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Tiburon, CA 94920 Phone 415-435-7373  
www.ci.tiburon.ca.us

# TOWN OF TIBURON NOTICE OF APPEAL

RECEIVED  
DEC 13 2010

TOWN CLERK  
TOWN OF TIBURON

### APPELLANT(S)

(Attach additional pages if necessary)

Name: BERNAL BROWN, DEMARTINI, HARRISON, QUINN,  
SCHWABROFF, ZIMMERMAN  
Mailing Address: 1 VISTA DEL MAR, TIBURON, CA 94920  
Telephone: 415-435-0745 (Work) \_\_\_\_\_ (Home)

FAX and/or e-mail (optional): WALLY AND SUE QUINN @ MSN.COM

### ACTION BEING APPEALED

Review Authority Whose Decision is Being Appealed: DRB

Date of Action or Decision Being Appealed: 12/2/10

Name of Applicant: NORRIS

Type of Application or Decision: BUILD A SECOND SINGLE-FAMILY  
HOME ON ONE LOT IN R-2 ZONE

### GROUND(S) FOR APPEAL

(Attach additional pages if necessary)

SEE ATTACHED LETTER DATED  
12/12/10 SIGNED BY NEIGHBORS  
ON VISTA DEL MAR

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STAFF USE ONLY BELOW THIS LINE

Last Day to File Appeal: 12-13-10 Date Appeal Filed: 12-13-10

Fee Paid: 300<sup>00</sup> Receipt No. T00363 Date of Appeal Hearing: January 5, 2011  
to be

NOTE: Current Filing Fee is \$500 initial deposit for applicant and \$300 flat fee for non-applicant *Confirmed*  
S:\Administration\Forms\Notice of Appeal form revised 3-9-2010.doc Revised March 2010

R E C E I V E D  
DEC 13 2010

To: Tiburon Town Council  
From: Vista Del Mar Lane neighbors  
RE: Norris property 2312 Spanish Trail  
Date: December 12, 2010

TOWN CLERK  
TOWN OF TIBURON

We, the neighbors who live on Vista Del Mar Lane, are appealing the December 2 decision of the DRB. We continue to be opposed to the Norris application to build a second single family dwelling at 2312 Spanish Trail (re: plans dated 11/22/2010).

Our issues with the approval fall into two categories:

1. The Application
  - a. Issues dealing with Land Use (Exception to the Ordinance)
  - b. Issues dealing with the Design
2. Procedure

While there is much we want to discuss here, out of respect for your time, we will summarize our position and hope that it will not preclude a more detailed discussion at the Town Council meeting.

**The Application:**

**a. Issues dealing with Land Use (Exception to the Ordinance)**

The application does not qualify for an Exception to the Zoning Ordinance Section 16-40.020 (F):

- a. The findings have not been made by the applicant. We have a rebuttal to the applicant's letter dated 11/22/10 that provides ample evidence of this. In this letter you will see how he has rewritten the Ordinance to suit his needs.
- b. This is a land use decision. The preamble to this section specifically discourages the building of duplexes as two separate structures. This Exception was meant to apply to a handful of existing empty lots, or those made empty through removal of older homes.
- c. This approval creates a new pattern of land use and increases visual density. It sets in motion a change in the character of our neighborhood in which 8 out of 9 duplexes are single structures.
- d. Our interpretation of the Ordinance (with Findings):
  - i. Lot size: meets criteria..sort of
    1. 11,000 sf lot
    2. Meets 7500 sf minimum for duplex
    3. But, it creates visual density of 5500sf per lot which is not acceptable
  - ii. Physical conditions: fails to meet

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1. Lot has no physical obstacles preventing an attached duplex such as lot shape, rock outcropping or heritage landmark. Treating the existing house as an obstacle is not a valid argument.
2. We can show that an attached duplex is a superior design compared to two structures. (See Strawman Design)
3. We can show that a detached duplex is not compatible with existing homes in our neighborhood
- iii. Reduction of impact: fails to meet
  1. We can show (See Strawman Design) that an attached duplex creates fewer impacts on views and privacy of adjacent neighbors
- iv. Permit history: fails to meet
  1. The poor condition of the existing structure is being used as a reason for not attaching the proposed structure.
  2. We feel that this is a self-imposed hardship. The applicant purchased the home in poor condition and has put no investment into improving the house, and now wants to be rewarded with a second dwelling.
- v. Parking: fails to meet
  1. Spanish Trail parking deck in the Right of Way
  2. Not consistent with prior Spanish Trail approvals
  3. Impacts privacy of Brown and Bernal residences
  4. Requires approval by Town Council
- e. DRB has ignored the conclusion of the staff report. Why?
  - i. Staff has done an exceptional job trying to educate the DRB on the origins of this Exception and the importance of it. However, not once did the DRB acknowledge the work that had been done---to agree or disagree or ask for clarification.

