the interest of maintaining as many trees as possible on your lot, a roof location may be the only alternative. Please review the placement of these items with the ARC before installation.

**Article 11P. Signs.** No signs shall be displayed except signs approved by the Developer during the period of Developer control or Property Owners Association in their sole discretion. Nothing in this paragraph shall be construed to prevent Developer from erecting entrance display signs or signs designed to designate areas within the Subdivision including street signs.

**Note:** Contractors' signs and job boxes are permitted during construction but must be removed no later than 14 days after the Certificate of Occupancy is issued. If not removed at the end of this time, a reminder letter will be issued to you with a copy sent to your contractor. Other signs, including those for product or service advertising are not permitted.

**Article 11Q. Exterior Lighting.** Security and area lighting mounted on the dwelling unit or garage and ground level walkway/landscape lighting are permitted. The use of low voltage exterior lighting is encouraged. Area lights, pole mounted or otherwise located above 7' 0", are prohibited on any Lot but this shall not preclude street lighting on the road rights of way of a greater height as herein specified. All wiring for exterior lighting on a Lot shall be underground and no lighting shall be of the mercury vapor lamp type.

**Note:** Exterior lights must be directed away from neighboring homes, and preferably downward.

**Article 11R. Equipment /Appurtenances on Roof.** Solar panels on roofs are permitted if the exterior colors are in harmony with the roof color and if the solar panels cannot be seen from any subdivision road. Ideally the solar panels would be placed in a location that is not visible from other homes. Solar panel location must be approved in writing in advance by the Board. Vent stacks, vents, roof windows, fans, gutters, flashing, and other exterior rooftop appurtenances shall be finished in colors to match the roof. HVAC units shall not be installed on roofs. **Henderson County Registry Book 3378 Page 706 Dated 8/28/2019**



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**Note:** Don't forget to paint/repaint rooftop vents, etc. during roof repair/replacement.

**Article 11S. Tanks.** All fuel, water, or other storage tanks shall be buried below ground or be contained within the residence structure and shall comply with applicable building and safety codes.

**Article 11T. Lot Maintenance.** Lots shall be kept free of trash, garbage, or other waste. Waste shall be kept in sanitary containers for temporary storage before removal and disposal. Grass and shrubbery shall be well maintained. Weeds and other unattractive growth on developed lots are prohibited. During construction of the dwelling unit, the lot shall be kept reasonably free of trash and rubbish. Developer, so long as it owns any lot within the subdivision and, if not, the Corporation reserves the right to mow all grass, weeds or other undergrowth if same is reasonably necessary for the health, welfare or general appearance of the neighborhood, and all costs incurred after notice having been duly given shall represent an assessment duly enforceable against the lot Owner as herein provided.

**Note:** The use of a dumpster is required on all projects. Construction debris and other trash at the site must be secured in the dumpster at the end of each day.

The general contractor is responsible for the removal of dirt and gravel from the neighborhood roads at the end of each work week. In the case of extremely muddy conditions or transfer to the roads, more frequent cleanup is required. The ARC will monitor the condition of each work site and notify the owners of any infractions.

Note: During construction, NC Open Burning Rules prohibit the burning of construction materials at your site. You are only permitted to burn leaves, limbs, and brush from your own property. Prior to burning, a burn permit must be requested from the local fire department or the NC Forest Service website.

**Article 11U. Operating Recreational Vehicles.** Motorcycles, minibikes, dune buggies, motorized bikes, all-terrain vehicles, or similar recreational vehicles may be operated within the bounds of the subdivision only while riding to and from a residence, on a subdivision road.

**Article 11V. Fencing, Hedging, Shrubby, Walls.** At Pathways of Solomon Jones Subdivision, no perimeter fencing around any Lot shall be permitted. All fencing shall be contiguous to the house and an integral part of the house footprint, all as approved by Developer and Architectural Resource Committee when activated. At Eastgate of Solomon Jones Subdivision, all fencing shall be in harmony with the existing post and board fencing, and shall be approved by Developer and Architectural Resource Committee when activated.

