



OPEN MEETING

**SPECIAL MEETING OF THE THIRD LAGUNA HILLS MUTUAL
ARCHITECTURAL CONTROL AND STANDARDS COMMITTEE**

**Monday, September 11, 2017 – 1:00 p.m.
Laguna Woods Village Community Center Sycamore Room
24351 El Toro Road**

NOTICE AND AGENDA

1. Call to Order
2. Acknowledgement of Media
3. Approval of the Agenda
4. Chair Remarks
5. Member Comments - *(Items Not on the Agenda)*
6. Department Head Update

Consent:

All matters listed under the Consent Calendar are considered routine and will be enacted by the Committee by one motion. In the event that an item is removed from the Consent Calendar by members of the Committee, such item(s) shall be the subject of further discussion and action by the Committee.

None

Reports:

Items for Discussion and Consideration:

7. Review Proposed Fee Schedule
8. Review Decision Tree
9. 5073 – Master Bedroom Expansion using original footprint
10. Consider moving meeting ACSC to fourth Monday

Items for Future Agendas

Concluding Business:

11. Committee Member Comments
12. Date of Next Regular Meeting and Bus Tour – October 5, 2017
13. Adjourn

Bert Moldow, Chair
Brett Crane, Staff Officer 268-2358



STAFF REPORT

DATE: September 11, 2017
FOR: Architectural Control and Standards Committee
SUBJECT: Manor Alteration Fees

RECOMMENDATION

Staff recommends that the Committee recommend approval to the Board for increases in certain fees in order to recover the cost for the services provided by the Manor Alteration Division.

BACKGROUND

The Manor Alterations were last revised in 1995 (resolution G-95-93, to establish a base fee of \$10 for Standard Alteration requests and an additional fee schedule based on valuation for the proposed alterations.

In February 2009, the Board adopted a Variance Processing Fee of \$50 to partially offset administrative costs associated for Variance requests. In September 2011, the Board increased the processing fee to \$100 include costs associated with appeals of the Board's decision of Variance requests.

DISCUSSION

The Mutual Consent fee schedule requires updates to reflect current processing costs. The existing schedule (Attachment 1) contains two columns of alterations, along with adjacent columns that clarify if the proposed alteration will need an additional permit with the City of Laguna Woods. The first list of alterations contains those alterations which meet Mutual Standards and can be performed with an over-the-counter Mutual Consent. Staff processes an average of 2,700 Mutual Consent applications annually for United and Third. The existing flat fee is \$10; staff costs to review and process the requests exceed that significantly; therefore staff recommends increasing the flat fee to \$35.

The second column contains a partial list of the alterations which do not meet Mutual Standards and require a Variance Request. The fee is based on the estimated value of the alteration. As mentioned above, the processing fee for the Variance Requests was revised in 2011 to \$100. Staff processes an average of 150 Variance Requests annually for United and Third. Variance Requests and the accompanying staff report require significant staff time for proper processing including: request processing and data entry, research and plan checking, field investigation and photography, report preparation and review, and presentation to the Committee and the Board. After thorough review of staff costs involved in the Variance Request procedures, staff recommends increasing the processing fee to \$150.

The schedule includes fees based on value of the alteration (Attachment 2). The percentage varies from 4.3 to 8 percent, with an average fee of 5.6 percent. To make the fees more consistent, staff proposes a valuation-based fee of 5.6 percent, effective January 1, 2018. Further, Staff recommends raising the minimum threshold from \$250 to \$500 to reflect more recent alteration cost estimates.

Administrative costs for processing the various alteration requests are estimated at \$106,000 in 2018. Assuming no change in volume, the proposed fee increases will raise the estimated revenue for 2018 to offset processing costs.

The revised fee schedule has been attached (Attachment 3) for review and consideration. Additionally, based on new regulations, Staff has added three items to verify that all codes and regulations are met with both the Mutual and the City.

FINANCIAL ANALYSIS

Additional fee revenue will offset existing administrative costs in operations, as outlined above.

Prepared By: Brett Crane, Alterations Supervisor

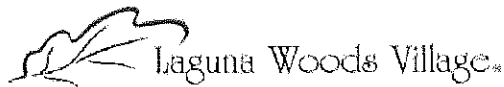
Reviewed By: Kurt Wiemann, Permits, Inspections and Restoration Manager
Lori Moss, Community Manager
Betty Parker, Financial Services Director

ATTACHMENT(S)

Attachment 1: Current Fee Schedule
Attachment 2: Valuation Fee Comparison
Attachment 3: New Proposed Fee schedule
Attachment 4: Resolution

ATTACHMENT 1

Existing Fee Schedule



Mutual Consent for Manor Alteration(s) FEES

For Items not listed, please check with Manor Alterations Department 949-597-4616

alterations@vmsinc.org

Go to www.lagunawoodsvillage.com for Mutual Standards and Standard Plans

All items require HOA Mutual Consent for Manor Alteration; City Permit Required as Shown

\$10.00 ALTERATION FEE		ALTERATION FEES BASED ON VALUATION	
Alteration Type	City Permit Required	Alteration Type	City Permit Required
Awnings (standard)	No	Bathroom Addition, Split	Yes
Awnings (powered)	Yes	Central Heating & Air (new)	Yes
Air Conditioner (through the wall)	Yes	Covers (atrium, balcony, patio) Replace or New	Yes
Air Conditioner Central (replacement)	Yes	Doors (New)	Yes
Balcony Modesty Panels	No	Sliding Glass Doors-New	Yes
Bath Tub Replacement	Yes	French Doors (New)	Yes
Block Walls	No	Man Doors (New)	Yes
Block Walls (over 4 feet high)	Yes	Enclosures Atrium/Balcony/Patio	Yes
Planter Wall	No	Garden Room/ Solarium	Yes
Dishwasher	Yes	Room Addition	Yes
Doors revisions (Exterior)	No	Skylights	Yes
Electrical	Yes	Solatubes	Yes
Exhaust Fan	Yes	Wall Revisions	Yes
Fences & Gates	No	Windows (New Construction)	Yes
Floor Coverings-exterior	No		
Gutters & Downspouts	No		
Heat Pumps (through the wall)	Yes		
Metal Drop Shades	No		
Modesty Panels	No		
Patio Slab Revision	No		
Patio Wall Revision	No		
Plumbing (Minor)	No		
Plumbing (New or Relocation)	Yes		
Satellite Dish	No		
Shower to Shower	Yes		
Sliding Glass Door (retrofit)	No		
Soft Water System	No		
If connected to Water Heater	Yes		
Solar Panels City	Yes		
Storage Cabinets (Carport)	No		
Shades Roll-up	No		
Tub to Shower	Yes		
Washer and Dryer	Yes		
Water Heater Relocation	Yes		
Windows (retrofit)	Yes		

\$100 PROCESSING FEE			
ESTIMATED VALUE OF ALTERATION			FEE
\$1	To	\$250	\$10
\$251	To	\$600	\$20
\$601	To	\$750	\$30
\$751	To	\$1,000	\$40
\$1,001	To	\$1,250	\$60
\$1,251	To	\$1,500	\$80
\$1,501	To	\$1,750	\$100
\$1,751	To	\$2,000	\$120
\$2,001	To	\$2,500	\$140
\$2,501	To	\$3,000	\$160
\$3,001	To	\$4,000	\$200
\$4,001	To	\$5,000	\$240
\$5,001	To	\$6,000	\$260
Over \$6000			\$300

ATTACHMENT 2 Fee Comparison

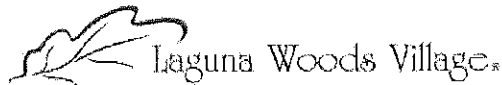
Existing Fee Schedule			
* VALUATION	MEAN	FEE	% of MEAN
1 to 250	126	\$10	8.0%
251 to 500	376	\$20	5.3%
501 to 750	626	\$30	4.8%
751 to 1000	876	\$40	4.6%
1001 to 1250	1126	\$60	5.3%
1251 to 1500	1376	\$80	5.8%
1501 to 1750	1626	\$100	6.2%
1750 to 2000	1876	\$120	6.4%
2001 to 2500	2251	\$140	6.2%
2501 to 300	2751	\$160	5.8%
3001 to 4000	3501	\$200	5.7%
4001 to 5000	4501	\$240	5.3%
5001 to 6000	5501	\$260	4.7%
Over 6000	7000	\$300	4.3%
Average			5.6%

Proposed Fee Schedule			
VALUATION	MEAN	FEE	% of MEAN
\$500 or Less	250	\$20	Base Fee
501 to 750	626	\$35	5.6%
751 to 1000	876	\$49	5.6%
1001 to 1250	1126	\$63	5.6%
1251 to 1500	1376	\$77	5.6%
1501 to 1750	1626	\$91	5.6%
1750 to 2000	1876	\$105	5.6%
2001 to 2500	2251	\$126	5.6%
2501 to 300	2751	\$154	5.6%
3001 to 4000	3501	\$196	5.6%
4001 to 5000	4501	\$252	5.6%
5001 to 6000	5501	\$308	5.6%
Over 6000	7000	\$392	5.6%

ATTACHMENT 3

Proposed Fee Schedule

* indicates new item



Mutual Consent for Manor Alteration(s) Fee Schedule

For Items not listed, please check with Manor Alterations Department 949-597-4616

alterations@vmsinc.org

Go to www.lagunawoodsvillage.com for Mutual Standards and Standard Plans

All items require HOA Mutual Consent for Manor Alteration; City Permit Required as Shown

\$35.00 ALTERATION FEE	
Alteration Type	City Permit Required
* Acoustic Ceiling Removal	Yes
Awnings (standard)	No
Awnings (powered)	Yes
Air Conditioner (through the wall)	Yes
Air Conditioner Central (replacement)	Yes
Balcony Modesty Panels	No
Bath Tub Replacement	Yes
Block Walls (under 4 feet high)	No
Block Walls (over 4 feet high)	Yes
Planter Wall	No
Dishwasher	Yes
Doors Revisions (Exterior)	No
Electrical	Yes
Exhaust Fan	Yes
Fences & Gates	No
Floor Coverings-exterior	No
* Flooring (Vinyl)	Yes
Gutters & Downspouts	No
Heat Pumps (Through the wall)	Yes
Metal Drop Shades	No
Modesty Panels	No
Patio Slab Revision	No
Patio Wall Revision	No
Plumbing (Minor)	No
Plumbing (New or Relocation)	Yes
Satellite Dish	No
Shower to Shower	Yes
Sliding Glass Door (retrofit)	No
Soft Water System	No
Soft Water System	No
<i>If connected to Water Heater</i>	Yes
Storage Cabinets (Carport)	No
Shades Roll-up	No
Tub to Shower	Yes
Washer and Dryer	Yes
Water Heater Relocation	Yes
Windows (retrofit)	Yes

ALTERATION FEES BASED ON VALUATION			
Alteration Type			City Permit Required
Bathroom Addition, Split			Yes
Central Heating & Air-new			Yes
Covers (atrium, balcony, patio) <i>Replace or New</i>			Yes
Doors (New)			Yes
Sliding Glass Doors-New			Yes
French Doors (New)			Yes
Man Doors (New)			Yes
Enclosures Atrium/Balcony/Patio			Yes
Garden Room/ Solarium			Yes
Room Addition			Yes
Skylights			Yes
Solatubes			Yes
* Solar Panels			Yes
Wall Revisions			Yes
Windows (New Construction)			Yes
\$150 PROCESSING FEE			
ESTIMATED VALUE OF ALTERATION			FEE
\$500 or Less			\$20
\$501	To	\$750	\$35
\$751	To	\$1,000	\$49
\$1,001	To	\$1,250	\$63
\$1,251	To	\$1,500	\$77
\$1,501	To	\$1,750	\$91
\$1,751	To	\$2,000	\$105
\$2,001	To	\$2,500	\$126
\$2,501	To	\$3,000	\$154
\$3,001	To	\$4,000	\$196
\$4,001	To	\$5,000	\$252
\$5,001	To	\$6,000	\$308
Over \$6000			\$392



Attachment 4

Proposed Variance Process Fee Policy

RESOLUTION 03-17-XXX

WHEREAS, variance requests require significant staff time for proper processing, including research, report preparation, and then presentation to the appropriate committee and then the Board; and

WHEREAS, in order to offset administrative costs associated with processing variance requests, which is often followed by an appeal of the Board's decision as mandated in accordance with Resolution 03-13-105; and

WHEREAS, the Mutual currently charges a \$10 fee for a Mutual Consent and a \$100 fee for a Variance, to offset administrative costs associated with processing these requests; and

WHEREAS, the Board realizes the fee should be non-refundable;

NOW THEREFORE BE IT RESOLVED, September 12, 2017, that in order to partially further offset administrative costs associated with processing variance requests, which is often followed by an appeal of the Board's decision as mandated in accordance with Resolution 03-13-105, the Board of Directors of this Corporation hereby sets the Mutual Consent request processing fee at \$35 and the variance request processing fee at \$150; and

RESOLVED FURTHER, that Resolution 03-15-44 adopted April 21, 2015 is hereby superseded and cancelled; and

RESOLVED FURTHER, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out the purpose of this resolution.



STAFF REPORT

DATE: September 7, 2017
FOR: Architectural Standards and Control Committee
SUBJECT: Variance Request
Sydney C. Stephan of 5073 Avenida Del Sol – Master Bedroom Extension
and Room Addition on existing Rear Patio.

RECOMMENDATION

Staff seeks Committee guidance for endorsement to the Board for the Variance Request for a bedroom extension and room addition on existing rear patio at Manor 5073:

Should the Request be approved, Staff recommends applying the following conditions:

1. The Mutual Member must conduct a geological survey of the slope prior to commencing work. The geological survey would be at cost to the Mutual Member.
2. No improvement shall be installed, constructed, modified or altered at **Manor 5073**, ("Property") within the Third Laguna Hills Mutual ("Mutual") unless and until a Mutual Consent for Manor Alterations application for the improvement has been made to, and approved, in writing, by, the Village Management Services, Inc. ("VMS, Inc."), Manor Alterations Division ("Division"), or, in the event of a Variance from the Mutual's Alteration Standards, the Architectural Control and Standards Committee ("ACSC"). In the event written permission is given for the installation, construction, modification or alteration of any improvement(s) upon the Property, the Member Owner or Owners ("Member Owner") agrees to comply with the Mutual's Governing Documents and any specific terms or conditions imposed, and that the installation, construction, modification or alteration shall be in strict compliance with the terms of the approval.
3. A Mutual Consent for Manor Alterations has been granted at **5073** for **Master Bedroom Extension and Room Addition on existing Rear Patio**, subject to the attached plans stamped approved and is subject to the final inspection by the Division. Any variations to the approved attached plans are not allowed and could result in a stop work notice and/or severe fines to the Member.
4. Member Owner hereby consents to and grants to the Mutual and the Division, and their representatives, a right of entry upon the Property at any time to be used to inspect the Property and the improvements thereon and for the Mutual and the Division, and their representatives and contractors to remedy any violation upon the Property, including but not limited to, removing trash, removing any improvement installed without approval or

modifying an improvement to bring the same into compliance with the terms of the approval.

5. All costs for maintenance, repair, renovation, replacement or removal of the improvement, present and future, are the responsibility of the Property's Member Owner at **5073** and all future Mutual members at **5073**.
6. Member Owner shall be responsible for all activity by contractors, subcontractors, material suppliers and their employees and agents and any others who perform work on the Property, including any violation of the Mutual's Governing Documents, including, but not limited to, traffic and parking violations, maintenance of a clean job site at all times, and use of Mutual property for storage of equipment or materials without prior approval. Member Owner acknowledges and agrees that all such persons are his/her invitees. Member Owner shall be responsible for informing all his/her invitees of the Mutual's Rules and Regulations. Member Owner shall be liable for any violation of the Mutual's Governing Documents by any invitee, including any fine, assessment or other charge levied in connection therewith.
7. Member is responsible for following the gate clearance process (<http://www.lagunawoodsvillage.com>) in place to admit contractors and other invites.
8. Member Owner's contractors and other invitees shall travel to and from the job site by the most direct route available and are not authorized to use Mutual recreational facilities or other amenities while they are in the Village for performance of work in connection with the Property.
9. Parking of contractors or other invitees' vehicles is prohibited in covered resident parking, open resident spaces, handicapped spaces or fire lanes. Contractors or other invitees must park on the street. To the extent possible contractors' or other invitees' vehicles should be limited in number.
10. Member Owner(s) of the Property must sign and submit to the Mutual, c/o VMS, Inc., at the Division office located in the Laguna Woods Village Community Center, an executed and notarized "Recordable Common Area Agreement" for a proposed improvement that would utilize any portion of the Mutual's Common Area. Prior to the issuance of a Mutual Consent for Manor Alterations, that "Recordable Common Area Agreement" must be filed with the Orange County Clerk/Recorder.
11. A City of Laguna Woods permit is required, which may include the requirement to obtain clearance from the South Coast Air Quality Management District (Asbestos Hot Line at (909) 396-2336). Prior to the issuance of a Mutual Consent for Manor Alterations, the appropriate City of Laguna Woods permit number(s) must be submitted to the Division office located in the Laguna Woods Village Community Center. The City permit must be finalized within the prescribed timeframe, and a copy of the final permit must be submitted to the Division within two weeks.

12. Prior to the issuance of a Mutual Consent for Manor Alterations, a complete set of unit specific plans prepared by a licensed architect or structural engineer depicting the proposed improvement must be submitted to the Division office located in the Laguna Woods Village Community Center. The plans must depict any required structural modifications ensuring the structural integrity of the building is maintained upon completion of the proposed improvement.
13. Prior to the issuance of a Mutual Consent for Manor Alterations, if required, a Mutual Roof Alteration Notification ("Tie-In Form") must be submitted to the Division. All roof tie-ins must be performed by a C-39 Licensed Contractor. The Member Owner may hire a C-39 Licensed Contractor of his/her own choice to perform roof tie-ins for the installation of solar panels on all roof types except PVC Cool Roofs. For PVC Cool Roofs, regardless of the roof type, all tie-ins must be performed by the Mutual's roofing contractor at the Member Owner's expense. All tie-ins may only be made to sound structural elements. Existing structural elements proposed to be tied to, which exhibit signs of dry rot or other structural defects, must first be replaced or repaired at the Member Owner's expense during construction of the improvement.
14. Prior to the issuance of a Mutual Consent for Manor Alterations, the Member Owner shall request a Landscape Department inspection in order to assure all landscape, irrigation, and drainage modifications associated with the improvements are identified and completed by the Landscape Department at the expense of the Member Owner. All gutter drainage shall be directed away from structures, free standing walls, foundations, and pedestrian walkways.
15. Prior to the issuance of a Mutual Consent for Manor Alterations, any altered exterior surface should match the Building color; vinyl fence/gate will be either white or taupe, tubular steel or wrought iron fence/gate will be black or white; the approved colors and materials are identified at Resident Services located at the Community Center first floor.
16. All improvements must be installed in accordance with the California State Building Code, and the published Mutual Architectural Alterations Standards. See <http://www.lagunawoodsvillage.com>.
17. During construction, work hours established by the Mutual and the Noise Ordinance set forth in the City of Laguna Woods Municipal Code must be adhered to at all times.
18. During construction, both the Mutual Consent for Manor Alterations and the City Building Permit must be on display for public view at all times in a location approved by the Division.
19. It is mandatory that no waste or materials associated with the construction be dumped in the Village trash bins; such waste or materials associated with the construction must be disposed of offsite by the contractor.

20. The Mutual Consent for Manor Alterations expires six months after the date of approval, unless an application is submitted with fees and approved by the Division for an extension. Only one extension for a maximum of an additional six months may be granted.
21. Violations of the forgoing conditions or the Mutual's Governing Documents (See <http://www.lagunawoodsvillage.com>), including, but not limited to, work outside the approved plans, excessive noise, illegal dumping, or working after hours, will result in disciplinary action, which could result in a stop work notice, loss of privileges and/or severe fines to the Owner Member. Such fines left unpaid will result in forfeiture of a portion or all of the Conformance Deposit required above or other legal remedy.
22. Mutual member shall indemnify, defend and hold harmless Third and its officers, directors, committee members and agents from and against any and all claims, demands, costs, fines, judgments, settlements and any other costs, expenses, amounts and liabilities arising from Mutual member's improvements and installation, construction, design and maintenance of same.
23. The Mutual Consent Applicant or agent must contact the Manor Alterations Division as soon as the project is complete and has received a Final City of Laguna Woods permit approval in order to arrange a final inspection for Mutual Consent.

BACKGROUND

Sydney Stephan of 5073 Avenida Del Sol, a Villa Paraisa style manor, requests Board approval of a variance for a room extension for a bedroom onto a previously extended patio (Attachment A) and to replace the existing enclosed patio with a permanent room addition.

The existing enclosed patio (garden room) was installed via Mutual Consent (#031052) in 2003. A variance Request was approved in 2008 to extend the rear patio slab (Mutual Consent #081391).