**Issues dealing with Design (re: plans dated 11/22/2010).**

- a. Poor design
  - ii. Architectural styles of new and existing structures are very different (Cape Cod vs 1900's stucco)
  - iii. Looks like 2 separate owners and therefore a lot split
  - iv. New house looks larger than existing house because of unusually high ceiling heights
- b. A 16-foot roofline is excessive for a 1,000 sf house.
  - v. What is the real intent?
  - vi. This is sufficient height to build 2 stories
- c. Has NOT moved front of house back out of the view lines of adjacent neighbors Brown and DeMartini

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- vii. Viewline between Brown and DeMartini houses should go house to house, not deck to deck
- viii. Privacy to both homes impacted by positioning
- d. Large patio on side of house impacts Brown privacy
- e. Covered porch has been added
  - ix. Not included in square footage
  - x. Adds to bulk of building
  - xi. Should only be added if entire house is moved back

Other:

1. What is long term design plan for this property?
  - a. At least in the Aureguy plan we were able to see the style, size and placement of both homes before making a decision
  - b. If approved, guidelines and restrictions MUST be imposed for the renovation of the existing house
  - c. Existing house is in poor condition and will be needing approvals for rebuilding in near future

We invite the Town Council Members to visit the Brown and DeMartini homes to view the feasibility of an attached unit to the existing Norris home as shown in our Strawman Design.

**Procedure:**

In spite of the best efforts of Staff to guide the DRB in the correct handling of the Exception part of the application, the DRB did not follow any process that would lead to a clear decision. Rather than taking the Exception items one at a time and voting on them, they simply chatted about their opinions at the end of the meeting as usual. This led to a mingling of land use and design discussions and resulted in a very muddled decision. In the end, the staff had to prepare resolutions that made the findings (to protect the Town), because the DRB seemed unable or unwilling to make findings on their own.

There seemed to be an unusual amount of coaching of the applicant by the DRB. It appeared from the beginning that the DRB was seeking some way to approve the application. We, the neighbors, had to remind them that it was the obligation of the applicant to make the findings and the DRB should not go out of its way to make findings for him. For example, the DRB directed the applicant to make a study drawing to prove he could not attach to the existing building, which he reluctantly provided. The applicant was asked in 3 different meetings to move the structure back into alignment with the adjacent homes on Vista Del Mar. Instead, the applicant proposed numerous "throw away" items which he subsequently removed as concessions hoping to appear reasonable. If an applicant refuses 3 times to do what the DRB has suggested for his own benefit, shouldn't the DRB deny the application?

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In closing, we feel that there is no justification for an Exception and the application should be denied. That being said, we feel that the Exception to the Ordinance and the DRB process for handling it should be reviewed. This very important protection for the R-2 Zone needs more work. At the DRB, it is not being given the level of attention it deserves. We feel that this is critical to the preservation of the character of our neighborhood and look forward to working with you to improve the Ordinance and the process.

Attachments:

Strawman design

Rebuttal of Applicant's Justification for Detached Unit

Signature page

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Attached vs. Detached Two-Family Dwelling  
Rebuttal (in red)

Norris Residence  
2312 Spanish Trail  
Tiburon

11.22.10

16-3.3.2 Criteria for Approval states "Physical conditions exist on the lot that render impractical or difficult the construction of attached units; OR the site planning superiority and land use compatibility benefits of detached units are clearly demonstrated for the lot.

1. Both of these criteria are met:
2. ***Physical conditions on the lot*** means both the conditions of the lot and the conditions of any improvements on the lot and/or affecting the lot. This would include the existing house and the adjacent house at 2356 Sp. Trail.
  - a. "Physical conditions" does not include the existing improvements on the lot or any adjacent property. It solely refers to physical impediments on the lot itself. *Therefore, references to the existing house are irrelevant.*

2.1 The lot is long and narrow, extending street to street with access from both streets.

- This lot does not merit any special consideration.
- 11/20 R-2 lots in our area are narrower than the smallest part of

Norris lot

- Of total 20 homes in our area 13 have street to street lots.

2.2 The existing house is at the narrowest point of the lot

- According to the ordinance, the existing house is irrelevant.

2.3 It has existing non-conforming setbacks on 3 sides.

- According to the ordinance, the existing house is irrelevant.

