Case No. 4:16-cv-06272 MEJ

1 PAUL L. REIN, Esq. (SBN 43053) LAW OFFICES OF PAUL L. REIN 200 Lakeside Drive, Suite A Oakland, CA 94612 3 Telephone: 510/832-5001 Facsimile: 510/832-4787 4 reinlawoffice@aol.com 5 Attorneys for Plaintiff JAMES LLEWELLYN 6 K.P. DEAN HARPER (#127474) JASON J. GRANSKOG (#190233) Bowles & Verna LLP 8 2121 N. California Blvd., Suite 875 Walnut Creek, California 94596 Telephone: (925) 935-3300 Facsimile: (925) 935-0371 10 dharper@bowlesvema.com igranskog@bowlesverna.com 11 12 Attorneys for Defendants 13 HARDEV SINGH dba THE GREENERY RESTAURANT; DIABLO HILLS GOLF ASSOCIATES, INC.; 14 UNITED STATES DISTRICT COURT 15 NORTHERN DISTRICT OF CALIFORNIA 16 JAMES LLEWELLYN, 17 Case No. 4:16-cv-06272 MEJ Plaintiff, Civil Rights 18 CONSENT DECREE AND PROPOSED 19 ORDER FOR INJUNCTIVE RELIEF, HARDEV SINGH dba THE GREENERY DAMAGES, AND ATTORNEY FEES, 20 RESTAURANT; DIABLO HILLS GOLF LITIGATION EXPENSES, AND COSTS ASSOCIATES, INC.; and DOES 1-10, 21 INCLUSIVE, 22 Defendants. 23 1. Plaintiff JAMES LLEWELLYN filed a Complaint in this action on October 24 31, 2016, to enforce provisions of the Americans with Disabilities Act of 1990 ("ADA"), 42 25 U.S.C. §§ 12101 et seq., and California civil rights laws and to obtain recovery of damages 26 for discriminatory experiences, denial of access, and denial of civil rights against Defendants 27 HARDEV SINGH dba THE GREENERY RESTAURANT; DIABLO HILLS GOLF 28 ASSOCIATES, INC (the "Defendants"), relating to disability discrimination at Defendant's CONSENT DECREE AND [PROPOSED] ORDER FOR INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEY FEES, LITIGATION EXPENSES AND COSTS

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SETTLEMENT OF INJUNCTIVE RELIEF:

4. This Order shall be a full, complete, and final disposition and settlement of Plaintiff's claims against Defendants for injunctive relief and damages that have arisen out of the subject Complaint.

public accommodations as of September 2 and 14, 2016. Plaintiff has alleged that

Defendants violated Titles III of the ADA; sections 51, 52, 54, 54.1, 54.3, and 55 of the

California Civil Code, sections 17200 et seq. of the Business & Professions Code, and

sections 19953 et seq. of the Health and Safety Code by failing to provide full and equal

Creek, California, at the Diablo Hills Golf Course. Defendants dispute Plaintiff's claims.

Plaintiff and Defendants (together, the "Parties") agree to entry of this Consent Decree and

expenses and costs, raised in the Complaint without the need for protracted litigation.

jurisdiction of this matter pursuant to 28 U.S.C. § 1331 for alleged violations of the

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq. and pursuant to

Court's entry of this Consent Decree and Order, which provide as follows:

supplemental jurisdiction for alleged violations of California Civil Code sections 51, 52, 54,

WHEREFORE, the Parties to this Consent Decree hereby agree and stipulate to the

of any issues of fact or law concerning all of Plaintiff's claims for relief.

Order to resolve all claims regarding injunctive relief, damages, and attorneys' fees, litigation

Accordingly, the Parties agree to the entry of this Order without trial or further adjudication

The Parties to this Consent Decree and Order agree that the Court has

access to the patrons of the Greenery Restaurant located at 1551 Marchbanks Drive, Walnut

In order to avoid the costs, expense, and uncertainty of protracted litigation,

5. The Parties agree and stipulate that the corrective work will be performed in compliance with the standards and specifications for disabled access as set forth in the

California Code of Regulations, Title 24-2, and Americans with Disabilities Act Standards for Accessible Design, unless other standards are specifically agreed to in this Consent Decree and Order.