In August of 2016, Third Mutual Maintenance and Construction Committee granted an endorsement of a Variance for a similar room addition. Due to concerns from the owner of the adjacent Manor (5075), the Variance Request for the proposed room addition and bedroom extension was withdrawn. There are three key differences between the original 2016 approved Variance Request and the newly submitted Variance Request:

1. The original 2016 Variance Request proposed to extend the existing manor roof line to the end of the addition; the new Request proposes a flat roof with a similar profile to the existing enclosed patio and the patio covers of adjacent manors.
2. The 2016 Variance Request proposed to build a room addition that extended onto the previously extended patio slab (12'4" total depth); the new proposal requests to utilize only the existing garden room footprint (8') for the room addition

3. Finally, the 2016 Request involved a bedroom extension utilizing the entire width of the bedroom, whereas the new proposal only proposes to utilize the previously granted patio slab area.

DISCUSSION

The existing sun room, measuring approximately 27'11" by 8' will be removed from the existing rear patio. The proposed new room addition will measure 27'11" by 8', will have two 8' by 6' windows along with a 7'6" by 8' sliding glass door on the rear wall. The existing patio slab will provide the required landing for the rear sliding glass door. Additionally, a 3' by 6' window will be installed on both sides of the room addition.

On the rear facing elevation of the extended bedroom, a new 6' by 4' window will be installed.

All windows and sliding glass doors will be of white vinyl to match the rest of the existing windows on the manor.

Both additions would have a matching exterior stucco surface painted to match the existing stucco. The new roof will be constructed using materials that match the existing roof and will be tied in to the building to cover both the room addition and room extension (see attachment); the roof would be at a pitch of 4:12.

As part of the 2016 M&C Committee recommendation, a condition was added that the Mutual Member must conduct a geological survey of the slope prior to commencing work. Staff recommend the same condition be applied and that the geological survey would be at cost to the Mutual Member.

Neighbor Awareness Notices were mailed to manors 5071, 5072, 5074, 5075, 5076, and 5077 due to potential line of sight. Manor 5075 has responded with concern and has provided the letter sent by her legal representation during the 2016 variance request to be attached to the meeting packet. Manor 5072 has responded via e-mail stating they do not have any concerns with the proposed alteration. Both responses are available in attachment 3.

The Condominium Plan for Manor 5073 designates the location of the proposed room addition partially on Limited Common Area for Exclusive Use and partially on Common Area.

The bedroom extension would be constructed fully on Common Area that was previously permitted to have an alteration concrete slab. In 2008, when the patio slab extension was permitted, the Common Area Usage Agreement that was signed by the Member (see Attachments, contained no restrictions preventing future modifications.

The Member will be required to complete a new "Recordable Common Area Agreement" prior to issuance of a Mutual permit.

Pursuant to the previous Decision Tree, five (5) criteria must be considered when reviewing applications for Common Area alterations. If the proposed alteration does not meet all criteria,

the Request should be denied. Alternately, of course, if the proposed alteration meets all criteria, the Request should be approved.

1. Compliance with Community Standards. Each Application must comply with all Mutual governing documents, including but not limited to the architectural and building rules, whether the proposed alteration is entirely within the Member's manor, on Exclusive Use Common Area, or on Common Area.

The proposed alterations comply with Community Standards.

2. Neighbor Awareness Forms, required to be submitted from affected neighbors prior to approval. If the Mutual determines the proposed alteration will cause an unreasonable burden to other Manor residents, then the Application for Manor Alterations(s) should be rejected.

Neighbor Awareness were mailed to 6 of the surrounding manors prior to Committee Meeting). The Board shall make the determination regarding an unreasonable burden.

3. Determine Whether the Area of the Proposed Alteration is Located in Common Area or Exclusive Use Common Area. If the Mutual determines that the proposed alteration will be located entirely on Exclusive Use Common Area, proceed to Step 5, Recordable Agreement Requirement.

The proposed room addition would be installed on a previously-approved rear patio extension and would be located on Exclusive Use Common Area and partially on Common Area. The bedroom extension would be located entirely on Common Area that was previously approved for a rear patio extension.

4. If a proposed alteration is to be located entirely or partially on or over Common Area, the Mutual should first determine if allowing the alteration would relieve the Mutual of the burden of management and maintenance of an area which is generally inaccessible and not of general use to the other members of Third. [The alteration should relieve management and maintenance burden and not create or increase others]. If the proposed alteration does not meet these conditions, it must be denied. If the application meets this test, proceed to Step 5 below.

The proposed alteration would meet this requirement as it would be partially located on a previously-extended patio with a block wall that is generally inaccessible and not of general use to other members of Third, which relieved the Mutual of burden of management and maintenance of that area.

5. Recordable Agreement Requirement. This agreement, among other things, requires the Member to acknowledge the Alteration shall be Common Area and will not be separately owned by Member, and shall not construed to change or expand the Member's separate interest as documented in the applicable Condominium Plan.

The Member will be required to complete the "Recordable Common Area Agreement" prior to issuance of a Mutual Consent for Manor Alterations

Previous room additions/enclosures on rear patios have been approved at 5516-A in December 2003, 3514-A in December 2013, 3511-C in July 2014, and 3422-C in August 2014

Staff is of the opinion that since the proposed alterations are similar to the existing approved patio enclosure, it would not create a negative visual imbalance to the building or surrounding area.

At the time of preparing this report, Manor 5073 has no open Mutual Consents.

The Member will be required to complete the "Recordable Common Area Agreement" prior to issuance of a Mutual permit.

Prepared By: Gavin Fogg, Manor Alterations Inspector

Reviewed By: Brett Crane, Manor Alterations Supervisor
Kurt Wiemann, Permits, Inspections & Restoration Manager

ATTACHMENT(S)

Attachment 1: Variance Request; July 13, 2017

Attachment 2: Mutual Consents for Patio Enclosure and Slab Extension and Common Area Usage Agreement for Slab Extension.

Attachment 3: Manor 5075 Legal letter and Manor 5072 e-mail approval

Attachment 4: Photos and Map

Variance Request Form

☐ ULWM
☐ TLHM

SA107

Manor No: 5073	Model:	Plan:	Date: 7-13-2017
Member Name: SYDNEY STEPHAN			
Applicant Name/Co: SYDNEY STEPHAN			

Description of Proposed Variance Request ONLY:

remove existing sun room & replace with a permanent structure.

Dimensions of Proposed Variance Alterations ONLY:

8' x 28' (same as the existing sun room.)

FOR OFFICE USE ONLY

RECEIVED BY: _____ DATE RECEIVED: _____ PAYMENT BY: _____

Alteration Variance Request:

Check Items Received:

- ☒ Drawing of Existing Floor Plan
- ☒ Drawing of Proposed Variance
- ☒ Dimensions of Proposed Variance
- ☒ Before and After Pictures
- ☐ Other: _____

Meetings Scheduled

Third AC&S Committee (TACSC): 9/7/17

United M&C Committee: _____

Board Meeting: 9/19/17

☐ Denied

☐ Approved

☐ _____

☐ _____

Proposed Alternation- 5073 Avenida Del Sol

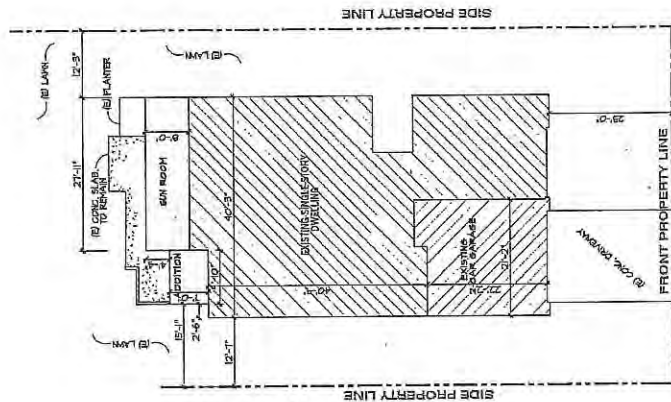
Remove the "sun room" structure and replace it with a permanent structure. The new foundation will not be any larger than the outside dimensions of the permitted sun room.

The flat roof will allow the neighbors a view from their home similar to what exists with the current "sun room". The existing concrete slabs outside the "sun room", which were permitted, will remain.

Bedroom #3 will be extended 7 feet using the patio slab which was permitted. The outside of the new foundation will not be larger than the space permitted for the patio. The existing concrete slab outside the bedroom addition will remain.

No common area will be used.

PROPOSED SUNROOM RENOVATION FOR: -
SYDNEY STEPHAN
50713 AVENIDA DEL SOL, LAGUNA WOODS, CA 92653



SITE PLAN

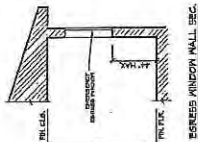
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AVENIDA DEL SOL




[illegible]

EMERGENCY ESCAPE NOTES

- BASEMENTS RECEIPT THOSE ONLY FOR MECHANICAL EQUIPMENT AND NOT OVER 200 SQUARE FEET IN FLOOR AREA. HABITABLE ATTICS AND EVERY SLEEPING ROOM SHALL HAVE AT LEAST ONE EXISTING EMERGENCY ESCAPE AND RESCUE OPENING.



LEGEND

- 


1. **Identify the shape.**
 2. **Identify the axis of symmetry.**
 3. **Identify the center.**
 4. **Identify the radius.**
 5. **Identify the diameter.**
 6. **Identify the circumference.**
 7. **Identify the area.**
 8. **Identify the volume.**

NOTE. ALL MATERIALS, COLORS, TEXTURES, AND

SCOPE OF WORK:

- RENOVATE SUN ROOM (219 SQ. FT.)
NO FOOTPRINT ADDED.
- ADD 64 SQ. FT. TO EXISTING BEDROOM IS
- ADD HISPANOIC OIL STAINING ROOM (RUST HALL)

BUILDING ANALYSIS:

USUAL FAMILY HOOD FRANKLIN RESID.					
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192					

BUILDING SUMMARY:

(1) 2-CAR GARAGE* 40 SQ. FT.
 (2) 3RD FLOOR* 210 SQ. FT.
 (3) LIVING AREA* 2,040 SQ. FT.
 (4) ADDITION* 64 SQ. FT.
 (5) LIVING AREA* 2,341 SQ. FT.
 (6) PORCHES* 2,050 SQ. FT.

LEGAL DESCRIPTION:

TRAVIS
LATV
APPR
CITY
COUNTY
STATE

SHEET INDEX

TITLE	COVER SHEET & SITE PLAN	G-1
EXISTING FLOOR PLAN	EXISTING FLOOR PLAN	A-2
PROPOSED FLOOR PLAN	PROPOSED FLOOR PLAN	A-1
ROOF PLAN & EXISTING ELEVATION	ROOF PLAN & EXISTING ELEVATION	A-3

VICINITY MAP ITS

WILKINS

△△△

PROJECT: SUNROOM RENOVATION

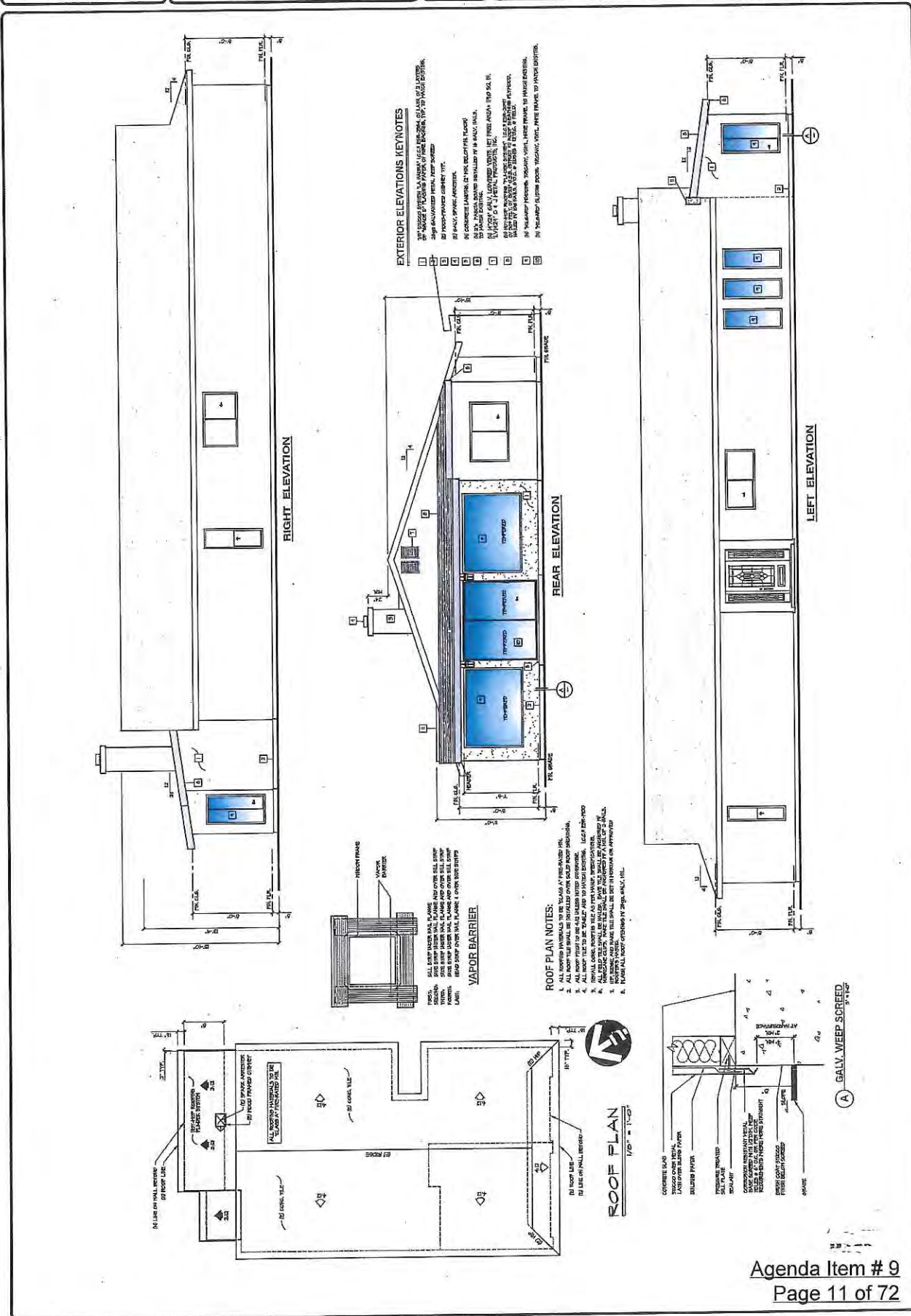
OWNER: SYDNEY STEPHAN
5075 AVENIDA DEL SOL
LAGUNA HILLS, CA

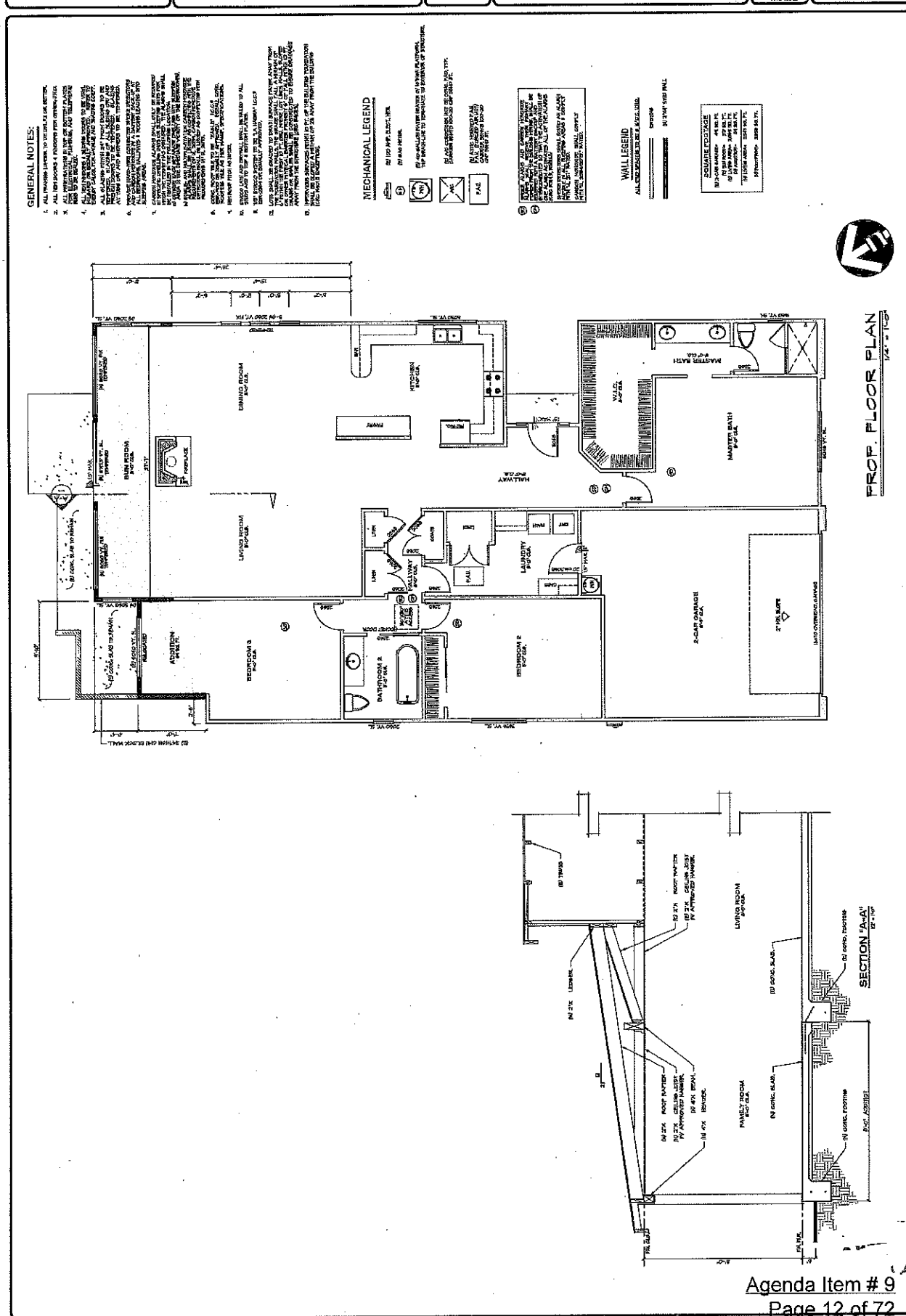
MIBGA
DRAFTING INC.

NOTICE:

EXPAN	M.B.
DATE	07/12/17
SOIL	1"=10'-0"
AS BLD.	1707-SITE
TIME	COVER SHEET
SHEET	SITE PLAN
	C-1

51











Professional
Community
Management, Inc., AGENT
Leisure World, Laguna Woods

RECEIVED

JUN 19 2003

MANOR # 5073
STREET AE-DEL SOL
PERMIT # 031052
FINAL INSP. 10/6/03
Q.A.

PLANNING & ENGINEERING

APPLICATION FOR ALTERATION PERMIT

(Please print clearly with black ink or type all information)

THE MEMBER, WHOSE SIGNATURE APPEARS BELOW, HEREBY ACKNOWLEDGES THAT THE REPAIR, REMOVAL AND/OR MAINTENANCE OF THE SPECIFIED ALTERATION(S) OR IMPROVEMENT(S) IS THE MEMBER'S RESPONSIBILITY. I HEREBY FURTHER EXPRESSLY ACKNOWLEDGE AND AGREE THAT IT IS THE RESIDENT'S RESPONSIBILITY TO BEAR ALL RISKS IN CONNECTION WITH THE SPECIFIED ALTERATION(S) OR IMPROVEMENT(S), INCLUDING, BUT NOT LIMITED TO, THE COSTS OF REMOVING, ALTERING OR REPLACING THE SAME AS MAY BE NECESSARY OR APPROPRIATE TO ALLOW THE CORPORATION BUSINESS. IT IS INTENDED THAT THIS PROVISION BE BROADLY CONSTRUED TO EFFECTUATE THE PARTY'S INTENT THAT THE INDIVIDUAL RESIDENT BEAR ALL COSTS IN CONNECTION WITH THE SPECIFIED ALTERATION(S) OR IMPROVEMENT(S). I UNDERSTAND AND AGREE TO THESE CONDITIONS.

The undersigned, a member of UNITED THIRD Laguna Hills Mutual, a California nonprofit corporation (hereinafter referred to as the "Corporation"), hereby requests permission of the Corporation to make the alteration described below to dwelling unit No. 5073. Said alteration (hereinafter sometimes referred to as the "work") shall be performed subject to the terms and conditions printed on the reverse side hereof, which terms and conditions set out the responsibilities of the member and the below named contractor, if a contractor is to perform said alteration, and which are incorporated herein and made a part hereof.