2.4 The setbacks are such that there is only 1 side that can accommodate any addition without a variance.

- According to the ordinance, the existing house is irrelevant.

2.5 The 1 available side is the one that would most negatively impact the views and privacy of 2356 Sp. Trail.

•2356 Spanish Trail has a deck height of 131.8'. The prevailing natural land is at 120'. With minor excavation, a full story with a normal roofline could be placed in the view corridor without disrupting views from Spanish Trail.

However, we can show that when the new unit is attached to the old unit, no intrusion into the view corridor is necessary.

2.6 The existing floor plan can be demonstrated to be incompatible with an addition that blocks all view, light, access and egress from the lower story, creating wasted space that would have to be added to the new construction to maintain the same allowed square footage.

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•This is an unsupported claim. Lower story is only 582 square feet and has a view that is obstructed by the Magnolia tree. In an attached design this area can be used for non-view usages such as storage, mechanical, bathrooms, laundry etc. Any new rooms attached in front of this would have light, view and access to outdoors. Without the magnolia tree, these rooms would have bay views.

2.7 Any attached roof, other than flat, in that location would nearly eliminate all views from the living room of the 2<sup>nd</sup> floor of the existing house.

•With proper design of attachment, views from deck of living area (el. 133') would be unobstructed. Furthermore, living room, dining room, bedroom deck over flat roof of proposed attached area living space would enhance desirability of existing home. In addition, a minor excavation to lower the attachment would allow for sloped roof.

2.8 A flat roof would be incompatible with the architectural style of the existing house. A flat roof would be higher than the floor level of the adjacent house and directly in its view towards the GG Bridge.

•see 2.7 above. The deck height of existing house is 133' vs 131.8 on the deck of 2356 Spanish Trail. Plus, it is not in the view corridor.

2.9 Any probable attached plan would remove mature landscaping including a large magnolia tree that screens the existing 3-story house from views from below, thereby increasing the visual impact.

•proposed structure is appx. 1000 sq. feet. Attaching same square footage could be designed in an "L" shape to preserve the magnolia tree and much of the mature landscaping.

2.10 The existing house is in very poor condition and any attachment would necessarily trigger massive repairs and structural upgrades and the possibility of complete demolition due to exceeding the 50% limitation on remodeling.

•It is possible to build an addition with a separate foundation.

3. **Site planning for an attached unit is problematic:** a detached unit would result in a superior product and enhance the neighborhood values.

a. The ordinance reads "or the site planning superiority and land use compatibility benefits of detached units are clearly demonstrated for the lot:"

b. Applicant has failed to clearly demonstrate benefits

c. Our strawman design shows superior design through attachment

3.1 Access and egress, light and views are superior in a location closer to Vista Del Mar.

•Access and egress, light and views are not part of the ordinance. However, our "Strawman design" (available to DRB Monday) shows identical access and light and doesn't affect the privacy and views of neighbors.

3.2 Parking is more convenient to a lower location.

3.3 Yard space and landscape screening between the units is better with separation.

•With Strawman design, main entrance and private yard for Upper unit is Spanish Trail. Main entrance and private yard for Lower unit is Vista

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Del Mar. This provides more space and privacy to each home than a detached solution.

3.4 Existing hedge screening between this lot and 2300 can be maintained while achieving valuable GG Bridge views without affecting the privacy of either neighbor.

- In Strawman design, existing hedge would remain.

3.5 Separating the units allows more design flexibility in terms of architectural style. Matching the 40s stucco style of the existing house is not a good option.

- With proposed conflicting architectural styles (one 40s stucco style, other Cape Cod) there is no architectural continuity of the project. Further, it enhances the notion to someone driving by that they are owned by separate people. Thus, perpetuating the idea that it must be OK to build a house on a 5500sf lot in Tiburon.

3.6 A probable attached scenario would result in a 60' plus long side elevation in a constricted area of the site. When viewed in elevation this would be an unattractive massing of elements that is out of context with the small cottage feeling of the original neighborhood.

- This scenario would result in a 17' wide by 60' long addition which no architect would ever design. There are many other options. Our neighborhood is full of prime examples.

3.7 Two smaller units are more compatible with the neighborhood than 1 larger unit.

- There are 8 out of 9 duplexes that are attached in the neighborhood.

3.8 By separating the units and allowing a new cottage the property would be less likely to be developed in the future in a less compatible fashion. Any new house replacing the existing one would of necessity be located farther down the lot in order to avoid multiple variances. A new single family dwelling of 3100 sf. would result in a 3-story house having a far greater visual impact than this proposal. By approving this proposal future development will be limited to repairs and upgrades within the current envelope of the existing house.

