

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**NEAL ROTH (PLN090094)**

**RESOLUTION NO. 10-017**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Deny a variance to increase the maximum floor area ratio from 35% to 38%; and Design Approval to allow construction of a 323 square foot addition to an existing 3,618 square foot two-story-single family dwelling.

(PLN090094, Neal Roth, 953 Sand Dunes Road, Greater Monterey Peninsula Area Plan, APN: 007-251-009-000)

**The Roth application (PLN090094) came on for public hearing before the Monterey County Zoning Administrator on April 8, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project is **not** consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:**
  - a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
    - the Monterey County General Plan,
    - Greater Monterey Peninsula Area Plan,
    - Monterey County Zoning Ordinance (Title 21)
  - b) The property is located at 953 Sand Dunes Road (Assessor's Parcel Number 007-251-009-000), Greater Monterey Peninsula Area Plan. The parcel is zoned Medium Density Residential with a Design Review overlay ("MDR-B-6-D"), which allows a maximum floor area ratio of 35%. Therefore, the project as proposed is **not** an appropriate design for this site.
  - c) The project as proposed requires a variance to increase the maximum floor area ratio from 35% to 38%; and Design Approval to allow for the construction of a 323 square-foot first-floor addition to an existing 3,618 square foot two-story-single family dwelling.
  - d) The project planner conducted a site inspection on May 27, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
  - e) The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the

- LUAC due to land-use issues that necessitate review prior to a public hearing. The LUAC recommended denial of the project with a vote of 4-3 with 1 member absent. Comments are attached to the staff report.
- 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 PLN090094.

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, Cypress 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.
  - b) Staff conducted a site inspection on May 27, 2009 to verify that the site is suitable for this use.
  - c) 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 PLN090094.

3. **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 RMA - Planning Department, Cypress Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Preceding findings and supporting evidence for PLN090094.

4. **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. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on May 27, 2009 and researched County records to assess if any violation exists on the subject property.
  - c) The application, plans and supporting materials submitted by the project

applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090094.

5. **FINDING: CEQA (Exempt):** - The project is 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(e) categorically exempts additions to existing structures.  
b) The project as proposed would allow construction of a 323 square-foot first-floor addition to an existing 3,618 square-foot two-story-single family dwelling.  
c) No adverse environmental effects were identified during staff review of the development application during a site visit on May 27, 2009.  
d) Projects recommended for denial are statutorily exempt.  
e) See preceding and following findings and supporting evidence.
6. **FINDING: VARIANCE (Authorized Use)** – The Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- EVIDENCE:** a) The property has a zoning designation of MDR-B-6-D.  
b) A single family residential use is allowed in the MDR zone (Section 21.12 MCC). However, this finding is inapplicable in this circumstance as the variance is not being requested for a use or activity – but for a residential addition in a residential zone.  
c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090094.
7. **FINDING: VARIANCE (Special Circumstances)** - Because of special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area, the strict application of development standards in the Monterey County Codes is found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under identical zoning classification.
- EVIDENCE:** a) Section 21.12070(D)(1) contains special regulations for MDR Districts in the Del Monte Forest for floor area ratio (FAR). Building site coverage and floor area ratio for properties with a designated density of more than two units per acre are 35%. The intent of this regulation is to preserve natural views, and restrict the size of homes so that they could be harmonious with the urban forested area and the existing modest-sized residences. Working with Monterey County Planning, The Del Monte Forest Land Use Advisory Committee (LUAC) and the Del Monte Forest Property Owners (DMFPO), the MCC Zoning Ordinance was amended in 1994 to include a 35% FAR, a height limit of 27 feet and a second story side yard set back of 20' for this area.  
b) This finding cannot be made as there are no special circumstances applicable to the subject property regarding size, shape, topography or surroundings. The parcel is flat and rectilinear, not constrained by

drainages, environmentally sensitive habitats, cliffs or an awkward shape, and is of a size and area consistent with other parcels in the vicinity.

- c) The existing 3,618 square foot, two story home on the property was constructed in conformance with the 35% FAR limit.
- d) Many other homes in the neighborhood have also been constructed on similar sized lots in conformance with the 35% FAR.
- e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090094.
- f) The project planner conducted a site inspection on May 27, 2009 to verify the circumstances related to the property.
- g) See Exhibit B, Discussion, of staff report presented to Zoning Administrator on April 8, 2010.