No fence, hedge, shrubbery, or wall shall be erected on a lot which shall be unsightly or shall be erected to interfere with the vision of drivers or endanger the safety of

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pedestrians or others. No wall or fence shall be erected between the property line of a lot and the road right-of-way. Barbed or chicken wire or similar agricultural fencing is prohibited unless disguised by another fence approved by Developer or the Architectural Resource Committee when activated. Chain link fencing located in back of the house not exceeding five (5) feet in height and erected for the sole purpose of confining pets or of enclosing a garden is permitted if erected within the rear lot setback lines, and contiguous to the primary residence. Such chain link fencing shall be painted black or be black vinyl coated, and shall be designed so that it is not visible to neighboring properties, unless otherwise approved by Developer. Chain link fencing shall be concealed by shrubbery or other landscape material.

**Note:** Additional types of metal fencing, not listed above, may be submitted to the ARC for consideration. If approved by the ARC, the alternate fence must be finished as if it is a chain link fence (i.e. painted and disguised).

**Article 11W. Pools and Tennis Courts.** Pools, tennis courts, and other outdoor recreational improvements shall be located and built as approved by Developer and the Architectural Resource Committee when activated.

**Article 11X. Zoning.** If not otherwise specified herein, each Lot in the Subdivisions shall be used as if zoned for R-40 residential use by the Henderson County Zoning Ordinance.

**Note:** Henderson County Zoning R-40, Estate Zoning, requires a 60 ft. setback from the front and 35 ft. from the sides and rear of all homes. While your property line may extend into a subdivision road, the center line of the road may not be the actual property line. A proper lot survey is required for all construction projects.

### **ARTICLE 12 - SUBMISSION AND APPROVAL OF SITE PLAN AND RESIDENCE DESIGN, CONSTRUCTION MATERIALS AND CONSTRUCTION PROCEDURES**

**Article 12A. Site Plans.** No permitted residence, garage, or other structure or appurtenance shall be erected, placed, or altered (except for interior remodeling) on a lot until clearly identified, written and dated plans, specifications, and samples of exterior materials shall have been submitted to and shall have been approved in writing by the Developer and Architectural Resource Committee of the Corporation after same has been formed and activated.

Plan submission shall comply with rules and procedures of the Architectural Resource Committee, including, but not limited to the following:

- A. A site-plan (one inch equals 20 feet scale) showing property lines, setback lines, building and drive location, septic tank; and septic line locations, utilities routings, size and location of exterior equipment and appurtenances (HVAC unit, walls, posts, fencing, etc.), and the area to be cleared with an indication of the

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- location of all trees to be cut or saved with an 8-inch or greater diameter at 5 feet above ground. Except where soil and topographic conditions preclude, septic tanks and lines shall be placed so as not to disturb existing trees of the sizes set forth above, but shall be placed among such trees. Site plan is to be adequately dimensioned showing the above listed information.
- B. A grading plan showing final drainage plan.
  - C. A plan of erosion and sedimentation control measures to be used during construction.
  - D. A landscaping plan showing types and numbers of plants and trees and grassed, mulched and undisturbed areas. All landscaping plans must be professionally designed.
  - E. Architectural plans showing exterior elevations of all sides of the buildings to scale (1/4-inch equals one foot scale) and showing structures in relation to finished ground elevations. Plans shall contain complete information and descriptions of all exterior finishes and materials. Unless submitted in form and detail otherwise acceptable to Developer and Architectural Resource Committee when activated, all plans shall be sealed by a licensed architect.

**Note:** These requirements apply to all new construction and exterior renovation projects. And for the purpose of a potential road impact fee, interior renovation projects will only be evaluated for material delivery and increased road traffic to the site.

The procedure for the submission of these elements of the plan is described above. We have samples of previously approved plans that can be used as reference to help you prepare your package. If you have any questions about the requirements, timing, etc., please contact us at any time.

Some homes were built in the Pathways during Developer control and prior to the existence of these Design Guidelines and subsequent policies. Therefore, some of these homes may not fully conform to these guidelines and policies. Any non-conformance of previously built homes does not constitute a precedent or grounds for non-conformance in your project.

As you work with your landscaper to develop your landscape plan, we recommend that you incorporate as many existing indigenous, drought and disease resistant plants as possible. All areas of the lot disturbed as a result of construction must be landscaped. The most appropriate landscaping is the vegetation already on your property. In fact, trees, native mountain laurel and natural rhododendron must be accommodated whenever possible in your site plan. Also, trees, native mountain laurel and native rhododendron close to construction areas are to be protected to avoid damage.

