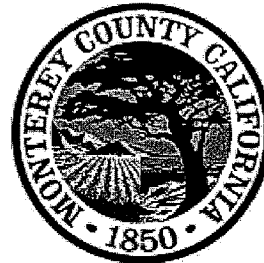


MONTEREY COUNTY  
RESOURCE MANAGEMENT AGENCY – PLANNING DEPARTMENT

---





MEMORANDUM

**Date:** March 28, 2012

**To:** Planning Commission

**Cc:** Front Counter Copy; Planning Commission; Monterey County Regional Fire Protection District; Public Works Department; Environmental Health Bureau; Water Resources Agency; Planning Services Manager; Wanda Hickman; Project Planner; Paula Bradley; Luis Osorio, Wendy Strimling, County Counsel; Mike Novo, RMA- Planning Director; Senior Planner; Carol Allen, Senior Secretary; Steven C. and Frances D. Krebs Trust, Owner; The Open Monterey Project; LandWatch; Planning File PLN100448

**From:** Paula Bradley, MCP, AICP, Associate Planner   
Luis Osorio, Senior Planner 

**Subject:** PLN100448 KREBS

On March 14, 2012 the Planning Commission considered the appeal, adopted a motion of intent to approve the variance and directed staff to return to the Planning Commission on March 28, 2012 with a finding of special circumstances to justify granting the variance. Staff has drafted the finding for review by the Commission (See Variance Finding No. 1) and has revised the draft resolution to reflect the action of the Commission. All new language is underlined. A condition of approval has been incorporated requiring the applicant to obtain a building permit within 180 of approval of the variance to fully correct the code violation.



## DRAFT RESOLUTION

### Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:

Steven C. and Frances D. Krebs Trust (PLN100448)

#### RESOLUTION NO. ----

Resolution by the Monterey County Hearing Body:

- 1) Finding the project Categorical Exempt from environmental review pursuant to CEQA Guidelines per Section 15270(a) 15303(a), and
- 2) ~~Denying~~ Granting the appeal and approving ~~the upholding the Zoning Administrator's denial of the subject Variance and Design Approval~~ application, based on the findings and evidence and subject to the conditions of approval.

[PLN100448, Steven C. and Frances D. Krebs Trust, 8205 El Camino Estrada, Carmel, Carmel Valley Master Plan (APN: 169-051-003-000)]

**The Appeal (PLN100448/Krebs) came on for public hearing before the Monterey County Planning Commission on March 14, and March 28, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

#### FINDINGS FOR THE APPEAL

1. **FINDING:** On January 12, 2012, the Zoning Administrator conducted a fair and impartial public hearing and denied the Variance and Design Approval (PLN100448/Krebs).

#### EVIDENCE:

- (a) Zoning Administrator Resolution Number 12-003 dated January 12, 2012.
- (b) Minutes and audio recording of the Zoning Administrator from December 8, 2011 and January 12, 2012.

2. **FINDING:** The appeal was timely filed on January 30, 2012 pursuant to Chapter 21.80 of the Monterey County Code.

#### EVIDENCE:

- (a) Said appeal has been filed with the Clerk of the Planning Commission within the 10-day time prescribed by Monterey County pursuant to Chapter 21.80.
- (b) Said appeal has been determined to be complete. This item was set for hearing on March 14, 2012 within 60-days after receiving the appeal.

(c) Said appeal was timely considered by the Planning Commission on March 14, 2012.

3. **FINDING:** The Planning Commission conducted a fair and impartial public hearing on the application and related approvals.

**EVIDENCE:**

- (a) The public hearing was duly noticed at least 10 days before the first public hearing date on March 14, 2012. Notices of the hearing before the Planning Commission were published in the Monterey County Herald and were also posted on and near the property and mailed to property owners within 300 feet of the subject property.
- (b) The Planning Commission conducted a duly noticed de novo public hearing on the application on March 14, 2012. The Planning Commission adopted a motion of intent to approve the variance and directed staff to return to the Planning Commission on March 28, 2012 with a revised resolution including a finding of special circumstances to justify the granting of the variance.
- (c) On March 28, 2012 the Planning Commission granted the appeal and approved the Variance and Design Approval.
- (d) Minutes and audio recording of the Planning Commission from March 14, 2012 and March 28, 2012.

4. **FINDING:** The Planning Commission has reviewed, evaluated, and considered the appeal and responds as follows:

The appellant states that there was lack of a fair and impartial hearing the findings and decision were not supported by the evidence, and a decision was made contrary to the law because the following were not adequately weighed in the decision based on the following:

1. *The neighborhood was built prior to the current zoning regulations and setbacks, evidenced by the fact that several of the adjacent properties in the LDR/1 zoning designation contain more than one residence, and most of the homes in the immediate area have living areas within the current setbacks. Only two of the ten parcels in the neighborhood do not have living areas in the setbacks. Each of these parcels are on larger lots (0.842 acres and 1 acre.)*

**Response:**

It is true as the owner states, that most of the neighborhood was built prior to the Zoning Code (1941) and most development does not conform to the lot size and setback requirements. Although the converted shed may have existed prior to the zoning regulations, there are no permits on record for its conversion to habitable space, therefore it is considered an illegal conversion. The Appellant attached the former shed to the main structure with an addition which resulted in the former shed/addition not conforming with the required 20-foot rear setback. A variance for a reduced rear yard setback, a Design Approval and building permit ~~would have been~~ are required.