8. **FINDING:** **VARIANCE (Special Privileges)** - The variance shall not constitute a grant of privileges inconsistent with the limitations upon other property owners in the vicinity and zone in which such property is situated.

- EVIDENCE:**
- a) Section 21.12070(D)(1) contains special regulations for MDR Districts in the Del Monte Forest for floor are ratio (FAR). Building site coverage and floor area ratio for properties with a density designation of more than two units per acre are 35%.
  - b) This finding cannot be made as the variance would constitute a grant of special privilege when measured against limitations on other property owners. The 35% floor area ratio applies to all of the other properties in the vicinity, with the same zoning classification. This is a uniform limitation applicable to this property and all of the other properties in the vicinity. The applicant's request to exceed this standard, if granted, would be a special privilege not allowed to other property owners under similar circumstances within the vicinity.
  - c) There are some existing legal non-conforming homes built prior to 1994. Variances have been granted to these non-conforming structures to allow them to be modified.
  - d) Since 1994 no variances have been granted to allow construction of a new home or to modify an existing home built after 1994 that would exceed the 35% FAR.
  - e) Information submitted by the Pebble Beach Architectural Review Board, attached to staff report as **Exhibit F**, demonstrates that approval of this variance would be unique in that it would be the first variance for a house constructed after 1994 and it would be an entitlement request which many other homeowners have asked about but have been discouraged from pursuing. This would be a special privilege given to this applicant which has not been given to others,
  - f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090094.
  - g) The project planner conducted a site inspection on May 27, 2009 to identify circumstances related to other property in the vicinity and in the

same zoning district.

9. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.

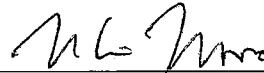
**EVIDENCE:** a) Section 21.80.040 Monterey County Zoning Ordinance (Planning Commission).

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

A. Deny a Variance to increase the maximum floor area ratio from 35% to 38%; and Design Approval to allow construction of a 323 square foot addition to an existing 3,618 square foot two-story-single family dwelling, in general conformance with the attached sketch and incorporated herein by reference.

**PASSED AND ADOPTED** this 8th day of April, 2010



Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON **APR 22 2010**.

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **MAY 02 2010**.

# STUDY/BATH ADDITION

953 SAND DUNES RD., PEBBLE BEACH

## STATISTICS:

PROJECT: STUDY ADDITION  
 953 SAND DUNES RD.  
 PEBBLE BEACH, CA  
 A.P. #: 001-251-001-000  
 OWNER: NEAL AND VICIE ROTH  
 953 SAND DUNES RD.  
 PEBBLE BEACH, CA 93155

SITE AREA: 10,378 S.F.  
 ZONING: RDR-B-L-D

**BUILDING DATA:**  
 EXIST. BUILDING: LIVING AREA: 3,121 S.F. (1,142 FIRST FLOOR, 1,979 SECOND FLOOR)  
 GARAGE: 181 S.F.  
 TOTAL EXIST. FLOOR AREA: 3,302 SQUARE FEET  
 PROPOSED ADDITION: STUDY/BATH: 323 S.F. STUDY ADDITION  
 PROPOSED BUILDING: TOTAL PROPOSED BUILDING 3,411 SQUARE FEET