PROPOSED ALTERATION (please check all that apply)

- | | | |
|--|---|---|
| <input type="checkbox"/> Antenna, AMATEUR RADIO | <input type="checkbox"/> Flagpole | <input type="checkbox"/> Solatube |
| <input type="checkbox"/> Atrium, ENCLOSURE | <input checked="" type="checkbox"/> Garden Room | <input type="checkbox"/> Slab Revision |
| <input type="checkbox"/> Bathroom, REMODEL | <input type="checkbox"/> Gate | <input type="checkbox"/> Solarium |
| <input type="checkbox"/> Block Wall | <input type="checkbox"/> Gutters/Downspout | <input type="checkbox"/> Soft Water Unit |
| <input type="checkbox"/> Condensation Panel | <input type="checkbox"/> HVAC - O FAN - O A/C - O VENT | <input type="checkbox"/> Solar Unit |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Modesty Paneling | <input type="checkbox"/> Storage Cabinet(s) |
| <input type="checkbox"/> Fences, WROUGHT IRON | <input type="checkbox"/> Patio/Balcony/Atrium Cover, ALUMINUM | <input type="checkbox"/> Wall Attachment(s), EXTERIOR |
| <input type="checkbox"/> Door, EXTERIOR | <input type="checkbox"/> Patio/Balcony/Atrium Cover, WOOD LATTICE | <input type="checkbox"/> Washer/Dryer |
| <input type="checkbox"/> Door, GARAGE | <input type="checkbox"/> Patio/Balcony/Atrium Cover, WOOD SOLID | <input type="checkbox"/> Water Heater, HEAT PUMP |
| <input type="checkbox"/> Door, SCREEN | <input type="checkbox"/> Room Addition | <input type="checkbox"/> Water Heater, RELOCATION |
| <input type="checkbox"/> Floor Coverings, EXTERIOR | <input type="checkbox"/> Shades, ROLL UP | <input type="checkbox"/> Window |
| <input type="checkbox"/> Fireplace | <input type="checkbox"/> Skylight(s) | <input type="checkbox"/> Windbreak/Windscreen, GLASS |

LOCATION/OTHER: GARDEN ROOM

☒ PER MUTUAL APPROVED STANDARD SPECIFICATIONS AND STANDARD PLAN(S): # _____

☐ PER MUTUAL APPROVED VARIANCE RESOLUTION NO. _____

☐ VALUATION \$ 12,000

NOTE: THE CEILING, FLOORS AND POSSIBLY OTHER AREAS OF THE MANOR MAY CONTAIN A MINUTE AMOUNT OF ASBESTOS THAT IS HARMLESS AND HARMLESS. HOWEVER, YOU ARE CAUTIONED TO TAKE ALL REASONABLE AND PRUDENT MEASURES TO PROTECT YOURSELF. YOU SHOULD NOT DISTURB OR PENETRATE ANY AREAS OF THE INTERNAL ENVELOPE OF THE MANOR. THE RESIDENT AND/OR HIS CONTRACTOR AGREE TO ABIDE BY ALL FEDERAL, STATE AND LOCAL REGULATIONS RELATING TO ASBESTOS REMOVAL.

Member Signature: Tina A. Nagy DATE: 06/19/03

THE UNDERSIGNED IS A CONTRACTOR LICENSED PURSUANT TO THE LAWS OF THE STATE OF CALIFORNIA AND HEREBY AGREES TO PERFORM THE ABOVE DESCRIBED WORK SUBJECT TO THE TERMS AND CONDITIONS PRINTED ON THE REVERSE SIDE HEREBY WHICH ARE INCORPORATED HEREIN AND MADE A PART HEREOF. IN ADDITION, THE UNDERSIGNED CONTRACTOR HAS RECEIVED, READ, UNDERSTANDS AND AGREES TO FOLLOW AND ADHERE TO ALL CURRENT MUTUAL STANDARDS REGARDING THIS ALTERATION.

Contractor Signature: Leif Nylund DATE: 6-19-03

CONTRACTOR (SIGNATURE REQUIRED)

SCANDIA

PLEASE MAKE CHECK PAYABLE TO: GRF

ALTERATION PERMIT (OFFICE USE ONLY)

The foregoing application is hereby approved and said member is hereby granted permission to make the above described alteration.

Signature: William VILLA PARAISA \$304 Gard Rm 6/20/03

PCM, INC., AGENT

MANOR MODEL NAME

PERMIT FEE

ALTERATION CODE(S)

DATE

EX-DATA: C:\MSD\DATA\PERMIT.DOC-1100

Third Laguna Hills Mutual

September 22, 2008

Mrs. Lynne Dvorak
5073 Avenida Del Sol
Laguna Woods, CA 92637

Dear Mrs. Dvorak:

Your variance request to install two new patio slabs at the rear of your manor was considered at the September 16, 2008 Regular Meeting of the Third Laguna Hills Mutual Board of Directors.

Please be advised that the Board of Directors approved your request with the following contingencies:

1. Mutual Member/s at 5073 must sign and submit to Third Laguna Hills Mutual, c/o PCM, Inc., Attention Pamela Bashline, Community Services Manager, the "Recordable Common Area Agreement" for the subject expansion utilizing Common Area.
2. All future costs associated with the alteration are the responsibility of the Mutual member(s) at 5073.
3. All landscape, irrigation, and drainage modifications associated with the alteration are to be completed by the Landscape Division at the expense of the Mutual member(s) at 5073.
4. Installation of the patio slabs and walkway must comply with Mutual Standard Section 21 - Patio Slabs, and the block wall with Mutual Standard Section 6-Block Walls.
5. A Neighbor Awareness Form signed by the owner(s) of Manor 5072 indicating their awareness of the proposed alterations is required.

The Permits and Inspections Department has been advised of the Board's decision and can be reached at (949) 597-4616, should you require further assistance.

FOR THE BOARD OF DIRECTORS

Patty Fox
Assistant Secretary,
Third Laguna Hills Mutual

Cc: Debbie Sucamele, Permits & Inspections Department

Third Laguna Hills Mutual

VARIANCE REQUEST REPORT

DATE: September 8, 2008

FOR: Third Laguna Hills Mutual
Board of Directors

SUBJECT: New Rear Patio Slabs at 5073

SUMMARY / RECOMMENDATION

Mrs. Lynne Dvorak of 5073 Avenida Del Sol, a Villa Paraisa style manor, requests approval of a variance to install two new patio slabs at the rear of her manor (Exhibit A). Staff recommends that the Board approve the request with contingencies.

BACKGROUND

Mrs. Dvorak submitted a request for approval to install two new patio slabs at the rear of her manor. The proposed alterations are to enlarge the existing stoop outside of the existing sunroom, install a new patio slab with low block wall outside Bedroom Two, and a walkway to connect the two.

The existing sunroom stoop would be removed and a new 10'-0" X 6'-0" concrete slab installed. A new 9'-4" X 12'-0" concrete slab with a 2'-0" high stucco-covered block wall with concrete cap would be installed next to the sunroom, outside Bedroom Two. A new 10'-8" X 3'-0" concrete walkway would join the two new patio slabs.

The approximately 50 square foot remaining patch of grass between the Bedroom Two patio and Manor 5072 would be converted into a planter. The existing planter and grassy area next to the 10'-0" X 6'-0" slab would be extended to create a larger planter.

Mrs. Dvorak submitted a conceptual plan of the proposed alterations and their locations.

ANALYSIS

The subject alteration is located at the rear of the manor, and would be visible to neighboring Manors 5072, and 5075. Staff has requested and received a Neighbor Awareness Form from Manor 5075 and a Certified Mail Receipt from the USPS for Manor 5072. Records show that Manor 5072 is owned and occupied by a Trustee; however, the property appears to be vacant.

A sunroom installed under Mutual permit in 2003 resides over the existing rear patio slab original to the manor. Approximately six sprinkler heads would need to be relocated to facilitate the expansion. The proposed patio slabs and walkway would incorporate approximately 200 square feet of Mutual Common Area.

A previous rear patio extension at Villa Paraisa style manor has been approved by the Board for Manor 5268 in April 2007.

Staff is of the opinion that the proposed new patio slabs, low block wall and walkway at Manor 5073 would not negatively affect the manor or surrounding area.

The Condominium Plan for 5073 designates the location of the patio slabs and walkway as Common Area.

Current legal opinion, and the "Decision Tree", was developed by legal counsel to be used as a tool in the decision-making process when reviewing applications for alterations. Pursuant to the Decision Tree, certain criteria must be considered:

- The proposed alteration meets the requirement that the alteration complies with all architectural and building guidelines within the community, whether the proposed alteration is entirely on the Member's own property, on Exclusive Use Common Area, or on Common Area.
- The proposed alteration will be located on Exclusive Use Common Area and partially on Common Area.
- Because the proposed alteration will be located partially on Common Area, the Board must determine whether such Common Area is *generally inaccessible* and is *not of general use* to the other members of Third Mutual, or is only accessible to and of use by the applicant. Because of the location of the back of the manor being open onto Common Area that doesn't allow for pedestrian traffic due to lack of a sidewalk and topography, Staff is of the opinion that the location of the proposed alteration is generally inaccessible and is not of general use to other members.
- Because the proposed alteration is over an area that is technically Common Area, then a prerequisite to approval is to transfer the burden of management and maintenance by having the applicant execute an Agreement Confirming Continuing Tenant In Common Ownership of Common Areas, hereafter referred to as a "Recordable Common Area Agreement", which also establishes that only exclusive use is being granted. The title is and shall continue to be held by all Members of the Mutual, and not now nor shall there ever be any transfer of title to any portion of such Common Area.
- Because of the location of the existing extended patio, and the location of the patios of surrounding manors, the proposed installation would not prevent a Member of a neighboring manor from also performing such an alteration.

The Board should determine that at least three of the following objective factors are present prior to approving any alteration that will include an enclosure, or otherwise encroach into the third dimension of the Common Area.

- 1) The alteration is constructed behind an already existing block wall at least five feet in height.
- 2) The alteration does not obstruct a neighboring manor's view.
- 3) The alteration is consistent with the architectural aesthetics and integrity of the Community.
- 4) The encroachment into the third dimension does not impede ingress or egress of other members onto adjacent Common Area or impede Community maintenance Staff from going into or across the Common Area.
- 5) The proposed area of alteration can only be reasonably accessed through or benefit the subject manor.

The subject extension meets criteria numbers 2, 3, 4, and 5.

Staff recommends that the Board approve the request to install two rear patio slabs, block wall and walkway at Manor 5073, with the following contingencies:

1. Mutual Member/s at 5073 must sign and submit to Third Laguna Hills Mutual, c/o PCM, Inc., Attention Pamela Bashline, Community Services Manager, the "Recordable Common Area Agreement" for the subject expansion utilizing Common Area.
2. All future costs associated with the alteration are the responsibility of the Mutual member(s) at 5073.
3. All landscape, irrigation, and drainage modifications associated with the alteration are to be completed by the Landscape Division at the expense of the Mutual member(s) at 5073.
4. Installation of the patio slabs and walkway must comply with Mutual Standard Section 21 - Patio Slabs, and the block wall with Mutual Standard Section 6- Block Walls.
5. A Neighbor Awareness Form signed by the owner(s) of Manor 5072 indicating their awareness of the proposed alterations is required.

Prepared By: Rodd Whiston, Alterations Inspector *RW*

Reviewed By: Art Hernandez, Alterations Inspector *A.H.*
Wendy Panizza, Property Services Manager *WP*

Lynne C. Dvorak
John P. Flower
5073 Avenida Del Sol
Laguna Woods, CA 92637
[REDACTED]

July 29, 2008

Laguna Woods Village
Third Laguna Hills Mutual

RE: Variance request

Attached are the proposed plans for new hardscape and landscaping to the rear of our manor.

The total square footage of the proposed hardscape is 200SF. This will include a 10' wide x 6' deep cement slab directly outside our rear sunroom door and a 9' 4" wide x 12' deep cement slab to the left of the sunroom. The patio slabs will be connected by a 3' wide walkway. The patio to the left of the sunroom will be bordered on the left front by a 2' high x 5.5" wide cinder block wall which will be stuccoed to match the building and topped with a pre-cast concrete cap.

We will remove all of the current grass and planting in front of and to the left of the new concrete (except as seen on the drawings). The planter to the right of the 10 x 6 slab will be enlarged, doubling the current depth to 6'.

All necessary irrigation work and new planting will be done by the Third Mutual gardeners at our expense.

Cordially,

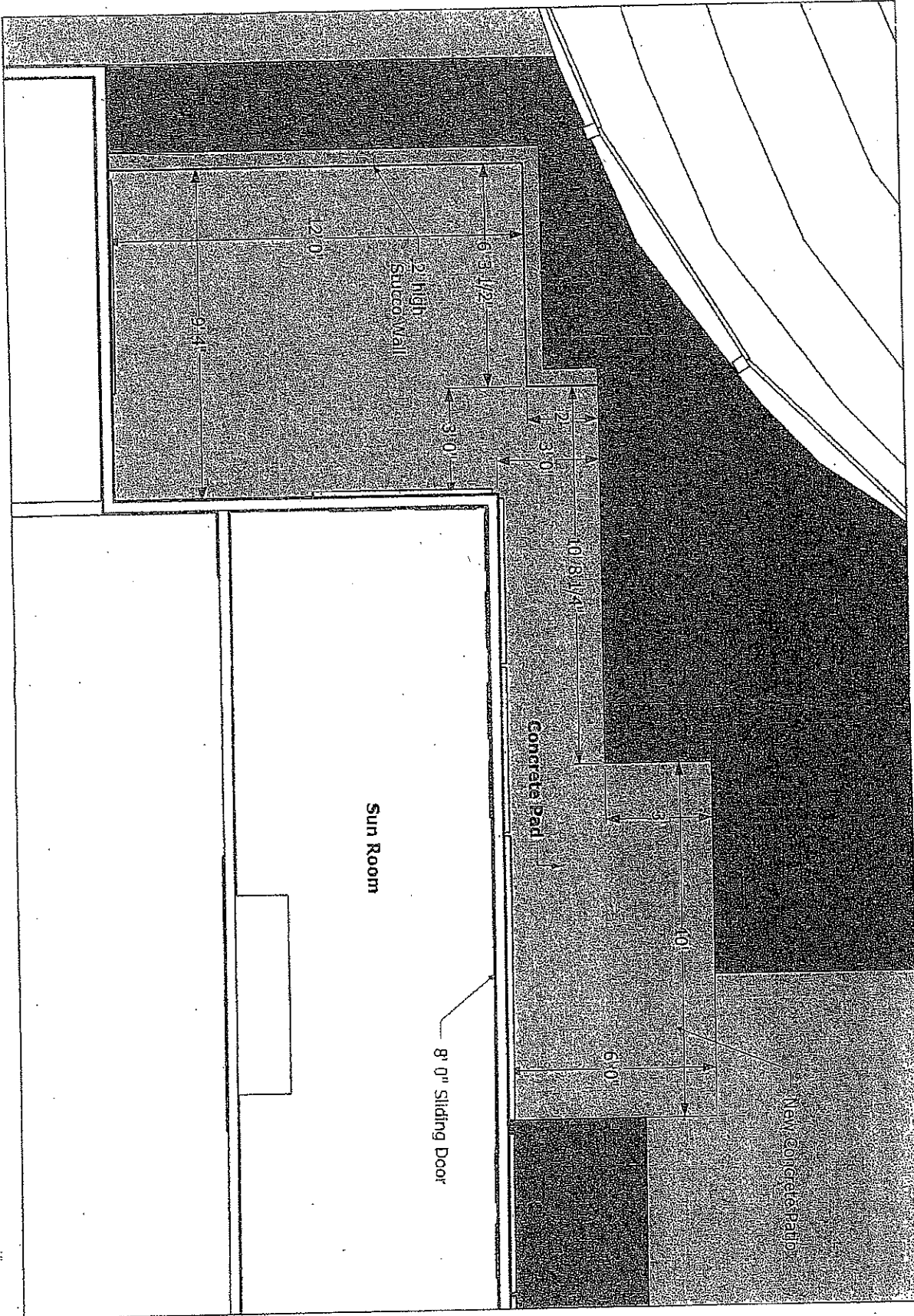

Lynne C. Dvorak

John P. Flower

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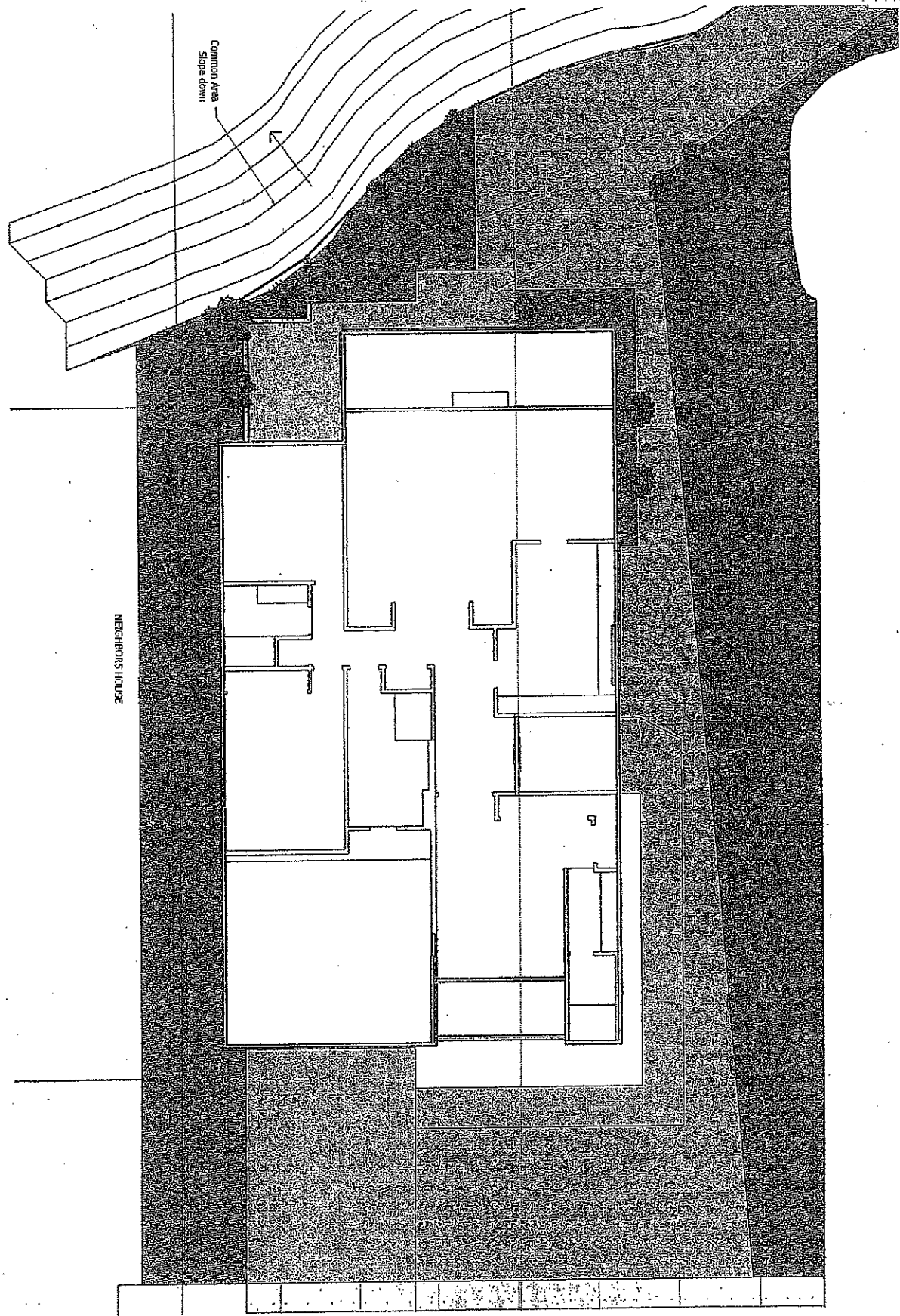
JUL 29 2008