- 2. The variance is necessary to clear a code violation for an addition attaching an existing detached bedroom to the main residence. If the variance is denied, both the addition and the former detached bedroom would have to be removed. It is unlawful to require that former living area of the residence be destroyed, and it is unfair to require that existing addition be removed, when neighbors have been granted a variance for similar conditions clearing a code violation for two illegal additions within the rear setbacks.*

**Response:**

It is not unlawful or unfair to require removal of additions built without permits. Title 21 (Zoning Code) Section 21.84, "Enforcement, Administrative and Legal Procedures, Penalties", authorizes the County to take such measures as deemed necessary or expedient to enforce and secure compliance with the Zoning Code. Furthermore, Section 21.84.040 states: "It is prohibited to make any use of or to allow any use of land or structure which is not permitted under this title in the designated zoning district in which the property is located." ~~Fairness is not included in the findings required for granting a variance. The variances approved on the five adjacent and nearby parcels were granted due to special circumstances in accordance with Section 21.72.040.A of the Zoning Ordinance. In order to grant a variance, the Zoning Ordinance requires a finding that the granting of the variance would not constitute a grant of special privilege as discussed above. Certain findings are required to grant the variance. The Planning Commission is granting the variance, having found that the evidence supports the findings.~~

- 3. The Planning Department staff deemed the existing detached bedroom to be a "shed" rather than a bedroom, thereby declaring it illegal living area, because they could not find a building permit for the bedroom. On the contrary, the detached bedroom existed when we bought the house and we have used it as such for the entire time that we have lived in the home. The former owners of the property used the detached bedroom to store garden tools, so on plans submitted for an addition built in 1985, the bedroom was indicated on the site plan as a "shed." We contend that the bedroom is legal living area, and like other neighborhood properties with living areas within the setback, it should be grandfathered in as "legal non-conforming" because it was built at the same time as the original home - prior to the time when any permits were required for construction. Furthermore, according to the Monterey County Assessor's Office, we have been assessed for, and have been paying taxes on, a detached bedroom ever since we purchase the property.*

**Response:**

The plans for the building addition approved in 1985 include the subject shed. There are no permits on record for conversion of the shed to habitable space, therefore it is considered an illegal conversion. Code Enforcement staff has confirmed that the shed was converted without building permits. The location of the shed met the required setbacks and for a non-habitable detached structure. The attachment resulted in the dwelling having less than the

required 20-foot setback. The shed is not considered non-conforming as stated by the appellant. The Assessor's valuation is not dispositive of whether permits were required. ~~office record indicates that the assessed value is based on a 1,694 square foot residential unit including a garage and guestroom, and the attached sketch shows the current area of the residence without a shed. Building permit no. 35538 for the 698 square foot addition (Exhibit L) shows a shed on the site.~~

4. *The existing residence is 1315 SF with two bedrooms and two baths. One of the bedrooms is extremely tiny so the house functions essentially as a one bedroom home. The house - with the addition (including what was formerly the detached bedroom) is in keeping with typical modern homes. Without the addition it is below average, which reduces its market value.*

**Response:** Market value is not included in the required findings for a variance; however, in considering if the variance grants a special privilege, this takes in consideration if one property under similar limitations is allowed a similar privilege (could include the size of a home). See variance special privilege findings discussion in item b above. ~~As there are options for an addition that could meet the zoning requirements without granting a variance, the subject property is not considered to have special circumstances in accordance with Section 21.72.040.A of the Zoning Ordinance.~~

5. *Due to lot restrictions (setbacks, protected trees, septic system and back-up drain field) we cannot build the equivalent size single story addition elsewhere on the property. There is only a narrow strip of property between the rear of the house and the rear setback line where construction would be allowable, and it is not of sufficient width for a room of any kind. There is only a small area to the east of the house where construction would be allowable, but additional square footage in this area would not work with the current floor plan. Such an addition would render our kitchen windowless, and you would have to enter the office or bedroom space through the kitchen. The only other access to that area would be through the small front bedroom, with would essentially turn the area into a hallway. We do not want to destroy the existing small bedroom.*

**Response:**

The variances approved on the five adjacent and nearby parcels were granted due to special circumstances in accordance with Section 21.72.040.A of the Zoning Ordinance. The subject property is constrained as follows: 1) the existence of a septic tank and drain field on the west side; 2) the requirement for a back-up drain field site by the Environmental Health Bureau in case of waste water system failure (these facilities are required to be setback ten feet from the property lines and structures); 3) the protected oaks and reserve area for a back-up drain field in the front yard. The Planning Commission finds that the evidence presented by the applicant supports a finding of special circumstances (See Variance Finding No. 1) ~~However, a small (approximately 500 square foot) addition could be constructed on the subject property similar in size to the one proposed (see Exhibit E): 1) to the east of the home; or 2) a second story addition. As there are options for an addition that could meet the~~