F.A.R.: ALLOWED: 35% = 3,432 SQUARE FEET  
 EXISTING: 31% = 3,118 SQUARE FEET  
 PROPOSED: 38% = 3,111 SQUARE FEET

COVERAGE: ALLOWED: 35% = 3,432 SQUARE FEET  
 EXISTING: 20% = 3,130 SQUARE FEET  
 PROPOSED: 21% = 2,453 SQUARE FEET

BUILDING HEIGHT: ALLOWED: 21'-0"  
 PROPOSED: 14'-0" +/-

SETBACKS: SEE SITE PLAN  
 PARKING: REQUIRED: 3 COVERED  
 PROVIDED: 3 COVERED

GRADING: NONE

SPRINKLERS: YES

TREE REMOVAL: NONE  
 CONSTRUCTION: TYPE V-M

FLOOD ZONE: N/A  
 SEISMIC ZONE: ZONE 4

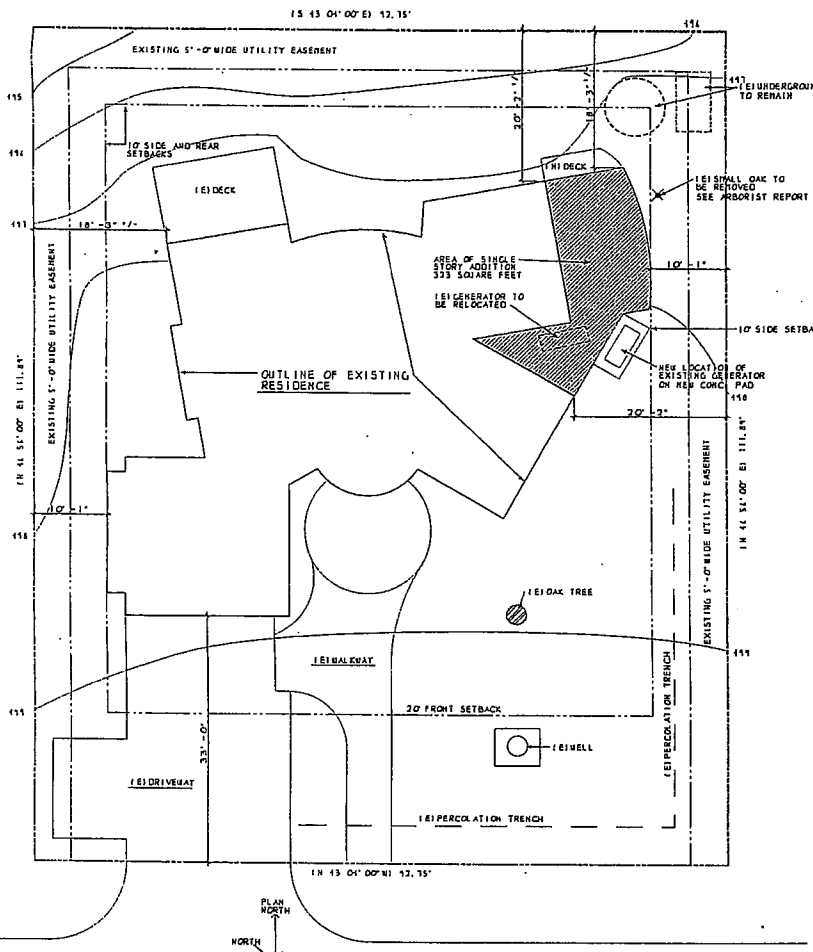
WATER COMPANY: PRIVATE WELL/CAL AM

**SCOPE OF WORK:**  
 VARIANCE TO INCREASE F.A.R. FROM ALLOWED 35% TO 38%  
 TO ADD A 323 S.F. STUDY/BATH TO AN EXISTING RESIDENCE.  
 RELOCATE EXISTING GENERATOR.

CODES:  
 2001 CBC, CEC, CPC, OTC, CFC

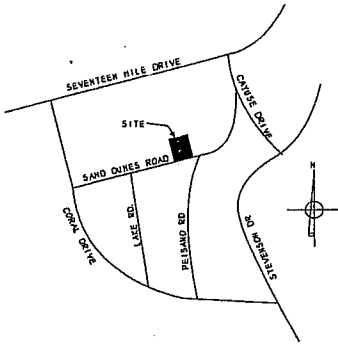
DEFERRED SUBMITTALS: NONE

**APPROVAL STAMPS:**



SITE PLAN 1/8" = 1' - 0"

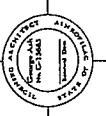
SAND DUNES RD.



VICINITY MAP N.T.S.