PERMITS DEPARTMENT



PROPOSED
PLAN

Lynne Dvorak / John Elmer Property
949-295-3990

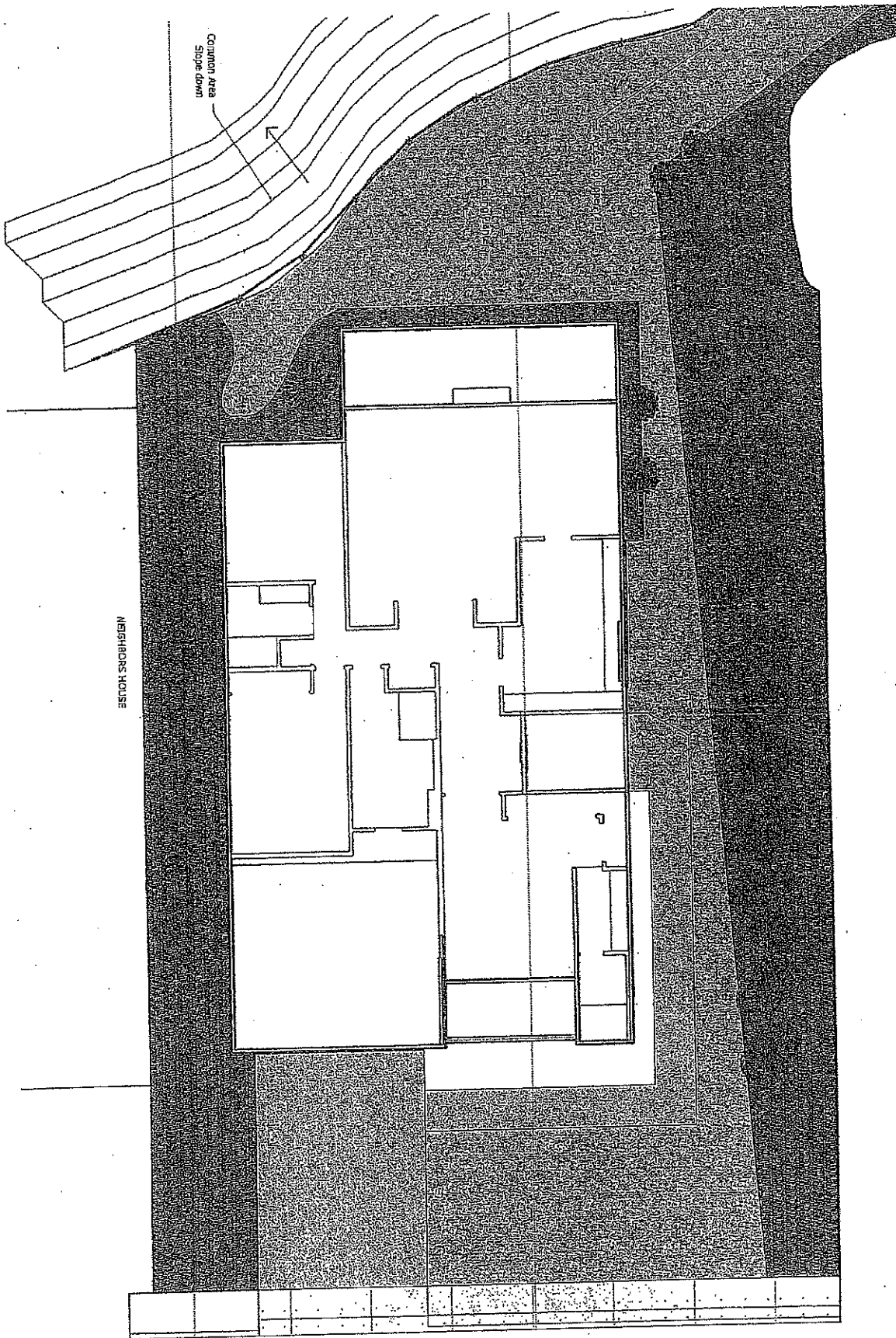


NEIGHBORS HOUSE

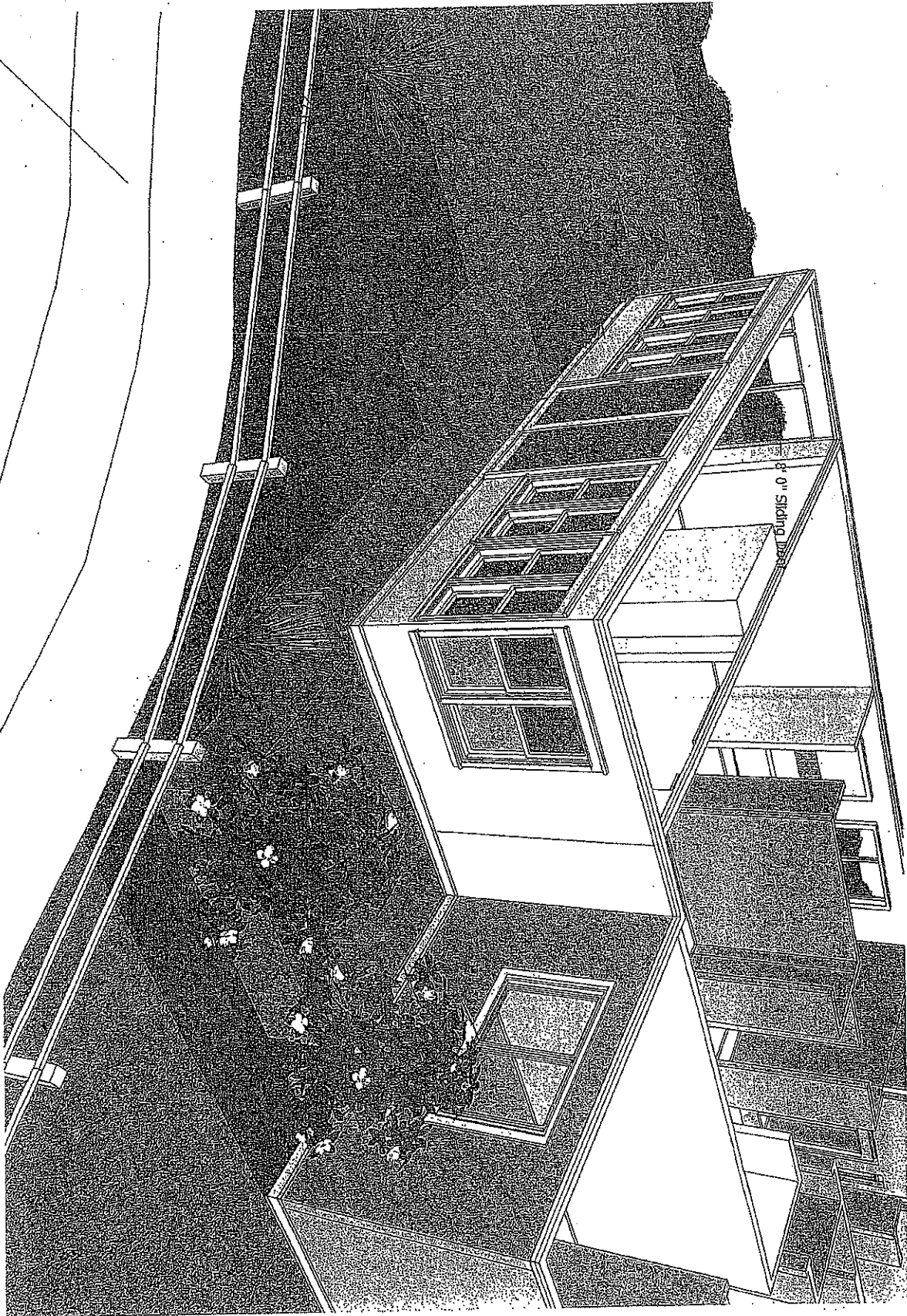
PROPOSED

Lynne Dvorak/John Elmer Property
949-295-3990

5073 Avenida Del Sol, Laguna Woods, Ca



EXISTING



PROPOSED

Lynne Dvorak / John Flower Property
949-295-3990

5073 Avenida Del Sol, Laguna Woods, Ca

THIRD LAGUNA HILLS MUTUAL

NEIGHBOR AWARENESS FORM

Requestor: The intent of this notification is to advise your neighbors who own property within close proximity of your manor who may be affected by your proposed alteration(s) by requiring their signatures below. The neighbor's signature indicates their awareness of the application. No application will be considered without this evidence that your neighbor(s) have been made aware of the proposed alteration(s).

Neighbor(s): You are hereby notified that the Member at neighboring manor # 5073 has filed an application for an alteration permit to construct or install the following:

REAR PATIO EXTENSIONS + WALKWAY

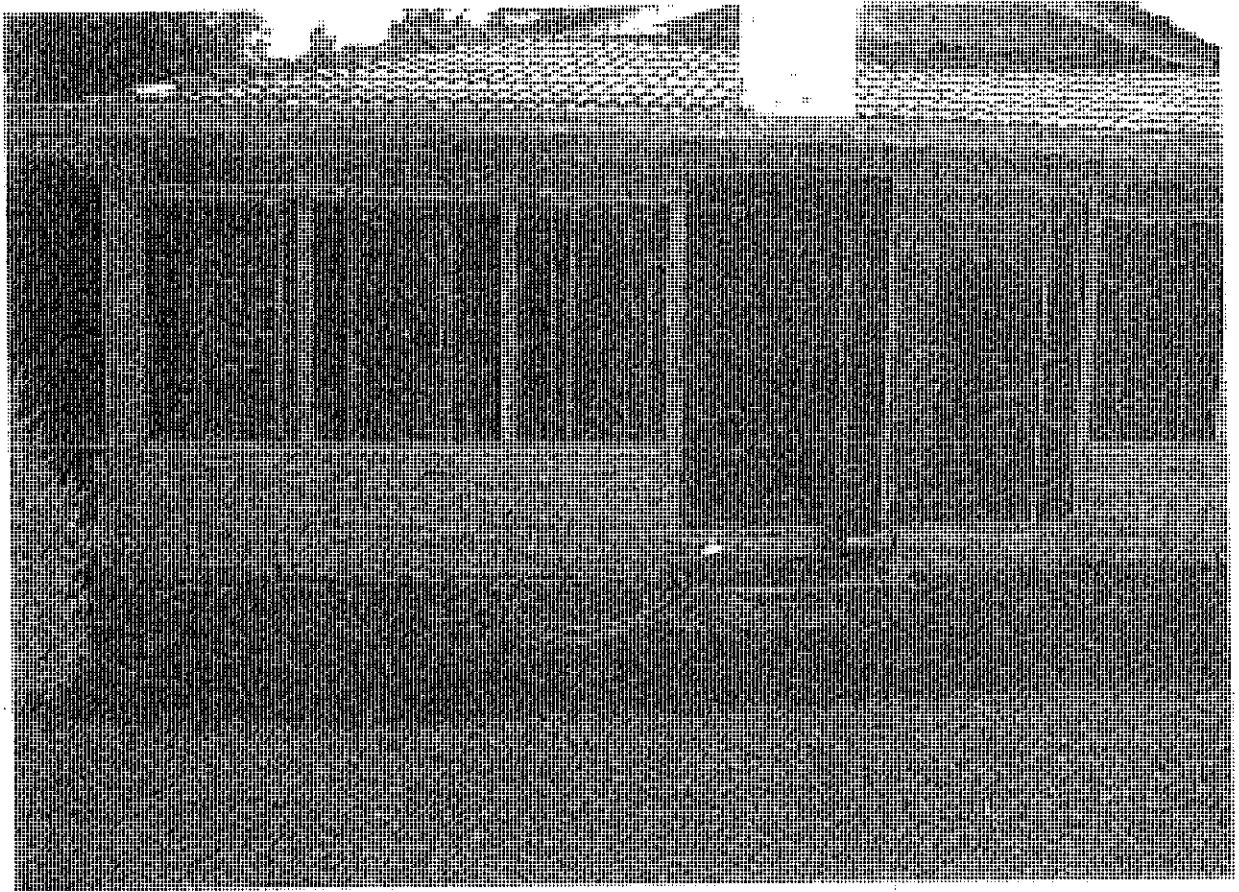
The Permits and Inspections office, pursuant to policies established by the Third Laguna Hills Mutual, has determined that the above alteration(s) may affect your manor. You are requested to review the proposed manor modification and sign this form in the space provided below to show that you have been made aware of the proposed alteration. Plans for the proposed alteration(s) are available for viewing at the Permits and Inspections office in the Laguna Wood Village Community Center.

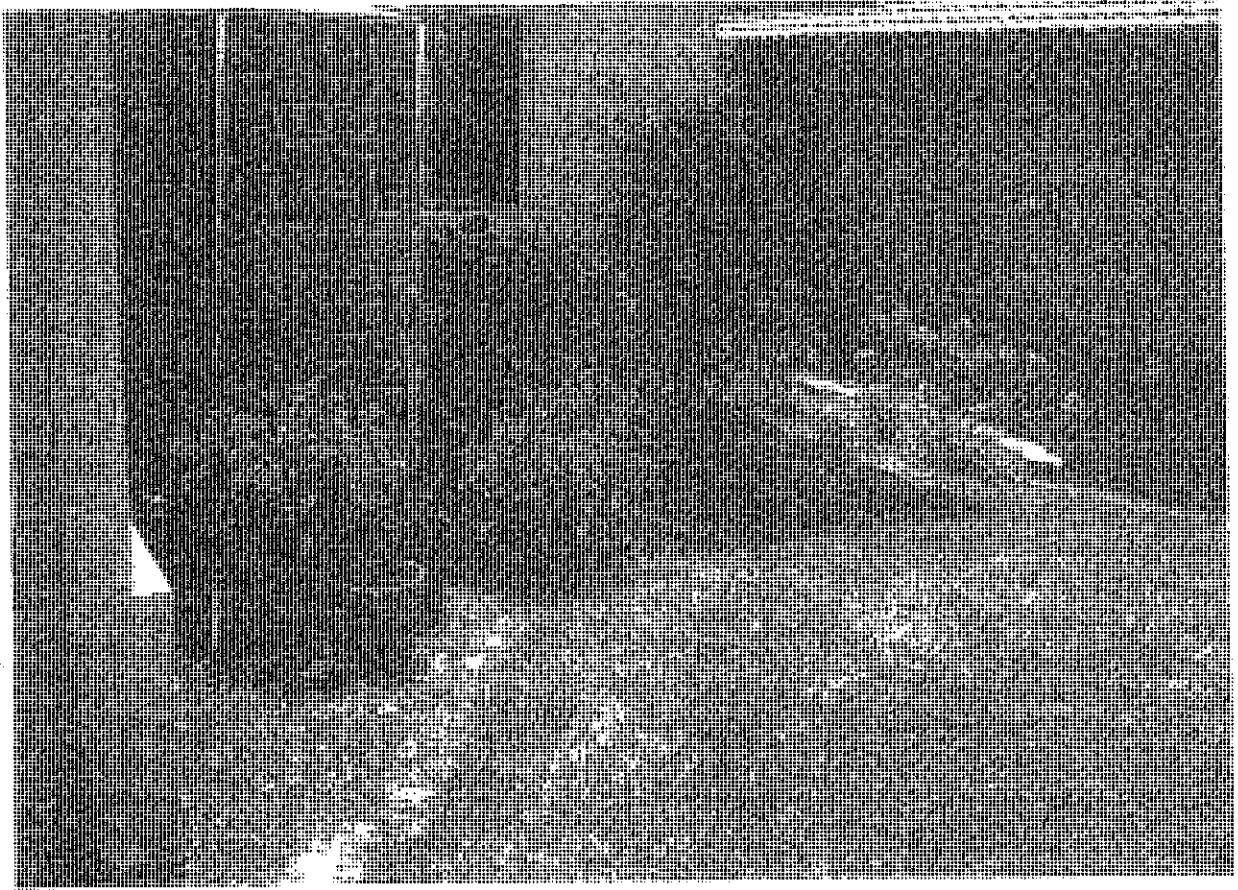
You have a right to address the Third Laguna Hills Mutual Maintenance and Construction Committee regarding the proposed alteration(s) if you so desire. Please telephone the Permits and Inspections office at 949-597-4616 for Committee meeting dates, time, and location.

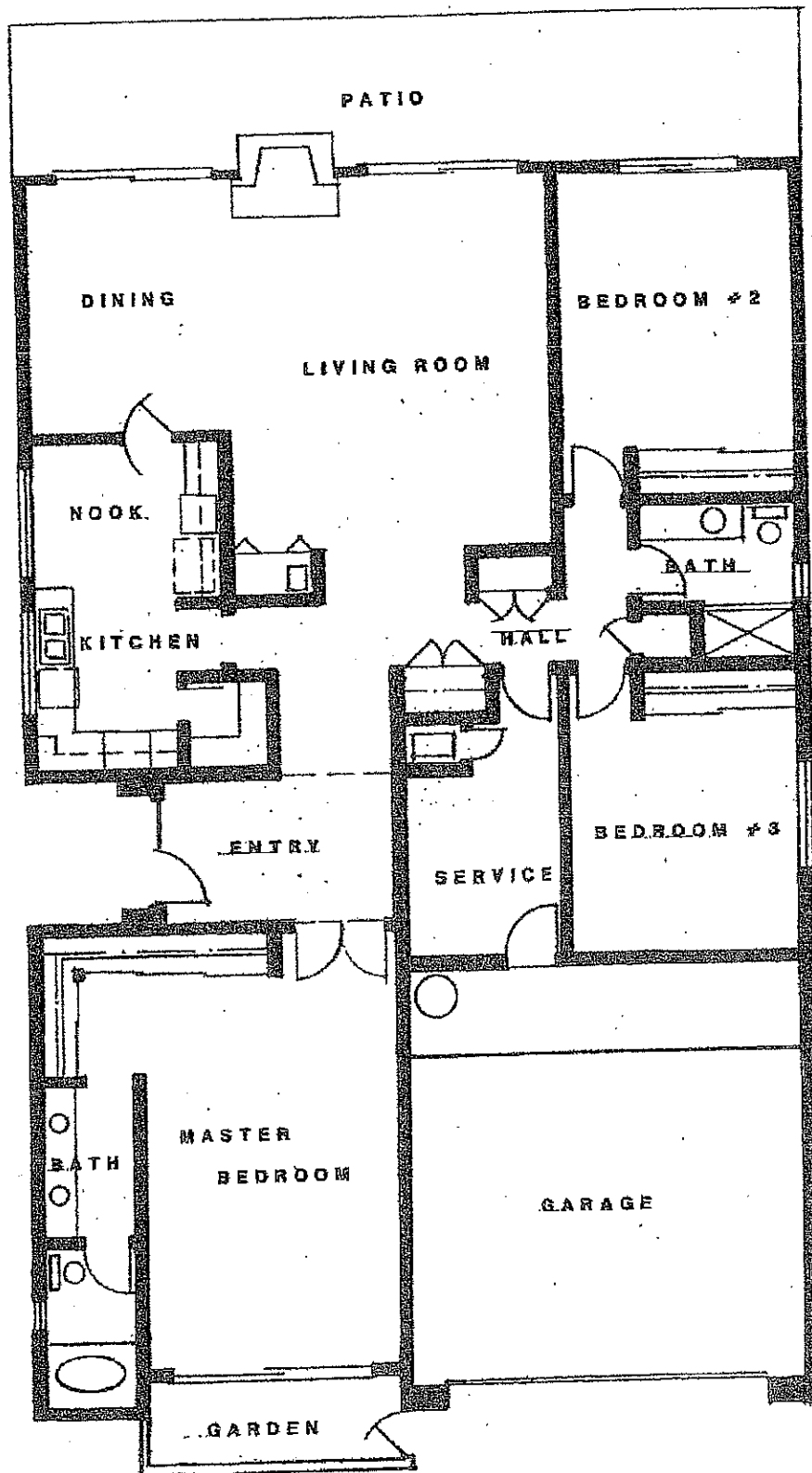
Name (Signature) Patricia J. [Signature] 5075 Date 18/13/08

Comments: _____

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only - No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
LAGUNA 92653-0001	
OFFICIAL USE	
Postage	\$0.42
Certified Fee	\$2.70
Return Receipt Fee (Endorsement Required)	\$2.20
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$5.32
Sent to: GEORGE NAJEMNER	
Street, Apt. No. or PO Box No. 5073 AVE DEL SOL	
City, State, ZIP+4 1 LAGUNA WOODS CA 92653	





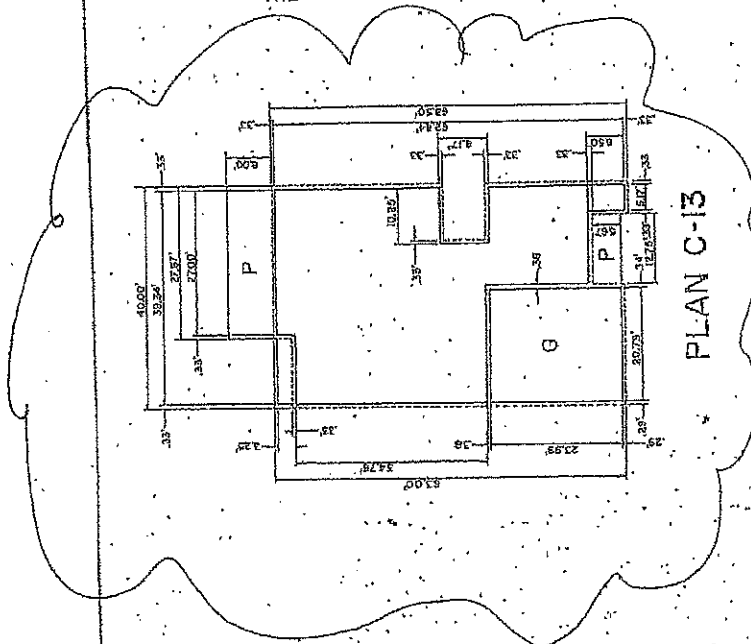


VILLA PARAISA(C13 villa's)

CONDOMINIUM PLAN FOR LOTS 1 THRU 6 OF
TRACT NO. 7388
 IN UNINCORPORATED TERRITORY OF
 THE COUNTY OF ORANGE, STATE OF CALIFORNIA