~~zoning requirements without granting a variance, the subject property is not considered to have special circumstances in accordance with Section 21.72.040.A of the Zoning Ordinance.~~

6. *Because of the age of our home, building up would be impractical and cost prohibitive. The existing foundation or walls could not support a second story, so the entire house would have to be rebuilt and we could not live in the house during construction. It is unfair for the County to require that we essentially rebuild our home at enormous expense in order to bring our home up to modern size standards by adding a second story addition.*

**Response:**

~~While fairness in terms of economic consideration is a valid issue for the applicant, it does not pertain to the findings for approval of a variance. In addition, staff is not requiring the construction of a second story addition. Staff is presenting this as a feasible alternative in terms of compliance with zoning requirements.~~

7. *A second story addition is also unfavorable due to the following:*
  - a. *Our house is one of the original homes built in the area. The Carmel stone construction of the house establishes the character of the neighborhood. Building a second story would radically change the feel of the neighborhood, and would not, therefore, be supported by the neighbors.*
  - b. *The majority of the neighbors support the variance for the existing single story addition in the rear of the property. We have seven letters of support from our neighbors, including every neighbor with property contiguous to ours. All letters state that they would object to a second story addition.*
  - c. *The lot is 1/4 acre. The maximum allowable lot coverage is 35%. The existing house with the addition covers only 17% of the lot - far less than what is allowed.*

**Response:**

~~Items a), b) and c) are true. Item one refers to the character of the neighborhood. The overall scale and character of the neighborhood is small scale, with mostly one-story "Carmel Cottage" type residences with Carmel stone facades, located in small lots nonconforming as to current building site size requirements. The Planning Commission has found that building a second story addition would be impractical given the age and the architectural design of the existing residence, would not be compatible with the character of the neighborhood and that findings can be supported to grant a variance for reduced rear yard setbacks to allow the proposed addition. While most of the dwellings in the neighborhood are one story, one of the dwellings was remodeled to a two story. Staff believes that a second story could be added to the subject dwelling if designed properly. Therefore staff does not agree with this contention. Letters from the neighbors do also support the rear addition and not a two story addition. The subject property, including the illegal~~

additions the addition approved under the variance, is under the maximum required lot coverage of 35%, as the owner ~~stated above~~ states.

8. *The addition, as it stands, is designed to have the least possible impact on the neighborhood. The advantages are as follows:*
  - a. *The addition is very low profile.*
  - b. *It cannot be seen from the street.*
  - c. *No grading was required for the addition.*
  - d. *No trees had to be trimmed or removed in order to build the addition.*
  - e. *It does not alter the character of the neighborhood.*
  - f. *The floor plan, roof plan, and exterior finishes tie in nicely to the existing house. It looks as if it were part of the original structure.*
  - g. *It is either not visible, or just barely visible, from all neighboring properties.*
  - h. *Because a flat roof is used, the addition to the east of the existing detached bedroom only extends one foot above the top of the rear fence.*
  - i. *The objective of making the house more valuable by adding square footage is achieved with only a minimal-sized addition because the design utilizes the square footage of the existing detached bedroom by incorporating it into the main living area of the house.*

**Response:**

~~These design characteristics and visual points support a Design Approval and are good site planning, but design and character are not included in the required findings for a variance.~~ The Planning Commission has found that building the addition at the proposed location is the alternative that better fits with the existing development and architectural design of the residential unit; that it is the most compatible with the character of the neighborhood; and that findings can be supported to grant a variance for reduced rear yard setbacks to allow the proposed addition.

9. The Carmel Valley Land Use Advisory Committee (LUAC) voted unanimously (6-0-1) to support the project as proposed.

**Response:**

The LUAC unanimous approval was considered by the Planning Commission and was certainly a positive recommendation as a factor in its approval of the variance.

10. *Five variances were granted on nearby or adjacent properties for reduced front, side and rear yard setbacks. Therefore, granting us a variance for reduced rear setbacks would not constitute a grant of special privileges. None of these property owners were told to build a second story rather than adding on within the setbacks.*

**Response:**

~~Staff~~ The Planning Commission took in consideration the five variances in the analysis. The Commission found that the subject variance request has



similarities with them and agreed that the granting of the variance would not constitute a special privilege (See Variance Finding No. 2). Each project is analyzed on its own merits and although staff strives to be consistent in applying the regulations, over time staff may have interpreted the variance findings somewhat differently. In addition, in some cases details of the reasons for granting of the variances were not available in the record for reference. Unlike the Kessler Variance, in which the record was very detailed and clearly demonstrated the site constraints with a sketch, staff does not have the same information in the record for all five variances to compare. With the Kessler variance, the site was more physically constricted than the Krebs site. However, no mention was made in any of the other variances concerning a second story option. In the case of the other variances the Zoning Administrator concluded that the approval of the variances did not constitute a Special Privilege.