- Unless there are restrictions placed on the renovation of the existing house, anything is possible in the future. We strongly urge the DRB to consider restrictions on future development to correct any incompatible architectural style, size and placement issues introduced by the approval of this project.

4. The existence of a 2<sup>nd</sup> unit already established within the existing house is not sufficient to demonstrate that it is practical or feasible to have an attached unit. To do so would unfairly restrict the owner's right to develop the property in a way that is allowed by the zoning ordinance because an attached solution would necessarily have to be much smaller than allowed in order to overcome the conditions and restrictions described above.

- It does not have to be much smaller. Norris has requested 1000sf and we have shown in our Strawman proposal, how 1000sf (or more) can be attached as a second unit. In this proposal, we have also shown

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how the privacy of the two units on the lot would be enhanced over two detached units.

5. There is no incentive for an owner to substantially improve an extremely poor parking situation if full use and enjoyment of his property is restricted or denied.

- The parking needs of this property must be addressed regardless of development or no development.

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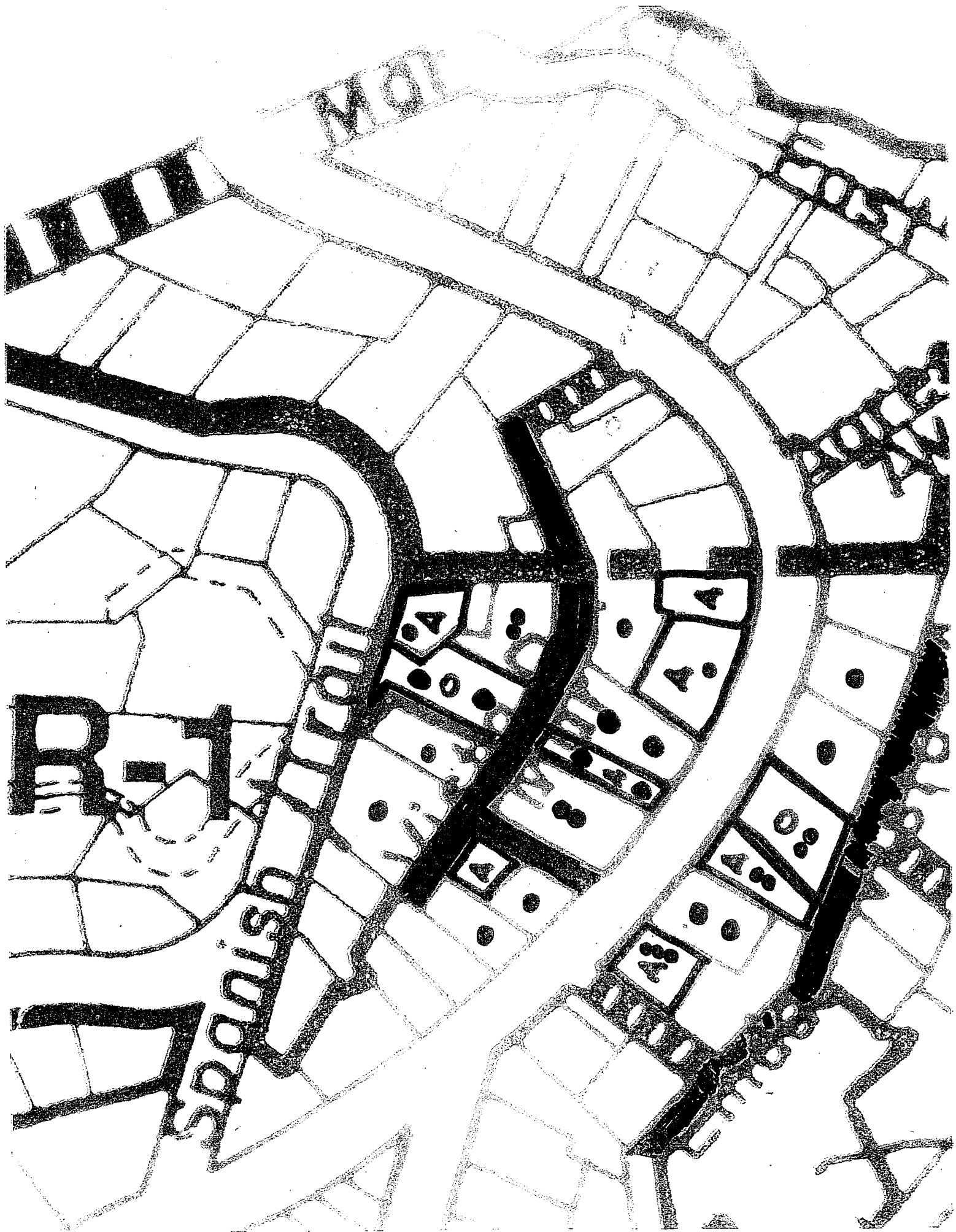
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# 20 HOMES IN STUDY