- a. Remedial Measures: The corrective work agreed upon by the Parties to be performed is set forth in Attachment A, a set of plans proposed by defendants and red-line edited by Plaintiff's architect and expert, Gary Waters, and incorporated herewith.

 Defendants represent that the building under construction will be completed in full compliance with the California Building Code and access requirements. Defendants agree to undertake all of the respective remedial work as described by the red line edits of the plans. In the alternative, defendants may, at their discretion use alternative, fully compliant construction design and work under current standards of the California Building Code ("Title 24"), and approved by the relevant building department, to satisfy the requirement of this Consent Decree.
- b. **Training:** Defendants agree that within 30 days after the re-opening of the restaurant, Defendants will make the following policy commitments: All staff, including managers, will be trained to offer reasonable accommodations for disabled persons, including affirmatively inquiring with disabled patrons as to whether they may need any reasonable accommodations. Defendants agree to make reasonable accommodations in their policies and practices when interacting with disabled patrons.
- c. Timing: Defendants shall have until the restaurant re-opens to comply with the remedial requirements of section 5(a) above. Defendants shall have until 30 days after the restaurant re-opens to complete the training requirements of section 5(b) above. In the event that unforeseen difficulties prevent Defendants from completing any of the agreed-upon injunctive relief, Defendants or their counsel will notify Plaintiff's counsel in writing within five days of discovering the delay. Plaintiff will have thirty (30) days to investigate and meet and confer, and to approve the delay by stipulation or otherwise respond to Defendants' notice. If the Parties cannot reach agreement regarding the delay within that time period, Plaintiff may seek enforcement by the Court. Defendants or their counsel will

ENTIRE CONSENT DECREE AND ORDER:

notify Plaintiff's counsel when the corrective work is completed, and, whether completed not, will provide a status report to Plaintiff's counsel no later than 120 days from the Parties' signing of this Consent Decree and Order.

d. Defendants will notify Plaintiff in writing at the end of 120 days from the Parties' signing of this Consent Decree and Order as to the current status of agreed-to injunctive relief, and every 60 days thereafter until all access is provided. If Defendants fail to comply with the terms of this Consent Decree and Order on the agreed upon timetable and/or fail to provide timely written status notification, and Plaintiff files a motion with the Court to obtain compliance with these terms, Plaintiff reserves the right to seek additional attorney fees for any compliance work necessitated by Defendants' failure to comply with this agreement. If the Parties disagree, such fees, if any, shall be set by the Court.

DAMAGES, ATTORNEYS' FEES, LITIGATION EXPENSES, AND COSTS:

6. Defendants agree to pay Plaintiff a total of \$21,000 for Plaintiff's damages. Defendant agrees to pay for Plaintiff's attorney fees, litigation expenses, and costs in the amount of \$34,000. These respective amounts shall be paid in installments as follows. The first installment of \$27,500 shall be delivered by noon on July 7, 2017. Additional \$27,500 installment will be delivered to Paul Rein's office by noon on August 4, 2017. Each installment shall be paid by check payable to "PAUL L. REIN IN TRUST FOR JAMES LLEWELYN" and delivered to Plaintiff's counsel's office, located at 200 Lakeside Drive, Suite A, Oakland California.

7. This Consent Decree and Order and Attachment A constitute the entire agreement between the signing Parties on the matters of injunctive relief, and no other statement, promise, or agreement, either written or oral, made by any of the Parties or agents of any of the Parties that is not contained in this written Consent Decree and Order, shall be enforceable regarding the matters of injunctive relief described herein. The Court will retain

jurisdiction to enforce this decree. When Defendants notify Plaintiff's attorney that all work on the restaurant is complete, Plaintiff's attorney may, at his option, seek a cooperative site inspection if he makes such a request within 30 days of receiving notice from Defendants of completion of the work. No fees or costs for Plaintiff's work will be charged for such an inspection, if any is done.