*11. Denial of our variance deprives us of privileges enjoyed by other properties in the vicinity and under identical zone classification. Notably, the most recent variance (Kessler - File No PLN070120) was granted to our next door neighbors in 2009. Many similarities exist between the circumstances involving our variance and theirs, which support why we should also be granted a variance for our addition. The comparisons are as follows:*

- a. The neighboring property had a code violation for the construction of two illegal additions within the rear setback, and granting the variance corrected the violation. Granting our variance would also clear our code violation for the addition within the rear setback.*
- b. Building envelopes on our and the neighboring property are both limited by physical characteristics. Our limitations include the septic system to the west, the back up drain field and protected trees to the front, and the proximity of the house to the rear setback. Their limitations included the location of the existing and back up septic systems, 30% slopes, and the proximity of the house to the rear setback.*
- c. The neighboring illegal additions were constructed within the same distance to the rear property line as the original house (9 ft from the rear property line). A small wing of our addition (129 SF) was built with the same distance to the rear property line as our original detached bedroom (2'-6"). The rest of our addition was built 8' 8" from the rear property line.*
- d. Our variance application, and that of the neighbors, was for approximately the same square footage. In granting the variance to the neighbors, the planning department cited that "Homes in the neighborhood have two to four bedrooms and two to three bathrooms and from this perspective the Kessler's were considered deprived of the privilege of a larger home without legalizing the two additions." Note that although the resulting two bedroom, two bath house that the neighbors variance granted is slightly smaller than the larger home that we are requesting (with three bedrooms and two and a half bathrooms) the neighbors also have a second house on the property.*

*The second house has one bedroom, and one bath. Incidentally, our lot and their lot are roughly the same size.*

- e. The neighbors could have also built a second story, rather than making a single story addition in the rear setback, but this was not mentioned or suggested by the Planning Department during the variance proceedings.*
- f. The neighbor's variance findings stated "The location of the additions in relation to the house better achieve internal circulation required by Monterey County code." Whereas if we were to create a small single story addition on the east side of our house, as suggested by the Planning Department, the floor plan would not achieve better (or even reasonable) internal circulation. This again points to the fact that denial of our variance "would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification."*

**Response:**

~~See staff response to item 10 above in reference to variances approved in the neighborhood. In response to item c above: the Kessler variance allowed the two additions with the same nine foot rear yard setback of the existing main residence. In the subject case the detached shed met the rear yard setback requirement before it was attached to the dwelling. One of the five variances approved (Ball ZA94042) was the only one of the five that allowed an encroachment into the front yard setback where it was previously conforming to the setbacks. In the other four cases the front, side or rear yard setbacks were nonconforming before the variances were approved. The current Zoning Code interpretation would require that a 196 square foot shed meet the rear yard setback. By attaching the shed to the main residence it changed the setback requirement to 20 feet, and the addition then was considered encroaching into the rear yard setback. The statement in item f above, concerning internal circulation was included in the Kessler Variance findings, but it is not included in the required findings in the Zoning Code. The Planning Commission has found that the granting of other variances in the immediate neighborhood has a bearing in the review of the subject application and considered it a factor in the granting of the variance. The Commission further found that the circumstances of the subject property are similar to those of the properties were the variances have been granted and that the variance would not constitute a special privilege (See Variance Finding No. 1).~~

## FINDINGS FOR APPROVAL OF THE VARIANCE

1. **FINDING:** **VARIANCE (Special Circumstance)** - There are special circumstances applicable to the subject property, including the size, shape, location and surroundings, where strict application of development standards in the Monterey County Code would deprive the subject property of privileges enjoyed by other properties in the vicinity under identical zoning classification.

- EVIDENCE:**
- a) The property has a zoning designation of "LDR/2.5-D-S" (Low Density Residential, 2.5 acres per unit with Design Control and Site Plan Review Overlays). The subject property is 11,382 square feet or ¼ acre in size where a one acre minimum building site is required per the development standards of the zoning district. The property is similar in size to the other parcels in the immediate neighborhood which are also substandard in size ranging in size from 5,792 square feet to one acre.
  - b) The subject property is constrained as follows: 1) the existence of a septic tank and drain field on the west side; 2) the requirement for a back-up drain field site by the Environmental Health Bureau in case of waste water system failure (these facilities are required to be setback ten feet from the property lines and the structures) reserve area in the front yard and 3) the protected landmark oaks and their canopy in the front yard. Although there is a small area to the east of the home where a small, approximately 500 square foot addition, could be constructed ~~on the subject property~~ similar in size to the one proposed, the Planning Commission found that building the addition at this location would require a more extensive remodeling given the lay out of the floor plan of the existing residence and would be in very close proximity (approximately 11 feet 6 inches) to the neighboring home located right on the property line in this area of the lot. A second story addition was also explored as an alternative, but the Commission found that it would not be consistent with the character of the neighborhood and the design characteristics of the mostly one-story residences in the neighborhood; and that its construction would not be feasible without demolishing the majority of the existing foundation and roof form, which would for the most part require demolition of the existing home. The second story addition was not supported by the neighbors nor the Land Use Advisory Committee as they considered that it would negatively impact the neighborhood (Exhibits K.3 and Exhibit F to the March 14, 2012 Planning Commission staff report).
  - c) The Planning Commission found that due to the lot size, location, surroundings, the subject property has special circumstances that restrict a possible addition other than in the rear yard location as proposed. Specifically, the Commission found that the lay out, size and shape of the lots in the immediate vicinity, including the subject lot, do not lend themselves for development that can fully comply with the development standards of the Low Density Residential Zoning District; and that the applicability of those standards in the

- neighborhood is impractical and overly constraining.
- d) The Planning Commission considered five other variances granted in the neighborhood and considered that the circumstances of those variances are similar to those of the subject project that can be used in support of the granting of the variance.
  - e) The Planning Commission found, and explicitly states, that the granting of the variance is supported solely on the circumstances of the particular lot and neighborhood as described under Evidence C to Finding 1 above. The Commission further states that these circumstances should not be used as justification for other variances.
  - 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 PLN100448.