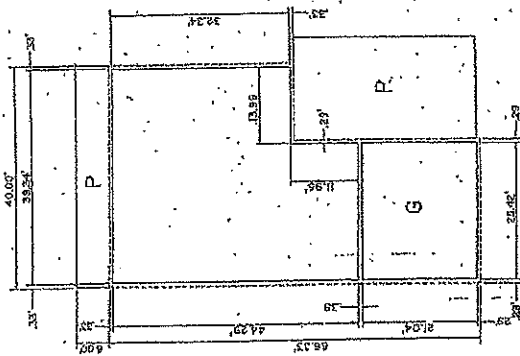
SHEET 19 OF 24

PLAN 10530 P&M 885



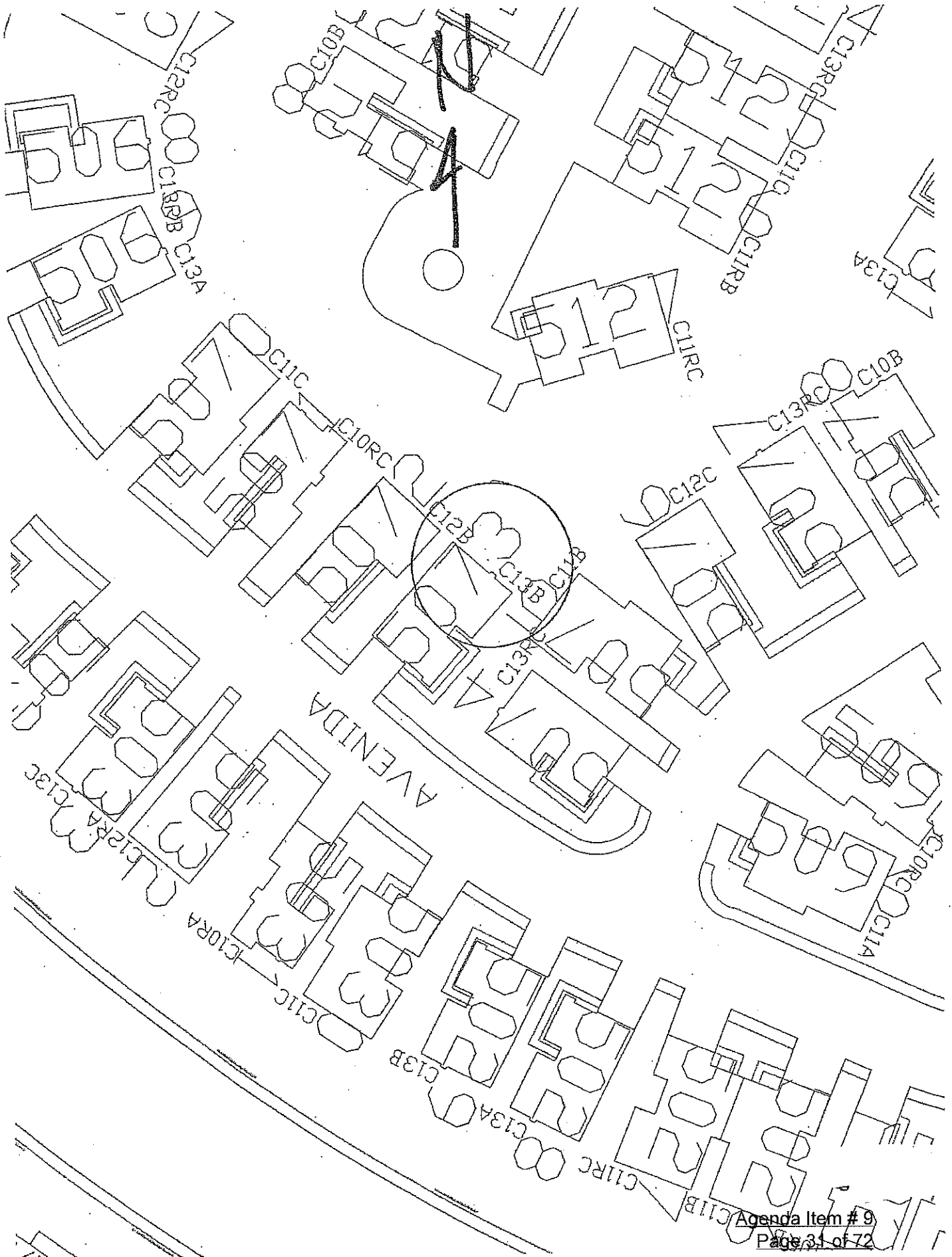
PLAN C-13

TYPICAL FOR Bldgs. R5001, R5002, R5007, R5013, R5019, R5019, R5023, R5023, R5029, R5033, R5039, R5040, R5044, R5045, R5049, R5054, R5058, R5064, R5068, R5073, R5074, R5077, R5081, R5086, R5094, R5097, R5099, R5100, R5101, R5105, R5107, R5109, R5114, R5119, R5124, R5129, R5134, R5139, R5144, R5145, R5150, R5152, R5158, R5159, R5169.



PLAN C-12

TYPICAL FOR Bldgs. R5001, R5003, R5006, R5008, R5012, R5017, R5022, R5024, R5032, R5036, R5039, R5042, R5048, R5051, R5057, R5060, R5062, R5069, R5072, R5076, R5079, R5080, R5082, R5084, R5085, R5087, R5089, R5090, R5093, R5095, R5104, R5108, R5110, R5112, R5122, R5124, R5140, R5146, R5147, R5148, R5149, R5151, R5154, R5156, R5157, R5162, R5163, R5164.



LAGUNA WOODS VILLAGE - APPLICATION FOR ALTERATION PERMIT

The undersigned, a member of United Third/Fifty Laguna Hills Mutual, a California nonprofit corporation (hereinafter referred to as the "Corporation") hereby requests permission of the Corporation to make the alteration described below to dwelling No. 5073. Said alteration (hereinafter sometimes referred to as the "work") shall be performed subject to the terms and conditions printed on the reverse side hereof, which terms and conditions set out the responsibilities of the member and the below named contractor, if a contractor is to perform said alteration, and which is incorporated herein and made a part hereof.

Manor # 5073
Street AVE DEL SOL
Permit # 081391
Final Insp. 1-15-09 *act*

Proposed Alteration (please check all that apply)

- | | | |
|---|---|---|
| <input type="checkbox"/> Antenna, Amateur Radio | <input type="checkbox"/> Garden Room, Solarium | <input type="checkbox"/> Skylight(s) |
| <input type="checkbox"/> Atrium, Enclosure | <input type="checkbox"/> Gate | <input type="checkbox"/> Solatube(s) |
| <input type="checkbox"/> Awnings | <input type="checkbox"/> Gutters/Downspout | <input type="checkbox"/> Slab Revision |
| <input type="checkbox"/> Bathroom, Remodel | <input type="checkbox"/> HVAC <input type="checkbox"/> FAU <input type="checkbox"/> A/C Vent <input type="checkbox"/> Heat Pump | <input type="checkbox"/> Soft Water Unit |
| <input type="checkbox"/> Block Wall | <input type="checkbox"/> Modesty Paneling | <input type="checkbox"/> Storage Cabinet(s) |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Patio/Balcony/Atrium Cover, Aluminum | <input type="checkbox"/> Stepping Stones |
| <input type="checkbox"/> Enclosures: Patio, Balcony | <input type="checkbox"/> Patio/Balcony/Atrium Cover, Wood Lattice | <input type="checkbox"/> Wall Attachment(s), Interior |
| <input type="checkbox"/> Fences, Wrought Iron | <input type="checkbox"/> Patio/Balcony/Atrium Cover, Wood | <input type="checkbox"/> Wall Attachment(s), Exterior |
| <input type="checkbox"/> Door, Exterior | <input checked="" type="checkbox"/> Room Addition <u>MASTER BEDRM</u> | <input type="checkbox"/> Washer/Dryer |
| <input type="checkbox"/> Door, Garage | <input type="checkbox"/> Satellite Dish | <input type="checkbox"/> Water Heater Relocation |
| <input type="checkbox"/> Floor Coverings, Exterior | <input type="checkbox"/> Shades, Roll Up | <input type="checkbox"/> Window: Retrofit/ New Construction |
| <input type="checkbox"/> Fireplace | | <input type="checkbox"/> Windbreak/ Windscreen, Glass |

City # 20976-D

RECEIVED
AUG 04 2008
PERMITS DEPARTMENT

Location (Other) INSTALL 2 NEW PATIO SLABS AT REAR OF MANOR

1) Move MR Bedroom wall to incorporate atrium. 2) Replace 1 kit-shen window with glass block. 3) Add gable vent front & back.

☒ Per Mutual approved standard specifications and standard plan(s) #
☒ Per Mutual approved variance resolution No. SEE ATTACHED Valuation \$ 5000.00

MEMBER: IMPORTANT, PLEASE READ CAREFULLY

- The Mutual's Alteration Permit process requires that the Mutual Member receive a copy of the Mutual Standard to which the requested permit applies, where applicable. To ensure compliance, the Member's signature indicating receipt of the Standard is necessary, and a permit will not be issued without this required signature.
- I understand that I will be in non-conformance if my contractor and/or I do not conform to Mutual Standards, and that I may be subject to Member Disciplinary Procedures, including the possibility of a fine in accordance with the Schedule of Monetary Penalties.
- I understand and agree that I am responsible for all risks in connection with the alteration(s) or improvement(s) specified above, including, but not limited to, the costs of removing, altering, or replacing the same as may be necessary or appropriate to allow the corporation business.
- I understand and agree that I am responsible for, and bear all costs in connection with the alteration(s) or improvement(s) specified above.

Lynne C. Dvorak 8-4-08
Member (Signature Required) Date

CONTRACTOR: IMPORTANT, PLEASE READ CAREFULLY

I have received, read, understand, and agree to follow and conform to all current Mutual standards regarding this alteration. In addition, I am a contractor licensed pursuant to the laws of the state of California and hereby agree to perform the above described work subject to the terms and conditions printed on the reverse side hereby which are incorporated herein and made a part hereof.

Donnell C. Dvorak 8-4-08
Contractor (Signature Required) Date

Note: The ceiling, floors and possibly other areas of the manor may contain a minute amount of asbestos that is basically inert and harmless if not disturbed. However, you are cautioned to take all reasonable and prudent measures to protect yourself should you disturb any areas of the internal envelope of the manor. Resident and his/her contractor agree to abide by all Federal, State, and Local regulations relating to asbestos removal.

Please Make Check Payable to: GRF
Office Use Only

The foregoing application is hereby approved and said member is hereby granted permission to make the above described alteration.

Willa Paraisa \$244.00 Bed Ext, PS, PS, 8/5/08
M, INC., Agent Manor Model Name Permit Fee Alteration Code(s) Date Agenda Item # 9
Note: GLASS BLOCK W/K, GABLE VENT, GABLE VENT Page 32 of 72

RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
AS AN ACCOMMODATION ONLY

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Third Laguna Hills Mutual
c/o PCM, Inc.
24351 El Toro Road
Laguna Woods, CA 92637

Attn: Pamela Bashline
Community Services Manager

This Document was electronically recorded by
Lenders Advantage B

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder



24.00

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P. N. 932-19-013

AGREEMENT CONFIRMING CONTINUING TENANT IN COMMON OWNERSHIP OF COMMON AREAS

This agreement confirming continuing tenant in common ownership of common areas ("Agreement") is made and entered into as of this 23 day of SEPT., 2008, by and between Mrs. Lynn Dvorak ("Members") located at 5073 Avenida Del Sol and Third Laguna Hills Mutual, a California nonprofit mutual benefit corporation ("Mutual") with reference to the following facts and circumstances.

WHEREAS, the Member has requested and the Mutual has approved the Member's request to construct (or is hereby approving construction that has already been performed) an enclosure ("Improvement") located adjacent to the Member's separate interest property at the Mutual (a legal description of which is attached hereto as Exhibit A and incorporated herein by this reference), and part of this Improvement is to be located on, over, across, or enclosing the common areas of the Mutual. This Improvement is described as follows: Two new patio slabs, low block wall, and walkway.
Member's Initials LD

WHEREAS, the Member and Mutual wish to provide through this Agreement for the Member's express acknowledgment that the common areas of the Mutual enclosed by or on which such Improvement is or shall be located nevertheless retain and always shall retain their common area character, and shall not in any fashion be construed to create additional area as the Member's separate interest property, and further for the Member's indemnification of the Mutual and related entities for any and all costs or expenses arising or incurred in any manner related to such Improvement, or its removal if so required by the Mutual.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Common Area Status of Property. Notwithstanding that the Member has been given approval by the Mutual to construct the Improvement (or is hereby obtaining retroactive approval for construction already completed), the Member hereby expressly acknowledges and agrees that such Improvement is being constructed on, over, across, and/or enclosing certain common areas of the Mutual, for which title is and shall continue to be held by all Members of the Mutual as tenants in common, and further that there is not now nor shall there ever be any transfer of title to any portion of such common areas to the Member, despite the Member's construction of the Improvement and/or the Member's exclusive use of the entryway area adjacent to their manor.

2. Removal of Improvement. The Member expressly acknowledges and agrees that the Improvement shall be removed at the Member's sole cost and expense within sixty (60) days after a written request delivered to the Member at the Mutual's discretion if at any time the Mutual finds it necessary or appropriate to have such Improvement removed, and further that the Member shall at his or her sole cost and expense thereupon also return the common areas on or around which the Improvement was constructed to their original condition or reinstall the alteration with the approval of the Mutual.

3. Maintenance/Insurance. So long as the Member and his or her guests, lessees, or related parties are the sole users of any entryway area, adjacent to their manor (whether or not enclosed by an Improvement), the Member agrees to maintain and insure such area at their sole cost and expense in a manner consistent with the Mutual's standards, as reasonably determined by the Mutual.

4. Indemnification. The Member agrees to indemnify and hold harmless the Mutual, Golden Rain Foundation of Laguna Woods and PCM, Inc., and their respective, officers, directors, employees and agents, and each of them (collectively, the "Indemnified Parties"), from and against any and all claims, damages, liabilities or expenses (including, without limitation, settlement costs and legal or other expenses for investigating or defending any action or threatened action) based on, or arising out of the construction, installation, maintenance, repair, existence, or use of the Improvement, whether caused by the Member directly, and/or by the Member's contractors, sub-contractors, guests, lessees or related parties. The Indemnified Parties shall have the right to employ their own counsel in any such case, and the fees and expenses of such counsel shall be borne by the Member.

5. Miscellaneous. This Agreement shall be construed in accordance with and all disputes hereunder shall be governed by the internal laws of the State of California. In the event of any controversy or dispute arising out of this Agreement, the prevailing party or parties shall be entitled to recover from the non-prevailing party or parties, reasonable expenses, including, without limitation, attorneys' fees and costs actually incurred. This Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter hereof. This Agreement shall be binding upon the heirs, administrators, executors, successors and assigns of each of the parties hereto. This Agreement may be executed in counterparts, each of which shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

THIRD LAGUNA HILLS MUTUAL

By: Cynthia S. Conners

Cynthia Conners, President
Printed Name

Its: President

MEMBER

Lynne C. Dvorak
Signature

LYNNE C. DVORAK
Printed Name

State of California

County of Orange }

On September 23, 2008 before me, C.S. Kendall, Notary Public
Date Name and Title of Officer

Personally appeared

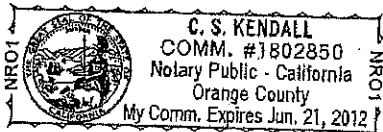
Lynne C. Dvorak

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Notary Seal

Signature

C.S. Kendall

Signature of Notary Public

State of California

County of ORANGE }

On SEPTEMBER 26, 2008 before me, RAE ESPERON, NOTARY PUBLIC
Date Name and Title of Officer

Personally appeared

CYNTHIA S. CONNERS

Name(s) of Signer(s)

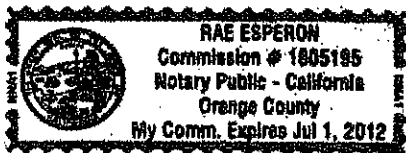
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Rae Esperon
Signature of Notary Public



Notary Seal

EXHIBIT "A"

Legal description of Member's separate interest property

[See attached]

EXHIBIT "A"

PARCEL 1:

BUILDING NO. 5073 AS SAID UNIT IS SHOWN ON THAT CERTAIN CONDOMINIUM PLAN ATTACHED TO AND MADE A PART OF THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED JANUARY 26, 1973 IN BOOK 10530 PAGE 850 OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA AND A 1/172ND UNDIVIDED INTEREST IN AND TO LOTS 1 TO 6 INCLUSIVE OF TRACT NO. 7388, IN THE CITY OF LAGUNA WOODS, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 308 PAGES 11 TO 14 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY, SHOWN AND DEFINED AS "COMMON AREA" ON THE ABOVE-REFERRED TO CONDOMINIUM PLAN

EXCEPT THEREFROM ANY PORTION OF LOTS A TO F INCLUSIVE OF SAID TRACT NO. 7388, ADJOINING SAID LOTS

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED OR GRANTED IN DOCUMENTS OF RECORD.

PARCEL 2:

NON-EXCLUSIVE EASEMENTS FOR INGRESS AND EGRESS, PUBLIC UTILITIES, SEWERS AND FOR ALL PURPOSES INCIDENTAL THERETO, INCLUDING BUT NOT LIMITED TO, THE CONSTRUCTION, INSTALLATION, REPLACEMENT, REPAIR, MAINTENANCE, OPERATION AND USE OF ALL NECESSARY OR DESIRABLE ROADWAYS, SIDEWALKS AND CONDUITS OVER THE FOLLOWING DESCRIBED LAND:

PARCEL A:

ALL THE LAND DESCRIBED IN PARCEL 2 OF THAT CERTAIN DEED RECORDED JANUARY 30, 1973 IN BOOK 10534 PAGE 345 RECORDS OF SAID ORANGE COUNTY

PARCEL B:

LOT A OF TRACT NO. 7811, AS PER MAP RECORDED IN BOOK 300 PAGES 49 AND 50 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY

PARCEL C:

LOT A OF TRACT NO. 7897 AS PER MAP RECORDED IN BOOK 308 PAGES 35 AND 36 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY

PARCEL D:

LOTS A, B, AND C OF TRACT NO. 7898, AS PER MAP RECORDED IN BOOK 310 PAGES 44 AND 45 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY

PARCEL E:

LOTS A AND B OF TRACT NO. 7896, AS PER MAP RECORDED IN BOOK 311 PAGES 47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY

PARCEL F:

LOTS A AND F INCLUSIVE OF TRACT NO. 7388 AS PER MAP RECORDED IN BOOK
308 PAGES 11 TO 14 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE
COUNTY.

Nordberg | DeNichilo, LLP
ATTORNEYS AT LAW



2016

PREPARED BY DANIEL
NORDBERG, ESQ. for
PATRICIA J. GAHAN, (5075 TERO)

VIA ELECTRONIC MAIL AND U.S. FIRST CLASS MAIL

SUBJ: 5073 DEL SOL VARIANCE

August 4, 2016

Third Laguna Hills Mutual
c/o Denver R. Andrews, Esq.
Law Offices of Denver R. Andrews Jr

Dear Mr. Andrews and the Board of Directors of Third Mutual (hereafter referred to as "TM" or "Association"),

I have the pleasure of representing Ms. Patricia Gahan (hereinafter "Gahan"), owner of Unit #5075 Tero, Laguna Woods (accessed via Gate 11), and it is in my capacity as her attorney that I am directing this correspondence to your attention.

Ms. Gahan, only just a few days ago, was shocked to learn that Sydney Stephan (hereinafter "Stephan"), the Owner of Unit #5073, Avenida Del Sol, requested Board approval of a "variance" for a "Room Addition" on a "previously extended patio"¹. Ms. Gahan appeared at the scheduled hearing to voice her objections. Other Owners have also objected to the requested "variance" and have submitted written memoranda in opposition. Ms. Gahan requests that you review all of those materials in addition to the information in this letter in acting upon Stephan's request. Since presenting her strong objections, Ms. Gahan has learned that the report from staff grossly misrepresents the facts.²

Ms. Gahan strongly objects to the requested variance, and demands that the Board reject and deny approval of the proposed alterations for the following reasons:

¹ See the staff report submitted to the Board of Directors on July 19, 2016, copy attached.

² Among other things, the staff report states that the proposed construction will build upon a previously extended patio without disclosing that the existing patio was not properly approved, that the photo and the floor plan used in the staff report purporting to show the Stephan Building is not, in fact, the Stephan Building, that Stephan is in breach of the CC&Rs, and that the existing patio violates the Association's governing documents. Furthermore, the staff report fails to recognize that the proposed construction, if approved, will result in an unreasonable burden upon Gahan and neighboring owners, all of whom have registered their objection. Finally, the staff report fails to acknowledge that the Association, its Board and Committees lack legal authority to grant Stephan's request for a "variance".

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1. The Governing Documents do not authorize the Association to grant the "variance" requested by Stephan.

The power and authority of the Association and its Board of Directors is specified in the Governing Documents and in law. Nowhere in those documents or in law is there authority for the Board or any of its standing or adhoc committees to grant a "variance". The law is very clear that the Board may not act in violation of the Association's Governing Documents or applicable law. (See: *MaJor v. Miraverde HOA* 7 Cal.App.4th 618; *Ticor Title Ins. Co. v. Rancho Santa Fe* 177 Cal.App.3d 726; *Ekstrom v. Marquesa at Monarch Beach* 168 Cal.App.4th 1111.)

