

RESOLUTION NO. 050546

A.P. # 009-041-033-000

FINDINGS AND DECISION

In the matter of the application of
Russell J. & Yong S. Andrews (PLN050546)

for a Coastal Development Permit in accordance with Title 20 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow existing unpermitted development on slopes in excess of 30% for three retaining walls. The two retaining walls at the front of the existing single family dwelling total 455 linear feet and 1,365 square feet. The retaining wall at the rear of the existing single family dwelling is 100 linear feet and 300 square feet in size; and Design Approval. The property is located at 24395 San Luis Avenue, Carmel, Coastal Zone and came on regularly for hearing before the Zoning Administrator on May 25, 2006.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING: CONSISTENCY** - The Project, as conditioned is consistent with applicable plans and policies, the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.
EVIDENCE: (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and have determined that the project is consistent with the Carmel Area Land Use Plan which designates this area as appropriate for residential development and accessories thereto.
(b) The parcel is zoned Medium Density Residential, 2 units/acre, Design Control District, Coastal Zone (MDR/2-D (CZ)).
(c) Section 20.12.040.H permits accessory uses to any principal allowed use; however, none of the retaining walls are over six feet tall and do not require setbacks from any property line.
(d) The parcel is located in a Design Control district. Colors and materials of stucco and grayish-white hue help the garden walls match the existing residence. (Policy 2.2.3 CLUP)
(e) The proposed development cannot be seen from Highway One, Pescadero Canyon or Seventeen Mile Drive, and is not located within the public viewshed (Policy 2.2.2 CLUP).
(f) Project Planner conducted an on-site inspection on March 16, 2006 to verify that the project on the subject parcel conforms to the plans listed above. Staff notes are provided in Project File PLN050546.
(g)The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN050546.
2. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and Carmel Highlands Fire Protections District. No conditions were recommended by any of the other departments.
(b) There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed. Letters from two engineering firms dated February 2005 and May 2005 confirm that the retaining walls are structurally sound.
(c) County Staff reviewed these reports and concurs with their findings. Reports are in Project File PLN050546.
(d) Staff conducted an on-site visit on March 16, 2006, to verify that the site is suitable for this use.

3. **FINDING: CEQA (Exempt):** - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines lists classes of projects which have been determined to not have a significant effect on the environment and are therefore exempt from the provisions of CEQA.
• Section 15303 (Class 3), categorically exempts construction and location of a limited number of new, small structures. This includes fences (retaining walls); however, none of the walls exceed six feet in height.
(b) A site visit by staff has determined that there are no unusual circumstances associated with the project or the property that would require environmental review.
(c) No adverse environmental effects were identified during staff review of the development application during a site visit on March 16, 2006.

4. **FINDING: 30% SLOPE** – Development on slopes that are in excess of 30% is prohibited unless there is no feasible alternative that would allow development to occur on slopes of less than 30%, or the proposed development better achieves the goals, policies and objectives of the Monterey County Local Coastal Program (LCP) than other development alternatives.

EVIDENCE: (a) The proposed project includes retaining walls in areas where slopes exceed 30%. These walls were built in 1999 without the benefit of a Coastal Development permit.
(b) There is a gradual down slope difference of about 8 feet from the single family dwelling to the street. The walls were created for aesthetic purposes and contain flowerbeds between them to allow landscaping. However, due to the contours of the land, the garden walls are also used to retain the slope. Although these walls were constructed prior to obtaining the proper permits, there is no feasible alternative given that removing the walls would create an unnecessary substantial erosion hazard to the neighborhood and public road. Thereby, allowing them to remain better achieves the goals, policies and objectives of the Monterey County Local Coastal Program (20.64.230.E. CIP).

5. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. Violations that previously existed on the property are now being abated. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County Planning and Building Inspection Department records and confirms all violations existing on subject property are being abated with this Coastal Development Permit.

6. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

EVIDENCE (a) The subject property is not described as an area where the Local Coastal Program requires access.
(b) The subject property is not indicated as part of any designated trails or shoreline access as specified in Policy 5.3.3 of the Carmel Area Land Use Plan.
(c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
(d) Staff site visit on March 16, 2006.

7. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the project applied for will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: (a) The project was reviewed by Planning and Building Inspection Department, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and Carmel Highlands Fire Protection District. The respective departments and agencies have no recommended conditions, and have determined that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

8. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Pursuant to Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1), the subject parcel is appealable to the California Coastal Commission.

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said request for a Coastal Development Permit be approved as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 25th day of May, 2006.



MIKE NOVO, ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON JUN - 6 2006

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE JUN 16 2006

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use if started within this period.

Monterey County Planning and Building Inspection
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: ANDREWS, RUSSELL AND YONG

File No: PLN050546 APNs: 009-041-033-000

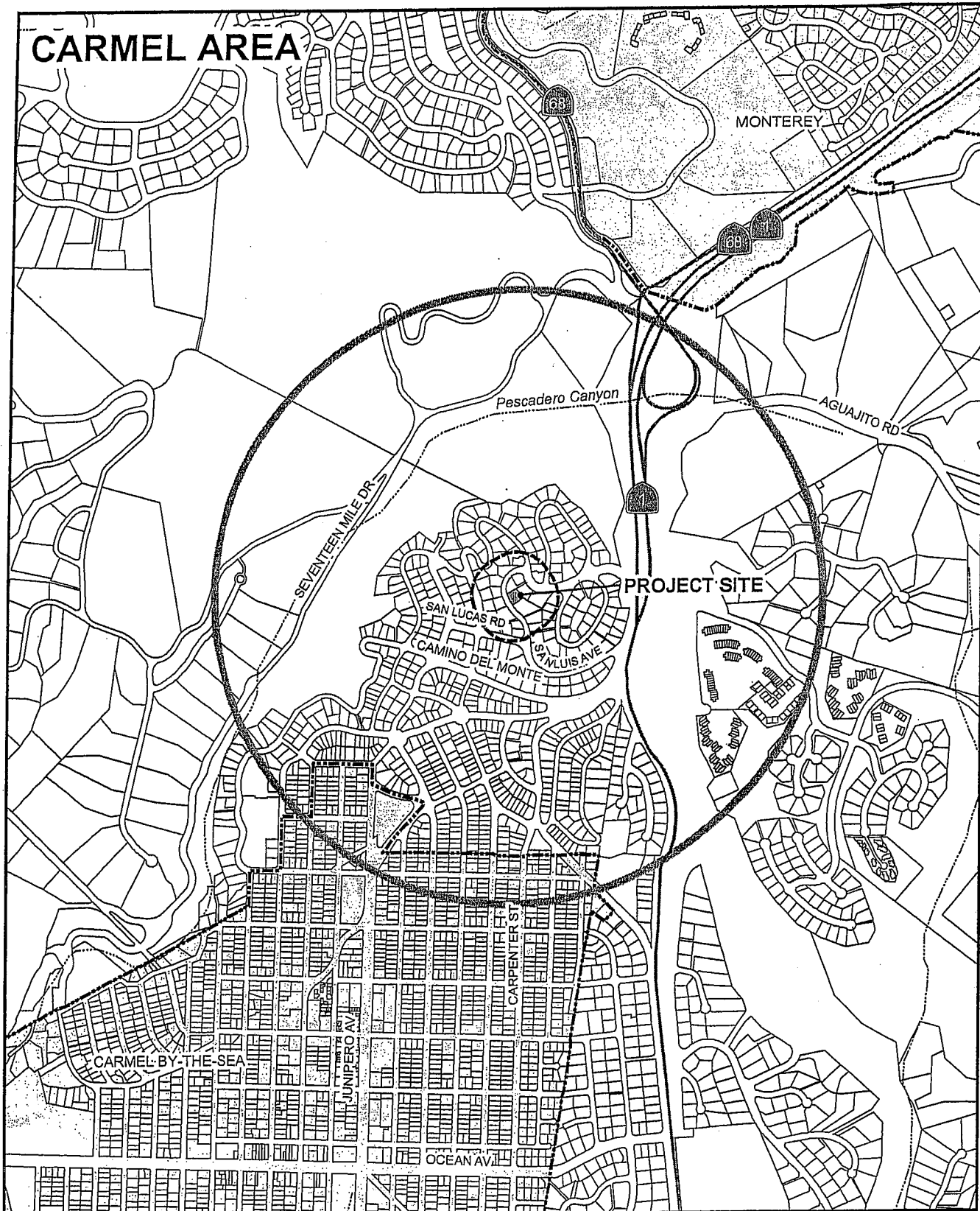
Approval by: Zoning Administrator Date: May 25, 2006