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CONSENT DECREE AND ORDER BINDING ON PARTIES AND SUCCESSORS IN INTEREST:

8. This Consent Decree and Order shall be binding on Plaintiff, Defendant, and any successors-in-interest. Defendant has a duty to so notify all such successors-in-interest of the existence and terms of this Consent Decree and Order during the period of the Court's jurisdiction of this Consent Decree and Order.

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MUTUAL RELEASE AND WAIVER OF CIVIL CODE SECTION 1542:

9. Each of the Parties to this Consent Decree and Order understands and agrees that there is a risk and possibility that, subsequent to the execution of this Consent Decree and Order, any or all of them will incur, suffer, or experience some further loss or damage with respect to the lawsuit that is unknown or unanticipated at the time this Consent Decree and Order is signed. Except for all obligations required in this Consent Decree and Order, the Parties intend that this Consent Decree and Order apply to all such further loss with respect to the lawsuit, except those caused by the Parties subsequent to the execution of this Consent Decree and Order. Therefore, except for all obligations required in this Consent Decree and Order, this Consent Decree and Order shall apply to and cover any and all claims, demands, actions, and causes of action by the Parties to this Consent Decree with respect to the lawsuit, whether the same are known, unknown, or hereafter discovered or ascertained, and the provisions of Section 1542 of the California Civil Code are hereby expressly waived. Section 1542 provides as follows:

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A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

10. Except for all obligations required in this Consent Decree and Order each of the Parties to this Consent Decree and Order, on behalf of each, their respective agents, representatives, predecessors, successors, heirs, partners, and assigns, releases and forever discharges each other Party and all officers, directors, shareholders, subsidiaries, joint venturers, stockholders, partners, parent companies, employees, agents, attorneys, insurance carriers, heirs, predecessors, and representatives of each other Party, from all claims, demands, actions, and causes of action of whatever kind or nature, presently known or unknown, arising out of or in any way connected with the lawsuit.

TERM OF THE CONSENT DECREE AND ORDER:

11. This Consent Decree and Order shall be in full force and effect for a period of sixty (60) months after the date of entry of this Consent Decree and Order by the Court.

SEVERABILITY:

If any term of this Consent Decree and Order is determined by any court to be 12. unenforceable, the other terms of this Consent Decree and Order shall nonetheless remain in full force and effect.

SIGNATORIES BIND PARTIES:

13. Signatories on the behalf of the Parties represent that they are authorized to bind the Parties to this Consent Decree and Order. This Consent Decree and Order may be signed in counterparts and a facsimile signature shall have the same force and effect as an original signature.

1	Dated: 7-5, 2017	PLAINTIFF JAMES LLEWELLYN
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3		greene figures
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5		DEFENDANT DIABLO HILLS GOLF
6	Dated:, 2017	ASSOCIATES, INC.
7		
8		By:
9		Print name:
10		Title:
11	Dated:, 2017	DEFENDANT HARDEV SINGH
12		dba THE GREENERY RESTAURANT
13		By:
4		Print name: Title:
5	Approved as to form:	
6	-1/	LAW OFFICES OF PAUL L. REIN
1	Dated:	LAW OFFICES OF FACE E. REIN
		HUIK-
		By: Cur & Cerr PAUL L. REIN, Esq.
		Attorneys for Plaintiff JAMES LLEWELLYN
		JAMES LLEWELLYN
E	lated:, 2017	BOWLES & VERNA LLP
		By:
		JASON J. GRANSKOG, Esq.
		Attorneys for Defendants
		HARDÉV SINGH dba THE GREENERY RESTAURANT; DIABLO HILLS GOLF
		ASSOCIATES, INC

