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December 7, 2009

VIA E-MAIL

Susan A. Bonilla, Chair of the County Board of Supervisors, and
Members of the County Board of Supervisors
651 Pine Street
Room 107
Martinez, CA 94553

Re: Board of Supervisors Meeting of Tuesday, December 8, 2009
Agenda Item D.4 - Appeal of SRVRPC Decision Regarding Deck at
Singh Residence, 101 Wild Oak Court, Danville
(Our File # SISV 48409)

Dear Chair Bonilla and Members of the Board of Supervisors:

This office represents appellants Mr. and Mrs. Singh regarding the above-referenced matter. First, this letter respectfully reiterates our ongoing requests to continue the December 8th hearing. As explained herein, we believe the continuance is warranted by (1) my recent retention on November 17th, (2) the Singh's recent modifications to the deck which keep it inside their easement, (3) our ongoing efforts and commitment to engage in binding arbitration or other settlement dialogue with the Blackhawk HOA ("HOA"), and (4) the fact that after County staff informed the Singh's that their application must proceed as a request for a Final Development Plan ("FDP") modification, we have learned that the County's policy and practice has been to resolve these matters via Lot Line Adjustments, which do not necessarily seem to include FDP modifications.

Second, if the Board were to deny the continuance request and conduct a public hearing, this letter explains why the Appeal (and the underlying application) should be granted (preferably as a Lot Line Adjustment, as per past practice and policy), subject to certain conditions and/or modifications intended to address the County's and HOA's legitimate concerns.

In sum, we are willing to be very reasonable and flexible in making modifications to the deck – to meet the parties' concerns, and would much prefer opportunities to fully analyze the issues and seek an amicable resolution, and avoid further delays and/or adversarial proceedings.

Speaker Dan Muller
D. 4
12-8-09

I. A Continuance Is Warranted By The Singh's Recent Retention Of New Counsel, Their Recent Modification Of The Deck, Their Ongoing Requests To Arbitrate With The HOA, And The Ability To Resolve This Matter Via A Lot Line Adjustment Consistent With What We Understand To Be The County's Policies, Practices, And Procedures

A. The Singh's Recent Involvement Of New Counsel

As noted in my communications to Mr. Avila on November 9th (see **Attachment 1**), I only became aware of this matter on Friday November 6th. I continue to believe this matter presents complex issues (involving three parties) that warrant ample consideration, analysis, and dialogue prior to any final County decision.

While my clients and I greatly appreciated the continuance from November 10th to December 8th, the new date continues to involve challenges which prevent meaningful dialogue and analysis. For reasons beyond the Singh's control, our office could not be retained until Tuesday November 17th, and I was out of the office every day the following week (Thanksgiving week). Thus, while I have been diligently working on this matter, under the circumstances it seems manifestly reasonable to allow the Singh's (and the County staff and HOA) more time prior to a final Board decision for the Singh's new land use counsel to assist them.

In particular, whether or not the HOA agrees to join us in binding arbitration (discussed below), I would like to be allowed a reasonable period of time to collect information and review documents at the HOA and at the County, relating to the County's policies and practices of approving "incursions" into open space via Lot Line Adjustments. To date, my incomplete and preliminary research into the issue suggests that – contrary to the letter of the HOA's counsel dated November 17, 2008 – the County has traditionally, including in the recent past, approved Lot Line Adjustments in situations like this without always requiring or approving FDP modifications. It has not seem to have adopted any formal policy that disallows Lot Line Adjustments, or that only allows them in tandem with or via a FDP modification. I have recently made inquiries of Mr. Avila to obtain such information from the County, and he has kindly sent some documents, including up to the time of this letter's drafting. I hope to review that material, and ascertain if, as I suspect, there is more needing review.

B. The Singh's Recent Modification Of The Deck

Within the last ten days, the Singh's removed a few feet of the deck's perimeter, so that it no longer extends outside the easement. This recent development resulted from reviewing portions of the Staff Report (dated October 21, 2009) relevant to this issue, including: "The (Singh's) current site plan shows that most of the existing deck is contained within the boundaries of the 2000 landscape easement, but portions of the deck extend beyond the easement boundary." As shown in **Attachment 2**, the Singh's have had a surveyor confirm the deck no longer extends outside the easement. Thus, we hope this demonstrates my office's and the Singh's "good faith" willingness to remove impediments and do whatever we reasonably can to resolve this unfortunate situation.

This also seems to render moot one of the Appeal's more fundamental or problematic issues, which the Staff Report seems to call out as one of the main reasons for recommending denial. The Singh's are no longer seeking to retain their deck as it was originally constructed, but only as recently modified - entirely within the easement. As noted above, this change occurred relatively soon after I was retained, and about ten days or two weeks after Mr. Avila contacted me on November 18th when he was about to finalize his draft of the "supplemental" Staff Report for this hearing. This change is so "new" that it is not addressed in the supplemental Staff Report, but it could well affect Staff's recommendations to the Board. In any case, it seems clear that both Staff and the Board should be allowed reasonable time to evaluate such recent, key changes made to try to reduce the scope of this dispute.

C. The Benefits of Seeking A Singh/HOA Resolution Before Spending More County Time And Resources

The main reason for letting (or perhaps demanding or highly encouraging) the Singh's and HOA engage in binding arbitration prior to any County final decision is that in some respects they seem to have the most stake in the outcome, and should be allowed to work out a resolution.

When Mr. Avila called me on November 18th regarding the supplemental Staff Report, I informed him that the Singh's were pursuing binding arbitration with the HOA; and that we hoped the arbitration process could be conducted *prior to* and *warranted a continuance of* any further County hearings on the Appeal. Although Mr. Avila and I did not get into much detail, I said I thought there were logical reasons to try to have the Singh's and HOA resolve their dispute first, and only bring the result to the County thereafter, if necessary. I was thankful Mr. Avila had given me the opportunity to provide input, and that he was agreeable that the supplemental Staff Report would note our efforts to pursue binding arbitration with the HOA. He was unsure if he would mention our belief that it warrants a continuance. After my telephone discussions with Mr. Avila on November 18th, I sent him an e-mail confirming my comments and thoughts, and specifically requesting a continuance of the December 8th hearing. (See **Attachment 3.**)

The most important reasons for seeking to have the HOA and Singh's resolve their quarrel *before* the County spends more time or resources on the Appeal is that (1) this is a dispute mainly involving their interests, and (2) it has a better chance of ending all three parties' disputes forever, or at least truncating and limiting what the County is asked to decide. In arbitration, an outcome requiring removal of the deck would moot the Appeal and end the dispute since arbitrations generally cannot be appealed. If before or during the arbitration the Singh's and the HOA reached a settlement, it would presumably change the posture or substance of the current Appeal (e.g., it would likely reduce the size of the deck, and presumably reduce or eliminate any public opposition since the main protagonist will have settled). The only arbitration outcome which seems to preserve the relevance of the current Appeal is a Singh "win".

By contrast, an ostensibly "final" County decision rendered now seems to have very little chance of "finally resolving" the disputes. The HOA has stated it intends to sue

the Singh's if the County grants the Appeal, and the Singh's will be in a similar position if the Appeal is denied. Even if the Singh's prevailed in court, they'd end up facing litigation filed by the HOA.

(Frankly, it appears that the HOA is seeking to have the County take the laboring oar in achieving an outcome in which the HOA has the most interest.)

Another peculiar aspect of this dispute that could be resolved by a Singh-HOA arbitration is that - according to the Staff Report - the HOA must sign onto the Singh's FDP modification application - perhaps because it is the fee title owner of the land under the Singh's easement. The Staff Report does not contain any citations to supporting authority, and we seriously question the accuracy of this interpretation of "who must be included as an applicant". As noted above, we think this interpretation incorrectly assumes the Singh's *only recourse* was to file an application for an FDP modification (as they were led to believe by staff). But, as discussed further below in the "equal protection" discussion, we think the County must allow the Singh's to rectify this matter via a Lot Line Adjustment, as has been done in dozens of very similar situations. This issue of "who needs to sign an application" would presumably "go away" if the Singh's and HOA reached a binding settlement or arbitration.

While the above is intended to show the wisdom of letting the Singh's and HOA work out their differences first, whether it will happen remains a work in progress. On November 21st, I sent the HOA's counsel, Mr. Weil, an e-mail (copied to Mr. Avila) reiterating our prior requests and/or demands that the HOA arbitrate this dispute. (**Attachment 4.**) To date, the HOA has resisted our invitations and/or demands. Among other things, the HOA's counsel seems to contend the underlying HOA documents and the law do not require the HOA to engage in arbitration. They also claim - somewhat surprisingly - that the HOA's and the County's concerns are completely unrelated.

However, we are still pursuing arbitration and believe it has both legal and practical merit. As to whether the HOA must participate in arbitration, at least one of the CC&R documents governing the parties' conduct contains mandatory arbitration procedures. (Noted in **Attachment 4.**)

Additionally, California Civil Code § 1369.510 et seq. strongly encourages parties in HOA-related disputes to pursue ADR and penalizes those who unreasonably refuse. In part, the law states: "An association or an owner or a member of a common interest development *may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article.*" (Emphasis added; Civ. Code § 1369.520(a)) The provision applies to situations like this, involving enforcement actions solely for *declaratory, injunctive, or writ relief*, or for that relief in conjunction with a claim for monetary damages not exceeding the limits in small claims court actions (\$7,500.00). (Civ. Code § 1369.520(b).) Any party to a dispute may initiate the process required by serving on all other parties to the dispute a Request for Resolution, containing a brief description of the dispute, a request for alternative dispute resolution, and a notice that the party receiving the Request for Resolution is required to respond

within 30 days of receipt or the request will be deemed rejected. A party on whom a Request is served has 30 days following service to accept or reject it. If a party does not accept the Request within that period, it is deemed rejected by the party. (Civ. Code § 1369.530.) If the party accepts the Request, the parties shall complete the ADR procedure within 90 days after the acceptance, unless the period is extended by both parties. (Civ. Code § 1369.540.) Finally, in an enforcement action in which fees and costs may be awarded, the court, in determining the amount of the award, may consider whether a party's refusal to participate in ADR prior to the lawsuit was reasonable. (Civ. Code § 1369.580.) Thus, we feel that either the governing documents require the HOA to engage in ADR with us, or that it is their duty to do so, in order to comport with the strong policies encouraging ADR, and avoid exposure to attorneys fees in any subsequent litigation. We sent the HOA a "demand" for arbitration several weeks ago, and can and will supplement it, if allowed by a continuance, to include whatever else is warranted to satisfy the statutory contents of a Request for Resolution.