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1		<p>PBD029 - SPECIFIC USES ONLY This Coastal Development Permit is to allow existing un-permitted development on slopes in excess of 30% for three retaining walls. The two retaining walls at the front of the existing single family dwelling total 455 linear feet and 1,365 square feet. The retaining wall at the rear of the existing single family dwelling is 100 linear feet and 300 square feet in size; and Design Approval. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (Planning and Building Inspection)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2		<p>PBD025 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution 050546) was approved by the Zoning Administrator for Assessor's Parcel Number 009-041-033-000 on May 25, 2006. The permit was granted subject to 2 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (Planning and Building Inspection)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	

Exhibit "D"



APPLICANT: ANDREWS

APN: 009-041-033-000

FILE # PLN050546



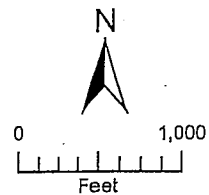
300' Limit



2500' Limit

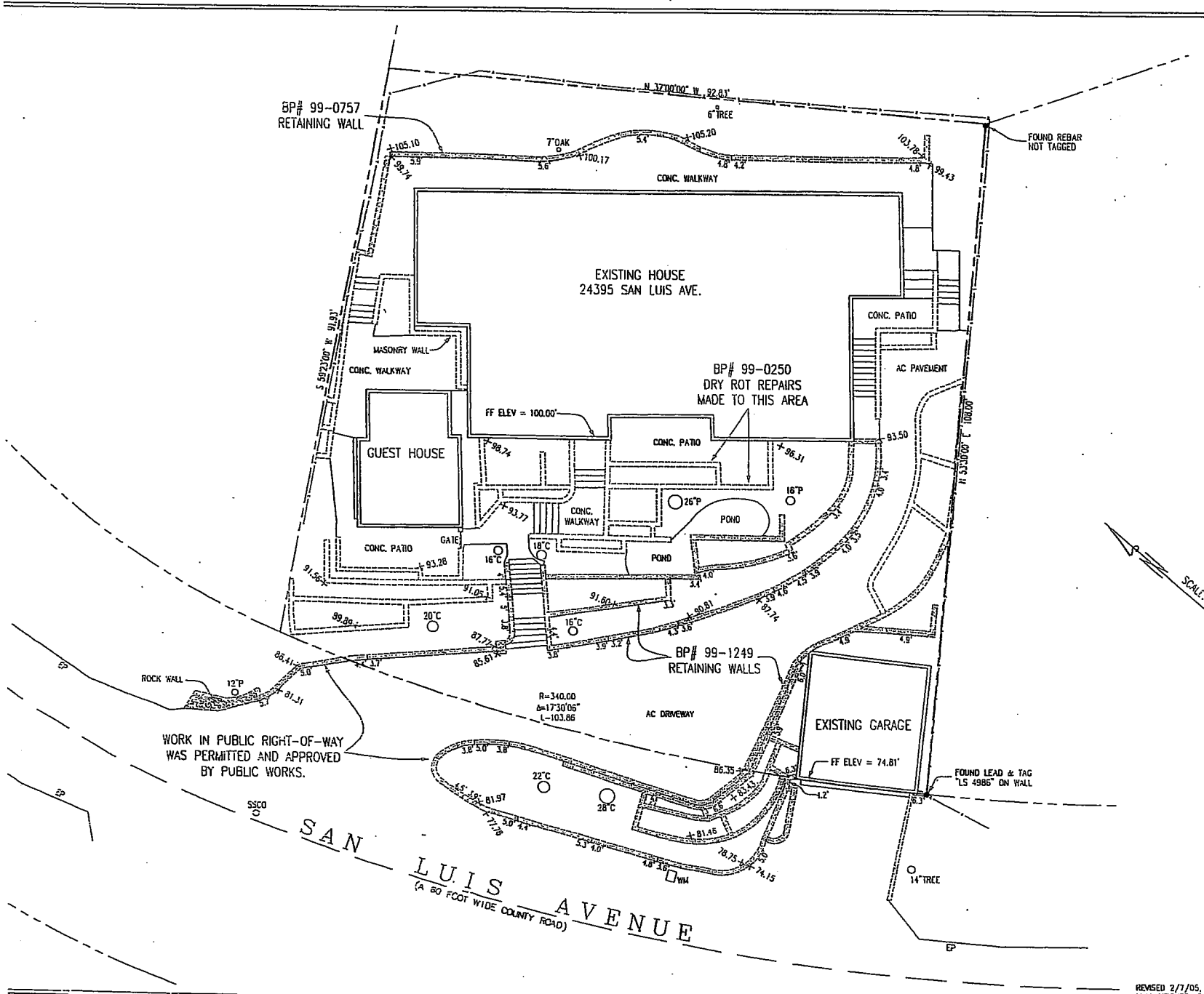


City Limits



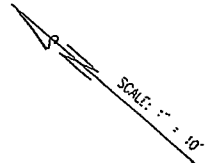
PLANNER: GONZALES

Exhibit "E"



- NOTES:**
- BOUNDARY LOCATIONS SHOWN HEREON WERE DETERMINED WITH THE BENEFIT OF A FIELD SURVEY SUPPLEMENTED BY RECORD DATA. ALL BOUNDARY DATA SHOWN ARE FROM THE RECORDS.