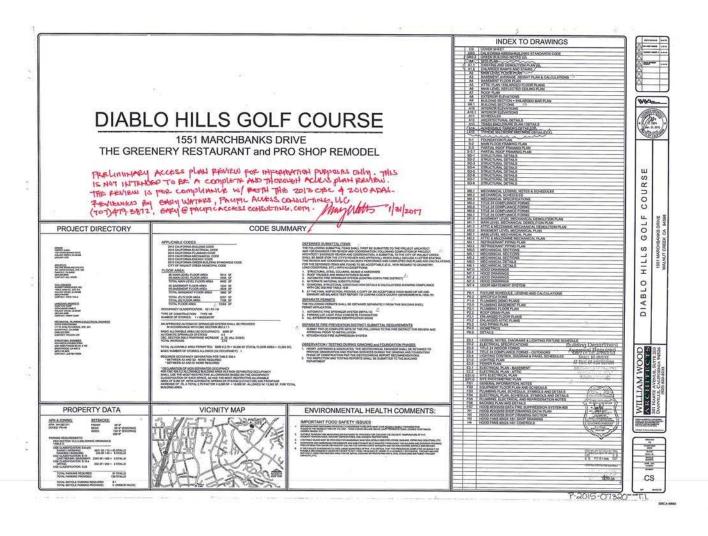
1	Dated:, 2017	PLAINTIFF JAMES LLEWELLYN
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6	Dated: 6/27, 2017	DEFENDANT DIABLO HILLS GOLF ASSOCIATES, INC.
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8		By: All My
9		Print name: HARDES Son GUT Title: HANAGER
10	_/	
11	Dated: 6/27, 2017	DEFENDANT HARDEV SINGH dba THE GREENERY RESTAURANT
12		0.1
13		By: Print name: HARDEN SING GH
14		Title: MASA SA
15		
16	Approved as to form:	
17	Dated:, 2017	LAW OFFICES OF PAUL L. REIN
18		
19		By:PAUL L. REIN, Esq.
20		Attorneys for Plaintiff JAMES LLEWELLYN
21	Dated: 6-77, 2017	BOWLES & VERNA LLP
22	, 2017	DOWLES & VERTIA ELI
23		
24		By: JASON J. FRANSKOG, Esq.
25		Attorneys for Defendants HARDEV SINGH dba THE GREENERY
26		RESTAURANT; DIABLO HILLS GOLF ASSOCIATES, INC
27		

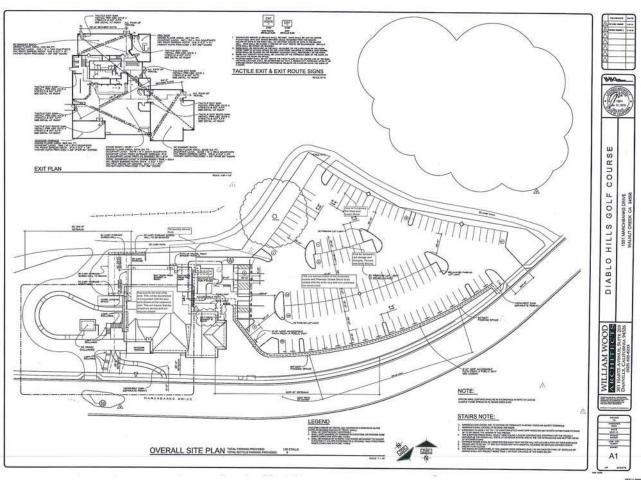
ORDER

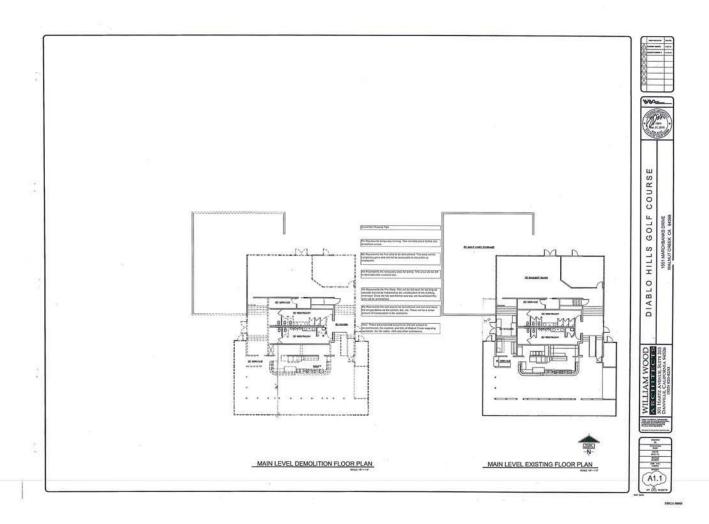
Pursuant to stipulation, and for good cause shown, IT IS SO ORDERED.

