

In the matter of the application of
Nancy Kessler (PLN070120)

FINDINGS & DECISION

for a **Variance** to Section 21.42.030F, in accordance with Title 21 (Zoning) Chapter 21.72 (Variances) of the Monterey County Code, to allow a 278 square foot bedroom addition constructed prior to 1974, without the benefit of permits, which encroaches into the 20 foot rear setback by approximately 12 feet and; a 133 square foot bathroom addition constructed from 2004-2005, without the benefit of permits, which encroaches into the rear setback, approximately 10 feet. The property is located at 8195 El Camino Estrada, Carmel Valley, Carmel Valley Master Plan, and came on regularly for hearing before the Zoning Administrator on July 12, 2007.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto, now makes the following findings and decision:

FINDINGS OF FACT

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. one and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Carmel Valley Master Plan and the Carmel Valley Master Plan Inventory and Analysis. The project is inconsistent with and the Monterey County Zoning Ordinance (Title 21), specifically the site development standards of the Low Density Residential Zoning Designation which mandates a 20 foot rear setback for the main residence.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - (b) The property is located at 8195 El Camino Estrada, Carmel Valley (Assessor's Parcel Number 169-051-002-000), Carmel Valley Master Plan. The parcel is zoned Low Density Residential, 2.5 acre minimum with Design Control and Site Plan Review overlays or ("LDR/2.5-D-S"). The project complies with most of the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21. The project is lacking compliance with the relevant site development standards, specifically Section 21.14.060.C.1.A which requires a 20 foot rear setback. The 662 square foot single family dwelling was constructed prior to the requirement of building and planning permits (before 1941). Originally the single family dwelling contained a living area, bathroom and kitchen. Sometime before 1974 a 278 square foot bedroom addition was constructed without the benefit of permits encroaching into the required setback, approximately 11 feet. A second un-permitted bathroom addition of 133 square feet was constructed between 2004 and 2005 encroaching into the required 20 foot rear setback by approximately, 11 feet.
 - (c) The project planner conducted a site inspection on May 03, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
 - (d) The James Meadow Tract created the subject parcel.

- (e) The project was referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review on July 2, 2007. A summary of the meeting will be provided by the project planner at the Zoning Administrator Hearing on July 12, 2007.
- (f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN070120.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Carmel Valley Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

(b) Staff conducted a site inspection on May 03, 2007 to verify that the site is suitable for this use.

(c) Materials in Project File PLN070120.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE: (a) California Environmental Quality Act (CEQA) Guidelines Section 15301, categorically exempts additions to existing structures.

(b) No adverse environmental effects were identified during staff review of the development application during a site visit on May 03, 2007.

(c) See preceding and following findings and supporting evidence.

4. **FINDING: VIOLATIONS** – A code enforcement case (file number CE040294) exists on the subject property. Approval of this Variance would clear the majority of the violation.

EVIDENCE: (a) Staff has reviewed the Monterey County RMA - Planning Department and Building Services Department records and is not aware of any other violations existing on subject property.

5. **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) Preceding findings and supporting evidence.

6. **FINDING: VARIANCE (Special Circumstances)** – Because of special circumstances applicable to the subject property, including size, shape, topography, location of the lot, or the surrounding area, the strict application of The Monterey County Zoning Ordinance (Title 21), as it pertains to site development standards, is found to deprive the subject property of privileges enjoyed by the other property owners in the immediate vicinity and under the identical zoning classification.

EVIDENCE: (a) 1) The Low Density Residential site development standards require a minimum building site of one acre (unless otherwise approved as part of a residential subdivision). Typically,

one acre provides an adequate amount of area for a single family dwelling to be constructed in compliance with all of the site development standards mandated by the Low Density Residential zoning designation. In this case however, the Low Density Residential site development standards, specifically the required setbacks leave the parcel with a building site of approximately 3,990 square feet. 2.) The recently permitted and installed 2,000 gallon septic tank and respective drain fields reduce the building site to approximately, 1,312 square feet. 3.) The primary unit consisting of 662 square feet was established encroaching into what is now the required rear setback from 10 to 14 feet. The location of the additions in relation to the house better achieve internal circulation required by Monterey County code. 4.) Requiring the additions to meet the rear setback requirement would have forced development on slopes of 30% or greater. 5.) The second unit and respective setbacks from it to a main unit leave the parcel with a building site of 640 square feet, comprised of slopes of thirty percent or greater. Approval of this Variance would legalize the only bedroom and the second bathroom for the main residence on the lot. Properties in the immediate vicinity of the lot and under the same zone classification have the privilege of one to four bedroom main dwellings, containing one to three bathrooms (See Exhibit F).