2. The proposed construction and requested grant of Common Area to Stephan, if approved, would constitute a "material amendment" (as that is defined in Article XIV of the CC&Rs) of the CC&Rs without the required vote or consent of the Members.

The Governing Documents do not permit any material amendments to be adopted without the proper vote of the Owners/Members and Mortgagees (see Article XIV of the CC&Rs). Because the request by Stephan would effectively change the boundaries of her Unit, approval by the Board would constitute a material amendment, which requires membership approval. (CC&Rs, Article XIV). The Board may not unilaterally amend the CC&Rs. Any Board approval of Stephan's request without the required Membership vote would be a violation of the CC&Rs.

3. TM may not "grant exclusive use" over Common Area for purposes of expansion of the Stephan Unit such that it encroaches onto Common Area

Article I of the CC&Rs "Definitions" provides in pertinent parts:

"6. "Building" means any structure in the Common Area which contains one or more Units.

9. "Common Area" means all of that portion of the Project not within a Unit shown on the Plan, together with all improvements thereto.

11. "Condominium" means an equal undivided interest in common with the other Owners within the Project in the Common Area, together with a separate interest in a Unit, and all other right, title and interests which may be appurtenant thereto.

40. "Unit" means that portion of any Condominium which is not owned in common with other Owners, and which is designated as a Unit in the Plan. The boundaries of a Unit are as designated in Section 1371 of the California Civil Code, provided that all doors and windows of a Unit and all fixtures, and utility installations located

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within a Unit including without limitation hot water heaters, space heaters and kitchen, bathroom and lighting fixtures, shall be a part of each Unit, provided further that exterior soffits and furred down ceilings shall not be a part of such Unit. Whenever, within twenty (20) years after conveyance of the first Condominium in the Project, a Building is built substantially in conformity with the original plans therefor as reflected by the Unit boundaries shown on the Plan for such Project, the boundaries of all Units within such Building shall thereafter be as described in the second sentence of this paragraph and the boundaries of the Common Area shall be altered correspondingly."

Article III of the CC&Rs "Use Restrictions" provides in pertinent parts:

"2. Subject to the provisions of these Restrictions, use of the Common Area shall be in accordance with and subject to the Rules. The Board may, among other things, fix the hours of use, and restrict or prohibit access to the portions of the Common Area used for operation and maintenance of the Project, including but not limited to offices, kitchens, storage rooms, boiler rooms, maintenance, heating, electric and public utility facilities.

3. Nothing shall be done or kept in any Condominium or in any portion of the Common Area which will increase the rate of insurance on the Common Area without the approval of the Board. No Owner shall permit anything to be done or kept in his or her Unit or in any portion of the Common Area which will result in the cancellation of insurance on the Common Area or which would be in violation of any law.

7. Nothing shall be done in any Condominium or in, on, or to any Building which would structurally change any such Building except as is otherwise provided herein.

8. There shall be no structural alteration, construction or removal of any Building, fence or other structure in the Project (other than repairs or rebuilding pursuant to Article XIII hereof) without the approval of the Architectural Control Committee as set forth in Article X hereof. *No Building, fence or other structure shall be constructed upon any portion of the Common Area other than such Buildings, fences and structures as shall be constructed by the Mutual pursuant to Article XIII or Article IV, Section 8. (emphasis added)"*

Article IV of the CC&Rs "Management" provides in pertinent parts:

7. The Board, in the name and on behalf of the Mutual, is authorized and empowered to grant such licenses, easements and rights of way for sewer lines.

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water lines, underground conduits, storm drains and other public utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and welfare of the Owners. over those portions of the Common Area upon which no Building or other structure has been erected. Such licenses, easements and rights of way may be granted at any time prior to twenty-one (21) years after the death of all Members as of the date these Restrictions were recorded in the official records of the County of Orange, State of California, and the right to grant such licenses, easements and rights of way is hereby expressly reserved. (Emphasis added)

The proposed construction and requested grant of Common Area for the exclusive use of Stephan violate the express provisions of the CC&Rs.

The proposed construction is not to be constructed by TM, but by Stephan and her contractors, in violation of Section 8.

The requested grant of Common Area for the exclusive use of Stephan violates Section 7 as it is not "for sewer lines, water lines, underground conduits, storm drains and other public utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and welfare of the Owners".

The proposed construction and requested grant of Common Area for the exclusive use of Stephan is a violation of CC&Rs, Section 7, as it constitutes a structural change to the Building at 5073 which is not authorized anywhere in the CC&Rs.

The proposed construction and requested grant of Common Area for the exclusive use of Stephan is a violation of Section 2 as approval by TM would be a violation of the Rules as more fully explained below.

4. Civil Code Section 4600 does not create a right in Board to grant exclusive use common area.

TM's CC&Rs only permit the Board to grant exclusive use of Common Area "for sewer lines, water lines, underground conduits, storm drains and other public utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and welfare of the Owners". (Article IV Section 7)

Ms. Gahan is informed and believes that members of the M&C Committee and staff have argued that Civil Code Section 4600 vests authority in the M&C Committee and/or the Board to grant exclusive use of the Common Area to a Unit Owner under certain conditions. They further argue that Stephan's request satisfies those conditions.

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The law is clear that the M&C Committee lacks any authority to grant or approve Stephan's requested "variance". (See *Woodridge Escondido Property Owners Association v. Nielsen* (2005) 130 Cal.App.4th 559 and Article VII of the CC&Rs)

Furthermore, Civil Code Section 4600 is not a vesting statute. There is nothing in that section that gives authority to a Board of a common interest development to grant common area to the exclusive use of an Owner where that right has not been provided to the Board in the Governing Documents. The legislative history of Civil Code Section 4600, and the predecessor statute, Civil Code Section 1363.07, does not establish that the statute was intended to vest authority in the Board where no such authority was recognized under the Association's Governing Documents. That section only applies if the Board already has authority under its governing documents to grant common area to the exclusive use of an Owner. TM's CC&Rs do not authorize the Board to grant exclusive use to Stephan of any portion of the Common Area. Neither the Board nor the Association may rely upon Civil Code Section 4600 as a basis to grant the "variance" requested by Stephan.

5. Stephan does not have a legal right to encroach onto Common Area; any encroachment must be granted by the Association Board of Directors in the exercise of its discretion

Assuming for argument purposes, which Gahan does not concede, that the Governing Documents vest authority in the Board to grant Common Area for the exclusive use of Stephan, such authority would rest only in the discretion of the Board; Stephan has no vested right and the Board owes no obligation or duty to grant Common Area for the exclusive use of the owner of Unit 5073. The law does not recognize, and the Governing Documents do not provide for, any duty or obligation of the Association, or its Board, or any of its committees, to grant the requested "variance" by Stephan.

On the other hand, the Association and the Board, and the committees of the Association and of the Board owe fiduciary duties to Ms. Gahan to protect her property and to enforce the Governing Documents. The proposed construction, if approved, would be a violation of the fiduciary duties owed by the Association, its Board, and the committees. (See *Posey v. Leavitt* (1991) 229 Cal.App.3d 1236; *Ritter and Ritter v. The Churchill* (2008) 166 Cal.App.4th 103)

6. The proposed construction would constitute a trespass

ARTICLE XV of the CC&Rs "Encroachments" provides:

"None of the rights and obligations of the Owners created herein, or by the grant deed conveying the Condominium to the Owner, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners." (Emphasis added)

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As described further below, Stephan has already, without prior permission, willfully encroached upon, trespassed and unlawfully seized and taken Common Area upon which to build improvements. (Gahan is informed and believes that the Common Area beneath the "patio" adjacent to the Stephan Unit/Building was never properly conveyed to Stephan, and was constructed without proper notice, permission, and approval by TM and in violation of the CC&Rs. Stephan now seeks, by her request for a "variance", permission to build further improvements upon Common Area. Because her prior construction was willful and in violation of the CC&Rs there is no valid right to the existing or proposed encroachments. (See *Posey*, supra)

7. Assuming for argument purposes only, which Gahan does not concede, that TM may grant exclusive use of Common Area to Stephan, TM may impose any conditions it wishes, including that any encroachment may not block views.

The issue presented is whether the Board may condition any grant upon any conditions it chooses; it has no "duty" to Stephan to grant Common Area for the exclusive use by Stephan. Nowhere in law, or in the Association's governing documents is there recognized any obligation or duty owed Stephan by the Association to approve, or grant her the requested "variance". Neither the Association, nor its Board will suffer legal liability to Stephan in denying her request. However, as explained below, the Association, the Board and the Committees, and the individuals volunteering their services are exposed to liability to Gahan if Stephan's request is approved.

Even if the CC&Rs are silent as to the right to a view, TM may deny the requested encroachment.

8. The power, if any, of the Board to grant exclusive use of the Common Area to Stephan, must be exercised according to the Rules.

Assuming for argument purposes only, which Gahan does not concede, that the Board may grant exclusive use of the Common Area to Stephan as requested, the Board's discretion to grant must be exercised according to the Rules. The Association has purportedly adopted Rules for the exercise of discretion when a request, such as that presented by Stephan, is received. The Rules require the Board to deny the request if, among other things, an unreasonable burden is imposed upon neighboring property. The request of Stephan if approved, would result in an unreasonable burden upon Gahan. She currently enjoys open land without building encroachments in the area where Stephan intends to build massive improvements. Not only does the proximity of the proposed improvement impose a diminution in the value and use by Gahan of her Unit, but it also will result in a massive blockage and interference of the views from the Gahan Unit which will drastically reduce her use and enjoyment of her Unit/Building and its value. This burden is also suffered by the owners at 5074, and 5076 (each of whom have also registered their objections).

9. Unreasonable risk of damage resulting from slope failure

The CC&Rs provide in Article III "Use Restrictions":

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“6. No Owner or Resident shall permit or suffer anything to be done or kept within the Project which will increase insurance rates on any Building or contents thereof, or which will obstruct or interfere with the rights of other persons in the Project or annoy them by unreasonable noises or otherwise, nor shall any Owner or Resident commit or permit any nuisance or commit or permit any illegal act within the Project. An Owner and each Resident shall comply with the requirements of all governmental authorities. If by reason of any act of any Owner insurance rates should be increased, the Owner shall be personally liable for the additional premium. (Emphasis added)”

Approximately ten (10) years ago, the slope immediately adjacent to the proposed construction suffered a massive failure. The Association made repairs costing tens of thousands of dollars. In addition, the slope separating Gahan's building from Stephan's Building has moved such that the Gahan Building has suffered structural damage. The Association should not approve any new construction or any further use of the Common Area until and unless a full investigation has been conducted by qualified professionals to confirm that further damages will not result, with and without the construction of the proposed improvements. If the proposed improvements are constructed, there is added risk of soil movement and slope instability by, among other things, directing surface and roof run-off into the top of the slope portion of the pad. Certainly, any renewal or purchase of insurance by TM will require full and complete disclosure of all risks, and known conditions. Disclosure will have a dramatic effect upon the cost of insurance charged to Gahan's Unit, the Stephan Building, and adjacent and impacted Buildings.

10. Stephan has “unclean hands”:

1. Stephan has misrepresented the condition of existing property in her application

A photograph and plans purportedly depicting the Stephan's existing building is attached to materials submitted with her request. However, that photograph and plans grossly misrepresent the actual conditions existing today. Attached please find photographs taken by myself when I visited the property on Monday, August 1. You will quickly discover upon comparing the two photographs, that extensive patio improvements have been constructed upon the Common Area adjacent to the Stephan Building which are not shown in the photograph she submitted with her request. Gahan is informed and believes that these improvements were not approved prior to construction. Gahan will testify under oath that she was never contacted and never received notice or signed any neighbor awareness forms prior to the installation and construction of the patio improvements presently existing on the Common Areas adjacent to the Stephan Building.

2. Stephan is in breach of the CC&Rs

Because the existing patio improvements on the Common Areas adjacent to the Stephan Building were never properly approved, Stephan is in breach of the CC&Rs. The patio improvements are violations of the Association's Governing Documents.

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3. Stephan has trespassed and converted Common Area

As explained above, neither the Association, nor the Board, have authority to grant Common Area for the existing patio improvements adjacent to Stephan's Building. Gahan is informed and believes that no approval or grant was received by Stephan prior to constructing these improvements. Stephan has willfully trespassed upon and unlawfully seized, and converted the Common Area adjacent to her Building.

4. Stephan cannot be trusted

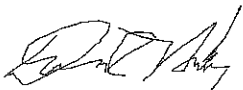
Stephan cannot be trusted. Stephan has grossly misrepresented existing conditions with the submittal in support of her request. Gahan is informed and believes that Stephan is in breach of the CC&Rs for constructing existing patio improvements in violation of the Association's Governing Documents. Furthermore, Ms. Stephan was instructed to define the area that would be impacted by the proposed construction by constructing poles with lines attached prior to a review by the Board on August 1, 2016. Stephan failed to follow the instructions and installed poles and lines which created a misleading outline of the impact and burden the proposed construction would have on Gahan and neighboring properties.

Based upon the foregoing, and the objections and materials submitted by Gahan and other owners in opposition to Stephan's request, Ms. Gahan needs, wants, and expects the Association, its Board and Committees to summarily deny and reject Stephan's request. Approval of Stephan's request by the Association, the Board, or any committees will force Ms. Gahan to pursue all legal remedies at her disposal.

Please contact me should you have any questions.

Sincerely,

Nordberg|DeNichilo, LLP

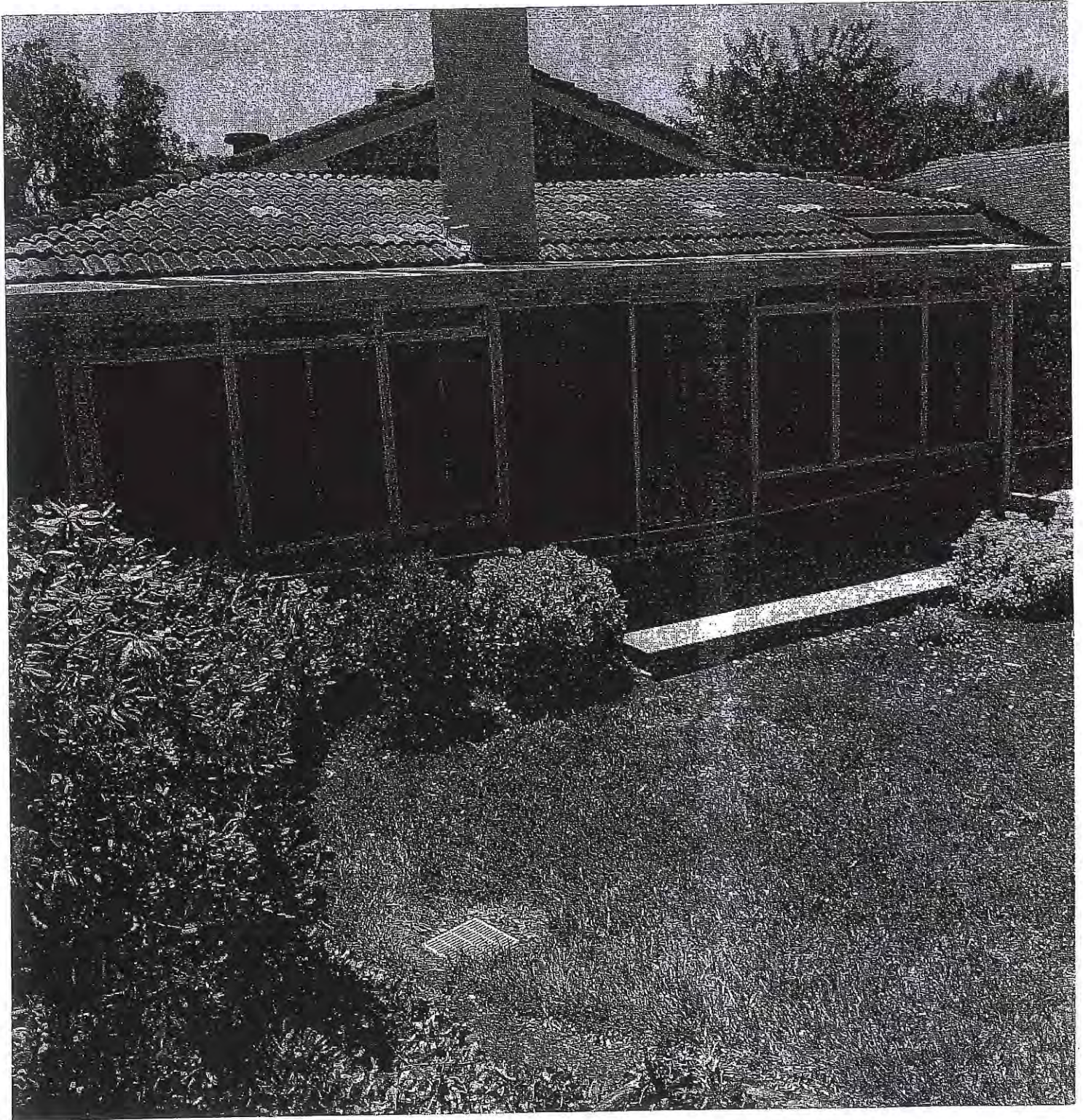


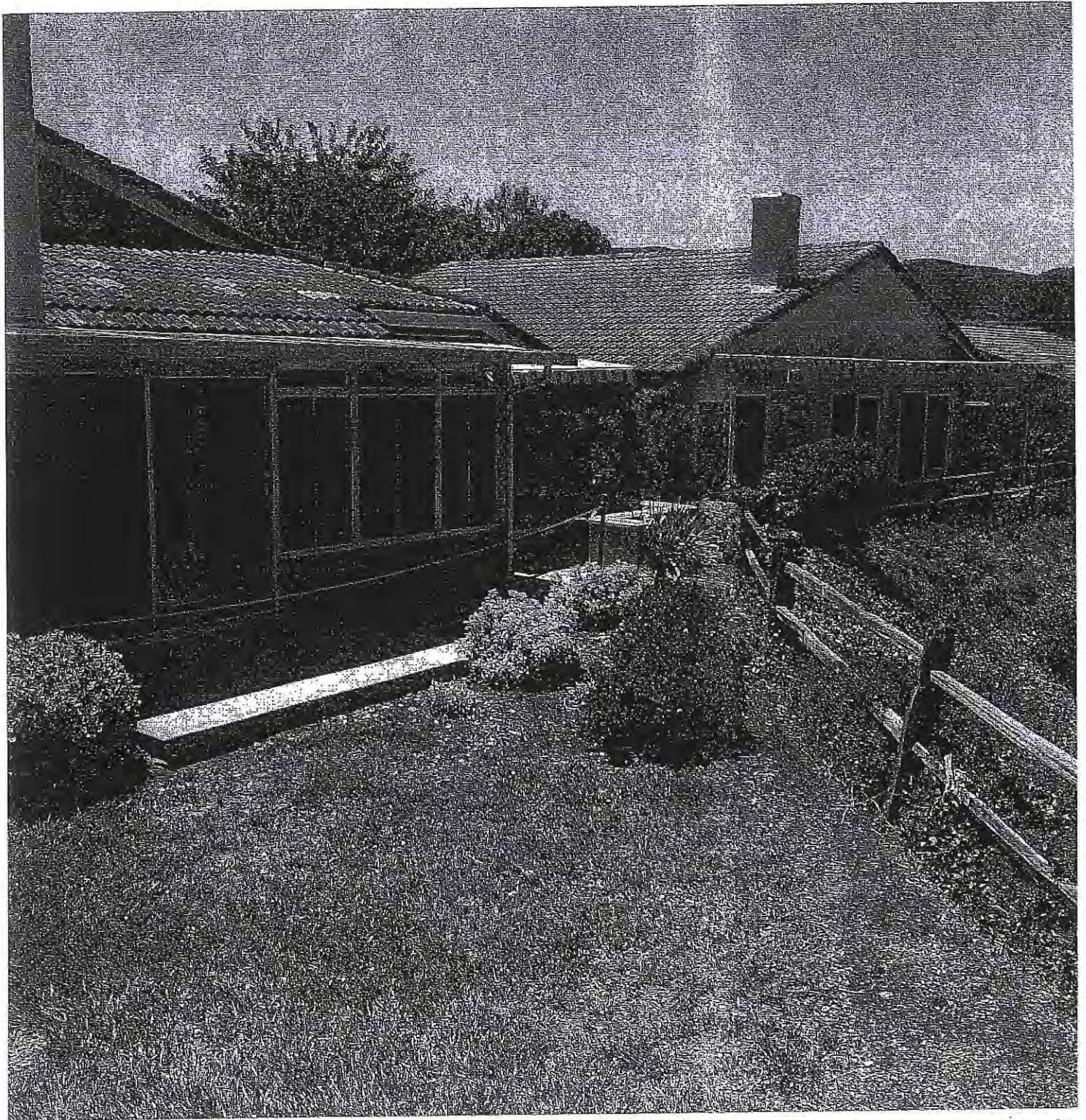
Daniel A. Nordberg, Esq.