2. **FINDING:** **VARIANCE (Special Privilege)** - The granting of the variance would not constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

**EVIDENCE:** a) To determine if granting the variance would constitute a special privilege, staff compared the proposed variance request with other variances approved for parcels located in the immediate neighborhood along Meadow Road, a private road off El Camino Estrada. In all cases, on adjacent and nearby parcels where variances were granted, the lots are substandard in size and are zoned LDR/2.5-D-S-RAZ. Two of the three lots that are one acre or more are the only lots of the ten, with conforming setbacks. Five variances were granted on nearby and adjacent properties for reduced front, side and rear yard setbacks, therefore granting a variance for reduced rear setbacks on the subject property would not constitute a grant of special privilege as follows:

The most recent Variance (Kessler - File No. PLN070120) on Assessor's Parcel Number 169-051-002-000 was granted in 2009 for a reduced the rear yard setback of 11 feet allowing a nine foot rear yard setback. This property is to the west and is adjacent to the subject parcel. Similar to the subject property there was a code violation and granting the Variance corrected the violation for the construction of two illegal additions. The building envelope is limited by physical characteristics including a substandard lot size, other existing structures, 30% slopes, and required area for septic envelopes. The physical constraints cited to support the Variance included that there was there was no build able area other than the existing building footprint due to: 1) the substandard lot size (10,807 square feet); 2) the required septic system envelope; 3) 30% slopes; and 4) prior to the illegal additions, the one-story 640 square foot dwelling had only a one bedroom and one bath. Homes in the neighborhood have two to four bedrooms and two to three bathrooms and from this perspective the Kessler's were considered deprived of the privilege of a larger home without legalizing the two additions.

With the Kessler Variance the conditions were different; there were no options for the addition other than the location of the existing two illegal additions, and furthermore staff found that they would be deprived of the privilege to have a larger home, a privilege enjoyed by the other properties in the area.

In 1979 a Variance (ZA03753) on Assessor's Parcel Number 169-051-005-000 was granted for reduced front, side and rear yard setbacks on a corner lot where there are two front setbacks, including nonconforming setbacks. A second Variance (ZA95007) was granted in 1995 on the same parcel for a reduced front yard setback allowing an encroachment of 22 feet into one of the front setbacks. The addition increased the nonconforming condition.

In 1994 across the street from the subject parcel on Assessor's Parcel Number 169-051-010-000 a Variance (ZA94042) was granted for a reduced front yard setback for the construction of a garage.

In 1987 a Variance (ZA06649) on Assessor's Parcel Number 169-051-007-000 allowed a reduced rear yard setback and increased the nonconforming condition.

Due to the fact that there are nonconforming setbacks on most of the nearby properties the granting of this Variance would not be considered granting a special privilege in accordance with Section 21.72.040.B of the Zoning Ordinance.

- b) The project planner conducted a site inspection on September 01, 2010 to verify the circumstances related to the 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 PLN100448.

3. **FINDING:** **VARIANCE (Authorized Use)** - A 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 Variance is for a residential use, allowed by the zoning district, consistent with Section 21.72.040.C of the Zoning Ordinance.
  - b) One of the intentions of setback regulations is to comply with Fire Code requirements. The Carmel Valley Fires District has found that the project complies with applicable fire Code requirements.
  - c) The project planner conducted a site inspection on September 01, 2010 to verify the circumstances related to the property.
  - d) 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 PLN100448.

4. **FINDING:** **APPEALABILITY** - The CEQA determination is appealable to the Board of Supervisors.

- EVIDENCE:**
- a) Public Resources Code section 21151(c)