3/13/01  
 1/22/01  
 DDDDDDDDDDD  
 revisions

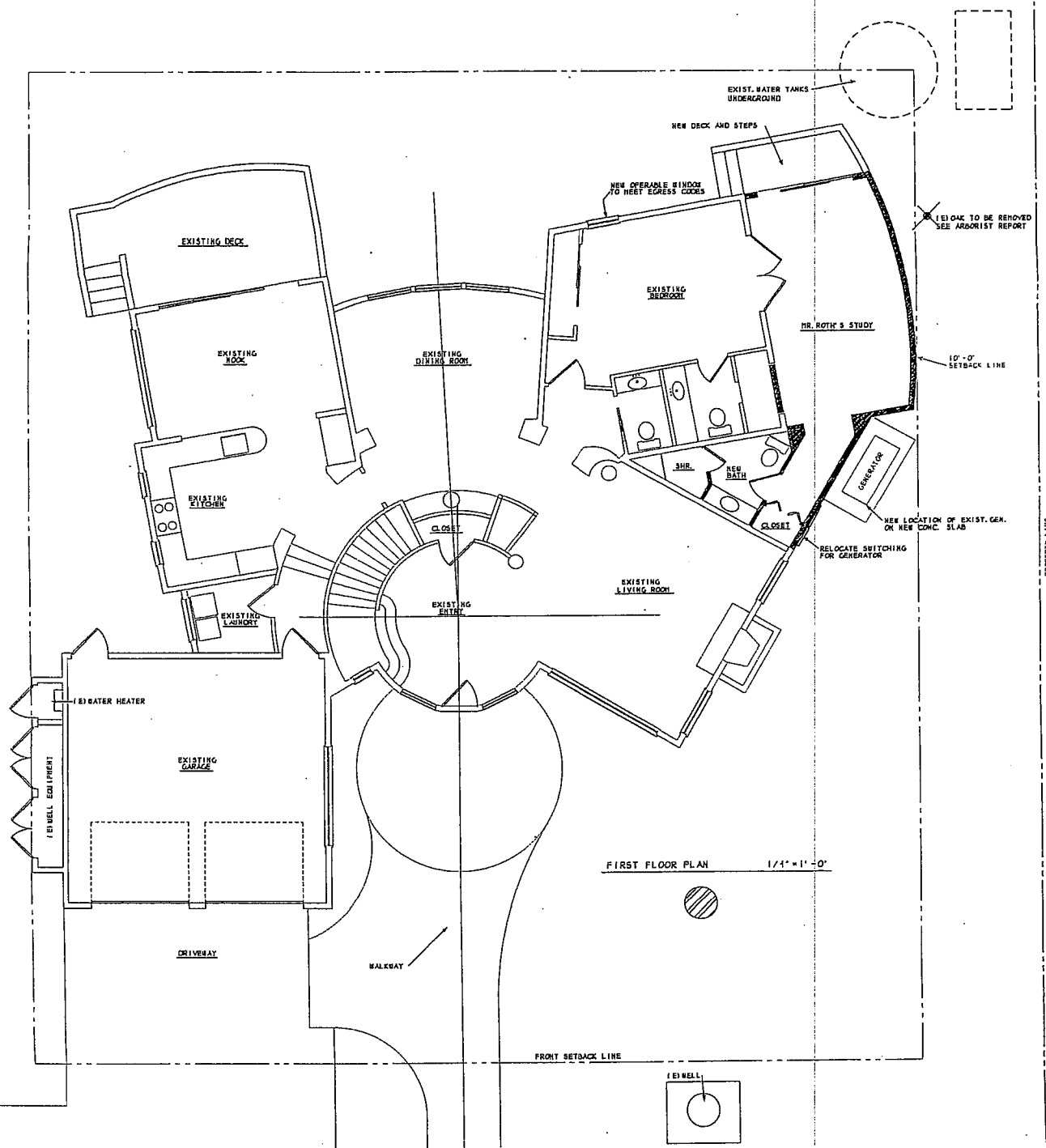
Project: on pro with variance addition  
 with variance addition  
 953 SAND DUNES ROAD, PEBBLE BEACH, CA  
 A.P. NUMBER 001-251-001-000  
 Drawn By: g.h.a.