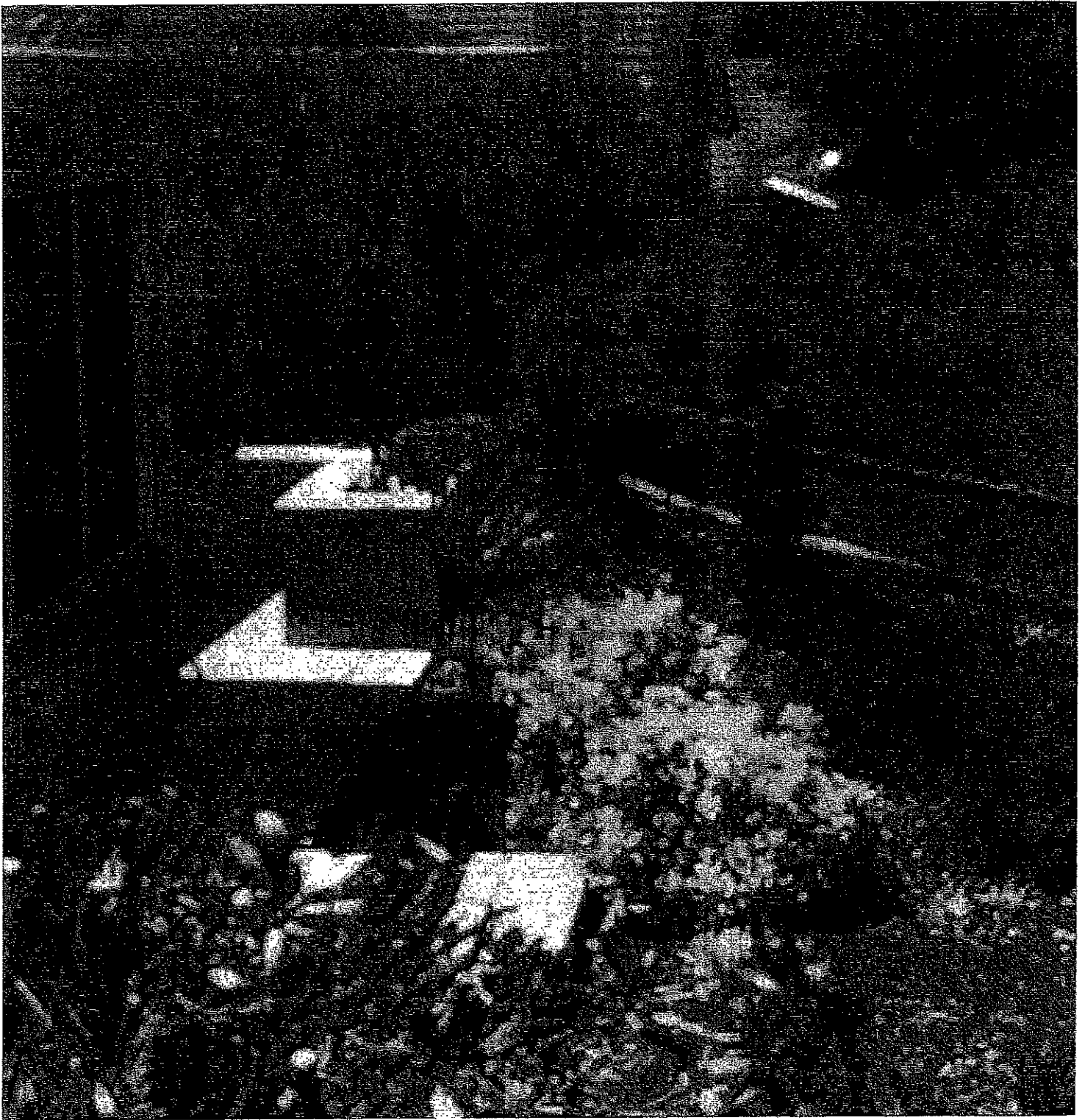
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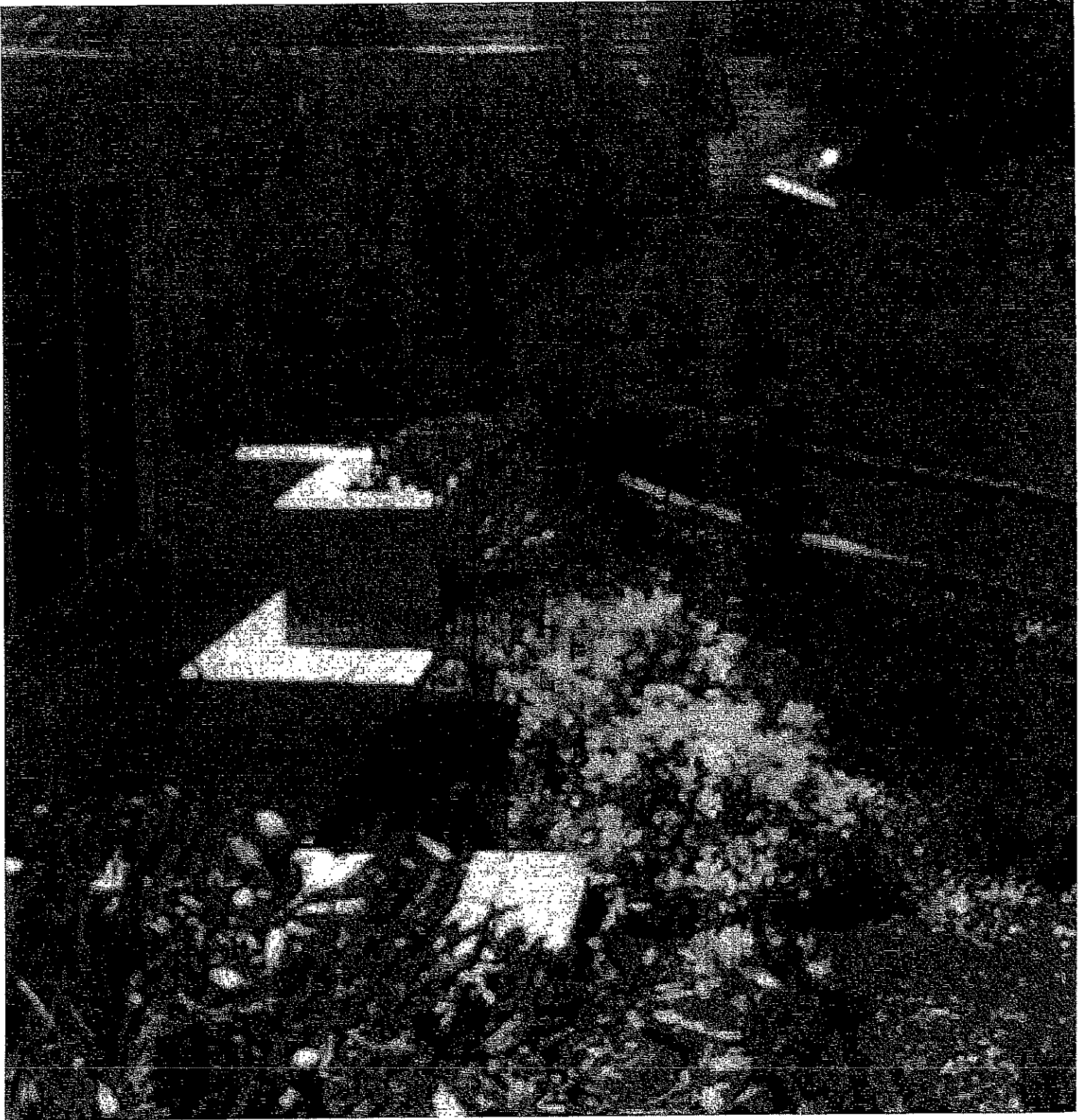
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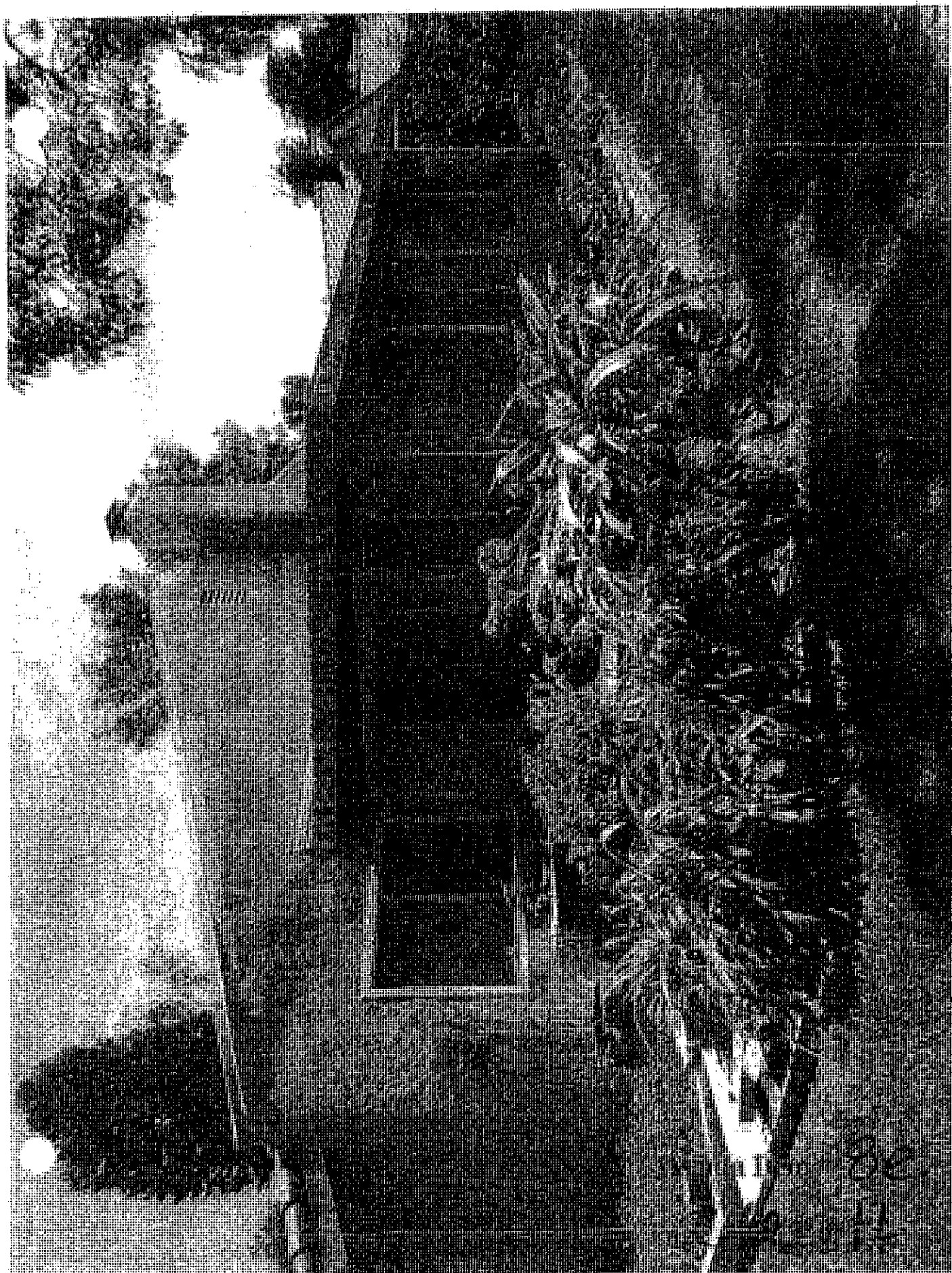
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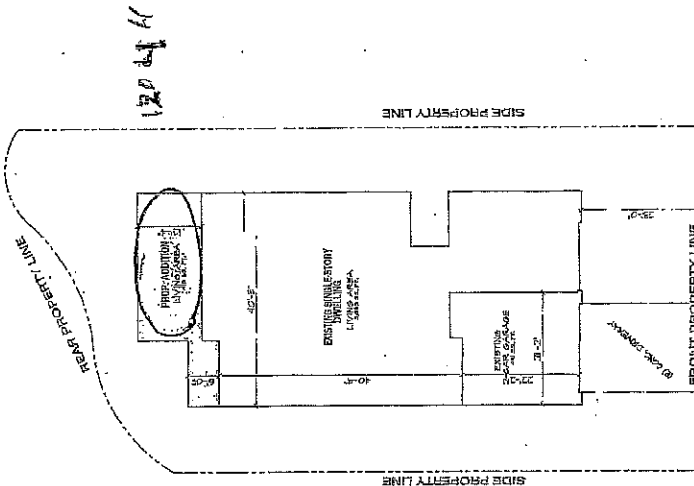
THIRD FLOOR PLAN

SQUARE FOOTAGE	
40' DECK AREA	40' x 12' = 480
40' LIVING AREA	40' x 12' = 480
40' LIVING AREA	40' x 12' = 480
40' REAR PORCH	40' x 12' = 480



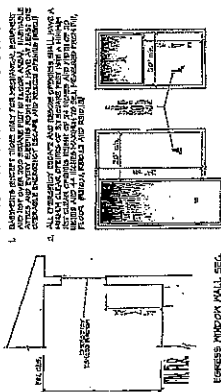
THE LONDON FLAN

PROPOSED ROOM ADDITION FOR:
SYDNEY STEPHAN
3013 AVENIDA DEL SOL, LAGUNA WOODS, CA 92651



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EMERGENCY ESCAPE NOTES



2013 CAL GREEN STANDARDS

FUTURE FLOW RATES	
FIXTURE TYPE	MAXIMUM FLOW RATE
Water closets	1.35 gpm/flush
Urinals	2 gpm/30 psi
Laundry chutes	1.5 gpm/20-60 psi
Shower stalls	1.5 gpm/20-60 psi

NOTE: ALL MATERIALS, COLORS, TEXTURES, AND PATTERNS SHALL MATCH EXISTING

UNIVERSITY OF WYOMING

THE NEW YORK PUBLIC LIBRARY

ASTOR LENOX TILDEN FOUNDATION

500 FIFTH AVENUE

CINEMA

5/11/16
1240-0
1603-SZE
COVER SHEET
PAGE 61 OF 61

DATE	TYPE	APP	LEGAL DESCRIPTION:	SITE ADDRESS:
12/7/90	1070	APP		3000 AVENUE 200, ETL LAWSON, MISSISSAUGA, CANADA

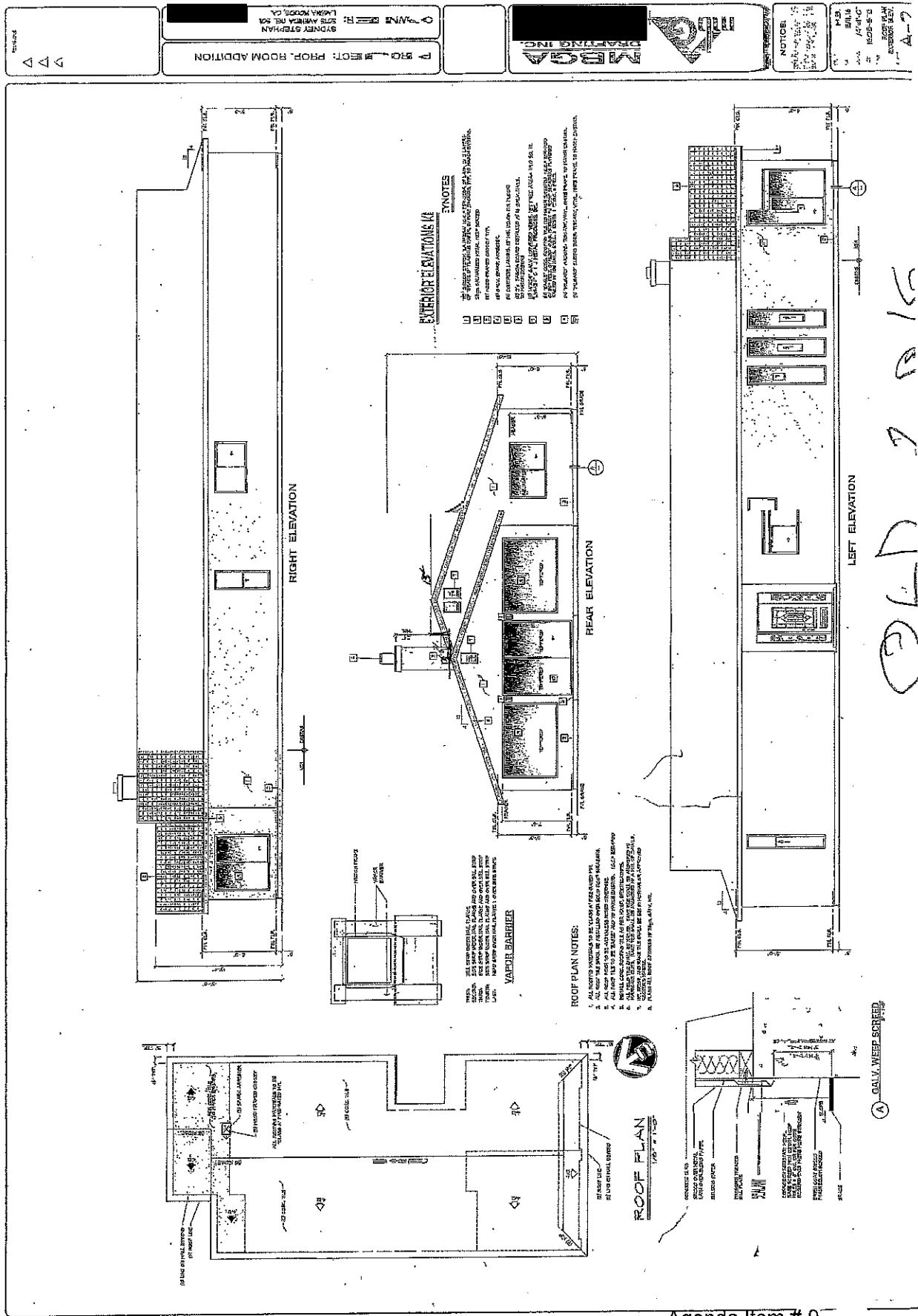


PLATE

7/23/16

20160 OLD

2106 OLD



VARIANCE

Rec'd 504
8/22/17
WJHail



NEIGHBOR AWARENESS NOTICE OF HEARING ON ALTERATIONS AT MANOR 5073

TIME OF HEARING:
DATE OF HEARING:
PLACE OF HEARING:

11:30 a.m. or as soon as possible thereafter.
September 7th, 2017
Laguna Woods Village Board Room
Community Center
24351 El Toro Road
Laguna Woods, CA 92637

A HEARING has been scheduled before the Third Architectural Control and Standards Committee ("ACSC") to consider a request for an Alteration/Variance as identified below:

Project Location: Manor 5073

Proposal: Master Bedroom Extension and Room Addition on existing Rear Patio
(See Attachment)

ACSC Action: The Action of the ACSC is not final. This Variance request is expected to go to Third Mutual Board at a regular meeting scheduled for September 19th, 2017. For specifics and a copy of the Third Mutual Board agenda, please visit <http://www.lagunawoodsvillage.com>.

Any Member wishing to comment on the proposed Variance may do so in writing between the date of this notice and the hearing date identified above; or, may appear and be heard at the time and place noted above. All comments must be received prior to the time of hearing. All such comments will be submitted to the ACSC who will consider such comments in addition to any oral testimony, before making a recommendation to the Third Mutual Board on the proposed Variance request. Member comments may be considered, the decision ultimately rests with the Committee/Board who will make any decision in its own discretion, but it is under no obligation to implement any suggestions.

Be advised that as a result of the hearing and any comments, the ACSC may amend, in whole or in part, the proposed project. Accordingly, the standards as adopted by the Mutual, including the Mutual's Governing Documents, design or improvements may be changed in a way other than is currently proposed.

For further information regarding the Request, please contact Gavin Fogg, at (949) 268-2345 or e-mail (Preferred) Gavin.Fogg@vmsinc.org, or go to the Laguna Woods Village web page at <http://www.lagunawoodsvillage.com>. The project file for the proposed Variance may be viewed Monday through Friday, from 8:00 A.M. to 4:00 P.M. at the Laguna Woods Village Community Center office, located at 24351 El Toro Road, Laguna Woods, CA 92637.

Please send all written correspondence to:

Laguna Woods Village, Manor Alterations Division
Attn: Gavin Fogg
24351 El Toro Road
Laguna Woods, CA 92637

copy Agenda Item #9
Page 55 of 72

VARIANCE

Rec'd 504
8/24/17
W. Hall



**NEIGHBOR AWARENESS NOTICE OF HEARING ON
ALTERATIONS AT MANOR 5073**

TIME OF HEARING: 11:30 a.m. or as soon as possible thereafter.
DATE OF HEARING: September 7th, 2017
PLACE OF HEARING: **Laguna Woods Village Board Room
Community Center
24351 El Toro Road
Laguna Woods, CA 92637**

A HEARING has been scheduled before the Third Architectural Control and Standards Committee ("ACSC") to consider a request for an Alteration/Variance as identified below:

Project Location: Manor 5073

Proposal: Master Bedroom Extension and Room Addition on existing Rear Patio
(See Attachment)

ACSC Action: The Action of the ACSC is not final. This Variance request is expected to go to Third Mutual Board at a regular meeting scheduled for September 19th, 2017. For specifics and a copy of the Third Mutual Board agenda, please visit <http://www.lagunawoodsvillage.com>.