From a practical standpoint, as noted above, we believe the County's process would be positively impacted by most of the outcomes arising from a Singh-HOA arbitration or settlement, and a near-term County decision is only likely to perpetuate the disputes. It could avoid potentially unnecessary additional expenditures of the County's valuable time and limited resources. Thus, in addition to the other reasons for a continuance noted above, we believe even the plausible prospect of arbitration is another justification.

D. Consistent With The County's Past Practices And Policies, This Matter Should Be Resolved Via A Lot Line Adjustment

We have obtained numerous examples from the County's records showing that in situations like this, involving incursions into "open space" or "landscape easements" at Blackhawk, the County has historically resolved them via Lot Line Adjustments. While many of the examples date back to the 1980's when Blackhawk was originally approved, others occurred in the 1990's, and some have occurred even as recently as in 2001 and 2002 (see **Attachments 5 and 6**). As noted above, we are still seeking information regarding further examples during the past several years, and wish to have that information for analysis, and inclusion "in the record" prior to any final County decision on this matter. For example, while the Blackhawk County Club letter from March 2001 suggests that the subject Lot Line Adjustment would require an FDP modification, the County's letter from June 2002 (approving what may be the same Lot Line Adjustment mentioned in the March 2001 letter) does not mention any FDP modification having been made or required by the County. To date, there appears to be little or no substantial evidence to the contrary, i.e., no evidence supporting the Staff Report's contention that only a FDP, and not a Lot Line Adjustment, can be used to rectify the situation of the Singh's deck being located in a landscape easement. Again, although our records may be incomplete, and we are interested in having "full information" on this important issue, the example from 2002 (**Attachment 6**) does not appear to involve any FDP modification. Additionally, the letter of November 17, 2008 from the HOA's counsel seems to readily admit that – as of the date of that letter - Lot Line Adjustments were still

being processed and approved by the County. In sum, there does not seem to be any formal "policy" requiring any and all such situations to be processed as a FDP modification, standing alone, nor that in this case a Lot Line Adjustment is contrary to what appears to be the historic County policy and practice.

In conclusion, as to the continuance, we believe there are numerous sound reasons for granting further time to allow the above issues to be resolved as expeditiously as possible before any final County determination. However, if the matter is to be decided at the hearing tomorrow, the following is intended to explain why the Singh's Appeal should be granted, with certain conditions or caveats designed to protect the parties' interests – to implement sound land use planning while also protecting landowners' legitimate, constitutional rights regarding property, due process, and equal protection.

II. If The Board Elects To Consider The Appeal "On The Merits", It Should Grant It With Conditions That Provide A Compromise Between – And Meet - The Parties' Legitimate Interests

For the reasons noted below, we believe that if the Board decides to hear and decide this matter at its scheduled hearing, it cannot legally deny the Appeal or require an FDP modification that is not in conformity with prior custom and practice, but rather the Board should approve the Appeal *with conditions* that are crafted to resolve most of the parties' important concerns. Notably, the HOA seems to be claiming – or has at least told us during our various talks - that even if the deck was *not* in an easement area, and was instead entirely on the Singh's own parcel, the HOA would *not have approved it in the size and shape it was built*. While the Singh's drawings provided as part of the ARC application apparently showed a deck that was slightly different in shape than what they ultimately built, the two were very similar in terms of overall size, square footage, and height. The HOA's claims are thus contradicted by the fact that when the Singh's presented their application to the ARC, not knowing the deck was in a controversial easement area, the ARC approved the deck *without imposing any "conditions" whatsoever*.

Nevertheless, the Singh's have continually told the HOA they are ready and willing to make reasonable changes to the deck, such as installing plantings to screen its façade and/or its railings, lowering its height or otherwise reducing its size, and related design changes. They have presented drawings to the HOA to that effect (see reduced height of deck and reduced footprint or square footage, in **Attachment 7**). These are the types of conditions the HOA seems to now seek (while admittedly also preferring the deck removed *in toto*), but did not even suggest during the ARC's approval in mid-2006. These types of accommodations could be proposed or requested by the County as part of this process – would presumably go far toward addressing the County's and HOA's legitimate concerns, without causing the Singh's additional undue hardship or prejudice. It is such conditional approval that should be considered, rather than a black or white decision that only perpetuates the parties' dissatisfaction.

**A. The County Is Estopped From Requiring Removal Of The Deck,
Because The County Issued Permits For Its Construction And
Authorized The Deck's Final Completion After The Issue Regarding
The Easement Was Discovered**

Pursuant to the legal doctrine of "estoppel", public agencies cannot later seek to "take back" land use entitlements they have granted. Estoppel may be validly asserted as a defense to code enforcement and related actions. (See *San Diego County v. Cal. Water & Telephone Co.* (1947) 30 Cal.2d 817, 826.) For a court to apply estoppel, the following elements apply: (1) the municipality must have knowledge of the facts; (2) the municipality must intend or create reasonable belief that its actions will be relied upon, (3) the party asserting estoppel must not have knowledge of the true facts; (4) the party asserting estoppel detrimentally relies on the municipality's actions; and (5) the injury to the party asserting estoppel is greater than the injury to the public if the municipality is estopped. (*La Canada Flintridge Development Corp. v. Dept. of Transportation* (1985) 166 Cal.App.3d 206, 219.)

Here, it seems that all agree the Singh's applied for and received a County building permit for the deck's construction in January 2007. This occurred after the approval in July 2006 of the HOA's architectural review committee (ARC"). No one disputes that during both the ARC and County approval processes, *the Singh's innocently did not know* they were proposing construction in an "easement" area. They reasonably believed — due to the fence that surrounded their entire "backyard" — that the proposed deck was located within their own "parcel" that they owned "in fee".

As I noted in my letter to Mr. Avila of November 9th, this is one of the key reasons we believe this matter warrants careful, deliberate, and fair resolution. My clients continue to agonize over what appears to be a series of unfortunate errors each step along the path to obtaining approval for the deck's construction, e.g., at the ARC, the County, their own contractor (who apparently couldn't obtain a parcel map as he usually does at the County's offices, and prepared drawings that seem to have perpetuated the confusion), as well as the Singh's own misunderstanding as to their property lines.

It was only after the permit was issued, and the construction was well under way and the work had passed several building inspections, that all were able to review a survey commissioned by the Singh's. As they had during the whole process, the Singh's had dutifully complied with the permitting requests by arranging and paying for the survey. Upon seeing the survey, when the deck was nearly finished, it became apparent the construction was in an easement.

Somewhat surprisingly, the Staff Report claims that at this juncture (allegedly upon discovering the "misrepresentation" in the permit plans), the County building inspectors told the Singh's that they must either remove the deck, obtain zoning clearance based on corrected plot plans, or (if the deck was disallowed) seek

approval via a development permit, if allowed by planning staff. The Staff Report states that if the Singh's sought approvals, "pending a final decision... the inspector advised the owner that he would allow the deck to remain in place during the ... application only if improvements were made to eliminate any hazard associated with its uncompleted condition... [and] he would allow the floor boards on the deck to be installed to mitigate the risk but that the entirety of the deck would have to be removed if the ... permit were not granted."

However, we contend such is not accurate, and is implausible. Rather, both the Singh's and their contractor (Mr. Anderson, of Decks Plus) distinctly recall that the inspector *did not* mention any health and safety concerns arising from the unfinished status of the deck. They specifically recall that the inspector explicitly authorized them – without any commentary or description of concerns about safety – to finish the deck by installing the horizontal planks. Nor did the inspector say anything regarding the further work being subject to subsequent decisions or removal. Rather, the inspector's conduct and statements demonstrated he felt it was "too late" and/or the construction warranted completion. (Also, it bears noting that as to rear-yard set backs, the inspector had expressly told the Singh's none applied in this situation.)

The Staff Report's explanation about "why or how" the deck was authorized to be completed also seems implausible because it does not appear logical that hazards would likely arise from leaving a deck unfinished (e.g., there were no floor boards affixed creating any risk of stepping off them). And, if safety concerns were indeed relevant (and none were mentioned to the Singh's or their contractor), it stands to reason, if anything, the inspector would have most likely required a temporary fence erected to prevent access, rather than allowing completion at a cost to the owners of several tens of thousands of dollars – and supposedly subject to potential demolition. Finally, if it were true that any of these alleged statements or conditions regarding completing the deck were related to the Singh's, they clearly would not have completed the deck, and would have waited to see the outcome of the further processes they were allegedly told to pursue.

Given these circumstances, where the Singh's did not know the deck was being constructed in a controversial area, and the County allowed the construction and completion of the deck, the County should be estopped from demanding its removal. The agency action in question is the County's issuance of a building permit to build a deck on land zoned as open space, with development rights deeded to the County, and also encumbered by a landscape easement in the Singh's favor. Courts have held that estoppel applies when a municipality issues a building permit and the landowner completes substantial work in reliance of that permit, and the municipality subsequently attempts to revoke the permit. (*Congregation Etz Chaim v. City of Los Angeles* (9th Cir. 2004) 371 F.3d 1122, 1124-1125.)

The County had knowledge of the facts throughout; it had access to recorded documents showing the boundaries between the Singh's property, the easement, and the open space. Additionally, the County building inspectors demonstrated that

they knew the deck was on the easement after construction was nearly complete. The municipality intended for the Singh's to build their deck, or else it would not have issued a building permit. (See *ibid.*) The Singh's did not have knowledge that their deck was going to occupy an easement or open space. The County's permit caused the Singh's to reasonably rely on the permit and thus to expend money on constructing the deck. (See *Penn-Co v. Board of Supervisors* (1984) 158 Cal.App.3d 1072, 1081.) Finally, while there is generally a valid public interest in enforcing zoning laws, courts have held that there is no substantial injury to the public when the zoning laws have been interpreted as allowing the improvements in question. (Cf. *Pettitt v. Fresno* (1973) 34 Cal.App.3d 813, 822.) Here, the County has a long history of granting Lot Line Adjustments for residents in the Blackhawk community who end up using previously designated open space areas for their own enjoyment, sometimes later obtaining after-the-fact approvals which the County administratively granted. If there was a substantial injury to the public caused by the County's practice or interpretations of its ordinances, the practices and interpretations would not have been implemented in the first place.