## FINDINGS FOR APPROVAL OF THE DESIGN REVIEW APPLICATION

1. **FINDING:** CONSISTENCY – The Project is 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 2010 Monterey County General Plan;
    - Carmel Valley Master Plan;
    - Monterey County Zoning Ordinance (Title 21).
  - b) The property is located at 8205 El Camino Estrada, Carmel (Assessor's Parcel Number 169-051-003-000), Carmel Valley Master Plan. The parcel is zoned "LDR/2.5-D-S" (Low Density Residential, 2.5 acres per unit with Design Control, and Site Plan Review and Resource Allocation Zoning District Overlays) which allows single family residential and accessory uses. The approved project includes an addition to an existing residential use, compatible with the uses of the surrounding area. Therefore, the project is an allowed land use for this site with the approval of a Design Approval. The project complies with the rules and regulations pertaining to zoning uses and other applicable provisions of Title 21. While the addition does not meet the provisions of Section 21.14.060.C.1.A of the Zoning Ordinance which require a 20 foot rear setback, a Variance for a reduced setback of approximately 2.5 feet has been approved as part of the application.
  - c) The proposed project is located in a "D" (Design Control Zoning District) which regulates the location, size, configuration, materials and colors. The proposed project is consistent with the provisions of these districts and with the provisions of Carmel Valley Master Plan Policy CV 1.20. Under this policy, building design is required to ensure that new development is visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development. Materials and colors are required to be compatible with those of the buildings in the immediate surroundings. The architectural design of the home is consistent with the rural character of Carmel Valley and the neighborhood. The project approval includes a variance to allow a 587 square foot addition to an existing 1,315 square foot single family dwelling with an approximate two foot six inch rear setback where 20 feet is required. New site coverage increase is 17% where 35% is allowed. The addition height is 12 feet, where 30 feet is allowed. The project scale is appropriate with the surrounding neighborhood character. The addition is to the rear of the home and cannot be seen from the street. The existing residence is located to the rear of the property as there are three landmark oak trees dominating the front half of the lot. Colors and materials match the existing home with a red color wood board and batten exterior with green trim and dark grey composition shingle roofing.

- d) The proposed project is in the “S” (Site Plan Review Zoning District) which regulates the review of development in those areas of the County of Monterey where development by reason of its location has the potential to adversely affect or be adversely affected by natural resources or site constraints, without imposing undue restrictions on private property. Per the provisions of Site Plan Review Zoning District (Section 21.45.040.C) the Design Approval is the right type of permit for the small addition proposed. See Finding 1(c) above. The project is consistent with the provisions of the Zoning District.
- e) Based on the LUAC procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application warranted referral to the LUAC because the project is a Variance. The project was referred to the Carmel Valley LUAC Land Use Advisory Committee (LUAC) for review on September 6, 2011. The LUAC voted unanimously (6-0-1) to support the project as proposed.
- 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 PLN100448.

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/Monterey County Regional Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions were recommended by the Water Resources Agency.
  - b) Technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:
    - “Preliminary Cultural Resources Reconnaissance” (LIB070620) prepared by Susan Morley, M.A, Pacific Grove CA, November 2007.
  - c) Staff conducted a site inspection on September 01, 2010 to verify that the site is suitable for this use.
  - d) 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 PLN100448.

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 the RMA - Planning Department, Carmel Valley/Monterey County Regional Fire Protection District, RMA - Public Works, Environmental Health Bureau, and the 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) Necessary public facilities are available. Potable water is provided by California-American Water Company and wastewater treatment is provided by an on-site septic system which has been approved by the Bureau of Environmental Health..
  - c) Preceding findings and supporting evidence for PLN100448.

4. **FINDING:** **VIOLATION** - The subject property is not in compliance with the Site Development Standards (rear yard setback requirements) of Chapter 21.14 (Regulations for Low Density Residential or "LDR" Zoning Districts) and is not in compliance with the provisions of the Chapter 21.44 (Regulations for Design Control or "D" Zoning Districts) of the County's zoning ordinance (Title 21). The subject application has been submitted after-the-fact to obtain the permits necessary to bring the property into compliance with the applicable requirements of the code.

- EVIDENCE:**
- a) The records of the Monterey County RMA - Planning Department and Building Services Department reflect that that a pending code enforcement case (10CE00208) exists on the property. The code enforcement case involves the conversion of a previously existing 196 square foot shed into habitable space and the construction of a 587 total square foot addition attaching the shed to the main dwelling without the benefit of a Design Approval, Variance or building permit and not consistent with the yard setback requirements of the zoning district.
  - b) Staff from the RMA-Planning Department conducted a site inspection on September 01, 2010 which verified the non compliance of the property with the respective chapters of the zoning code.
  - c) The owners applied for the Variance to bring the subject property into compliance with all rules and regulations pertaining to the property. The Planning Commission has considered the application and has approved the required variance and design approval that would bring the property into compliance with the zoning code. The applicant is required to obtain necessary building permits within a specific time period (Condition No. 5).
  - d) Zoning violation abatement costs have been paid. Double fees were paid for the planning permits and the owner will be required to pay appropriate fees and fines to obtain building permits to bring the illegal addition into conformance with the building code.
  - 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 PLN100448.



5. **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 15270(a) 15303(a), categorically exempts new construction or conversion of small structures in a residential zone. The project is a 587 square foot addition to the original existing 1,315 square foot single family dwelling in a residential zoning designation.
  - b) No adverse environmental effects were identified during staff review of the development application during a site visit on September 01, 2010.
  - c) CEQA Guidelines Section 15300.2 lists exceptions to categorical exemptions. None of the exceptions can be made because the project will not impact an environmental resource of hazardous or critical concern; no grading and construction of retaining walls and associated drainage systems will not create a cumulative impact; the project does not have any unusual circumstance; the project will not result in the damage of a scenic resource; the subject property is not a hazardous waste site; nor is there a structure to be removed designated as a historical resource. The project is a residential use, which is an allowed land use for this site, it is compatible with the uses and density of the surrounding area, and is consistent with the land use plans and policies. Therefore, the proposed project is exempt from environmental review.