 - ALL WALLS ARE CONCRETE AND MASONRY WITH PLASTERED FACES AND TOPS, UNLESS OTHERWISE NOTED. WALL DETAILS AND CALCULATIONS WERE SUPPLIED BY ALEX OTT, DURING 1999.
 - HEIGHTS OF WALLS ARE DISPLAYED FOR WALLS CONSTRUCTED IN 1999 THAT ARE OVER 3.3'.
 - TREE TYPES ARE INDICATED WHEN KNOWN. DIAMETERS OF TREES ARE SHOWN IN INCHES.
 - ELEVATIONS SHOWN ARE BASED ON ASSUMED DATUM: BENCHMARK: IS THE FINISHED FLOOR. ELEVATION = 100.00'.
 - ⊙ DENOTES A FOUND MONUMENT.
 - +99.99 DENOTES GROUND ELEVATIONS AS SHOWN.
 - DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
 - 4.2' DENOTES WALL HEIGHT MEASURED FROM TOP OF FOOTING TO ASPHALT.

- LEGEND:**
- ===== WALLS CONSTRUCTED IN 1999
 - WALLS OLDER THAN 1999, OR MINOR LANDSCAPING WALLS
 - WOODEN FENCE LINE
 - AC ASPHALTIC CONCRETE
 - BP BUILDING PERMIT
 - C CYPRESS
 - CONC. CONCRETE
 - EP EDGE OF PAVEMENT
 - FF FINISHED FLOOR
 - P PINE
 - SSCO SANITARY SEWER CLEAN OUT
 - WM WATER METER



THIS PLAN IS TO SHOW THE RETAINING WALLS AND OTHER STRUCTURES THAT CURRENTLY EXIST ON THIS PROPERTY. WALLS NOT SHADED WERE CONSTRUCTED PRIOR TO 1999 OR ARE MINOR LANDSCAPING WALLS.

AS-CONSTRUCTED SURV		
OF		
LOT 2, BLOCK 201		
SECOND ADDITION TO CARMEL WOODS		
(FILED IN Vol 3 -- CITIES & TOWNS -- at Page 41)		
ASSESSOR'S PARCEL # 009-041-033		
CARMEL	COUNTY OF MONTEREY	STATE OF CALIFORNIA
PREPARED FOR		
ZEKIEL CORNELL		
BY		
MONTEREY BAY ENGINEERS, II		
607 CHARLES AVE SUITE B SEASIDE, CALIFORNIA 93955 PHONE: 65		
SCALE 1" = 10'	JOB No. 02-025	JANUARY, 2005

REVISED 2/7/05.
WALL HEIGHTS ADDED