- (b) One of the intentions of setback regulations is to comply with Fire Code requirements. The Carmel Fire Protection District has found the project complies with applicable Fire Code requirements.
- (c) The project meets all of the other Title 21, mandated site development standards.
- (d) Materials in Project File PLN070120.

7. **FINDING: VARIANCE (Special Privileges)** – The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and same zone classification in which this property is situated.

EVIDENCE: (a) This Variance does not constitute the granting of a special privilege inconsistent with the limitations upon other properties in the vicinity and under the same zoning classification. Four Variances to setback requirements have been approved in the immediate vicinity of the subject property. In 1979, a Variance to allow an encroachment into the front, side and rear yard setbacks of Assessor's Parcel number 169-051-005-000 was approved by the Zoning Administrator (See file number ZA03753). A Variance to allow an encroachment into the rear yard setbacks of Assessor's Parcel number 169-051-007-000 was approved by the Zoning Administrator in 1987 (See file number ZA06649). In 1994, the Zoning Administrator approved a Variance to allow an encroachment into the rear yard setback on Assessor's Parcel number 169-051-010-000 (See file number ZA94042). In 1995, the Zoning Administrator approved the second Variance on Assessor's Parcel number 169-051-005-000 to allow an encroachment into the front yard setback (See file number ZA95007) (See Exhibit G).

- (b) Properties within the immediate vicinity of the subject parcel enjoy the privilege of one to four bedroom homes with one to three bathrooms. Denial of this variance would deprive the subject parcel of the separate sleeping quarters enjoyed by adjoining parcels.

8. **FINDING: VARIANCE (Authorized Use)** – A Variance shall not be granted for a use or activity which is not otherwise authorized by the zone regulation governing the parcel.

EVIDENCE: (a) The Variance is tied to a residential use, which is authorized by the residential zone governing the subject parcel.

9. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Planning Commission and not the Board of Supervisors.

EVIDENCE: The Monterey County Zoning Ordinance (Title 21) states, "The Planning Commission is the Appeal Authority to consider appeals from the discretionary decisions of the Zoning Administrator made pursuant to this Title. The decision of the Planning Commission shall be final and may not be appealed, except as provided for in Section 21.80.040 C."

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for Variance be granted as shown on the attached sketch, and subject to the attached conditions.

PASSED AND ADOPTED this 12th day of July, 2007.



JEFF MAIN, ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON JUL 31 2007

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE AUG 10 2007

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 is started within this period.

**Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan**

Project Name: Kessler
File No: PLN070120
APNs: 169-051-002-000
Approved by: Zoning Administrator Date: July 12, 2007

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

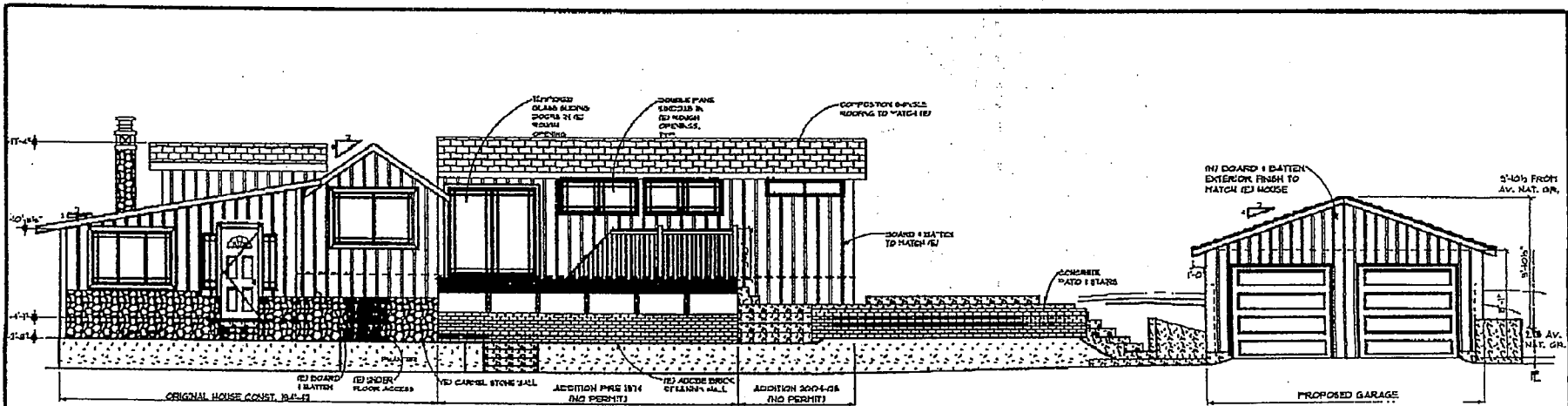
<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY This Variance (PLN070120) allows a 278 square foot bedroom addition constructed prior to 1974 ,without the benefit of permits, to encroach into the 20 foot rear setback by approximately 12 feet and; a 133 square foot bathroom addition constructed from 2004-2005 (without the benefit of permits) to encroach into the rear setback, approximately 10 feet. The property is located at 8195 El Camino Estrada Carmel Valley, Ca. (Assessor's Parcel Number 169-051-002-000), Carmel Valley Master Plan. 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 the RMA - Planning Department. 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. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