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

- 1) Finds the project Categorically Exempt from environmental review pursuant to CEQA Guidelines per Section 15270(a) 15303(a), and
- 2) ~~Deny Grants~~ the appeal and ~~approves the upholding the Zoning Administrator's denial of the subject Variance and Design Approval~~ application, based on the findings and evidence and subject to the conditions of approval.

**EXEMPTED AND DENIED** this 28th day of March, 2012 upon motion of xxxx, seconded by xxxx, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mike Novo, Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVIORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE]

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.

2. This permit expires three years after the above date of granting thereof.

# Monterey County Planning Department

## DRAFT Conditions of Approval/Mitigation Monitoring Reporting Plan

PLN100448

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** Planning Department

**Condition/Mitigation  
Monitoring Measure:**

This permit includes a Design Approval and Variance to allow a reduction in the rear yard setback requirement from 20 feet to approximately two feet six inches to allow a 587 square foot addition to an existing 1,315 square foot single family dwelling, to clear a zoning code violation (File No. 10CE00208). The property is located at 8205 El Camino Estrada, Carmel (Assessor's Parcel Number 169-051-003-000), Carmel Valley Master Plan area was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. The owner is required (Condition No. 5) to obtain building permits to the satisfaction of the Director of the RMA - Building 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)

**Compliance or  
Monitoring  
Action to be Performed:**

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

### 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** Planning Department

**Condition/Mitigation  
Monitoring Measure:**

The applicant shall record a notice which states: "A Design Approval and Variance (Resolution No. \_\_\_\_ ) were approved by the Planning Commission for Assessor's Parcel Number 169-051-003-000, on March 28, 2012. The permit was granted subject to 6 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)

**Compliance or  
Monitoring  
Action to be Performed:**

Within 30 days of project approval, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

### 3. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.  
(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or within 60 days of project approval, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

### 4. PD016 - NOTICE OF REPORT

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:  
"A Preliminary Cultural Resources Reconnaissance (Library No. LIB070620), was prepared by Susan Morely, M.A, on November 2007 and is on file in the Monterey County RMA - Planning Department. All development shall be in accordance with this report."  
(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Within 60 days project approval, the Owner/Applicant shall submit proof of recordation of this notice to the RMA - Planning Department.

**5. PDSPOO1 BUILDING PERMIT REQUIRED (NONSTANDARD)**

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:**

1. Submit a construction permit application and plans to obtain a construction permit for the addition and interior remodel within 30 days.
2. Obtain the after-the-fact construction permit necessary to correct the building code violation under the building code and obtain final inspection approval no later than September 28, 2012 (180 days from the approval of this permit).
3. Schedule a compliance inspection with the Enforcement Officer when all corrective actions are completed within 180 days.  
(RMA - Planning and Building Services Department)

**Compliance or Monitoring Action to be Performed:**

Apply for a construction permit for the addition and interior remodel within 30 days.  
Diligently pursue all actions necessary to correct the violation and obtain final inspection approval on required permits within 180 days.  
Schedule a compliance inspection with the Enforcement Officer when all corrective actions are completed within 180 days.

**6. WRSP1 - WATER AVAILABILITY CERTIFICATION (NON-STANDARD CONDITION)**

**Responsible Department:** Water Resources Agency

**Condition/Mitigation Monitoring Measure:**

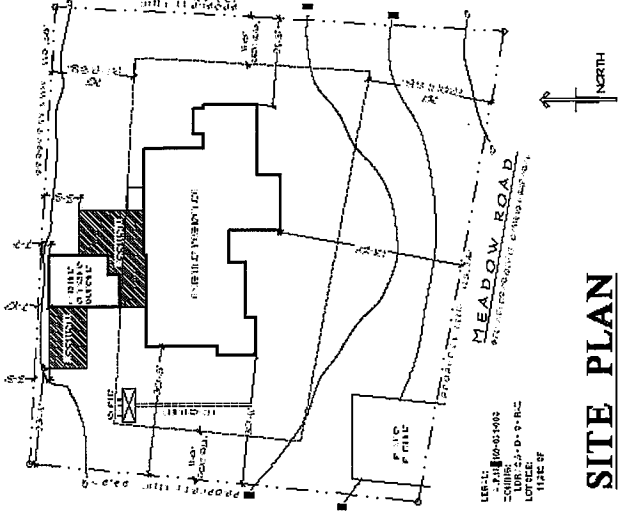
The applicant shall provide the Monterey County Water Resources Agency proof of water availability in the form of a complete Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)

**Compliance or Monitoring Action to be Performed:**

Within 60 days of project approval the owner/applicant shall submit a Water Release Form to the Water Resources Agency for review and approval.