- 20 HOMES
- 9 SINGLE FAMILY OR CONDO ●
- 11 DUPLEXES ●
  - 3 ALREADY 2 STRUCTURES ON ONE LOT ●
  - 8 REMAINING
    - 2 ALREADY RENOVATED
    - 6 TEARDOWNS
      - 5 ARE ABSENTEE OWNERS
- 6+3 ALREADY = 9 LOTS WITH 2 STRUCTURES
- 45% POTENTIAL TURNOVER IN NEXT 5 YEARS

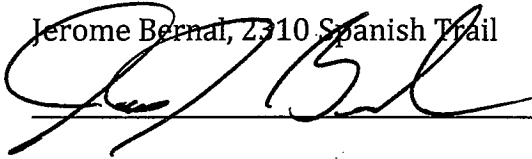
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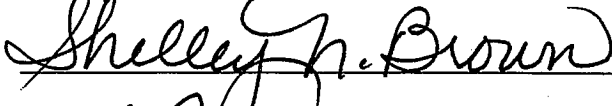
Signatures :

Jerome Bernal, 2310 Spanish Trail



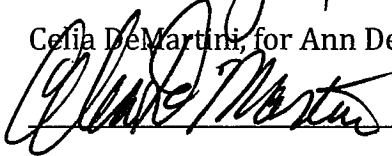
Date 12-12-10

Shelley Brown, 2300 Vista Del Mar Lane



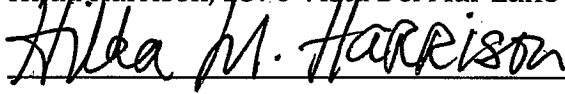
Date 12-12-10