**Article 12B. Specifications and Material Samples.** These shall be furnished on request and shall include:

Specifications, descriptions, and catalog cuts of all exterior finish materials and equipment and fixtures to be located outside of the residence.

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Color schedules and samples of all building exterior finish materials, painted exterior surfaces, and outside equipment and appurtenances.

All submissions for plans, specifications and material samples shall be made at the same time. The architectural review process will not begin until all materials are received.

**Henderson County Registry Book 3378 Page 706 Dated 8/28/2019**

Information and samples in addition to the items set forth in Articles 12A. and 12 B. may be required if, in the Developer's sole judgment, such additional information or material is necessary.

Developer and the Corporation may charge Lots Owners a reasonable fee sufficient for any submissions for approval of any matter set forth herein to be reviewed by an architect or other qualified professional. During the period of Developer control, Developer may in its sole discretion grant variances from any requirement of this article.

In the event the Developer fails to respond to a fully complete request for approval of plans, designs, specifications and material submissions within thirty (30) days after such fully complete plans, designs, specifications and materials have been received by Developer, approval shall be deemed to have been granted.

Submission to the Developer and the approval by the Developer are for the sole purpose of adherence with these Restrictive Covenants. Developer's review and approval is not for the purpose of, nor shall it be construed as, a review of the adequacy of structural or utility design, construction, operation or performance or to indicate compliance with any codes or other laws or regulations of any municipality, state, federal, or other governmental agency.

**Note:** Once you have received approval from the Board for your project, you must seek additional prior approval from the ARC for any changes to exterior materials, finishes, colors or plans. Such changes may require an additional review fee. If you do not seek approval before implementation or installation, it may be necessary to remove the material if it is not provided for in the covenants.

**Article 12C. Construction Materials and Quality.** Residences shall be constructed of materials of good grade, quality, and appearance, and all construction shall be in conformance with Henderson County permit requirements and performed in a good workmanlike manner. The exterior materials of the structure may include natural wood (stained or painted), cement siding, stone or rock (thin cut, natural or cultured), brick, or an acceptable stucco finish system. Unfinished concrete, vinyl or aluminum siding, cinder block (CMTU) and low-quality stucco without acceptable veneers are not permitted as exterior finishes. Windows must be clad, vinyl is not acceptable. Roofing materials include wood shingles and shakes, architectural shingles and standing seam metal. Gutter and downspout finishes will blend with the siding and trim colors. Exterior vent covers and piping including radon systems shall be finished to match roof or siding colors as appropriate. During the period of Developer control, Developer shall

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in Developer's sole discretion approve all exterior materials prior to their use.

**Henderson County Registry Book 3378 Page 706 Dated 8/28/2019**

**Note:** Exterior materials are constantly evolving. If you have a material that you would like to use on your home that is not described in the above covenant, please let us know so that we can work with you and our architect to evaluate it.

In addition to the above, a high quality, metal faced garage door may be used. We also prefer that all stucco finishes be stained or painted.

**Article 12D. Lot Clearing.** There shall be no clear cutting of timber on any lot so as to maintain as many trees within the Subdivision as practical which are 8 inches or greater in diameter at 5 feet above ground level shall be retained on a lot. Only those trees that are dead or diseased or are within the location of the dwelling, garage, driveway or other areas of improvements such as pools, patios, gardens or sports facilities or which constitute a dangerous condition or have been approved as a part of the site plan submitted pursuant to Article 12 shall be removed. Lots may be cleared so as to provide a "view corridor", upon written approval of the clearing plan by Developer.

**Amended in addition to the above** - Lot owners whose land adjoins any of the common areas within Pathways of Solomon Jones Subdivision and Eastgate of Solomon Jones Subdivision shall have the right to reasonably trim, clear and remove, at the lot owner's expense, such timber as is necessary to maintain a reasonable view corridor for said lots, subject to the approval of Developer, or if Developer is not in control, subject to the approval of the Property Owners Association, which approval shall not be unreasonably withheld. **Henderson Country Registry Book 1288, Page 766 dated 9/11/2006**

### **Note: Tree Removal Guidance**

The purpose of these tree removal guidelines is to maintain as many trees within the Pathways as is practical, consistent with the "primitive envelope" vision of the developer and the covenants.