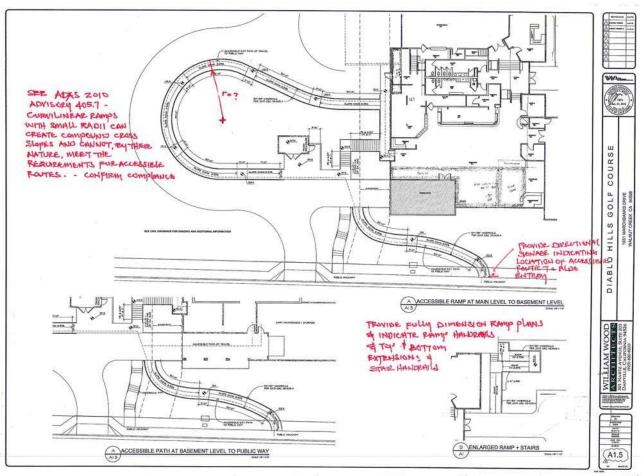
Dated: July 10 , 2017

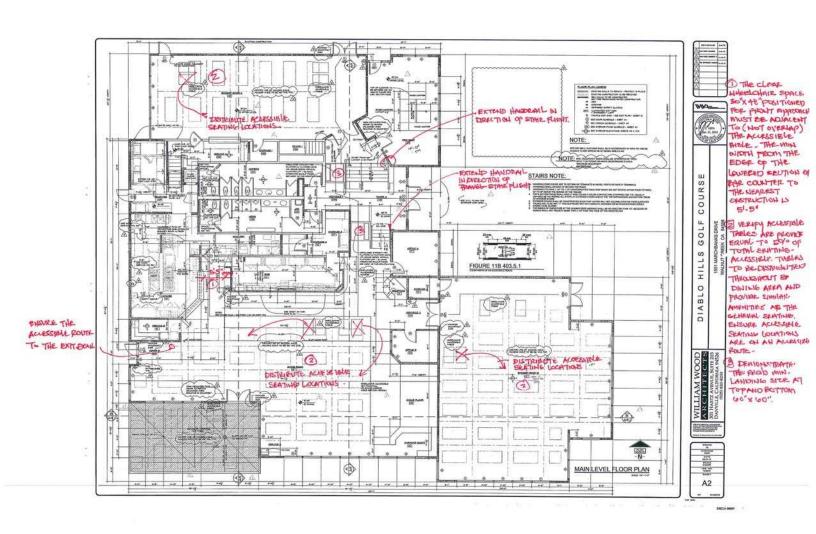
Honorabe MARIA-ELENA JAMES United States Magistrate Judge