Celia DeMartini, for Ann DeMartini, 2323 Vista Del Mar Lane



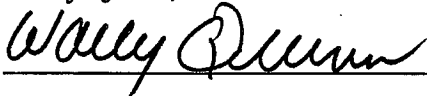
Date 12-12-10

Hilda Harrison, 2370 Vista Del Mar Lane



Date 12/12/10

Wally Quinn, One Vista Del Mar Lane



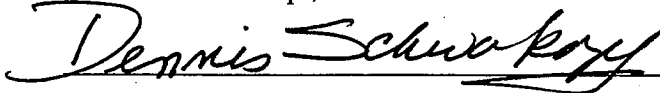
Date 12/12/10

Terry Schwakopf, 2400 Vista Del Mar Lane



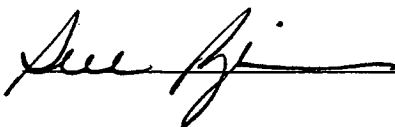
Date 12/12/10

Dennis Schwakopf, 2400 Vista Del Mar Lane



Date 12/12/10

Sue Zimmerman, One Vista Del Mar Lane



Date 12/12/10

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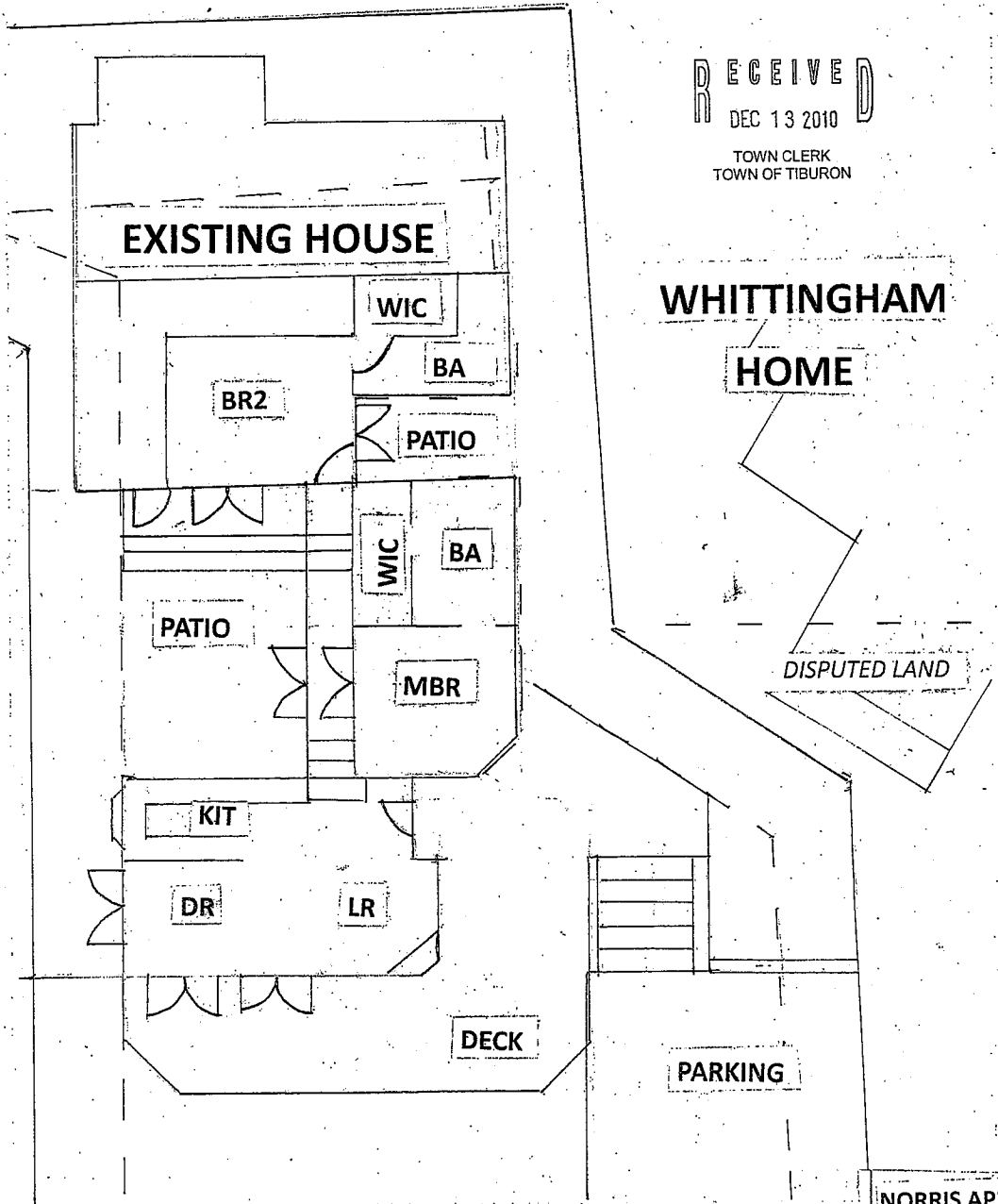
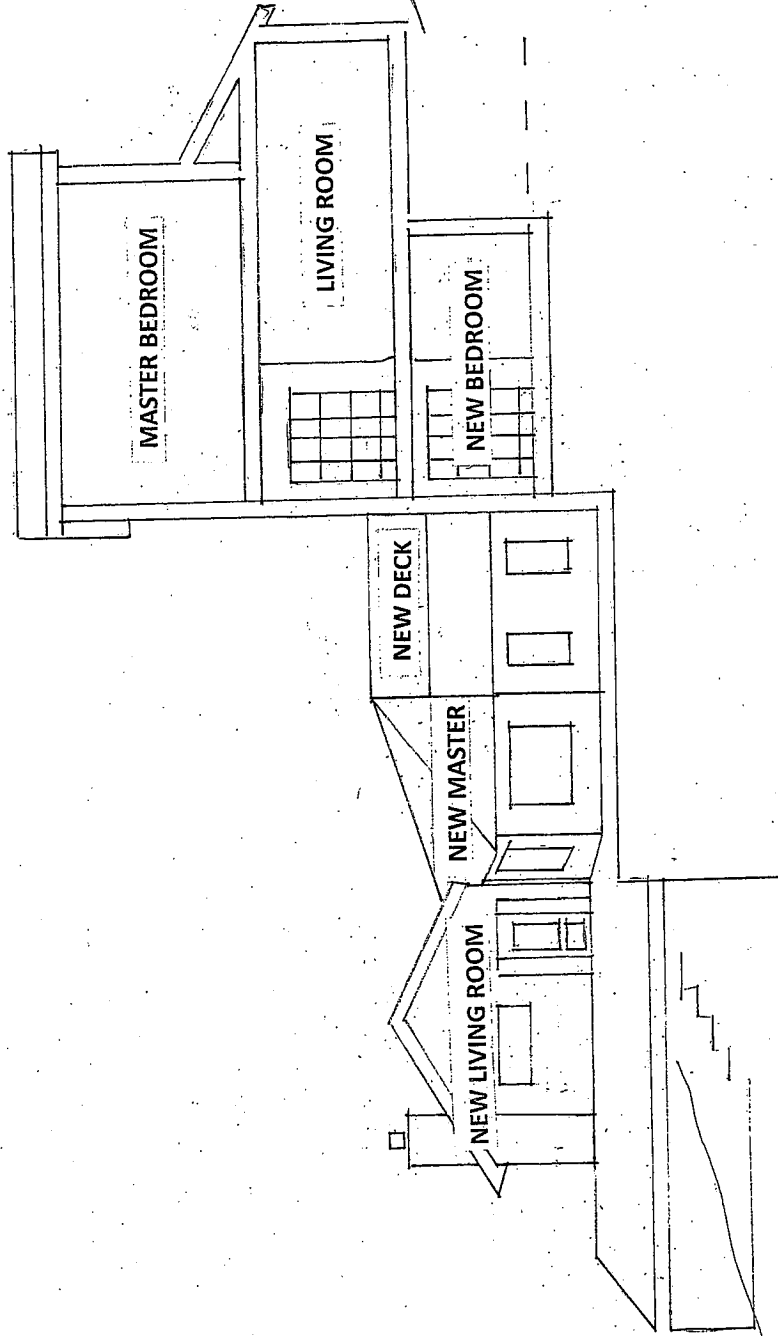