The site plan you provide will indicate which trees you plan to remove. Trees within the footprint of your home, within 85 feet of the perimeter of your home, and native shrubs or bushes are all ELIGIBLE for removal with PRIOR approval. Fines will be assessed and replanting required should you remove trees, native bushes or shrubs without prior approval. We ask that you notify us prior to the removal of trees that are dead or diseased, or that are less than 8 inches in diameter at 5 feet in height.

Please consider the following from the covenants in order of precedence:

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- A site plan must be provided for all tree removal whether during construction, remodeling, or when tree work is needed.
- Prior approval and/or courtesy notice are required, as indicated in the table below.
- Clear cutting is not allowed. Clear cutting is when most or all trees in an area are cut down.
- A view corridor may be created if your property is adjacent to a Pathways common area as specified in covenant amendment Book 1288/Page 766, noted above. Otherwise by selective limbing and topping of trees. You may not clear cut to create a view corridor.
- Trees within the footprint of your home are eligible to be removed. Trees that have the potential to fall on your home are eligible to be removed.
- Trees that are dead or diseased are eligible to be removed.
- Trees that are less than 8 inches in diameter at 5 ft. in height are eligible to be removed.
- Refer to Article 12, Section A1 regarding tree removal for septic tank installation.

	<b>Approval Required</b>	<b>Action</b>
<b>Dead or Diseased Trees</b>	No approval required	Courtesy notice to the Board prior to removal
<b>Native Bushes/Shrubs</b>	PRIOR approval required	Submit clearing plan to the Board
<b>Less than 8 inches in diameter</b>	No approval required	Courtesy notice to the Board prior to removal
<b>8 inches or greater in diameter</b>	PRIOR Approval required	Submit clearing plan to the Board
<b>View Corridor</b>	PRIOR Approval required	Submit clearing plan to the Board
<b>Any trees within the location of dwelling, etc</b>	PRIOR Approval required	Submit clearing plan to the Board

Requests for approval and courtesy notices are to be provided no less than 5 business days prior to removal. Please mark all trees or shrubs that will be affected. This provides sufficient time for the ARC/Board to review your request. In some cases a road impact fee may be assessed. The Board understands that trees die, grow too large and become a danger to your home, or encroach on your view, but prior approval allows the Board to manage the number of trees that are removed as well as monitor the impact on our roads, etc.

Examples of a site plan can be provided by the ARC.

Replacement trees must be no less than 6 feet in height and no less than 2 inches in diameter at 4 feet from the ground.

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Fines for unauthorized tree removal are as follows:

- Failure to provide a tree removal plan - \$500
- Unauthorized removal of trees - \$1000 per tree

**Article 12E. Erosion Control.** The Owner of each lot shall be obligated to provide adequate erosion control measures during and after construction pursuant to Article 12 in order to minimize siltation or erosion of areas outside the lot of such Owner, and to insure that all sedimentation is contained within the boundaries of the Lot of such Lot Owner. It shall be the duty of an Owner to design and implement measures to avoid damage to adjoining lots or properties. If such an Owner has not provided adequate measures which comply with applicable erosion control regulations or if an Owner is in violation of this paragraph, the Board may, after five (5) days written notice to the Owner, perform such measure. The Owner shall immediately reimburse the Board for the cost of such control measures incurred by the Developer. **Henderson County Registry Book 3378 Page 706 Dated 8/28/2019**

**Article 12F. Construction Damage.** It shall be the obligation of an Owner of a lot to repair immediately any damage to curbs, guttering, paving or any other improvements located within the Subdivision which is caused by the Owner, his contractors or subcontractors.

**Note:** Owners may not wait until the conclusion of all construction unless approved by the Board. Property owners must work with the Board and the appropriate committees to present their plan for repairs. When the Board and the committees agree that the submitted plans conform to their specifications, the owners may initiate the repairs.

**Article 12G. Cleanup and Restoration Due to Casualty.** The reconstruction of any dwelling or improvement on any lot which is destroyed in whole or in part by fire or other casualty shall be promptly commenced not later than forty-five (45) days after such occurrence and all debris removed and the lot restored to a slightly condition is a reasonable time not to exceed six (6) months.