2.		<p>PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 070120) was approved by the Zoning Administrator for Assessor's Parcel Number 169-051-002-000 on July 12, 2007. The permit was granted subject to 8 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)</p>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3.		<p>PD012(B) - LANDSCAPE PLAN AND MAINTENANCE (OTHER THAN SINGLE FAMILY DWELLING) The site shall be landscaped. At least three (3) weeks prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping and shall include an irrigation plan. The landscaping shall be installed and inspected prior to occupancy. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA - Planning Department)</p>	Submit landscape plans and contractor's estimate to the RMA - Planning Department for review and approval.	Owner/ Applicant/ Licensed Landscape Contractor/ Licensed Landscape Architect	At least three (3) weeks prior to final inspection.	
			All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.	Owner/ Applicant	Ongoing	
4.		<p>PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3</p>	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.	Owner/ Applicant	Prior to the issuance of building permits.	

		copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. (RMA – Planning Department)	The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Prior to Occupancy / Ongoing	
5.		PD000 - NON-STANDARD – BUILDING PERMITS REQUIRED The Applicant/Owner must apply for and obtain “as-built” building permits from the Monterey County Resource Management Agency – Building Department to rectify Code Enforcement Case number CE040294. (RMA – Planning Department)	Applicant/Owner must apply for and obtain “as-built” building permits to rectify Code Enforcement Case number CE040294.	Owner	Concurrent with/ Prior to the Code Enforcement Division clearing CE040294.	
6.		PD000 – NON-STANDARD – CODE ENFORCEMENT The Applicant/Owner must contact Ms. Cami Pelletier, Code Enforcement Officer with the Monterey County Resource Management Agency – Building Department – Code Enforcement Division at (831) 755-5171 or pelletierc@co.monterey.ca.us to resolve and resolve any outstanding issues pertaining to CE040294 or pay any outstanding fees.	Applicant/Owner must resolve any outstanding issues related to CE040294.	Owner	Prior to issuance of any permits and the closure of CE040294.	
7.		PD – NON-STANDARD – ARCHEOLOGICAL REPORT REQUIRED The applicant shall record a deed notice stating, “If site excavation is required subsequent to approval of this permit an archeological monitor shall be onsite during excavation and provide a follow up report to the Planning Department. (RMA – Planning Department)	Applicant/Owner to record the subject deed restriction. If site excavation is required subsequent to approval of this permit, an archeological monitor (chosen from the County’s list of approval archeological consultants) shall be onsite during excavation and provide a follow up report to the Planning Department.	Owner	Prior to final inspection.	