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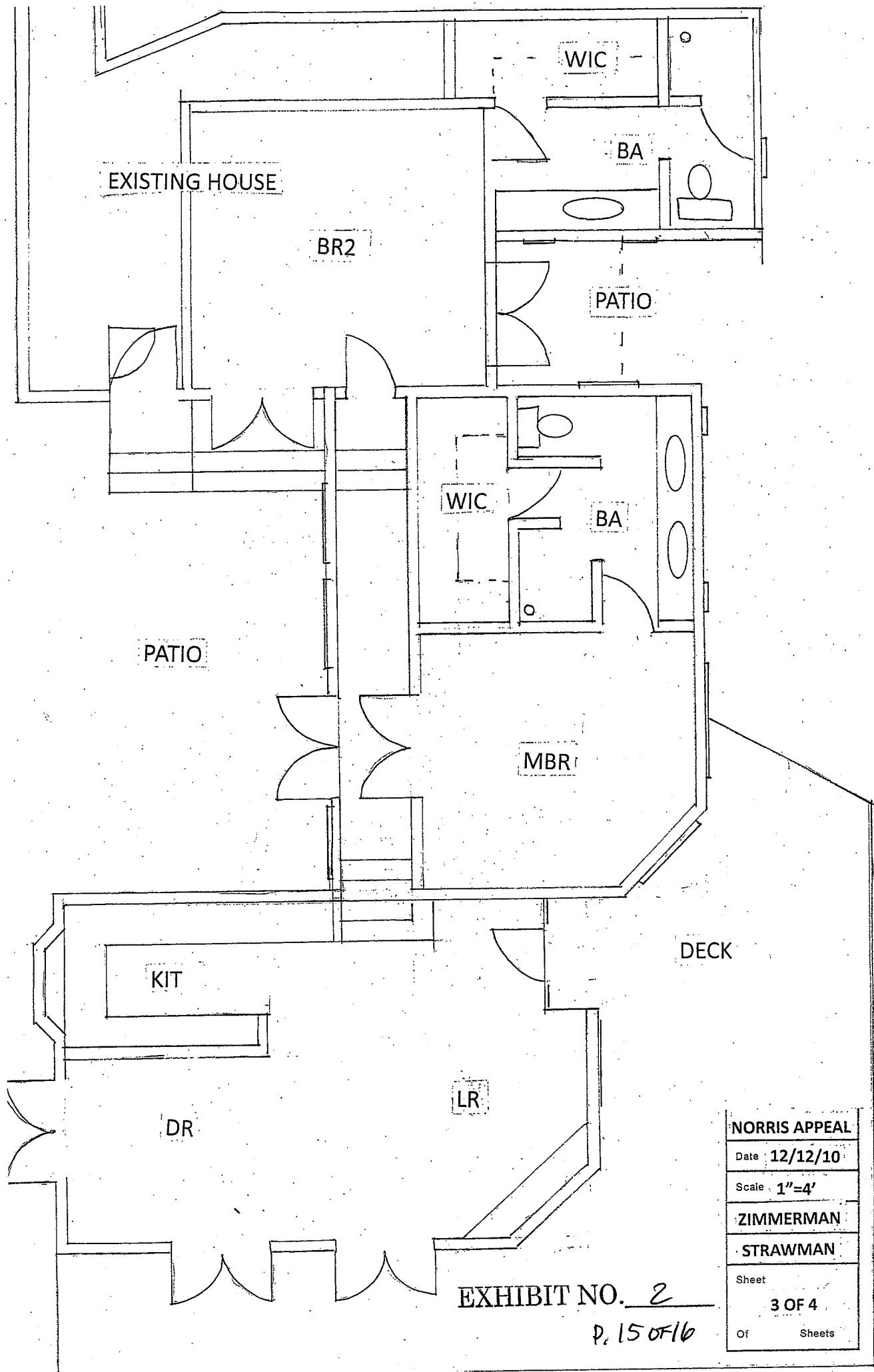
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<b>NORRIS APPEAL</b>
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ZIMMERMAN
STRAWMAN
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NORRIS APPEAL
Date 12/12/10
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ZIMMERMAN