At the very least, the above estoppel principles and facts seem to present many issues of law and fact, which are best considered and resolved by further discussions between the parties, rather than by otherwise unnecessary formal proceedings.

B. To The Extent The Deck Is Deemed To Require Some Form Of County Approval, Constitutional Equal Protection And Substantial Evidence Principles Require The County To Allow The Singh's To Pursue A Lot Line Adjustment, As It Has Previously Allowed In Similar Situations

Land use and building permit decision-making can create an equal protection violation when a class is "intentionally treated differently from others similarly situated and there is no rational basis for the difference in treatment." (*Village of Willowbrook v. Olech* (2000) 528 U.S. 562, 564.) There is no less protection when the class is only a class of one. (*Ibid.*) The critical factor is whether the government's treatment of the class is rationally related to a legitimate government interest. (*State Route 4 Bypass Authority v. Superior Court* (2007) 153 Cal.App.4th 1546, 1565.)

As the Singh's were apparently led to believe (after completing the deck and faced with the HOA's concerns), the Staff Report perpetuates the assumption that the *only* mechanism available is a FDP modification (and seems to downplay or ignore the County's past practices that do not involve such measures). As noted above, there are many examples, including some that are relatively recent, in which the County (and presumably the HOA) has allowed open space incursions to be addressed by Lot Line Adjustments, which were "administratively approved" and do not seem to involve FDP modifications. Under constitutional equal protection principles, and related principles that require decisions to be based on "substantial evidence" and prohibit "arbitrary and capricious" results, the County should allow the Singh's

adequate time to obtain and analyze the evidence of the County's current policies, rather than impose an apparently unsupported decision that seems to require the deck's removal without any opportunity to pursue a Lot Line Adjustment. To deny the Singh's such an opportunity, especially given the County's lack of evidence of any wrongdoing on the Singh's part, would be intentionally treating them differently than all of the other Blackhawk homeowners who were granted such opportunity in the past, violating the Singh's constitutional right to equal protection under the law.

III. Conclusion

For the foregoing reasons, we respectfully request that the Board continue the hearing on this matter, to allow the HOA and the Singh's to expeditiously work on a solution, via either settlement or binding arbitration, and to allow further discussion among the parties regarding the above-referenced legitimate concerns.

Alternatively, the admittedly complex nature of this matter seems to warrant a "conditional approval" along the lines noted above, involving reasonable design changes to address "normal" land use and aesthetic concerns.

Very truly yours,

MILLER STARR REGALIA



Daniel Muller

cc: Mr. and Mrs. Singh
Francisco Avila
Ryan Hernandez
Catherine Kutsuris
Steven Weil, Berding & Weil

ATTACHMENT 1

Daniel Muller

From: Daniel Muller
Sent: Monday, November 09, 2009 2:05 PM
To: Catherine Kutsuris (Catherine.Kutsuris@dcd.cccounty.us); 'francisco.avila@dcd.cccounty.us'
Cc: 'sweil@berding-weil.com'; Richard L. Beckman (rbeckman@bmdllp.com); Mary N. Piepho (dist3@bos.cccounty.us)
Subject: FW: Contra Costa County Board of Supervisors Tuesday, November 10, 2009 Meeting
Attachments: 110909 Letter to Francisco Avila.pdf

Mr. Avila and Ms. Kutsuris:

I wanted to correct a factual mistake in the attached letter I sent earlier today, regarding the Board hearing tomorrow on the Singhs' appeal. Specifically, my statement regarding when the Singhs received the County's Staff Report is incorrect. Instead of receiving it "two or three weeks ago...", they first saw it only two or three days ago - i.e., last Friday, November 6th. The County apparently sent it to an attorney (Mr. Richard Beckman) who had previously helped the Singhs' in this matter. Mr. Beckman received it last Thursday, but was court most of that day. He forwarded it to the Singhs at his earliest opportunity last Friday morning, after which they initiated contact with me. Thus, the Singhs have only had one or two business days to review and try to react to the Staff Report. Under these short timelines, it seems that asking for a continuance is the only plausible thing for the Singhs to do, as it's virtually impossible to seek to analyze and address the merits of these issues.

Thank you,
Dan

Daniel A. Muller | Miller Starr Regalia

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From: Michelle Johnson
Sent: Monday, November 09, 2009 11:46 AM
To: 'Sandy Singh (sandy@tekforcecorp.com)'; 'catherine.kutsuris@dcd.cccounty.us'; 'sweil@berding-weil.com'
Cc: Daniel Muller
Subject: Contra Costa County Board of Supervisors Tuesday, November 10, 2009 Meeting

Dear All:

Please see the attached correspondence from Mr. Muller with respect to the above-referenced matter.

Please feel free to contact me should you require any additional assistance or information. Thank you.

Michelle L. Johnson | Miller Starr Regalia

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12/3/2009



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November 9, 2009

VIA FACSIMILE

Mr. Francisco Avila
Contra Costa County Department of Conservation & Development
651 Pine Street
4th Floor, North Wing
Martinez, CA 94553

Re: **Contra Costa County Board of Supervisors Meeting of
Tuesday, November 10, 2009**
**Agenda Item D.1 - Hearing on an Appeal Filed by Mr. and Mrs. Singh of
the SRVRPC's Denial of a Blackhawk FDP Modification Request for a
Deck at 101 Wild Oak Court (County File #DP08-3051)**

Dear Mr. Avila:

This letter is a follow-up to Mr. Singh's recent communications requesting a short continuance of the above-referenced Board hearing. The Singhs recently contacted our office for assistance in this matter. While we do not yet represent them - and I cannot attend the Board hearing tomorrow afternoon due to a conflicting deposition in Oakland - we remain hopeful that we may be able to assist them in this matter after reviewing the voluminous Staff Report dated October 21st, which we only received last Friday.

I have only briefly discussed this matter with the Singhs and have only been able to skim portions of the Staff Report. However, it strikes me that a short continuance is warranted under the circumstances as I understand them.

First, while this matter has been wending its way through the process somewhat slowly and I have heard the Blackhawk HOA (and perhaps the County) wants this matter resolved now, it is admittedly difficult for lay people to fully understand the complex issues and jargon sometimes contained in staff reports involving land use matters. Here, the Singhs received the fairly lengthy Staff Report only two or three weeks ago, do not currently have land use counsel, and have had insufficient time to review the Staff Report and retain counsel. The complex issues seem to warrant thoughtful review, which cannot be conducted prior to tomorrow's Board meeting. I tend to believe the involvement of land use counsel on behalf of the Singhs could facilitate resolution of this unfortunate matter, which involves several concerned parties besides the County. My preliminary sense is that the Singhs appreciate the gravity of this situation - both for them and the other parties - and are reasonably motivated to discuss ways to resolve this matter as amicably as possible.

Second, although the "intent" of the landowners is but one factor, I strongly sense the events leading up to the Singhs' construction of the deck were fairly unusual, and moreover that the Singhs were not intending to do anything illegal or impermissible. I think at time of purchase, the pre-existing wrought iron fence around the backyard enclosed the entire area where the deck was built. I think the Singhs reasonably believed everything enclosed by the fence was part of their own residential lot, owned in fee title. It is unclear if they were given sufficient information (or were misinformed) about the existence of the easement or open space limitations.

Third, it appears the deck construction was done pursuant to a County-issued permit and the HOA's approval. While the Staff Report suggests the deck was not built in conformity with the application materials - or there were other "irregularities" contaminating the permitting - the facts on such points warrant further analysis and clarification, which only can be conducted under a continuance of the hearing.

In sum, the facts I've briefly reviewed demonstrate this was not one of the more troubling situations where a landowner purposefully decided to "game the system" by "asking forgiveness, rather than permission". The Singhs sought to obtain the requisite permission in advance, and did not know the HOA or County would later contend the deck was not allowed. They also sought to rectify things in a responsible manner as soon as problems surfaced.

Finally, while the deck is not insubstantial, it does not necessarily follow that the best solution is its destruction and removal. Building it cost many tens of thousands of dollars, and my understanding is that - in other cases where improvements were built into the adjoining open spaces - the encroached-upon areas have been purchased by the adjacent owner and incorporated into the lot by recording "boundary adjustments" or "lot line adjustments". While I suspect the HOA and County may not want to set a precedent of allowing such intrusions into open spaces, it seems some intrusions have been handled without requiring a Blackhawk FDP modification. Whether such a modification is truly necessary - as compared to what's been done in the past - warrants further analysis and discussion between the parties. This is true especially given that the Singhs bought the property with a fence enclosing the space in question, and were not trying to "sneak one by" anyone in building the deck within their fence.

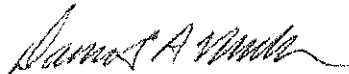
In conclusion, the above merely offers various initial thoughts providing support for a continuance, and is intended to respectfully reiterate the Singhs' prior requests to allow them (and their anticipated counsel) reasonable time to analyze the issues and afford the parties a short period to work toward resolution. From my preliminary review, it seems at least some of the "equities" weigh in favor of granting a short postponement prior to any final County decision.

Francisco Avila
November 9, 2009
Page 3

Thank you for your anticipated courtesy, and please feel free to contact me with any questions or comments regarding the above.