**Article 12H. Completion of Construction.** Construction shall be completed, and the exterior landscaping planted within eighteen (18) months of the commencement of construction. The Board in its sole discretion may allow a variance for time to complete the project. **Henderson County Registry Book 3378 Page 706 Dated 8/28/2019**

**Note:** It is the owner's responsibility to communicate project progress/status to the ARC throughout the project. Complete construction includes driveway and other hardscapes installed and exterior landscaping planted. In addition, regular contractor trips to the site have ceased. If this is not possible, the owner may apply to the ARC for an extension.

Once notified that construction is complete, the ARC will review your site to determine if further compliance is required. The POA Board reserves the right to impose sanctions

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including, but not limited to, fines for failure to complete construction within the 18-month period.

**Article 12I. Enforcement.** Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Developer or Corporation, Owners shall, at their own cost and expense, bring such construction, alteration or other work into conformity with this Article to the satisfaction of the Developer or Board or remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the construction, alteration, or other work. Should any Owner fail to remove and restore as required hereunder, the Developer or Association shall have the right to enter property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All cost, including attorney fees, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a Special Assessment pursuant to Article 7 hereof.

Any contractor, subcontractor, agent, employee, or other invitee of a Developer or Owner who fails to comply with the terms and provisions of this Article may be excluded by the Board from the Subdivision subject to any notice and hearing procedures contained in the By-Laws, if any. In such event, neither the Developer, the Corporation, its officers, nor directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the forgoing, the Developer or the Board of Directors shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Article, and to levy any daily fine or penalty in as much as by law allowed and as provided for in the Bylaws.

### **Article 16 - Variances and Adjustments of Restrictions**

The Board, at its discretion may allow reasonable variances and adjustments of these Restrictions in order to alleviate practical difficulties and hardship in their enforcement and operation. To be effective, a variance hereunder will be in writing and signed by the Board members. All variances will be drafted by the Pathways Property Owners Association's attorney, signed by the Pathways' president and secretary and the property owners, and recorded at the Henderson County Courthouse. The property/home owner(s) will bear the cost of preparing and recording variances.

Note: This section is the end of the covenant language that applies to the construction process.



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## **ADDITIONAL CONSTRUCTION GUIDANCE**

### **Contractors**

It is important that your contractor has experience building homes in the mountains. For that reason, your contractor must be properly licensed and insured, or will not be allowed to work in the Pathways. Self-contracting and self-building must be approved by the Board.

### **Fire Protection**

The Pathways is fortunate to have a substation of the Valley Hill Fire Department located within our neighborhood. The Fire Department is willing to visit your home, upon request to prepare a “PrePlan” which would facilitate their ability to respond to your home in the event of an emergency and could possibly offer advice in the design phase of your home.

### **Generators/Surge Protection**

Eventhough all power lines are buried in the Pathways, we experience occasional power outages, especially during ice and thunder storms. Having your essential electrical appliances and devices backed up with a generator and protected by a whole house surge protector is an important consideration. Please discuss this with your builder/contractor.

### **Moving Vans**

For the most part, the 50 foot plus moving vans cannot get out of the Pathways easily once they get in here. It is best to advise your moving company to plan to offload your household goods near the Gateway Drive entrance, or to use smaller vans to shuttle goods to your home.

### **Permits**

All projects, whether new construction, repairs or renovation, will adhere to state and local permitting requirements.

### **Radon Awareness**

Please be aware of the existence of radon in our area. This is an issue that you should discuss with your builder/contractor by incorporating protection into the design of your home.

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### Utilities

In the Pathways the following utility providers are available:

Sewer	Septic Only
<b>Water</b>	<b>City of Hendersonville Water Depart</b> (828) 697-3052 <a href="http://www.hendersonvillenc.gov/water-sew">www.hendersonvillenc.gov/water-sew</a>
<b>Electricity</b>	<b>Duke Energy</b> (800) 777-9898 <a href="http://www.duke-energy.com">www.duke-energy.com</a>
<b>Telephone/Internet</b>	<b>AT&amp;T</b> (800) 288-2020 <a href="http://www.att.com">www.att.com</a>
<b>Natural gas</b>	<b>Dominion Energy</b> (877) 776-2427 <a href="http://www.dominionenergy.com">www.dominionenergy.com</a>
<b>Cable TV/Internet</b>	<b>Optimum</b> (828) 692-3278 or (866) 347-4784 <a href="http://www.optimum.com">www.optimum.com</a>
<b>Satellite TV</b>	<b>DirecTV</b> (855.825.9765 <a href="http://www.att.com">www.att.com</a> <b>Dish</b> (833) 399-1865 <a href="http://www.dish.com">www.dish.com</a>
<b>Waste Removal</b>  You can also take your garbage and recycling to the Henderson County Convenience Center Stoney Mountain Rd. <a href="http://www.hendersoncountync.org/engineering/solidwaste/recycling.html">www.hendersoncountync.org/engineering/solidwaste/recycling.html</a>	<b>McMinn Waste Removal</b> (828) 890-8151 <a href="http://www.mcminnwaste.com">www.mcminnwaste.com</a>

These guidelines apply to new construction as well as to changes after construction is complete.

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If at any time, you wish to discuss these guidelines or have any questions during your build, please feel free to contact any of the members of the Board or Architectural Resource Committee.

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(Signature of Property Owner) (Date)

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(Signature of General Contractor) (Date)

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(Signature of ARC Member) (Date)

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(Signature of Pathways Board Member) (Date)

## Revision History

April 2024	At the Board's request merged applicable covenants and architectural review information into a single document. Updated the exterior materials requirement to include high quality metal garage doors. Included a series of Notes, listed with the appropriate covenant article, clarifying the requirement.
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## Pathways of Solomon Jones New Construction Checklist

Lot No. \_\_\_\_\_

Address \_\_\_\_\_

Owner \_\_\_\_\_ Contact No \_\_\_\_\_

Contractor \_\_\_\_\_ Contact No \_\_\_\_\_

Landscaper \_\_\_\_\_ Contact No \_\_\_\_\_

### Architectural

	Comments/Exceptions
<input type="checkbox"/> Site Plan	
<input type="checkbox"/> Setbacks (R40)	
<input type="checkbox"/> Exterior Elevations	
<input type="checkbox"/> Exterior Finish Materials and Fixtures	
<input type="checkbox"/> Color Schedules and Product Samples	
<input type="checkbox"/> Construction Materials and Quality	
<input type="checkbox"/> Driveway Material and Measurements	
<input type="checkbox"/> Parking Area	
<input type="checkbox"/> Height	
<input type="checkbox"/> Main Floor Sq. Ft.	
<input type="checkbox"/> Total Sq. Ft.	
<input type="checkbox"/> Guest House Sq. Ft.	
<input type="checkbox"/> Garage Area	
<input type="checkbox"/> Screening of Objectionable Items	
<input type="checkbox"/> Utility Connections	
<input type="checkbox"/> Outside Recreation – Pools/Tennis Courts	
<input type="checkbox"/> Outside Antenna	
<input type="checkbox"/> Signage	
<input type="checkbox"/> Exterior Lighting	
<input type="checkbox"/> Appurtenances on Roof	
<input type="checkbox"/> Fuel, Water, etc. Tanks	
<input type="checkbox"/> Fencing	
<input type="checkbox"/> Erosion Plan	
<input type="checkbox"/> Drainage Plan	
<input type="checkbox"/> Silt Fencing	
<input type="checkbox"/> Culverts	

## Landscaping

	Comments/Exceptions
<input type="checkbox"/> Landscape Statement	
<input type="checkbox"/> Landscape Plan	
<input type="checkbox"/> Lot and Tree Clearing	
<input type="checkbox"/> Right of Way/Utility Repairs	
<input type="checkbox"/> Easements	
<input type="checkbox"/> Grading Plan	
<input type="checkbox"/> Drainage	

## Roads

	Comments/Exceptions
<input type="checkbox"/> Right of Way Preparation	
<input type="checkbox"/> Dumpster Location	
<input type="checkbox"/> Port-o-Pot Location	
<input type="checkbox"/> Contractor Parking Plan	
<input type="checkbox"/> Mailbox Placement	
<input type="checkbox"/> Driveway Entrance Posts/Lighting	
<input type="checkbox"/> Greenway Setbacks/Easements	