Jo STRAWMAN
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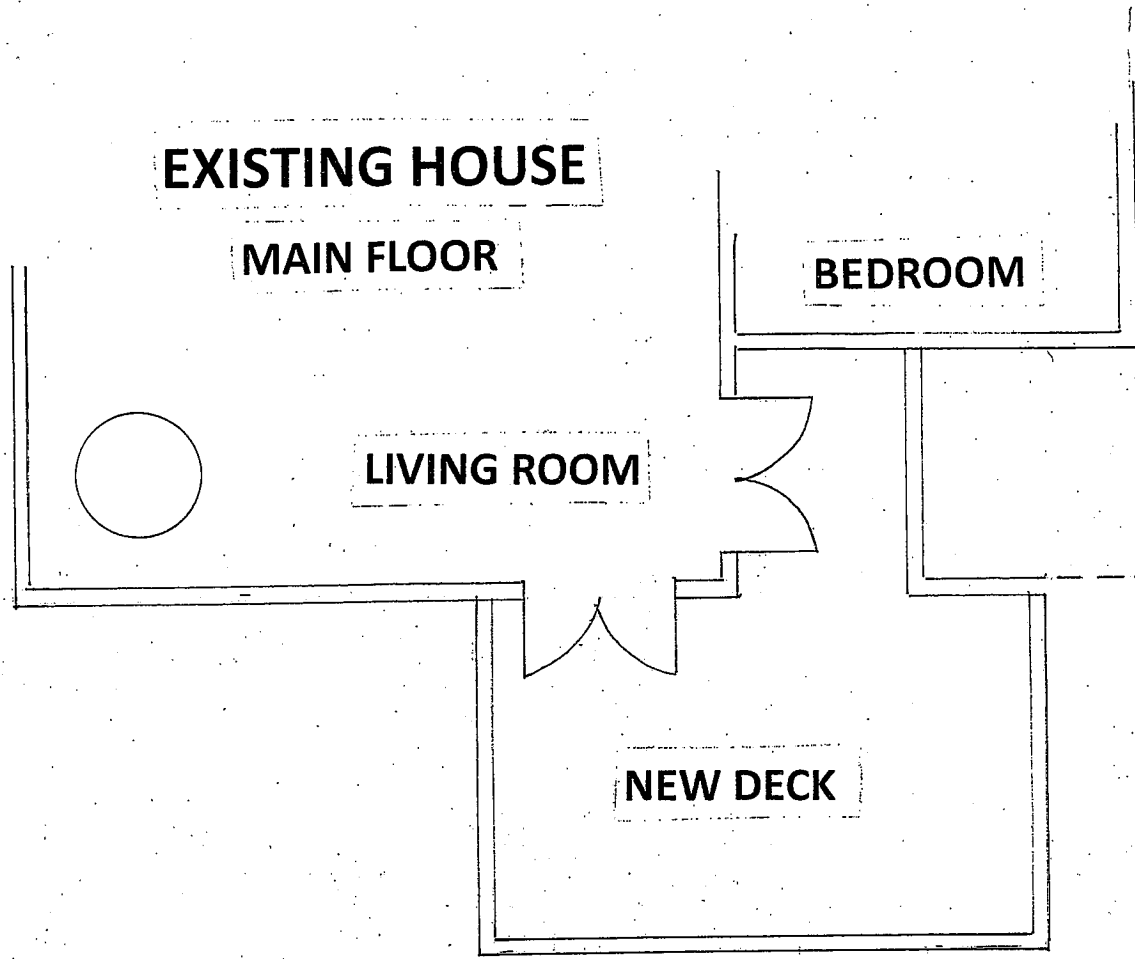


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<b>NORRIS APPEAL</b>
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<b>STRAWMAN</b>
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<b>4 OF 4</b>
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