Very truly yours,

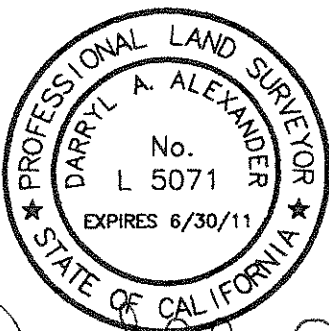
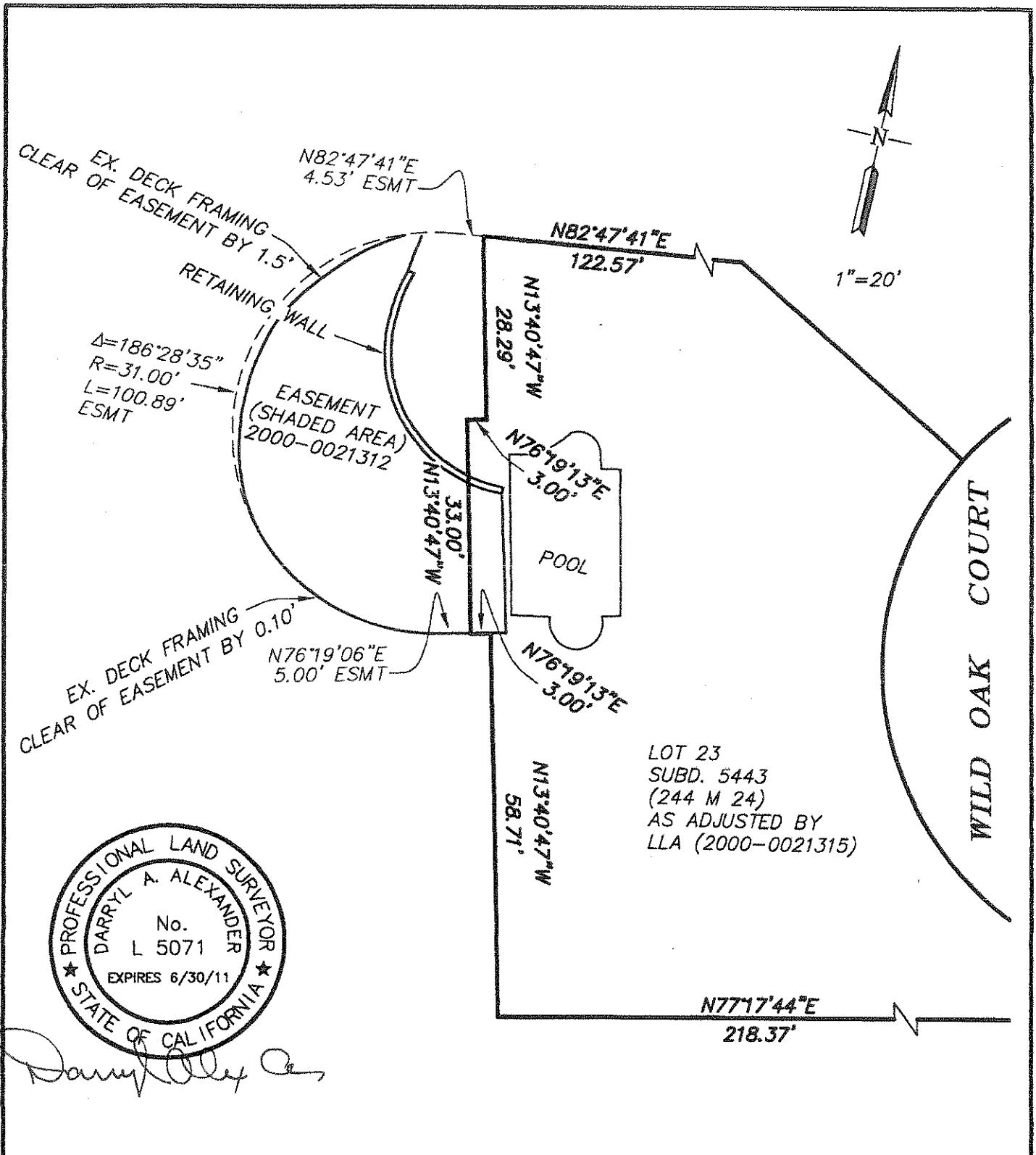
MILLER STARR REGALIA

A handwritten signature in cursive script, appearing to read "Daniel Muller", written in dark ink.

Daniel Muller

cc: Mr. and Mrs. Singh
Mary Piepho (County Supervisor, District III)
Catherine Kutsuris (Director, Department of Conservation & Development)
Steve Weil (Berding & Weil)

ATTACHMENT 2



Darryl Alexander

ALEXANDER & ASSOCIATES INC.
 SURVEYORS - PLANNERS - ENGINEERS
 147 OLD BERNAL AVENUE, SUITE 10
 PLEASANTON, CALIFORNIA
 (925) 462-2255 (925) 462-8092 FAX

**ASBUILT DECK
 SINGH RESIDENCE
 101 WILD OAK COURT
 BLACKHAWK**

JOB NO.:	09151
FILE NO.:	09151CAD
DATE:	DEC 2009
SHEET NUMBER:	TOTAL SHEETS:
1	1

ATTACHMENT 3

Daniel Muller

From: Daniel Muller
Sent: Wednesday, November 18, 2009 4:03 PM
To: 'Francisco Avila'
Subject: RE: Singh Deck Appeal, File #DP08-3051, Continued to the Tuesday, December 8, 2009 Meeting at 1:45 pm Board of Supervisor's Hearing...

Mr. Avila,

This is a follow-up to our phone discussions today regarding the above-referenced matter. Thank you for confirming that our last phone discussion a few minutes ago (in which I said basically what is stated herein) and presumably this e-mail, have arrived prior to your submittal of your (draft) updated or supplemental staff report on this matter.

This also confirms that - due to the inability of the parties (the Singhs and the HOA) to agree to informal resolution through meetings or mediation - the Singh's have authorized me, on their behalf, to demand that the dispute with the HOA be arbitrated, and to pursue the arbitration process toward final conclusion as soon as reasonably possible. I have asked the HOA to agree to arbitration, and if we cannot reach such agreement, we will be unilaterally demanding arbitration.

As we discussed, I would respectfully request that the above information - that arbitration will be happening - be reflected in any updated or supplemental staff report. Further, as I mentioned, I would respectfully request that the staff report also reflect or include our belief that the anticipated arbitration process should provide a reasonable basis or ground for continuing the Board of Supervisors hearing set for December 8th. In the interests of time I won't go into the reasoning or details in this message (but remain open to discussing it further), but basically we strongly feel that the arbitration outcome may well render moot - or at least materially affect - the Board's further or ultimate handling of this matter.

Thus, to be clear, we are hereby requesting that the Dec 8th Board hearing be continued due to the impending arbitration, and I would ask that you notify me if there is a form, process, or fee, for making such "continuance" requests.

Feel free to call me with any comments or questions regarding the above.

Thank you for your continuing courtesy.

-Dan

Daniel A. Muller | Miller Starr Regalia

1331 North California Boulevard, Fifth Floor, Walnut Creek, CA 94596

t: 925.935.9400 | d: 925.941.3257 | c: 925.818.9248 | f: 925.933.4126 | daniel.muller@msrlegal.com | www.msrlegal.com

From: Francisco Avila [<mailto:Francisco.Avila@dcd.cccounty.us>]

Sent: Thursday, November 12, 2009 10:39 AM

To: Daniel Muller

Cc: Richard L. Beckman (rbeckman@bmdllp.com); 'swell@berding-weil.com'; Aruna Bhat; Ryan A Hernandez; sandy@tekforcecorp.com; tbristol@savemountdiablo.org; natashaf@blackhawk-hoa.com; markg@blackhawk-hoa.com

Subject: Re: Singh Deck Appeal, File #DP08-3051, Continued to the Tuesday, December 8, 2009 Meeting at 1:45 pm Board of Supervisor's Hearing...

12/3/2009

Good Morning,

This message is to confirm that the Singh Deck Appeal, County File #DP08-3051, was continued to the December 8, 2009, Board of Supervisor's hearing at 1:45 pm.

Please call me directly if you have any questions or concerns, 925-335-1266.

Francisco Avila

Francisco Avila, Project Planner
DCD, Department of Conservation and Development,
651 Pine Street, NW4F
Martinez, CA 94553
925-335-1266
925-335-1222-fax

12/3/2009

ATTACHMENT 4

Daniel Muller

From: Daniel Muller
Sent: Saturday, November 21, 2009 8:10 PM
To: Steve Weil (sweil@berding-weil.com)
Cc: Francisco Avila (Francisco.Avila@dcd.cccounty.us)
Subject: Blackhawk HOA - Dispute re Singh Property

Steve,

As a follow up to our prior e-mails, and my e-mails and discussions a few days ago with Mr. Avila (who I've copied), this communication is intended to serve as the Singhs formal "demand" for arbitration - to resolve the decisions of the HOA and/or its Architectural Committee pertaining to the "deck issues" at the Singhs' property at 101 Wild Oak Ct. This demand is made pursuant to any and all arbitration rights of the Singhs under any governing documents, rules or laws, including but not limited to, Section 2.06 of the Supplemental Declaration of Covenants, Conditions and Restrictions for Portions of Subdivisions No. 5441 and 5443 Country Club at Blackhawk, recorded February 2, 1981, which states:

"Should there be any dispute over the jurisdiction or powers of the Architectural Committee or concerning any requirement, rule, regulation or decision of the Architectural Committee, such dispute shall be determined by arbitration upon the filing with the Architectural Committee, or with the American Arbitration Association, of a Demand for Arbitration by any Owner. [] The arbitration shall be conducted in Contra Costa County pursuant to Title 9 of the Code of Civil Procedure of the State of California, sections 1280, et seq., as amended from time to time, or pursuant to such successor statutes as are adopted by the Legislature of the State of California."

Let me know if this e-mail "demand" to you, as the HOA's counsel, can be deemed as having "filed" the demand with the Architectural Committee, and if it otherwise suffices to begin the requested arbitration proceedings.

Thank you,
Dan

Daniel A. Muller | Miller Starr Regalia

1331 North California Boulevard, Fifth Floor, Walnut Creek, CA 94596

t: 925.935.9400 | d: 925.941.3257 | c: 925.818.9248 | f: 925.933.4126 | daniel.muller@msrlegal.com | www.msrlegal.com

12/3/2009

ATTACHMENT 5



March 15, 2001

NOT 15
SUBSECTION 5440

Mr. Doug Brown
626 Blue Spruce
Danville, CA 94506

Re: Request for Lot Line Adjustment

Dear Mr. Brown:

You have requested the cooperation and assistance of Blackhawk Country Club (BHCC) in processing an application for a lot line adjustment where the Club would convey to you a certain amount of property to expand your backyard. Your request has been presented to the Board of Directors for consideration and was approved.