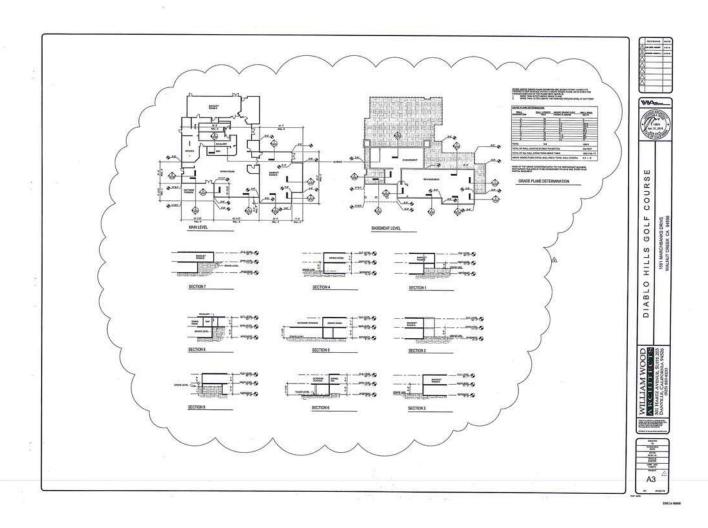


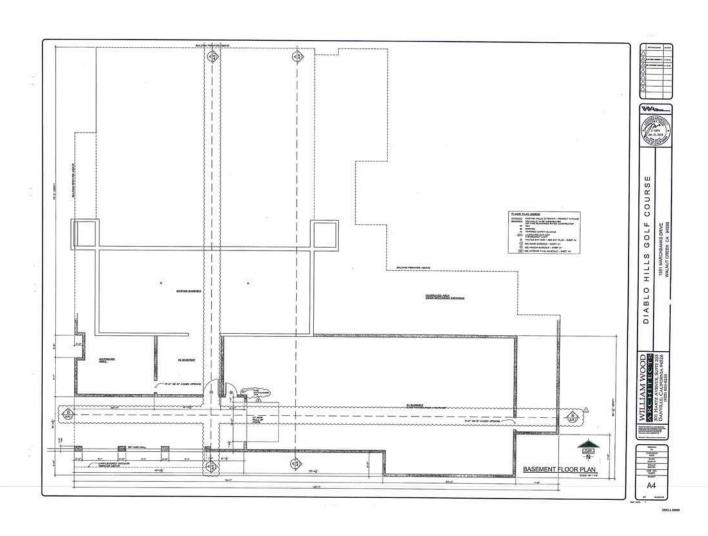


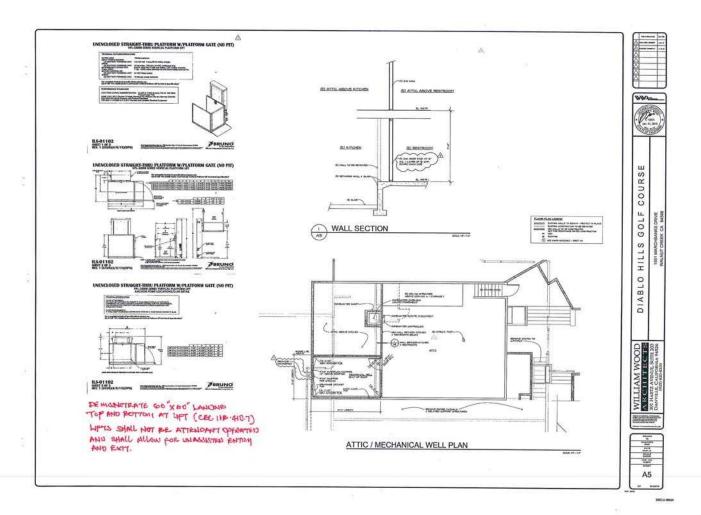


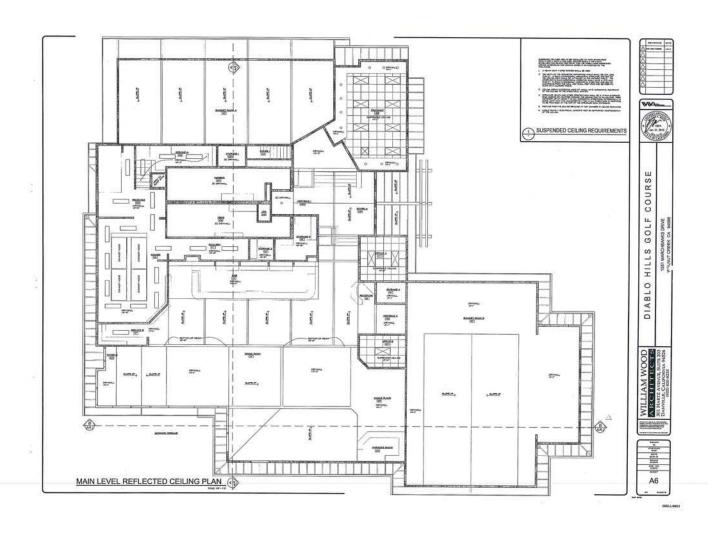