**GEORGE ASH**  
 architect  
 241 Tenth Street, Redwood City, CA 94061  
 (650) 444-1095 Fax: (650) 444-3301

Sheet A-1  
 of 1 sheets

PROPERTY LINE



FIRST FLOOR PLAN 1/4" = 1'-0"

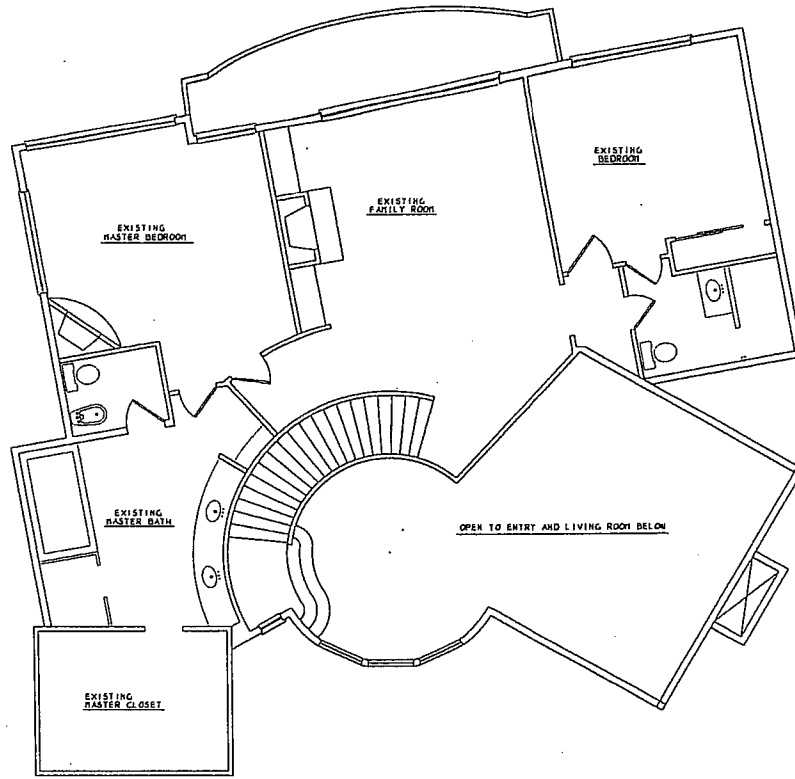
DATE: 3/13/09  
 4/22/09  
 REVISED:  
 1  
 2  
 3  
 4  
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 6

Project: DR. DO ROTH RESIDENCE ADDITION  
 ROTH RESIDENCE ADDITION  
 113 SAND Dunes ROAD, PEBBLE BEACH, CA  
 A.P. NUMBER 007-311-001-000  
 Drawn By: H.A.



**GEORGE ASH**  
 architect  
 541 Piedmont Avenue, Alhambra, CA 91800  
 (651) 444-1195 fax (651) 444-3301

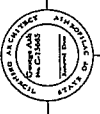
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EXISTING SECOND FLOOR PLAN 1/4" = 1' - 0"

3/13/01	date
△ 4/22/01	revisions
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Project: 04 010 8000 RESIDENCE ADDITION  
 8004 BEAUFORT ADDITION  
 112 SAND Dunes ROAD, PINEHOLE BEACH, CA  
 A. P. WINKER 007-251-001-000  
 Drawn By: UAA



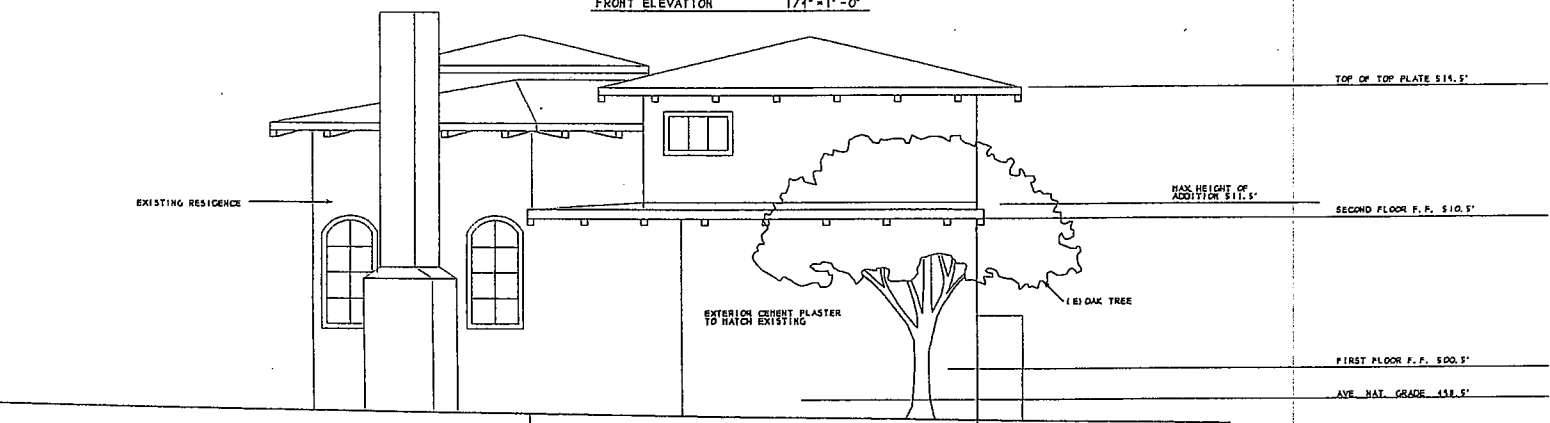
**GEORGE ASH**  
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 5417 Pacific Street, Menlo Park, CA 94025  
 (650) 464-1979 fax (650) 464-2306