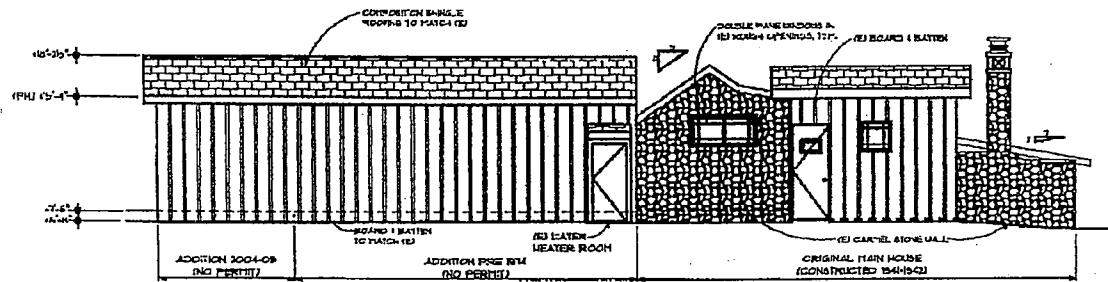
8.		<p>PD – NON STANDARD – REAR SETBACK RESTRICTION</p> <p>No additional structures or structure protrusions shall be allowed to encroach within 20 feet of the rear property line.</p> <p>(RMA – Planning Department – Zoning Administrator)</p>	<p>No additional structures or structure protrusions shall be allowed/permitted to encroach within 20 feet of the rear property line.</p>	Owner	Ongoing	
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END OF CONDITIONS



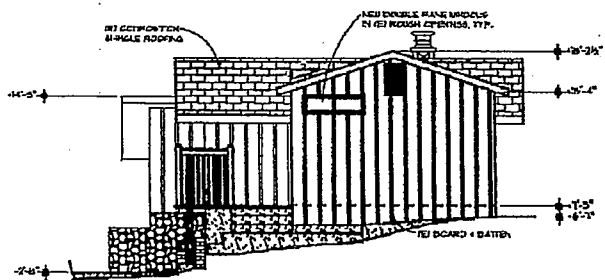
EXISTING SOUTH ELEVATIONS (MAIN HOUSE W/ PROPOSED GARAGE)

SCALE: 1/4" = 1'-0"



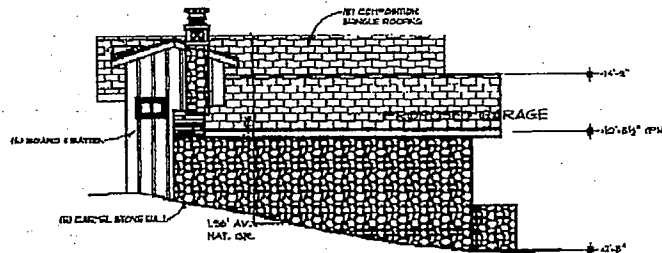
EXISTING NORTH ELEVATIONS (MAIN HOUSE)

SCALE: 1/4" = 1'-0"



EXISTING EAST ELEVATIONS (MAIN HOUSE)

SCALE: 1/4" = 1'-0"



EXISTING WEST ELEVATIONS (MAIN HOUSE)

SCALE: 1/4" = 1'-0"

DATE: 4/19/07
 201 06-06
 DRAWN: LRI, KAG
 REVISIONS:

PLANS PREPARED BY:
 MARCIE INGRAM & ASSOCIATES
 8195 EL CAMINO ESTRADA,
 CARMEL VALLEY, CA 93924
 PH: 831-659-3415 FAX: 831-659-3422

PROPOSED ADDITION / REMODEL FOR:
 EMKAY ASSOCIATES
 MORT & NANCY KESBLER
 8195 EL CAMINO ESTRADA,
 CARMEL VALLEY, CA 93924

AP: 163-051-002-000

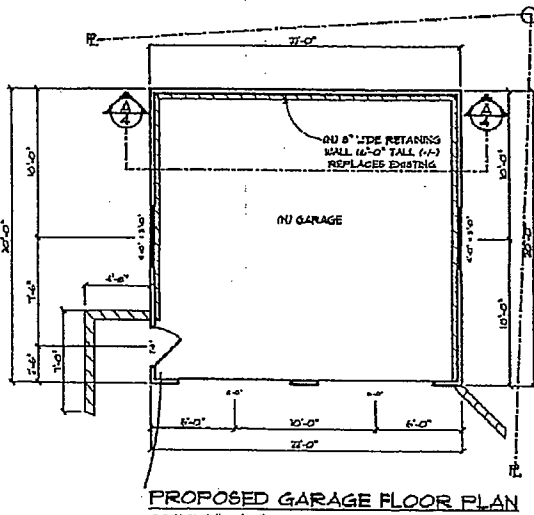
SHEET:

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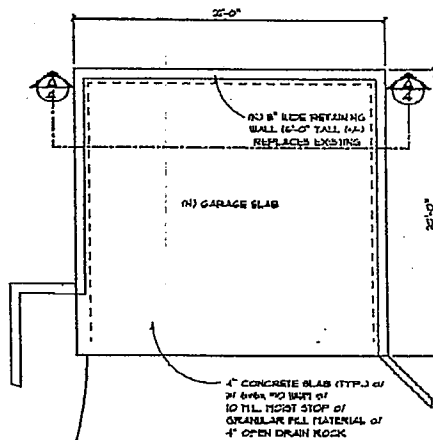
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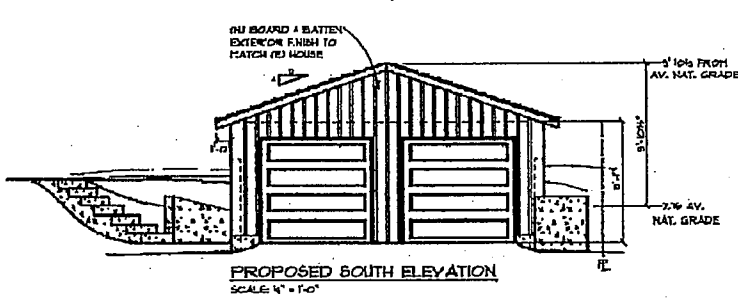
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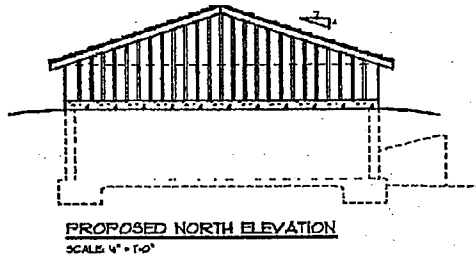
PROPOSED GARAGE FLOOR PLAN
SCALE: 1/4" = 1'-0"



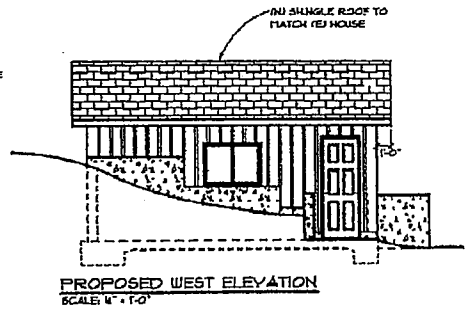
PROPOSED FOUNDATION PLAN
SCALE: 1/4" = 1'-0"



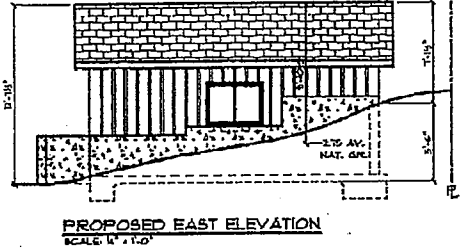
PROPOSED SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



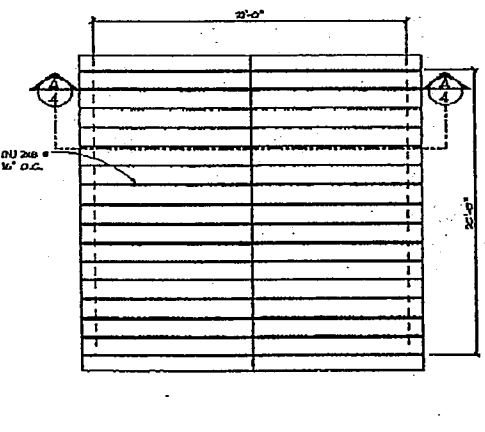
PROPOSED NORTH ELEVATION
SCALE: 1/4" = 1'-0"



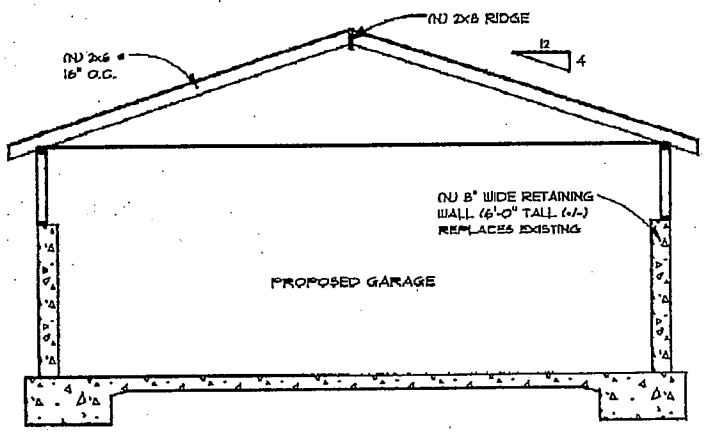
PROPOSED WEST ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED EAST ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED ROOF FRAMING PLAN
SCALE: 1/4" = 1'-0"



