

## NEPENTHE ARCHITECTURAL REVIEW COMMITTEE MINUTES

Thursday, August 11, 2022, conducted in person and via videoconferencing.

**Members present:** Alan Watters, chairperson; Allen Davenport; Pat Singer, secretary.

**Absent:** Ken Luttrell, Lee Blachowicz (both absences excused).

**Also Present:** General Community Manager Bettsi Ledesma; Board Liaison Markus Dascher; Potential ARC member Paul Serafimidis; Resident: Peter Klein.

Meeting was convened at 5:30 pm.

**BOARD ACTION ITEM REQUEST:** Please see section C: Old Business, point 2.

The Board to consider requesting a copy of the City of Sacramento building permit for those architectural improvements which require City permits (windows; solar panels; skylights; HVAC).

**A.1. Introductions:** Welcome to a potential committee member, Paul Serafimidis. Paul's background is in facilities management, including infrastructure. He recently attended a resident visit with Alan to discuss an HVAC application.

### **B.1. Homeowner requests not voted on:**

1. **2304 American River Drive** – Original application for HVAC replacement was approved July 2021 but has expired; installed heat pump model was found to be too big. After discussions with Alan and Paul, the resident is withdrawing the application and will research situation with other contractors. Application was withdrawn.

**B.2. Homeowner Requests Recommended to be Approved:** (With conditions if so noted.) (All votes unanimous unless otherwise noted.)

1. **1551 University Avenue** – Wheelchair accessible walkway to courtyard gate. Demolition of existing concrete aggregate sidewalk and installation of a new 36 in. wide by 32 ft. long aggregate walkway to accommodate a wheelchair. McIlwain Mobility Solutions of Rancho Cordova to be contractor. The ARC does not usually have review jurisdiction over walkways, but management had asked the committee to review this unique request. **Approval Recommended.**

### **B.2.A. Homeowner Requests Approved via Emergency Approvals: *Post Meeting review***

1. **109 Dunbarton Circle** – HVAC replacement with emergency status in this 3300 model. Installation is requested of a Coleman 16-SEER, 3.5-ton heat pump. A temporary, repair refrigerant line set was installed on top of the siding under a plastic cover; it is to be installed inside the wall. The condenser will remain in the original location. Contractor to be Gilmore Heating & Air.  
**Approval recommended with the Condition** that the new refrigerant line set and any new required wiring be installed inside of the wall and that the

refrigerant line set, etc. currently hung from the fence be installed more securely on the fence and covered with a chase to protect it from the elements and human interference.

### **B.3. Homeowner Requests Not Approved:**

1. **1016 Dunbarton Circle** – Window replacement in this 5500A model. Using five Milgard Tuscan windows and three sliding doors, except for two narrow sidelight windows which will use Milgard's Style Line. The contractor is to be Capital Glass and Construction of Sacramento. A new proposal was requested because the living room window configuration was not acceptable. A new proposal was received Aug 8th, but the configuration proposed is still not acceptable: the living room window is still to be a picture window with a OXO bottom panel; and the second floor window directly above would be original OX window configuration. This violates the Guidelines' requirements that these configurations match.  
**Application denied.**

### **C. Old Business:**

1. At its June meeting, the Board proposed and ordered published for a 30-day notice period an Architectural Compliance Estoppel Rule, based on Section 4.15 of the CC&Rs, and requested the ARC to review proposal and provide comments by the September Board meeting.
  - a. The ARC assumed the responsibility to inspect and record findings would be theirs. A revised checklist to record inspection findings was drafted along with a proposed process to be considered by the Board. All ARC members present at the meeting agreed to review the draft checklist and process and send comments to be incorporated into the final versions to be sent to the Board. (See Appendix A and B for final versions.)
  - b. The ARC recommends the Board provide these documents to the HOA's legal counsel for review.
  - c. Bettsi estimated that up to 50 homes may be for sale each year. The ARC requests the Board to consider the impact this workload will have on the ARC and identify backup and alternative resources to be used to execute the final Architectural Estoppel rule.
  - d. Allen Davenport (ARC member) raised additional concerns regarding the wording in the Board's draft of the Rules and summarized them for the Committee. (See Appendix C.)
2. **Request for building permits to be on file for certain architectural improvements:** As an add-on to the discussions on the Architectural Compliance Estoppel Certificate, the ARC is recommending the Board to consider requesting a copy of the City of Sacramento building permit for those architectural improvements which require City permits (windows; solar panels; skylights; HVAC). ARC recommends that a copy of the permit is collected with the Notice of Completion form. Bettsi will modify the Notice of Completion form and provide it to the Board for consideration.