As you know, the County of Contra Costa Planning Department has changed their policies and procedures for handling these requests. In the past, they were handled in a purely administrative fashion. Now, in addition to requiring applications from you, they now require BHCC to apply for an Amendment of the Final Development Plan, a more formal procedure which includes formal notice to adjacent property owners, the right of the neighbors to object and a review of existing zoning restrictions. The County's position is that because the zoning for your home (residential) and the BHCC (PUD) are different, the more complicated procedure is required. This more involved process will also likely result in greater expense.

In consideration for getting the approval, you agree to the following conditions:

1. You agree to pay the price of \$10.00 (ten) per square foot of the land to be conveyed;
2. You agree to pay, at the time of presentment of your application to the County, any and all fees which BHCC will be obligated to pay to the County of Contra Costa in connection with the submission of the Club's application for an Amendment of the BHCC Final Development Plan. Please note that the form(s) must be filled out in the name of the BHCC and that the forms indicate the Club is obligated to pay the fees. BHCC will assist you in filling out the form(s) required to be submitted by BHCC, but it will be your obligation to complete and file them along with any other required documents (eg. diagrams, maps with dimensions, names of all neighbors within 300 feet, etc.) with the County Planning Department;

3. You agree to pay any and all fees required of you by Contra Costa County in connection with any application(s) you must submit in your name(s) in connection with this matter;

4. You agree to pay any and all expenses incurred by BHCC in connection with processing your application including, but not limited to, attorney's fees, recording fees, engineering fees, survey fees, transfer taxes, and any other fees or expenses related to or arising out of this transaction.

In order for the Club to move forward on this matter, please date, sign and return to me this letter indicating your agreement to be bound to the commitments set forth in paragraphs 1-4, above.

Please call if you have any questions.

Very truly yours,



Jurgen Gross, CCM
General Manager

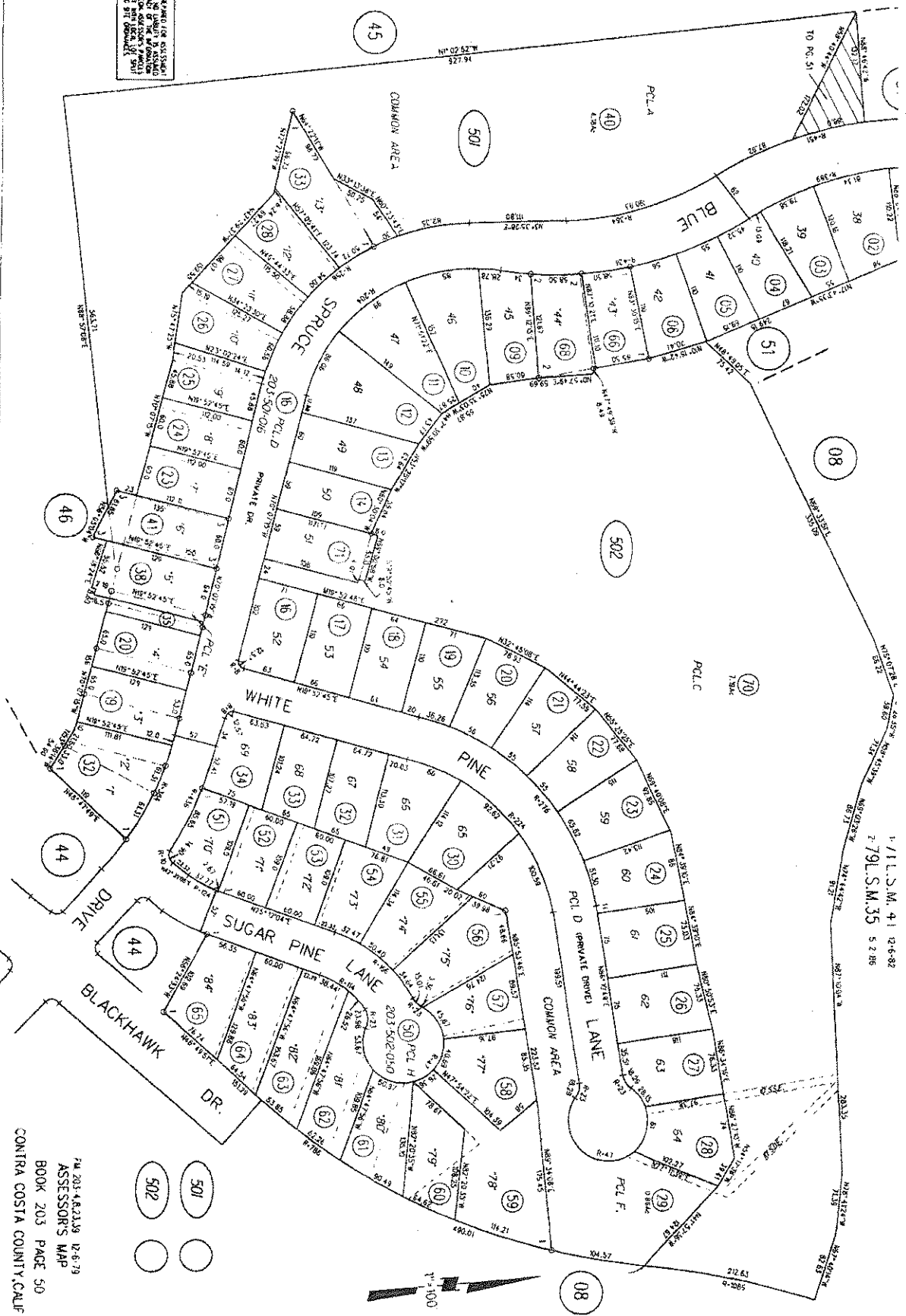
I/We have read and understand the obligations set forth above, and by signing below, I/We agree to these terms.

Date: 6-20-01



Date: _____

NOTE: THIS MAP WAS PREPARED FOR THE ASSessor's OFFICE BY THE COUNTY OF CONTRA COSTA, CALIF. AND IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE COUNTY OF CONTRA COSTA, CALIF. IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE COUNTY OF CONTRA COSTA, CALIF. IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS.



ATTACHMENT 6

Community
Development
Department

County Administration Building
651 Pine Street
4th Floor, North Wing
Martinez, California 94553-0095

Phone: (925) 335-1360

Contra
Costa
County



Dennis M. Barry, AICP
Community Development Director

June 13, 2002

Douglas & Sandra Brown
626 Blue Spruce Dr.
Danville, CA 94506

Dear Douglas & Sandra Brown:

We have reviewed your request of May 6, 2002, regarding tax parcels 203-502-015 & 069.

Your requested lot line adjustment does not constitute a subdivision of land, and is consistent with the zoning and building ordinances. Therefore, this is to advise you that the request is administratively approved subject to the following requirements:

1. This approval is valid for a period of six months from the date of this letter.
2. Grant deeds must be recorded to implement the property exchange.
3. Concurrent with the grant deed record the attached deed restriction.
4. The property being transferred shall be combined with the receiving parcel to form one parcel for tax assessment purposes.
5. Provide the Community Development Department with a copy of the recorded documents.

If you have any further questions regarding this matter, please contact me at 925-335-1360.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna Allen".
Donna Allen
Senior Planner

DA/dls

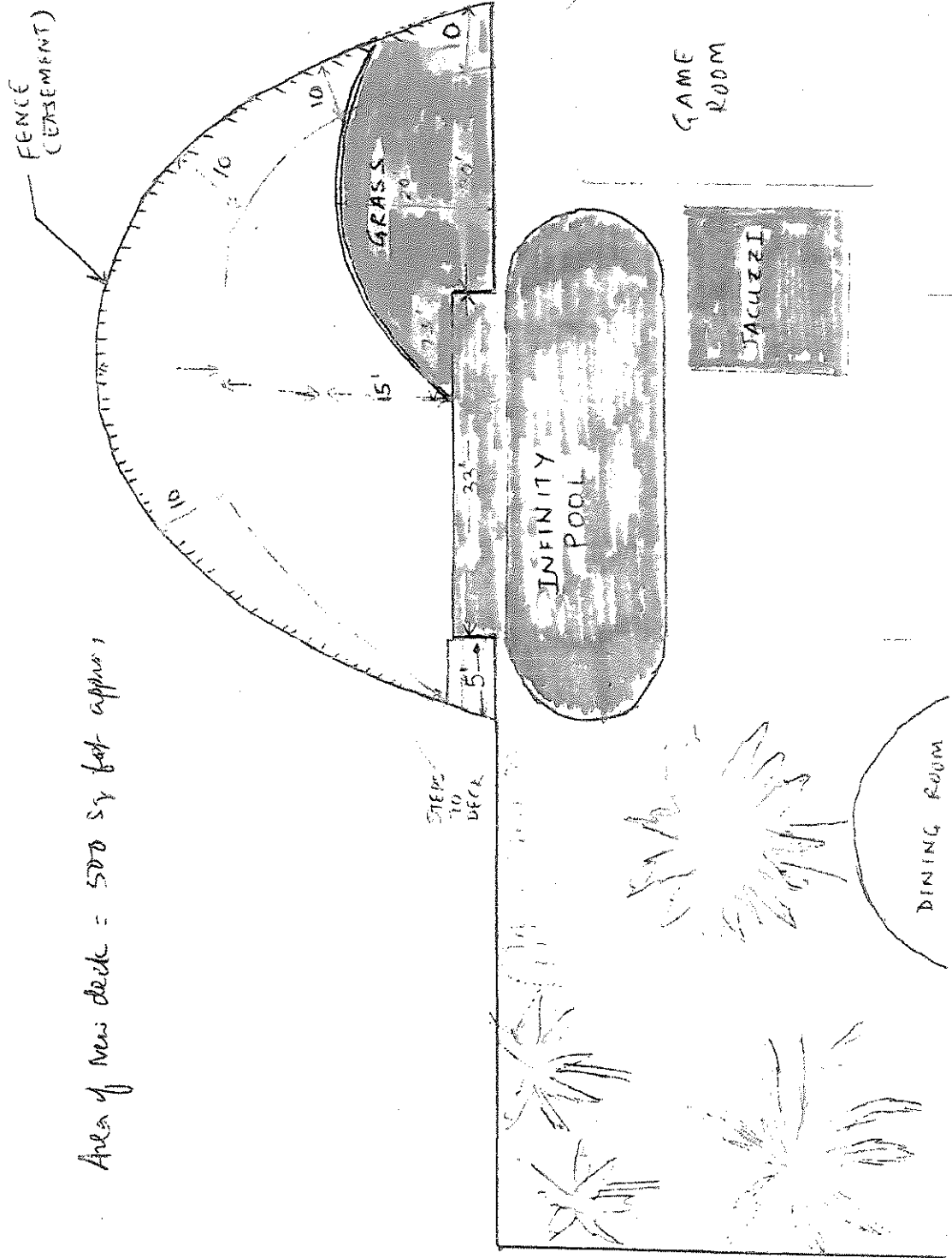
cc: LL 02-0030

Office Hours Monday - Friday: 8:00 a.m. - 5:00 p.m.
Office is closed the 1st, 3rd & 5th Fridays of each month.