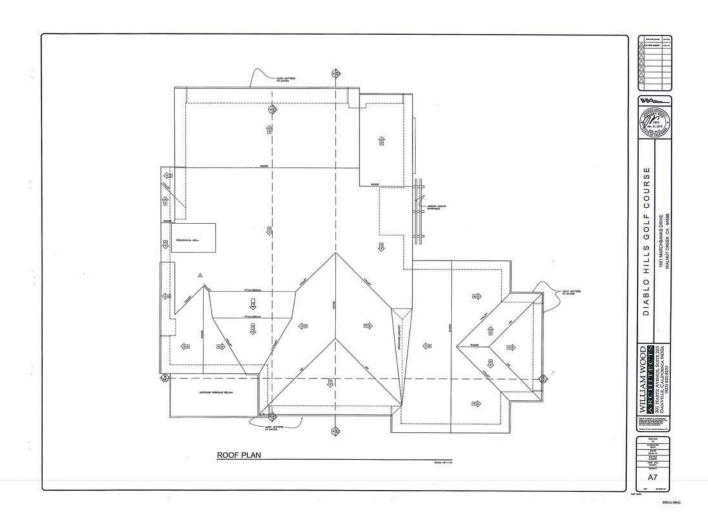


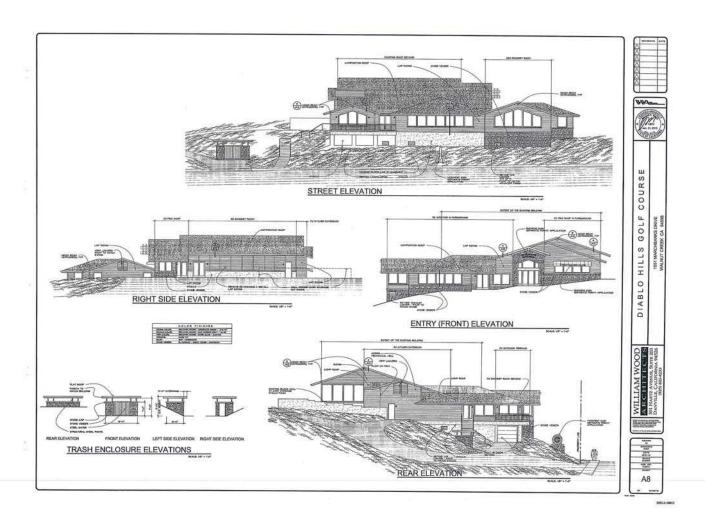


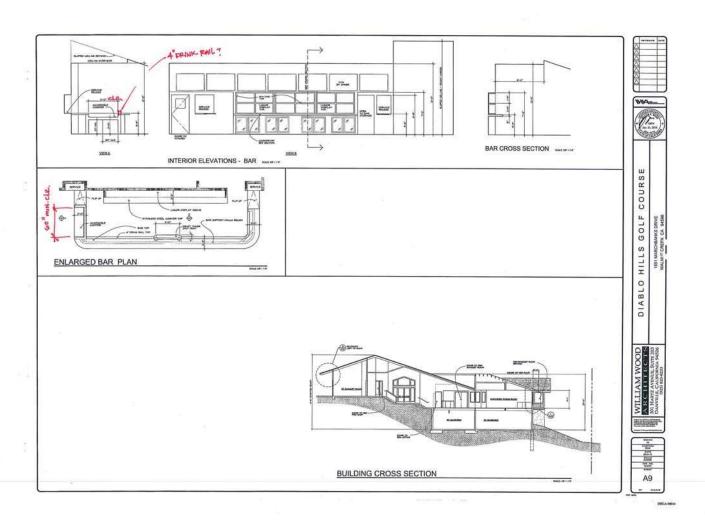


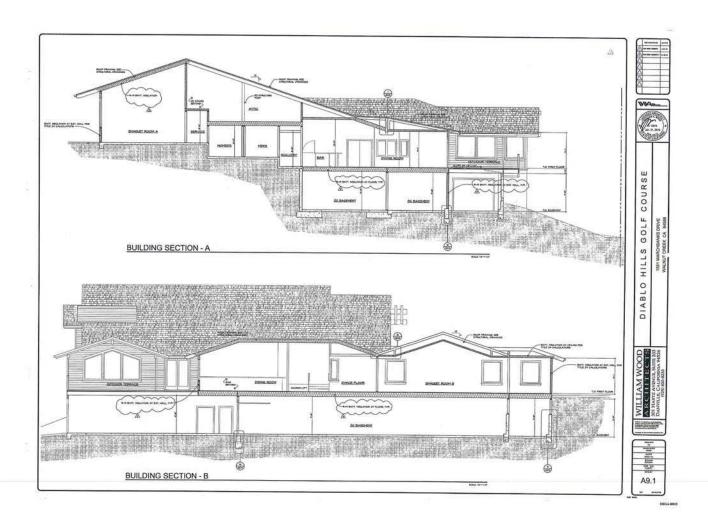


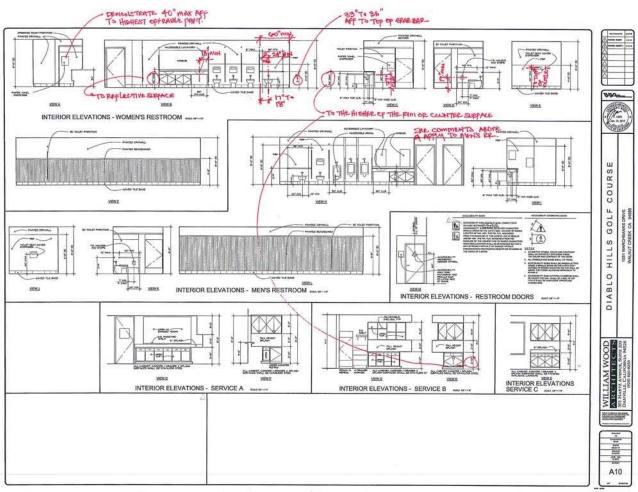