SECTION A
SCALE: 1/4" = 1'-0"

DATE: 4/13/01
JOB: 08-08
DRAWN: LR, KAS
REVISIONS:
PLANS PREPARED BY: EMKAY ASSOCIATES
MARIORIE INGRAM & ASSOCIATES
PO BOX 106 CARMEL VALLEY, CA 93914
PH: 831-659-9419 FAX: 831-659-9422
PROPOSED ADDITION / REMODEL FOR: MORT & NANCY KESSLER
8195 EL CAMINO ESTRADA,
CARMEL VALLEY, CA 93924
AP# 169-051-002-000
SHEET:
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TAX CODE AREA

COUNTY OF MONTEREY
ASSESSOR'S MAP
BOOK 169 PAGE 05

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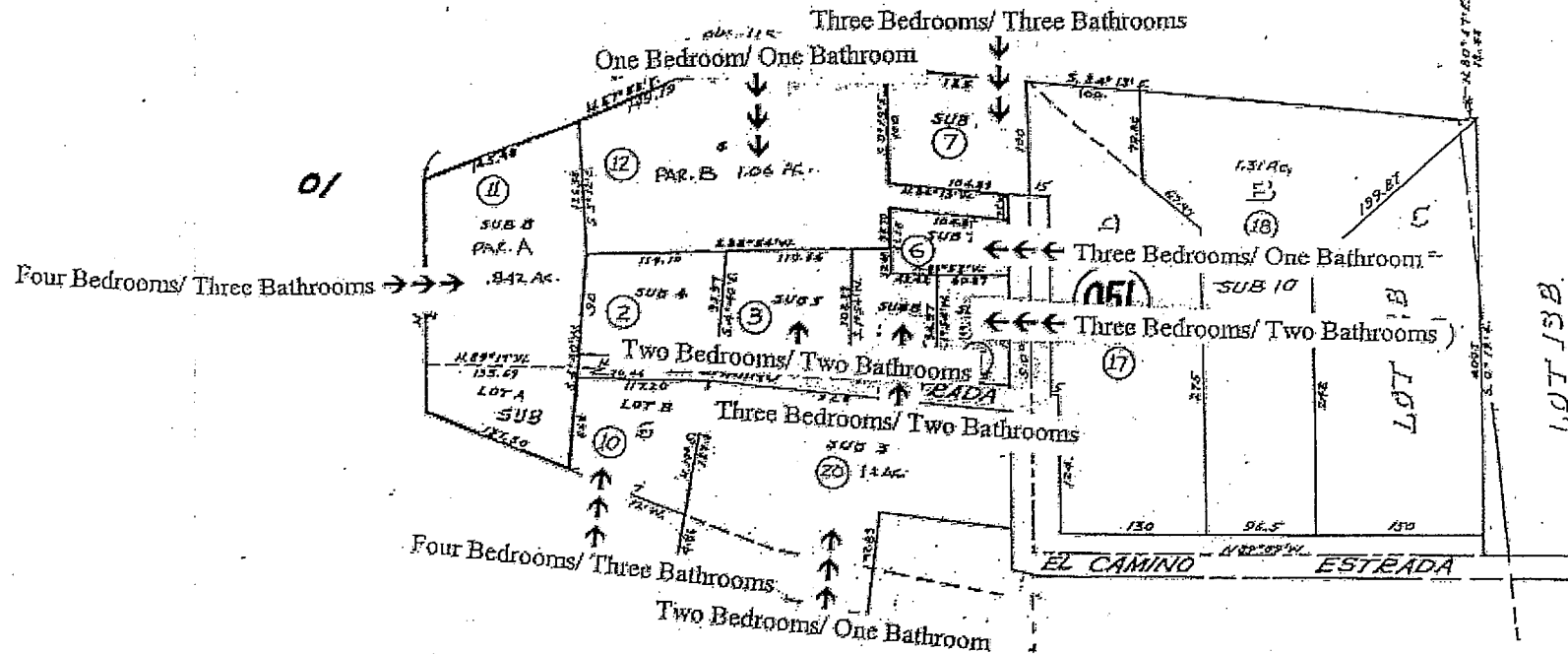
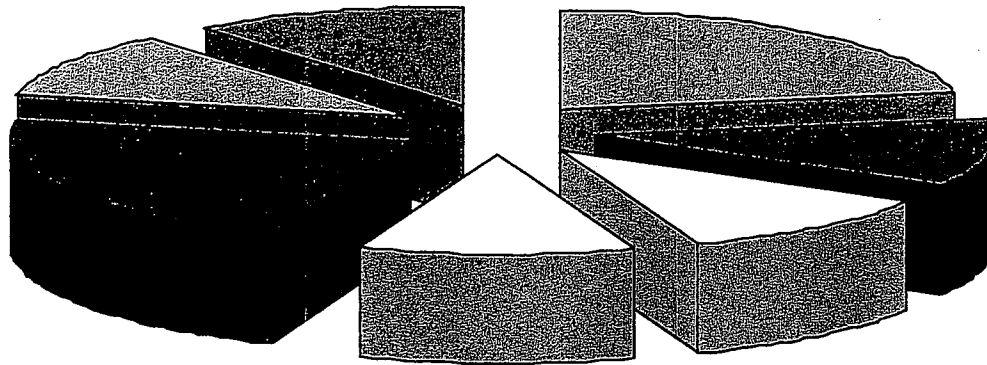