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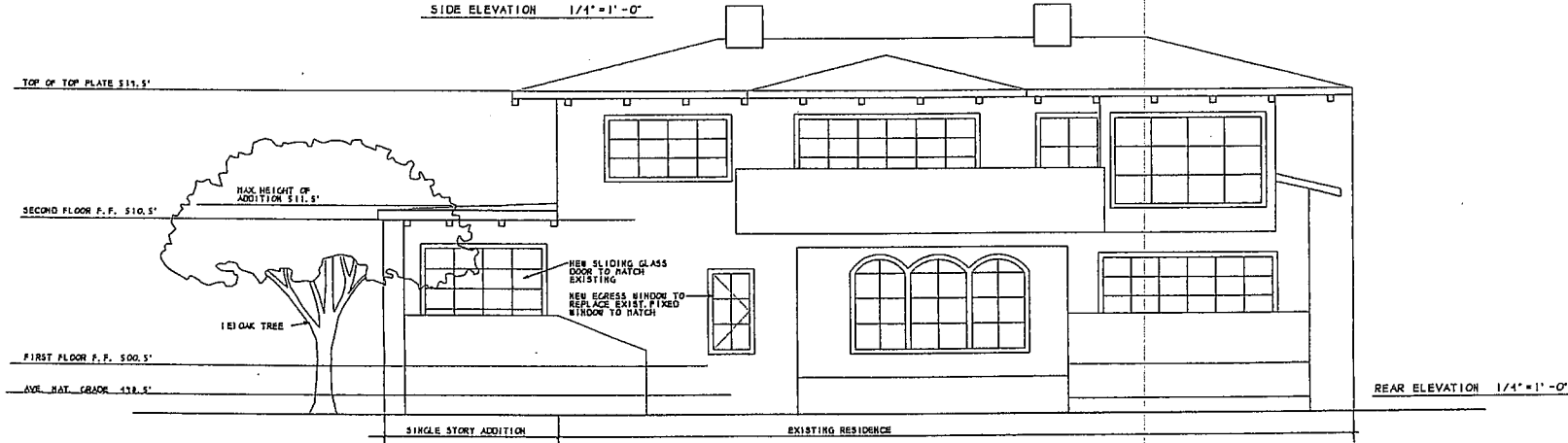




FRONT ELEVATION 1/4" = 1' - 0"



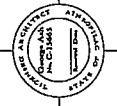
SIDE ELEVATION 1/4" = 1' - 0"



REAR ELEVATION 1/4" = 1' - 0"

3/13/09 date  
1/22/09  
revisions

Project: OR. DVD WITH RESIDENCE ADDITION  
WITH RESIDENCE ADDITION  
153 SAND Dunes ROAD, PERLE BEACH, CA  
A. P. NUMBER 001-251-001-000  
Drawn By: G.A.



**GEORGE ASH**  
architect  
3417 Foothill Avenue, Redwood City, CA 94061  
(650) 446-1093 Fax (650) 446-3361

Sheet  
**A-4**  
of

# DEL MONTE FOREST


Pacific  
Ocean




APPLICANT: ROTH

APN: 007-251-009-000

FILE # PLN090094

 300' Limit

 2500' Limit

 City Limits