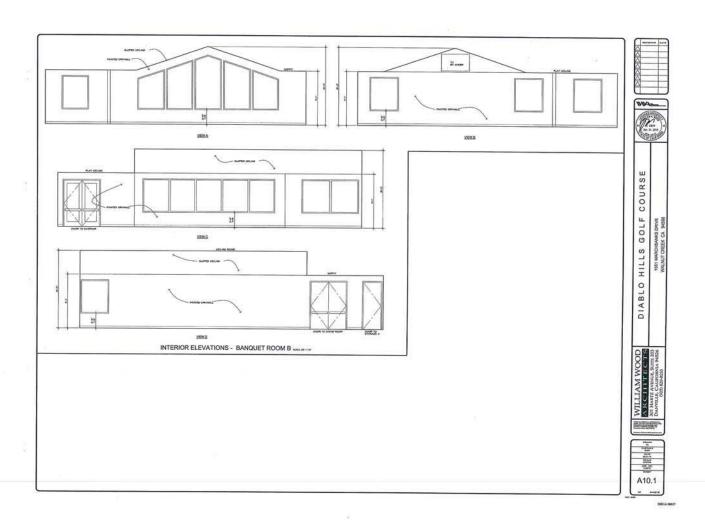


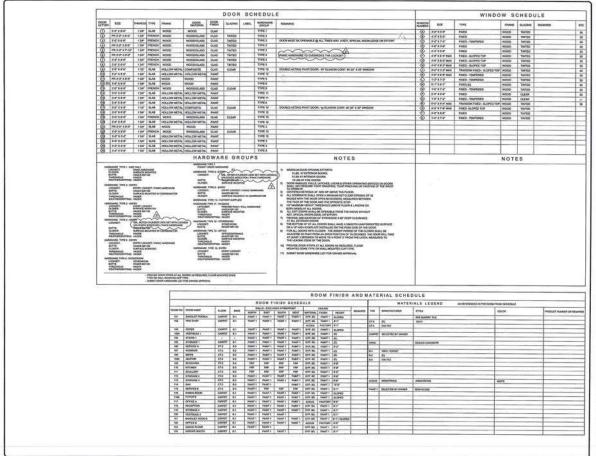






DEEKLA OORGE









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