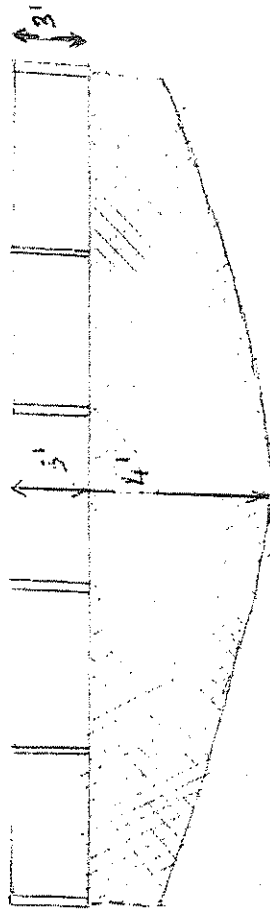
ATTACHMENT 7

NEW PROPOSED DECK

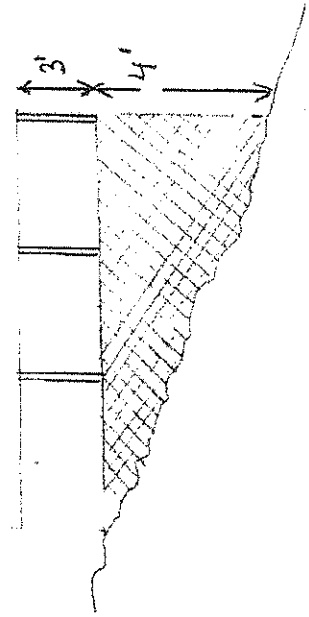
Area of new deck = 500 sq foot approx.



NEW ELEVATION



HILLSIDE
ELEVATION
VIEW



SIDE VIEW
ELEVATION

Submitted by Appellant Singh D 4



Please keep
signed approval
with property files
for disclosure
purpose when
selling house

4125 Blackhawk Plaza Circle, Suite 230 • Danville, California 94506
Telephone: (925) 736-6440 • Fax: (925) 736-0428

DO NOT START
PROJECT BEFORE
RECEIVING THIS
FORM WITH SIGNED
APPROVAL

Architectural Review Committee

ARCHITECTURAL REVIEW APPLICATION TO BE ATTACHED TO PLANS

Date submitted: _____ by: Contractor/Owner: _____ Tract/Lot # _____

Address of Project Site: 101 Wild Oak Ct, Danville, CA 94506

Type of Work (please be BRIEF AND SPECIFIC AND check off appropriate items on backpage):

Build a wooden deck in the backyard

Attach a separate sheet if further explanation is needed.

Project Start Date: 6/20/06 within 90 days of Date of Approval

Homeowner: SANDY & VINNY SINGH Homeowner Phone: 648-7275

Address (if different from location of work): _____

Contractor (if known): _____ Contractor Phone: _____

For Office Use: Date Plans Submitted: 6/26/06 Sub-Association ARC Approval (if applicable) Attached: _____

Number of Copies of Plans Received: 1 by ? Scheduled for Review at meeting on: 7/5/06

Time of Appointment (if necessary): _____ Construction Deposit if required: _____

NOTIFICATION OF ARCHITECTURAL COMMITTEE DECISION

The application and/or submittal made to the Architectural Committee on _____, 20____, by the above-named applicant for permission to carry out the type of work as described above under *Type of Work*, as shown on the plans and specifications approved and signed by the Architectural Review Committee, and as checked off on the back of this application, is hereby:

☒ APPROVED. This approval is valid for ninety (90) days from the date indicated below.

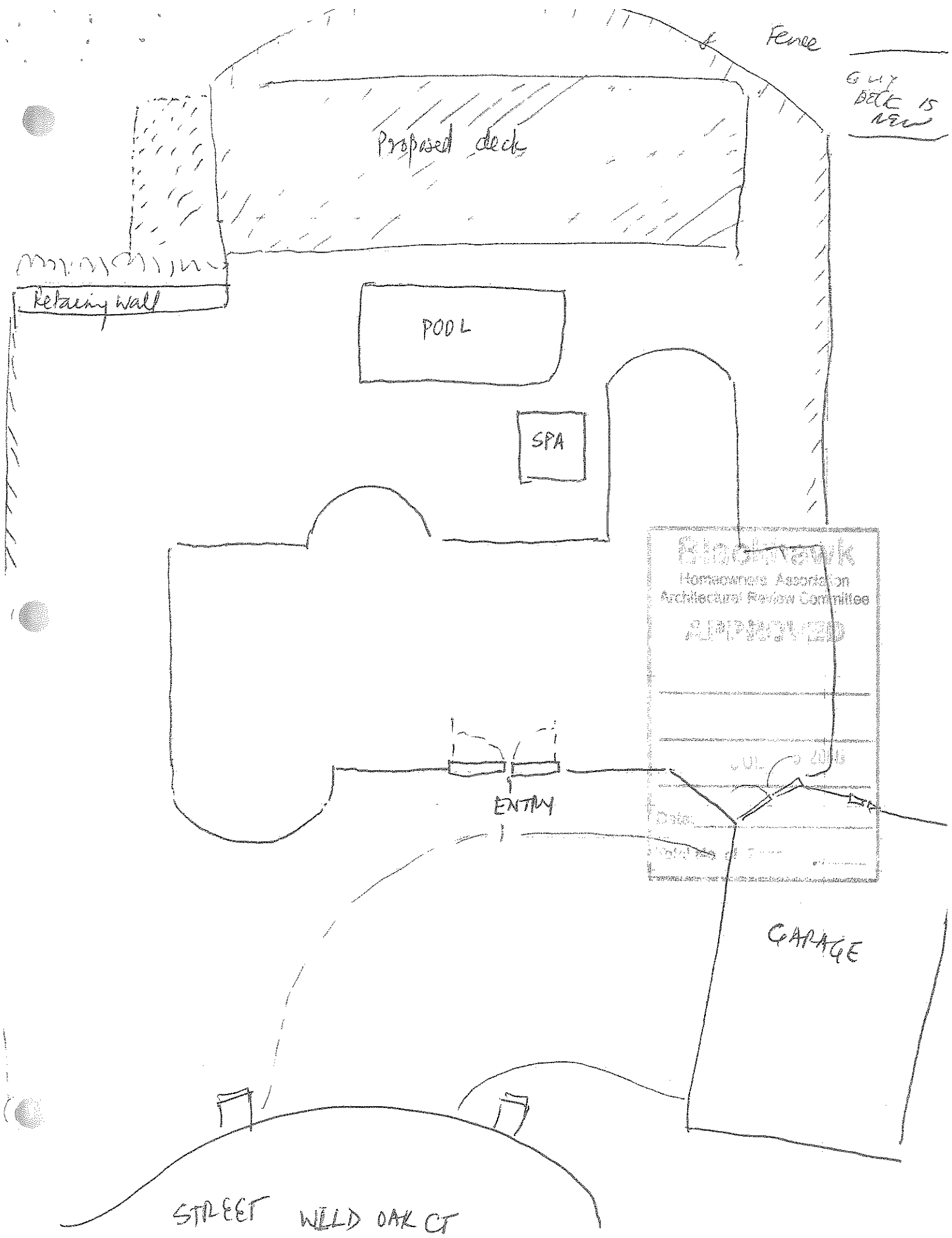
CONDITIONS, IF ANY: _____

☐ NOT APPROVED: _____

☐ ADDITIONAL INFORMATION NEEDED: _____

Date: _____

By: [Signature]
Architectural Review Committee



GUY
DECK IS
NEW

Blackhawk	
Homeowners Association	
Architectural Review Committee	
APPROVED	
Date: JUL 20 2016	
Project No. of 7	

CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder

DOC- 2000-0021314-00

RECORDED AT THE REQUEST OF:

WHEN RECORDED, RETURN TO:

Blackhawk Homeowners Association
4125 Blackhawk Plaza Circle, #230
Danville, CA 94506

Check Number

T, FEB 01, 2000 15:03:16

RIC \$1.00 MOD \$0.00 REC \$12.00

TCF \$7.00 NCP \$24.00

TLL Pd \$52.00

Nbr-0000705338

Fee/R7/1-8

GRANT OF EASEMENT ON CONDITION SUBSEQUENT

No Transfer Tax
Landscape Easement Only

THIS GRANT OF EASEMENT (the "Grant") is made from Blackhawk Homeowners Association, a California non-profit corporation, ("Grantor") to C. JAMES JENSEN and GERALDINE L. JENSEN, husband and wife ("Grantee").

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor grants to Grantee an easement (the "Easement") described in Exhibit "A" hereto over, under, across, upon and through that certain parcel of land described in Exhibit "B" hereto (the "Servient Tenement") which easement shall be appurtenant to the parcel of land described in Exhibit "C" hereto (the "Dominant Tenement").

This Grant is conditioned upon the limitations in use as hereinafter provided and is subject to the reservation to Grantor of the rights of entry, occupancy and use.