### **D. New Business:**

1. Bettsi and Pat introduced the Nepenthe Association SmartWebs Office software database that will be utilized for ARC review and approval of applications. Each

ARC member will have an account set up and will be trained to retrieve architectural application materials for review prior to the ARC monthly meeting. As members become more familiar with the software, other features can be used to capture comments, conversations and voting results.

**E. Notices of Completion:** Alan signed several.

Meeting adjourned at 6:49pm.

Respectfully submitted, Pat Singer, A.R.C. secretary

**Appendix A**

**Architectural Compliance Estoppel Checklist**

<b>Address:</b>	<b>Date:</b>
<b>Inspectors:</b>	
<b>Current Owner(s):</b>	
<b>Email:</b>	<b>Phone:</b>

The following general items were inspected by a member(s) of the Architectural Review Committee to determine their condition and compliance with the CC&Rs, Architectural Guidelines, and Community Rules of the Nepenthe Association.



#	Feature	Compliant	Non-compliant	Observations
1	Siding			
2	Roof			
3	Gutters/downspouts			
4	Windows			
5	Property Landscaping (e.g., mulch, trees, climbing vines, etc.)			
6	Patio (incl. hot tubs, pools, spa, trellises, fountains)			
7	Fence			
8	House Number Plates			

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**PAGE 2 Architectural Compliance Estoppel Checklist**

<b>Address:</b>	<b>Date:</b>
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The following architecturally controlled improvements that were approved for this unit were also inspected by a member(s) of the Architectural Review Committee to determine their compliance with the governing CC&Rs and ARC Guidelines of the Nepenthe Association

#	Feature	Compli -ant	Non- compliant	Observations
1				
2				
3				

Other features that were noted by the owner(s)/inspectors during the time of the inspection.

#	Feature	Compli -ant	Non- compliant	Observations

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**Inspectors:**

Print Name	Signature	Date
		Xx/xx/xx

## **Appendix B**

### **Estoppel Certificate and the Inspection Process – An Explanation**

Nepenthe's CC&Rs provide for a homeowner's requesting an Estoppel Certificate to demonstrate compliance for any architecturally controlled improvements (Section 4.15 Estoppel Certificate, p. 26). The Board of Directors, wishing to comply with the CC&R's directives, is seeking to reinstitute this provision. The provision for this process has existed in the CC&Rs for Nepenthe's 50-year-long history, but it has not been in effect for some decades. The Board desires to follow our governing documents and wants the HOA to function optimally.

Upon the Homeowner's request, the Association will perform an inspection of the home's exterior architectural components and then certify that the home is either in compliance or noncompliance (CC&Rs, Section 4.15). The inspection will be twofold. Besides checking on installed architectural improvements and their compliance with certain community rules, the inspection will also review the condition or status of a home's exterior components, with an eye toward maintenance needs, whether by the homeowner(s) or the Association.

It is expected that homeowners wishing to list their home for sale will want to obtain this Estoppel Certificate so that they might demonstrate to potential buyers that any architectural improvements are in order and that any maintenance needs are reported to the Association's office. Obtaining a certificate would protect existing homeowners from unanticipated expenditures, as well as give notice to potential new owners of any issues that they may be required to resolve.

As specified in the CC&Rs, the inspection will be conducted by two or more members of the Architectural Review Committee. The ARC anticipates that it can respond quickly to a request and schedule an inspection with the homeowner(s) within several days. (The CC&Rs direct that this be completed within thirty days.) The office will provide the ARC members with a list of architectural improvements that are on file for the home, and the inspectors will double check those. In addition, the ARC members will look at such items as the siding, fencing, gutters, landscaping in both the "common areas" and within the fenced-in backyard for any repair needs or possible safety issues.

The inspection forms will be returned to and processed by Nepenthe Association office and the certificate report issued, accompanied by an advisory statement if warranted. What if something is found to be noncompliant? The homeowner can fix it and have the remedy reinspected, to obtain a certificate noting full compliance. It is not anticipated that a non-compliance finding would hold up the sale of a unit or close of escrow. However, as this process is restarting and new, it is conceivable that for a complicated matter ultimately the Board of Directors might have to decide on what remedy for a noncompliant improvement is acceptable.

