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**RESOLUTION PROPOSAL**

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**DATE:** January 28, 2010

**SUBJECT:** Request for Waiver of Enforcement of Setback Lot 511 Section 12

**SPONSOR:** General Manager

**BACKGROUND INFORMATION:**

The house was completed in March of 1992. At that time a final survey of the property was not required. The house and decks were included in the application for new home construction. There does not appear to be any changes to the house or decks since then. A survey dated December 28, 2009 indicates that the house corner and deck encroach into the right-rear setback requirement of 35 ft. for Section 12. The greatest encroachment is 12.1 ft.

**STAFF RECOMMENDATION:** Due to the 7 year statute of limitation allowance and hardships that would be created in removing the corner of the house and decking, it is recommended that the Board of Directors grant a waiver of enforcement for the encroachments. The Statement of Subdivision right-rear setback requirement of 35 ft would be reduced to 22.9 ft. This would result in a 12.1 ft. waiver to the right-rear 35 ft setback requirement.

**PROPOSED FINANCIAL IMPACT:** NA

**PROPOSED SOURCE OF FUNDING:** NA

**STRATEGIC PLAN REFERENCE:** NA

**POSSIBLE MOTION:**

Move that the Board of Directors grant waiver of enforcement for a 12.1 ft. right-rear setback violation reducing the 35 ft. setback to 22.9 ft. for Lot 511 Section 12. This waiver of enforcement is granted upon condition that the current property owners sign an agreement which will indemnify and hold harmless Lake Monticello Owners' Association from any liability arising from the violation of the building setback line in the Statement of Subdivision.

The decision of the Association in granting this waiver of enforcement shall be final and shall not be deemed a waiver of the right to enforce restrictive covenants, rules or regulations in other cases. Further, the property owners must understand that the position taken by the Association only affects the right of the Association to seek enforcement of the recorded covenants and restrictions and that said restriction inures to the benefit of all of the owners of individual residential lots at Lake Monticello, each of whom has the individual right to seek enforcement of said restrictions.

**PERSON RESPONSIBLE FOR FOLLOW-UP:** General Manager