EXHIBIT F

EXHIBIT F

PAGE 1 OF 2 PAGES

JAMES MEADOWS TRACT
SUB OF LOT 12B &
POR OF LOT 13B



- Four Bedroom/ Three Bathroom
- Two Bedroom/ Two Bathroom
- Two Bedroom/ 1 Bathroom
- Three Bedroom/ Three Bathroom
- Three Bedroom/ Two Bathroom
- Three Bedroom/ One Bathroom
- One Bedroom/ One Bathroom

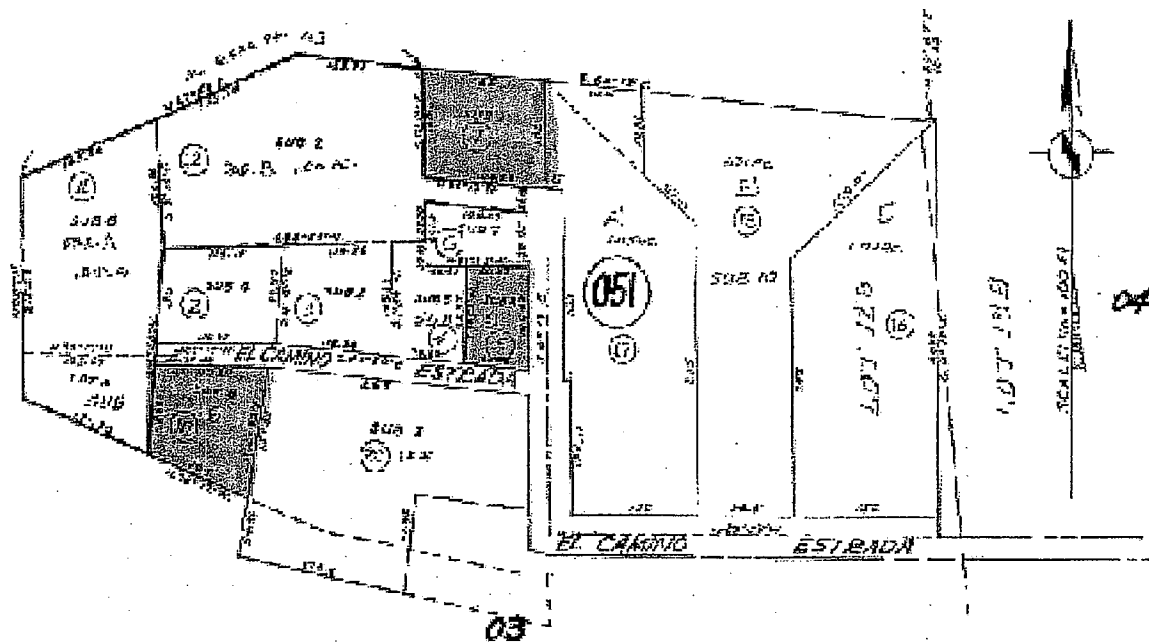
EXHIBIT G

TAX CODE AREA

COUNTY OF MONTEREY
ASSESSOR'S MAP
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JAMES MEADOWS TRACT
SUB OF LOT 128 &
POR OF LOT 138