Except as otherwise provided herein, Grantee shall enjoy the exclusive use and occupancy of the Easement area; provided, however, Grantee, for itself, its successors and assigns, hereby agree that (i) no permanent structure (including, but not by way of limitation, swimming pools, ponds, spas or tennis courts), and (ii) no grading or earthwork may be constructed, installed or maintained on any portion of the real property described in Exhibit "A". This covenant is intended for the benefit of Grantor and may be enforced by Grantor.

This Grant is made upon the condition that, and Grantee for itself, its successors and assigns covenants and agrees with Grantor, its successors and assigns that, Grantee shall use and maintain Easement area only in a manner consistent with the requirements and limitations permitted for "Private Areas" under that certain Declaration of Covenants, Conditions and Restrictions for Country Club at Blackhawk Improvement Association, as amended (the "Declaration") originally recorded on October 10, 1979, in Book 9570 at Pages 42 et seq. of the Contra Costa County Records. Grantor hereby reserves the same rights of entry, occupancy and use as provided to the Grantor for Lots and Private Area under the Declaration.

No improvements may be constructed on the Easement area unless the improvements are approved by the Architectural Review Committee referred to in the Supplemental Declaration of Covenants, Conditions and Restrictions for Subdivision 5443 recorded on February 2, 1981 in Book 10188 of Maps, page 439 in the Official Records of the County of Contra Costa or by an Association Committee appointed by the Board of Directors of Grantor in accordance with Article XV of the Declaration.

21314

If Grantee, its successors or assigns fails to use and maintain the Easement area in accordance with the standards established in the Declaration or in accordance with standards established by any homeowners association or other governing body acting pursuant to any powers vested in such body under the Declaration, then, provided that Grantee has not had less than thirty (30) days prior written notice of the deficiency and has failed to cure such deficiency during the period, Grantor, its successors and assigns, at its election may either (a) bring a suit for specific performance of Grantee's covenants hereunder or an action for damages arising from Grantee's breach thereof or (b) reenter and repossess the Easement area whereupon the Easement and all rights and interest therein shall be terminated. In connection with Grantor's election to exercise its rights under clause (b) above, Grantor, its successors, and assigns shall be entitled to receive a reconveyance of the Easement in accordance with Section 1109 of the California Civil Code and Grantee, for itself, its successors and assigns covenants to execute a quitclaim deed or other instrument of reconveyance immediately upon Grantor's, its successors' or assigns' re-entry upon and repossession of the Easement area.



Grantee for itself, its successors and assigns hereby agrees to indemnify and hold harmless Grantor, its successors and assigns from any liabilities, claims, demands, damages and costs arising out of (i) the natural condition of the lands the use of which is transferred to Grantee by this Instrument, and (ii) the maintenance or use of such lands by Grantee, its successors and assigns.

GRANTOR:

Blackhawk Homeowners Association,
A California non-profit corporation

by: 

Linda Appleton
President

GRANTEE:
C. James Jensen
Geraldine L. Jensen

RECORDED AT THE REQUEST OF:

CONTRA COSTA Co Recorder Office
 STEPHEN L. WEIR, Clerk-Recorder
DOC- 2000-0021315-00

WHEN RECORDED, RETURN TO:

Blackhawk Homeowners Association
 4125 Blackhawk Plaza Circle, #230
 Danville, CA 94506

Check Number

T, FEB 01, 2000 15:03:16

SUR \$10.00 MIC \$1.00 MOD \$4.00

REC \$8.00 TCF \$3.00 NCP \$12.00

Ttl Pd \$38.00

NBR-0000796338

res/R7/1-4

GRANT DEED

The undersigned grantor(s) declare(s): **DOCUMENTARY TRANSFER TAX is \$ 0.**

- () computed on full value of property conveyed
- () computed on full value less value of encumbrances
- () no consideration

LOTLINE ADJUSTMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Blackhawk Homeowners Association, Inc. a California non-profit corporation, ("Grantor") hereby GRANTS to **C. JAMES JENSEN and GERALDINE L. JENSEN, husband and wife**, ("Grantee") that certain real property situated in Contra Costa County, California, described in Exhibit "A" attached hereto.

Said property is conveyed by Grantor subject to the Declaration of Covenants, Conditions and Restrictions executed on October 5, 1979, and recorded on October 10, 1979, in Book 9570, at Page 472 et seq. in the Official Records of the Contra Costa County Recorder, as amended from time-to-time ("Declaration"). Said property is conveyed as Private Area, as that term is defined in the Declaration.

No improvements may be constructed on said property unless the improvements are approved by the Architectural Committee referred to in the Supplemental Declaration of Covenants, Conditions and Restrictions for Subdivision 5443 recorded on February 2, 1981 in Book 10188 of Maps, page 439, in the Contra Costa County Records or by an Association Committee appointed by the Board of Directors of Grantor in accordance with Article XV of the Declaration.

Grantee for itself, its successors and assigns hereby agrees to indemnify and hold harmless Grantor, its successors and assigns from any liabilities, claims, demands, damages and costs arising out of (i) the natural condition of the lands the use of which is transferred to Grantee by this instrument, and (ii) the maintenance or use of such lands by Grantee, its successors and assigns.

Grantor is the owner of the parcel described in Exhibit "A", excepting therefrom the portion thereof conveyed to Grantee pursuant to this Grant Deed. All of the covenants set forth in this Grant Deed shall run with and reciprocally benefit and burden the interests and estates in real property of the Grantor and Grantee.

Dated: NOVEMBER 29 1999**GRANTOR:**

Blackhawk Homeowners Association, Inc.,
 A California non-profit corporation

by: Linda Appleton

Name:

Linda Appleton

Title:

President

GRANTEE:C. James JensenGeraldine L. Jensen

$\Delta = 186^{\circ}28'35''$
 $R = 31.00'$
 $L = 100.89'$
 ESMT

EASEMENT
 (SHADED AREA)
 2000-0021312

EX. DECK FRAMING



$N82^{\circ}47'41''E$
 4.53' ESMT

$N13^{\circ}40'47''W$
 28.29'

$N13^{\circ}40'47''W$
 33.00'

$N76^{\circ}19'06''E$
 5.00' ESMT

$N76^{\circ}19'13''E$
 3.00'

POOL

$N76^{\circ}19'13''E$
 3.00'

$N13^{\circ}40'47''W$
 58.71'

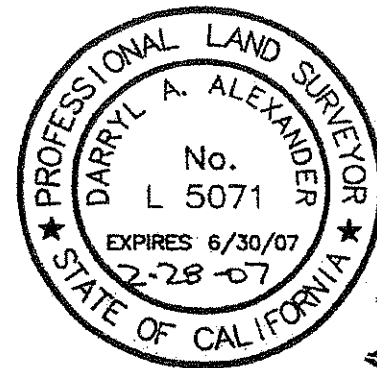
$N82^{\circ}47'41''E$
 122.57'

LOT 23
 SUBD. 5443
 (244 M 24)
 AS ADJUSTED BY
 LLA (2000-0021315)

$N77^{\circ}17'44''E$
 218.37'

SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR
 UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS
 OF THE PROFESSIONAL LAND SURVEYOR'S ACT AT THE REQUEST
 OF MINDY GARRISON IN FEBRUARY OF 2007.



Darryl Alexander 2-28-07
 DARRYL ALEXANDER DATE
 L.S. NO. 5071
 LICENSE EXPIRES JUNE 30, 2007

**ALEXANDER &
 ASSOCIATES INC.**
 SURVEYORS - PLANNERS - ENGINEERS
 147 OLD BERNAL AVENUE, SUITE 10
 PLEASANTON, CALIFORNIA
 (925) 462-2255 (925) 462-8092 FAX

101 WILDOAK COURT
 DANVILLE CALIFORNIA

JOB NO.:	07037
FILE NO.:	8X11
DATE:	FEB 2007
SHEET NUMBER:	TOTAL SHEETS:
1	1

CONTRA COSTA COUNTY BUILDING INSPECTION INSPECTION RECORD CARD

(See reverse side of this card for permit-specific information)

NOTICE AND WARNING: Do not cover any work until it has been inspected and approved. This card must be posted on the job site, and in a manner as to be visible from the street. The card and the approved plans must be available for each inspection, or the inspection will not be made.

Inspections may be scheduled by phone 6:30 a.m. to midnight, Monday through Saturday. Call **646-4108** and follow instructions. Requests for same-day inspections are not accepted.

Permit fees are set to provide for a limited number of inspections. A reinspection fee will be charged when a return trip is necessary due to the following: 1) Work not ready for the inspection called for; 2) Deficiencies found in the previous inspection still not corrected, or new deficiencies were created; 3) Lack of access to the work to be inspected; 4) Lack of approved plans on the job site.