Any Member wishing to comment on the proposed Variance may do so in writing between the date of this notice and the hearing date identified above; or, may appear and be heard at the time and place noted above. All comments must be received prior to the time of hearing. All such comments will be submitted to the ACSC who will consider such comments in addition to any oral testimony, before making a recommendation to the Third Mutual Board on the proposed Variance request. Member comments may be considered, the decision ultimately rests with the Committee/Board who will make any decision in its own discretion, but it is under no obligation to implement any suggestions.

Be advised that as a result of the hearing and any comments, the ACSC may amend, in whole or in part, the proposed project. Accordingly, the standards as adopted by the Mutual, including the Mutual's Governing Documents, design or improvements may be changed in a way other than is currently proposed.

For further information regarding the Request, please contact Gavin Fogg, at (949) 268-2345 or e-mail (Preferred) Gavin.Fogg@vmsinc.org, or go to the Laguna Woods Village web page at <http://www.lagunawoodsvillage.com>. The project file for the proposed Variance may be viewed Monday through Friday, from 8:00 A.M. to 4:00 P.M. at the Laguna Woods Village Community Center office; located at 24351 El Toro Road, Laguna Woods, CA 92637.

Please send all written correspondence to:

Laguna Woods Village, Manor Alterations Division
Attn: Gavin Fogg
24351 El Toro Road
Laguna Woods, CA 92637

Proposed Alternation- 5073 Avenida Del Sol

Remove the "sun room" structure and replace it with a permanent structure. The new foundation will not be any larger than the outside dimensions of the permitted sun room.

The flat roof will allow the neighbors a view from their home similar to what exists with the current "sun room". The existing concrete slabs outside the "sun room", which were permitted, will remain.

Bedroom #3 will be extended 7 feet using the patio slab which was permitted.

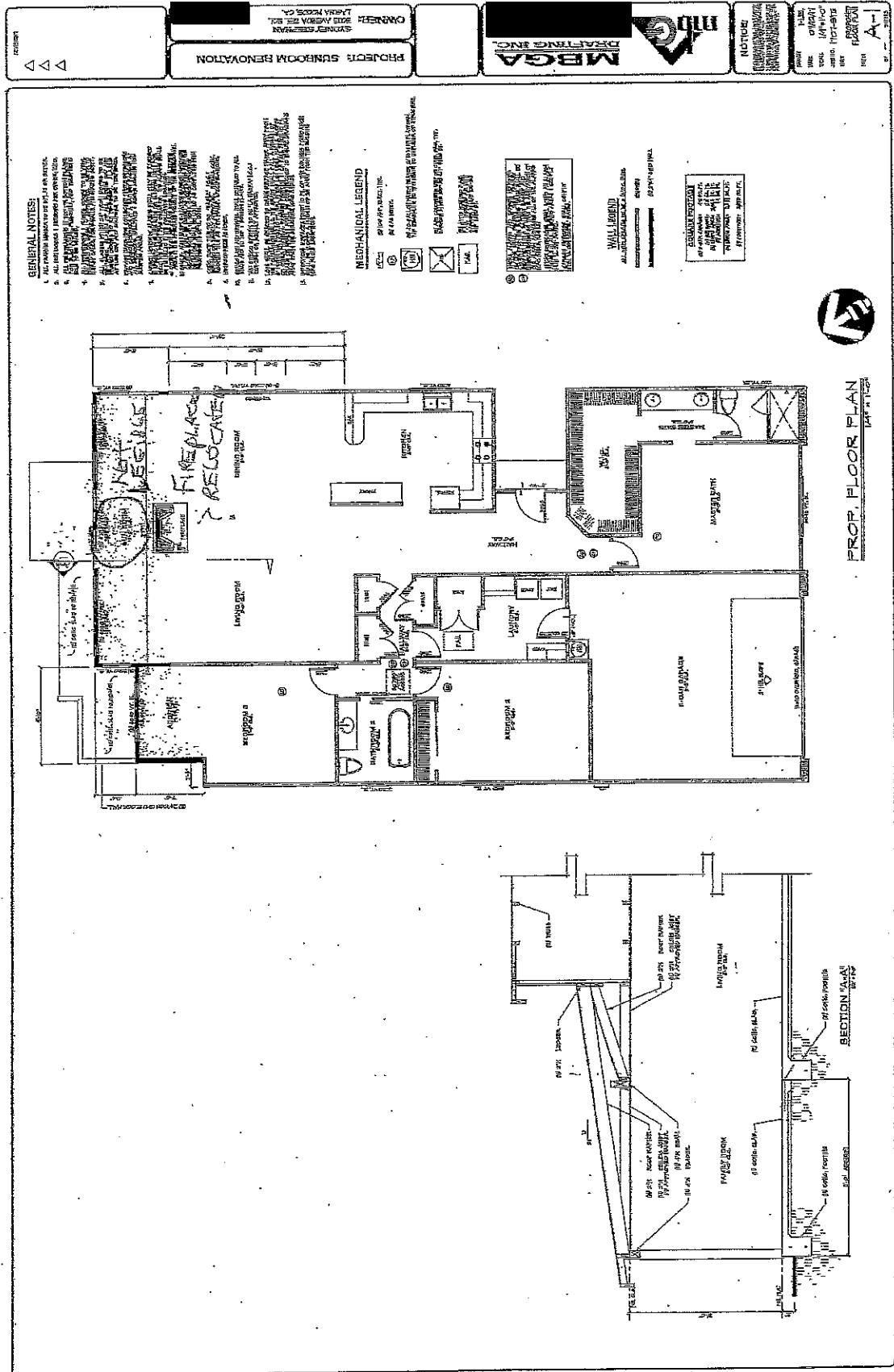
The outside of the new foundation will not be larger than the space permitted for the patio. The existing concrete slab outside the bedroom addition will remain.

No common area will be used.

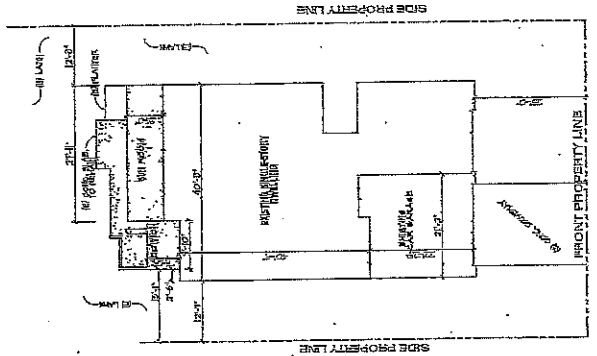
Not "PERMITTED"

2017

Proposed

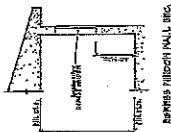


PROPOSED, SUNROOM RENOVATION FOR:
SYDNEY STEPHAN
507B AVENIDA DEL SOL LAGUNA WOODS, CA. 92653

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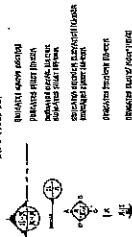
EMERGENCY ESCAPE NOTES

and the fact that the company has been able to maintain its market share despite the competition from other companies in the industry.



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NOTE: ALL MATERIALS, COLORS, TEXTURES, AND PATTERNS, SHALL MATCH SUBSTANTIALITY.



BUILDING SUMMARY:

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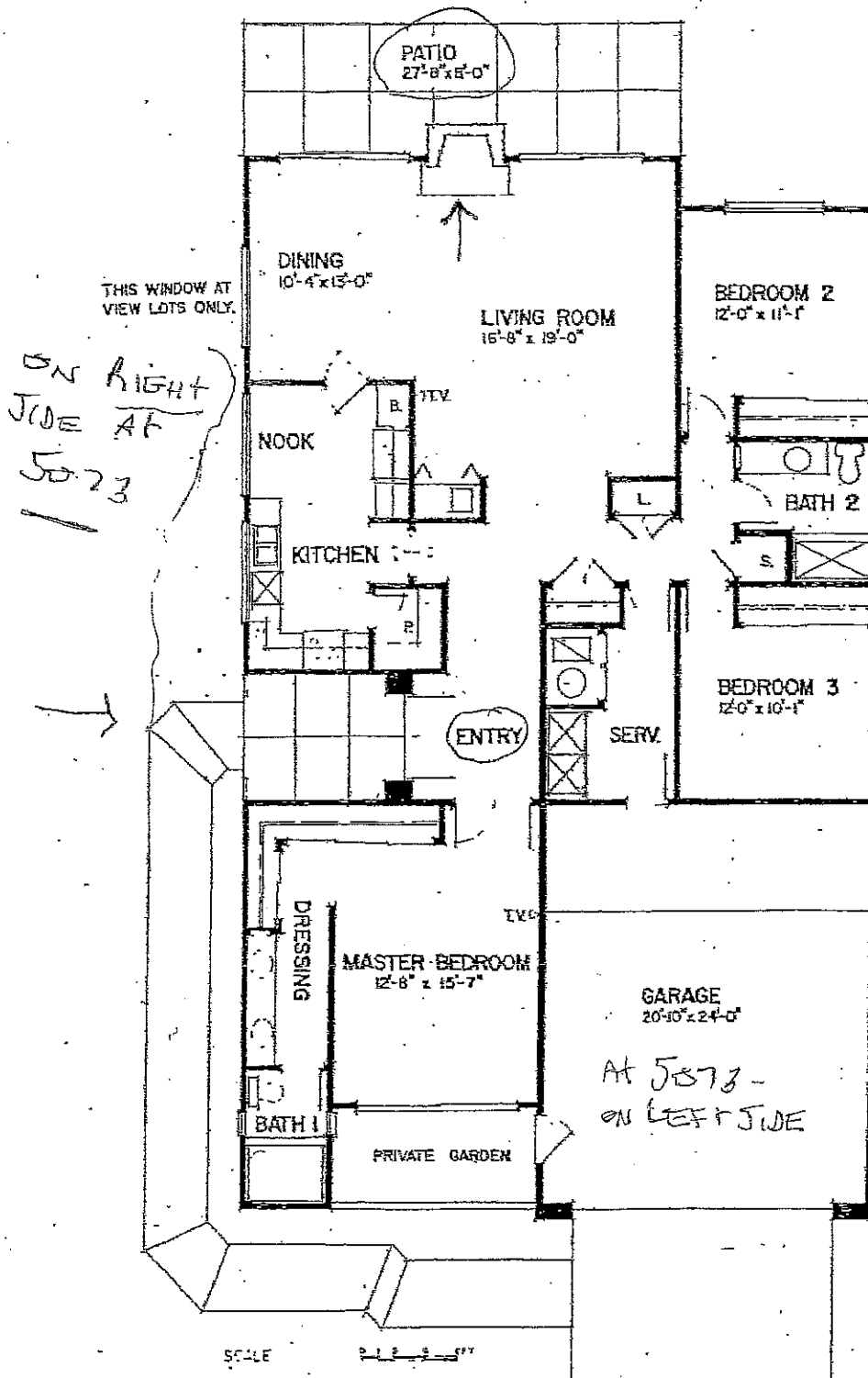
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PLATE 5



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VILLA PARAISA (C13r) DIMENSIONS.

Opposite
FROM 5073.

Agenda Item # 89

Page 6 of 7

IS THIS CURRENT IN 2017?

Third Laguna Hills Mutual

2016

Pursuant to the Board's approval of your request for a variance to construct an alteration that extends onto common area, the attached Agreement Regarding Permitted Alteration of Common Area ("Recordable Common Area Agreement") must be completed and signed by you, the Member(s), and your signature(s) must be notarized. Please follow this checklist to ensure a smooth and efficient submittal process.

☐ First Page of Agreement

- Enter the Assessor's Parcel Number (APN) in this format: _____ - _____ - _____
- Paragraph One
 - a. Enter the date the Agreement is signed and notarized.
 - b. Verify/Enter the Member(s) name(s), dwelling unit, and the description of improvement.

☐ Second Page of Agreement

- Member(s) sign(s) at the bottom, right hand side of the page in the presence of a notary. Signature must be signed exactly as typed in Paragraph One of the Agreement.
- Insert the Notary "Acknowledgement" Form behind the Second Page of the Agreement.

☐ Exhibit "A" Legal Description of the Property

- Attach the legal description of the property. This is a one or two page document that can be found with your Grant Deed. It appears in the following format example:
Parcel 1: Dwelling Unit _____ in Building _____ as said unit is shown on that certain condominium plan recorded September 27, 2007 in Book 195 of Official Records in the Office of the County Recorder of Orange County, California. And a 1/30th undivided interest in and to lot 5 of Tract 39547...

☐ Submit the Completed Agreement for Processing

- Please deliver your completed paperwork to the Reception Desk located at the Laguna Woods Village Community Center, 24351 El Toro Road, Laguna Woods, CA 92637.
 - The Board President will sign the Second Page of the Agreement and have it notarized. (Please allow 1-2 days.)
 - Once the Board President has signed the documents, Community Services will notify you via the telephone number provided on the Second Page of the Agreement that the package is ready to be recorded at the County Recorder's Office.

☐ Recording The Agreement

- Take your completed package to the Orange County Recorder's Office. The South County Branch office is located at Laguna Hills Civic Center, 24031 El Toro Road, Suite 150, Laguna Hills, CA 92653.
 - You will be informed of the cost of recording by the Orange County Recorder's Office. The fee varies depending on the number of pages in the package. Keep a copy of the recorded Agreement for your records.

☐ Returning The Agreement to Laguna Woods Village Community Services

- Please deliver your completed, recorded paperwork to the Reception Desk located at the Laguna Woods Village Community Center, 24351 El Toro Road, Laguna Woods, CA 92637.
 - Your permit will be issued upon receipt of the properly recorded Agreement.

Please contact Community Services at 949-268-2337 with any questions or comments. Thank you.

Fogg, Gavin

From: Hsin-Hong Huang [REDACTED]
Sent: Tuesday, August 29, 2017 5:48 PM
To: Fogg, Gavin
Cc: Oliver Lin
Subject: Re: Notice of Hearing for Manor 5073

Hi Gavin:

I sincerely apologize for my misunderstanding of the procedure. After reviewing the document that you kindly e-mailed me, I have no objection to my neighbor's (5073 Avenida Del Sol) alternation proposal.

Your patience is greatly appreciated.

May God bless you and your family.

Sincerely yours,
Hsin Huang

From: Fogg, Gavin <Gavin.Fogg@vmsinc.org>
Sent: Friday, August 25, 2017 2:17 PM
To: Hsin-Hong Huang
Cc: Oliver Lin
Subject: RE: Notice of Hearing for Manor 5073

Good Morning,

If it would be possible to send me (ideally via e-mail) your copy that states 2073 as the location.

I have attached the copy of the Notice that was printed and sent out to you and surrounding neighbors that states 5073. I have also attached a copy of the site plans for the proposal that state 5073 on the plans, please use this as notification of the proposed alteration.

Should you have a dispute with the proposal, please respond via mail or e-mail prior to the Meetings listed on the Notice of Hearing or attend either open meetings.

I would recommend e-mail above regular mail due to providing a timestamp and faster means of communication.

Please let me know if you have any questions.

Regards

Gavin

Gavin Fogg

Manor Alterations Inspector

949-268-2345

Gavin.Fogg@vmsinc.org

Laguna Woods Village

Where new adventures begin



From: Hsin-Hong Huang [REDACTED]
Sent: Friday, August 25, 2017 9:34 AM
To: Fogg, Gavin
Cc: Oliver Lin
Subject: Notice of Hearing for Manor 5073

Hi Gavin:

The "Neighbor Awareness Notice of Hearing on Alternations at Manor 5073" document was sent to me incorrectly. The notice is for "Manor 2073". My property is 5072 Avenida Del Sol. Since I am in Michigan, do you want me to send the document back to you or do you want me to shred it and you will send a fresh copy to Manor 5073? Please advise.

May God bless you and your family.

Sincerely yours,
Hsin Huang



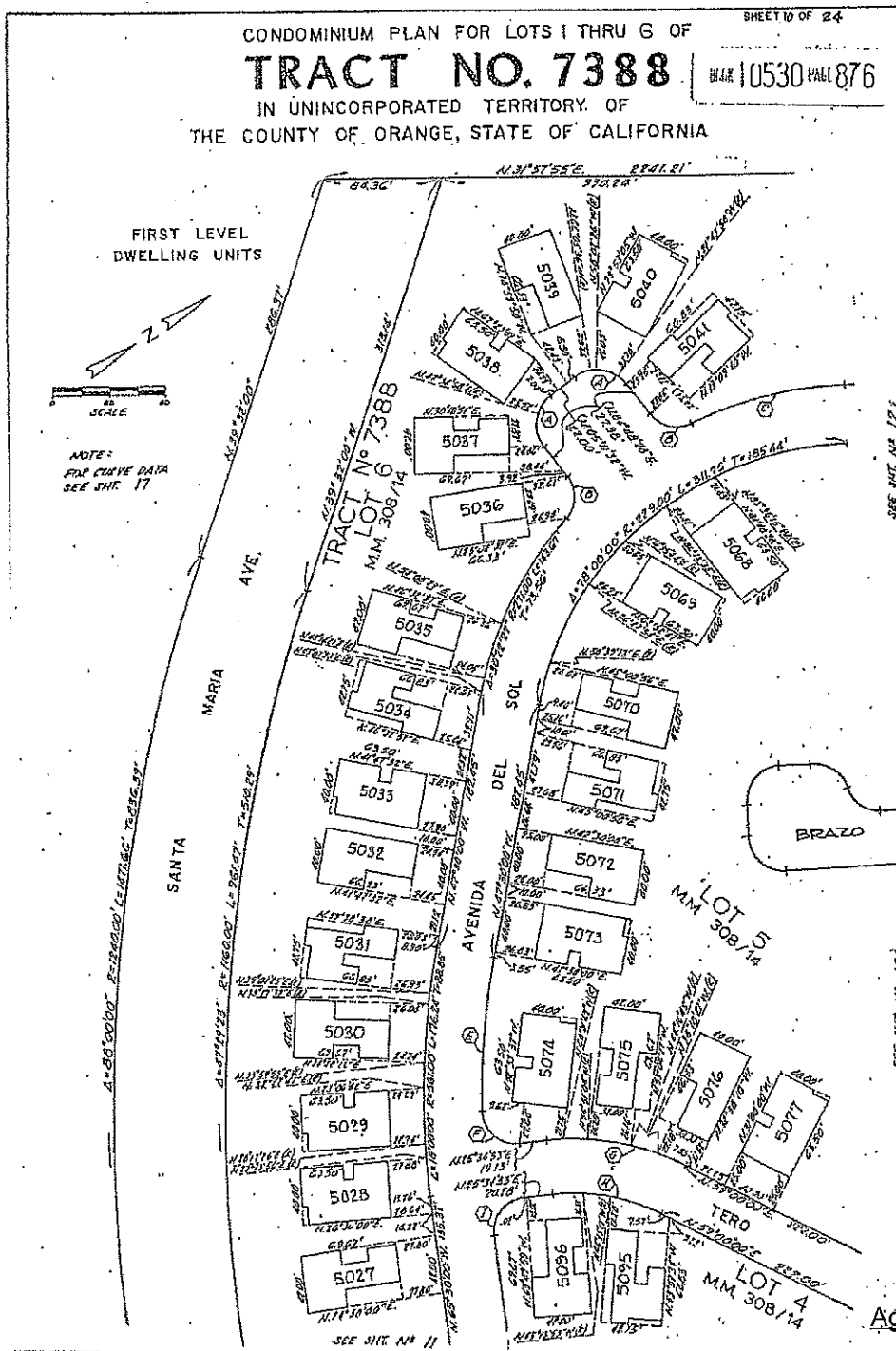


Mutual Consents

5073

Description	Install Dt	Mutual Permit
C13BPCAPW	11/26/1973	4185a
C13SWS	2/5/1974	4394a
C13GARD	6/6/1989	3428c
Garage Door	6/6/1989	3428c
Extend Laundry Room into Garage	12/8/1997	97994
Central Air Conditioner (Change-out)	3/27/2002	020482
Wrought Iron Gate	3/20/2003	030517
Tile in Entry	3/20/2003	030517
Tile on Back Patio	3/20/2003	030517
Garden Room	6/20/2003	031052
Retrofit All Windows	5/30/2008	080794
Retrofit All Sliding Glass Doors	5/30/2008	080794
14" Solatube in Living Room	6/2/2008	080867
10" Solatube in Bathroom	6/2/2008	080867
10" Solatube in Master Bedroom	6/2/2008	080867
10" Solatube in Closet	6/2/2008	080867
10" Solatube in Laundry Room	6/2/2008	080867
Patio Slab (Variance)	8/5/2008	081391
Bedroom Extension (Variance)	8/5/2008	081391
Glass Block Window in Kitchen	8/5/2008	081391
Gable Vent	8/5/2008	081391
Solar Attic Exhaust Fan	8/3/2009	091302
Central Air Conditioner and Heat Pump (Change out)	10/20/2014	142162

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L/R: N/A

BLD: 5064-5073

C/P: N/A

PG-186

1-SMR:BLDG:5072