## Nepenthe Architectural Estoppel Compliance Checklist

The inspecting committee members will double-check whichever of the following architecturally controlled installations have been approved and recorded.

1. Air Conditioner, Furnace and Heat Pump
2. Antenna or Satellite Dish
3. Attic Ventilation and Exhaust Fans
4. Awnings and Shade Sails
5. Burglar or Security System, and Alarm Bell Boxes - external
6. Chimney Caps
7. Exterior Security Lighting and other exterior lamps
8. Exterior Window—Sun Screens
9. Exterior Window—Security, including bars
10. Floral and Overhead Trellis (Patio Cover): Floral Trellis, Large or Small Trellis, or Pre-Manufactured Aluminum Trellis
11. Front Door
12. Front Screen or Storm Door
13. Garage Door-Passage, New (“man door”)
14. Garage Door-Passage, Replacement (“man door”)
15. Garage Door-Vehicle, Sectional Roll-Up (automobile door)
16. Gas Line and Meter
17. Gutters and Downspouts
18. Handrails
19. Mailbox
20. Mail Slot, Use and Replacement
21. Patio Hardscape, Maintenance and Improvements, landscaping
22. Patio Pool
23. Patio Structures: Shed or Outbuilding, or Free-Standing Structure
24. Security Camera
25. Skylights
26. Solar Energy Roof Panels
27. Solar Tubes
28. Windows – Replacement: Correct Configuration? Glass – Clear or low-E? Frame color? Kitchen or Garden Window?
29. Wiring and Pipe Installations – Exterior or Exposed
30. Accessory Dwelling Units and Junior Accessory Dwelling Units

## Appendix C

### **ARC Comments on Board's Proposed Nepenthe Association Architectural Compliance Estoppel Rules**

#### *Proposed Nepenthe Association Architectural Compliance Estoppel Rules*

*The process for the Homeowners to receive a certificate that their Nepenthe Association home is in compliance with the Association's governing document's architectural requirements is as follows.*

*All Homeowners who are in the process of selling their Nepenthe Association home must adhere to the following process before their home sale closes escrow.*

*Also, Homeowners who are refinancing their home loans may proceed with the following process.*

- 1. Obtain from the Association a Request for Inspection form. (See Attachment A.)*
- 2. Complete the form and submit it to the Association at 1131 Commons Drive, Sacramento, CA 95825 or Nepenthe.HOA@fsresidential.com.*
- 3. The Association will make an appointment to inspect the exterior of the home to determine whether the home is either in compliance or in noncompliance with the Association's governing document's architectural provisions. (See Attachment B.)*
- 4. After the inspection, the Association will send the Homeowner a certificate that states that the home is either in compliance or in noncompliance with the Association's governing document's architectural provisions. (See Attachment C.)*
- 5. If the Association determines that the home is not in compliance with the architectural provisions, then the Association will require that the Homeowner take the necessary steps for the home to be compliance. After the Homeowner has taken the necessary steps for the home to be in compliance, then the Association will send the Homeowner a certificate that states that the home is in compliance with the architectural provisions.*

1. The proposal should be redrafted to indicate that it is in addition to Section 4.15 and is initiated by the Association upon discovery of a proposed sale. Article 4.15 describes a process initiated by the Owner at the owner's discretion, and therefore cannot serve as the basis for the proposed mandatory HOA Architectural Compliance Inspection the board desires. We understand that the Board has the power to create new rules, and here The Board needs to create a rule requiring this Compliance Inspection at the time of a home sale. Then, this HOA architectural compliance action would be in addition to the Estoppel Certificate request permitted to the owner under 4.15.
2. Paragraph 5 should not require the homeowner to take action but serve as a statement of conditions that will require correction to bring the home into compliance with HOA standards. In order not to interfere with the progress of a sale, the seller and the buyer would be expected to settle which party shall be responsible for the necessary correction between themselves. This way the HOA has its report and can require compliance by the buyer when the sale is completed, or the seller can make such corrections as may be agreed to with the buyer.



3. The Board needs to consider the workload required by this proposal, and who is expected to accomplish it at what expense.
4. The committee shares the Board's concern with Architectural compliance but advises the Board to create a process that serves the interests of the buyer, the seller, and the HOA.