Insp Codes	Inspector's Initials	Date	Insp Codes	Inspector's Initials	Date
FOUNDATION			INSULATION		
300 <input type="checkbox"/> Survey Cert. Rec'd			107 <input type="checkbox"/> Underfloor Insul		
406 <input type="checkbox"/> Set Backs			110 <input type="checkbox"/> Framing Insul		
101 <input type="checkbox"/> Uter Ground			117 <input type="checkbox"/> Ceiling Insul		
102 <input type="checkbox"/> Piers			PLUMBING		
103 <input type="checkbox"/> Forms			301 <input type="checkbox"/> Ground Plumbing		
104 <input type="checkbox"/> Slab Foundation			302 <input type="checkbox"/> Water Service		
125 <input type="checkbox"/> Slab Garage			303 <input type="checkbox"/> Shower Pan Test		
604 <input type="checkbox"/> Driveway			304 <input type="checkbox"/> Rough Plumbing		
GRADING PERMIT INSP.			305 <input type="checkbox"/> Unfill Plumbing		
600 <input type="checkbox"/> Pre-Const. Insp			306 <input type="checkbox"/> Water Heater		
601 <input type="checkbox"/> Rough Grading			309 <input type="checkbox"/> Gas Test		
602 <input type="checkbox"/> SUB/MS in Prog			310 <input type="checkbox"/> T-Bar Plumbing		
608 <input type="checkbox"/> Gen Bldg Site / In Prog			312 <input type="checkbox"/> Gas Meter Release		
MOBILE HOMES			BLOCK / CONCRETE		
701 <input type="checkbox"/> MH Set-Up			113 <input type="checkbox"/> Fireplace/Rebar/ Foundation		
703 <input type="checkbox"/> MH Accessory Insp			POOLS / SPA		
707 <input type="checkbox"/> MH Permanent FD			201 <input type="checkbox"/> Site Check / Pregunite		
720 <input type="checkbox"/> MH Final			202 <input type="checkbox"/> Bonding Cavity / Deck		
STRUCTURAL			203 <input type="checkbox"/> Pre & Final		
104 <input type="checkbox"/> Shear Nailing - Int			204 <input type="checkbox"/> Final - Pool		
126 <input type="checkbox"/> Shear Nailing - Ext			MECHANICAL		
106 <input type="checkbox"/> Underfloor			501 <input type="checkbox"/> Furnace Comp		
108 <input type="checkbox"/> Roof Deck Nail			502 <input type="checkbox"/> Combustion Air		
109 <input type="checkbox"/> Framing			503 <input type="checkbox"/> Rough Sheet Metal		
111 <input type="checkbox"/> Firewall			504 <input type="checkbox"/> Fire Damper		
127 <input type="checkbox"/> Drywall			506 <input type="checkbox"/> Commercial Hood		
114 <input type="checkbox"/> Ext Lath / Int Lath			507 <input type="checkbox"/> Condenser (A/C)		
115 <input type="checkbox"/> Structural-Misc / T-Bar			508 <input type="checkbox"/> T-Bar - Mech		
118 <input type="checkbox"/> Wet Wall			AGENCY APPROVALS		
123 <input type="checkbox"/> Roof / In Progress			<input type="checkbox"/> Fire Dist	UTL	Final
124 <input type="checkbox"/> Window Replacement			<input type="checkbox"/> Pub Works	UTL	Final
128 <input type="checkbox"/> Fire Penetration			<input type="checkbox"/> Planning / CDD	UTL	Final
ELECTRICAL			<input type="checkbox"/> San Dist	UTL	Final
401 <input type="checkbox"/> Power Pole			<input type="checkbox"/> Env Health	UTL	Final
402 <input type="checkbox"/> Conduit / Underground			<input type="checkbox"/> Haz Mat	UTL	Final
403 <input type="checkbox"/> Service Entrance			FINAL INSPECTIONS		
404 <input type="checkbox"/> Rough Elec			120 <input type="checkbox"/> BUILDING		
405 <input type="checkbox"/> Bonding			320 <input type="checkbox"/> Plumbing		
407 <input type="checkbox"/> Restore Svce / 90-Day			420 <input type="checkbox"/> Electrical		
408 <input type="checkbox"/> T-Bar Elec			520 <input type="checkbox"/> Mechanical		
409 <input type="checkbox"/> Electric Meter Release			620 <input type="checkbox"/> Grading / Drainage		
			820 <input type="checkbox"/> Disabled Access		

Other: Handwritten notes and signatures

Comments:

EXPIRATION: This permit will expire if work is not started within 180 days, or 180 days lapse between approved inspections. If the permit expires before the work is completed and/or inspected, no additional work shall be performed until a new permit is obtained. Under California Law, uninspected work is a property defect and must be disclosed to the next owner prior to transfer of title.

EXTENSION: Prior to permit expiration and upon written request, a one-time extension, not to exceed 180 days, may be granted.

REIMBURSEMENT: SB1815 states that a permittee is entitled to reimbursement of permit fees if the local enforcement agency fails to conduct an inspection of the permitted work within 60 days of receiving notice that the work is completed.

This card will serve as Certificate of Occupancy / Completion upon authorized signature.

Celine Balfodana, Director
9-060000 Permit Card 09-05

Authorized Signature

Date

109 Frame

CONTRA COSTA COUNTY - Building Inspection Department
651 Pine Street, 3rd Floor, North Wing • Martinez, CA 94553 (925) 646-2300

PERMIT NO. 393301
DATE: 2/13/07

OWNER/CONT. Singh
INSPECTOR Conrad & Jim

- ☐ Plans not on job/available
☐ Not following approved plans
☐ Previous deficiencies not completed

- ☒ Survey stakes not in place
☐ Building not ready for inspection

Permit No. To Accompany All Correspondence

NOTES:

① Survey letter required

* Must state structure placed according to approved plans per permit

② ~~1/2" Girder~~ Girders over-cut, provide full-bearing on girders, ~~no~~ no-overhanging.

③ Need Engineer letter to verify piers poured per approved plans.

④ ~~Install~~ X Brace as per plan as noted by County engineer

- ☐ \$60.00 reinspection fee required prior to next inspection (for building permits with total valuations of more than \$5,000 or for electrical, mechanical and plumbing permits on non-residential buildings).

- ☐ \$25.00 reinspection fee required prior to next inspection (for building permits with valuations not exceeding \$5,000 or for mechanical and plumbing permits on residential buildings).

— NOTICE —

This Note To Be On Jobsite At Next Inspection

CONTRA COSTA COUNTY - Building Inspection Department
651 Pine Street, 3rd Floor, North Wing • Martinez, CA 94553 (925) 646-2300

PERMIT NO. 393301

OWNER/CONT. DECKS PLUS

DATE: 4/23/07

INSPECTOR T. GRIFFITH

- ☐ Plans not on job/available
- ☐ Not following approved plans
- ☐ Previous deficiencies not completed
- ☐ SWPPP plans not on job/available
- ☐ Not following approved SWPPP plans

- ☐ Survey stakes not in place
- ☐ Building not ready for inspection
- ☐ Stop work/Clean water violation
- ☐ Notice to comply/Erosion control

Permit No. To Accompany All Correspondence

NOTES: FRAME AND PIERS AS BUILT OF DECK

FRAME OK PENDING RECEIPT OF ENGINEERS
LETTER REGARDING CONFORMANCE OF PIERS
TO PLANS POURED INTO INSPECTION.

SURVEY LETTER RECEIVED BUT MUST BE
APPROVED BY PLANNING DEPT. DUE TO
SET BACKS NOT MATCHING APPROVED
PLANS.

OKT

☐ \$60.00 reinspection fee required prior to next inspection (for building permits with total valuations of more than \$5,000 or for electrical, mechanical and plumbing permits on non-residential buildings).

☐ \$25.00 reinspection fee required prior to next inspection (for building permits with valuations not exceeding \$5,000 or for mechanical and plumbing permits on residential buildings).

— NOTICE —

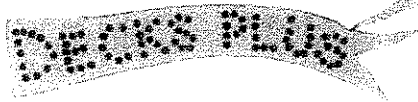
This Note To Be On Jobsite At Next Inspection

TIM Griffin

243 Murdell Lane
Livermore, CA 94550
(925) 449-1641 Ph & Fax
www.dickspius.net



License No. 476136



April 24, 2007 9:30 AM

I, Mindy Garrison, place a call to Tim Griffith with the Contra Costa County Building Department regarding the deck project at the Singh Residence at 101 Wild Oak Ct., Danville. I spoke with Mr. Griffith and asked him if it was okay to lay the decking, his response was, "Yes, it is". I asked again, "Are you sure it's okay to lay the decking now?" He again replied, "Yes, go ahead".

property may be annexed only with the assent (by vote or written consent) of two-thirds of the total votes residing in members other than Declarant; provided, however, that so long as there are two classes of membership no such annexation shall occur without the assent (by vote or written consent) of two-thirds of the voting power of each class of membership.

ARTICLE III

LAND CLASSIFICATIONS

All land within Country Club at Blackhawk is classified into the following categories:

1. Private Area.
2. Common Area.
3. Common Open Space.
4. Private Recreational Area.

ARTICLE IV

PRIVATE AREA - RESTRICTIONS

The private area consists of the Lots shown on recorded subdivision maps of Country Club. Subject to the provisions of Section 14.09, each such lot of the private area shall be for the exclusive use and benefit of the Owner thereof, subject to the following limitations and restrictions:

Section 1.02. "Bylaws" shall mean the Bylaws of the Improvement Association which are or shall be adopted by the Board as such Bylaws may from time to time be amended.

Section 1.03. "Common Area" shall mean all of the real property designated as "Private Drive and PUE", or "Common Area" on the recorded subdivision maps of Country Club at Blackhawk, or any portion thereof, and which will be conveyed in fee to The Improvement Association together with all improvements from time to time constructed thereon including, but not limited to, private roads and private rights-of-way, community facility and the entrance gatehouses. "Common Area" shall include the areas described in Exhibit "C-1" attached hereto as well as other property conveyed to The Improvement Association from time to time for such purposes.

Section 1.04. "Common Open Space" shall mean all of the real property to be maintained in its natural state for the benefit of the owners of lots in Country Club at Blackhawk or any portion thereof, and which will be conveyed in fee to The Improvement Association together with all improvements from time to time constructed thereon. The Common Open Space associated with the property described in Exhibit "A" is more particularly described in Exhibit "C" attached hereto. "Common Open Space" shall also mean portions of the property described in said Exhibit "B" which may be conveyed for such purposes by deed to The Improvement Association, from time to time, by the Declarant.

8570 494

ARTICLE VII
PRIVATE RECREATIONAL AREA

Section 7.01. Definition. Private recreational area is defined as all that property within Country Club which is not included within the Common Area, Common Open Space or private area as hereinabove defined.

Section 7.02. Restrictions. The private recreational area may be used only for the construction, operation, repair, maintenance and use of privately owned golf courses, tennis courts, pools, courts, gymnasiums and other recreational facilities and associated clubhouses and other facilities (including: bars, restaurants, pro shops, etc.) as allowed under the laws, ordinances and regulations of the County of Contra Costa including the final development plan for said property as amended from time to time.

Section 7.03. Applicability of Covenants, Conditions, and Restrictions. Except for this Article, and except for the provisions of Sections 14.01, 14.03, 14.05, 14.09, 14.12 and 14.13, the terms and provisions of this Declaration shall have no applicability to the private recreational area, or to the person or entity which owns it; provided, however, that the provisions of Article I shall be applicable as necessary for purposes of construction and interpretation of this Article.