A copy of the Water Release Form can be obtained at the Monterey Peninsula Water Management District, the Water Resources Agency, or online at:  
[www.mcwra.co.monterey.ca.us](http://www.mcwra.co.monterey.ca.us)





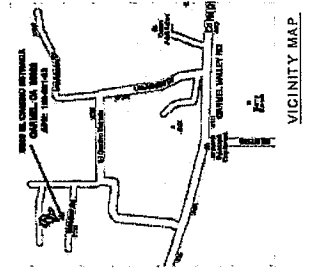
**SITE PLAN**  
SCALE 1/8" = 1'-0"

ADDITION  
STEVEN & FRANCES  
KREBS RESIDENCE  
CARMEL VALLEY

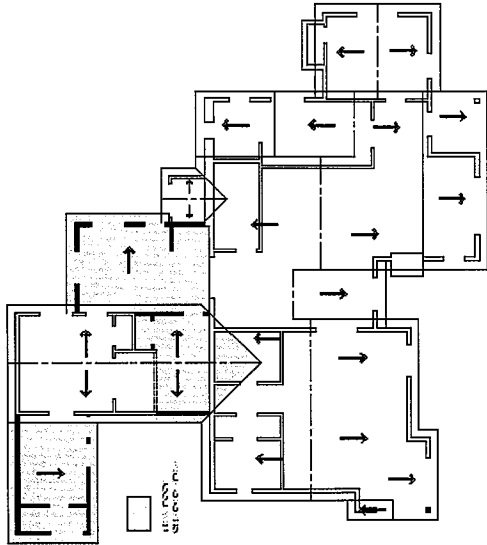
**PROJECT DATA**

LEGAL: A.P.N. 18-051-003  
ZONING: LDR/2-B-D-S-RZ  
SITE ADDRESS: 8505 EL CAMINO ESTRADA, CARMEL, CA 95023  
OWNER: STEVEN & FRANCES KREBS  
LOT SIZE: 11,382 SF  
LOT COVERAGE: 14%  
EXISTING: 1605 SF (11,382 SF)  
PROPOSED: 2839 SF (11,382 SF)  
DATE: 14 MARCH 2011  
PRINT DATE:  
ESTIMATED VALUE OF THE REMODEL: \$3,000

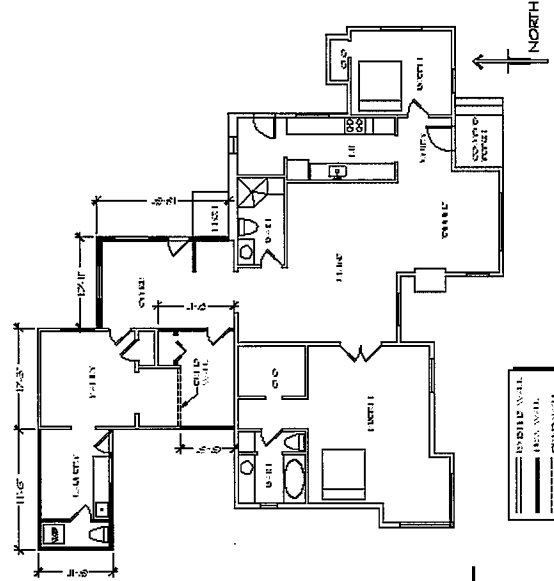
**SCOPE OF WORK**  
ADDRESS OF LIVING AREA TO THE REAR OF EXISTING SFD.  
NEW STRUCTURES HAVE SLAB ON GRADE FOUNDATION.  
THERE WAS NO EXCAVATION, SOIL DISTURBANCE, OR TREE REMOVAL.



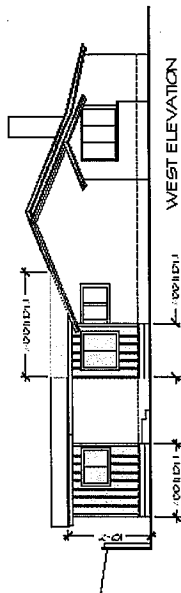
VICINITY MAP



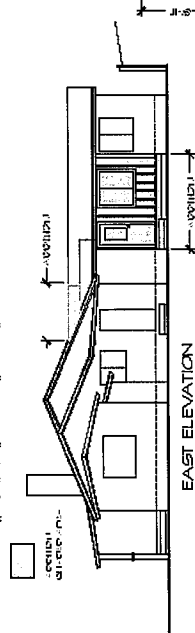
**ROOF PLAN**  
SCALE 1/8" = 1'-0"



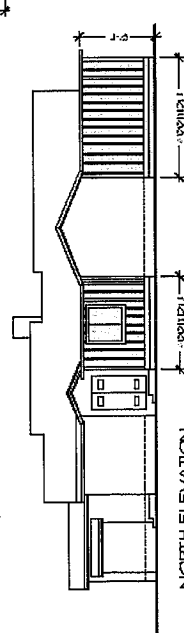
**FLOOR PLAN**  
SCALE 1/8" = 1'-0"



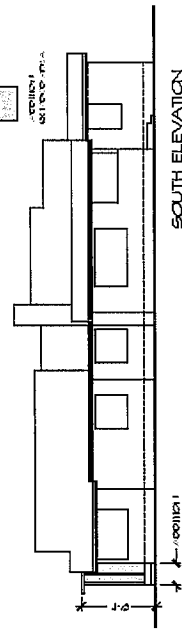
WEST ELEVATION



EAST ELEVATION



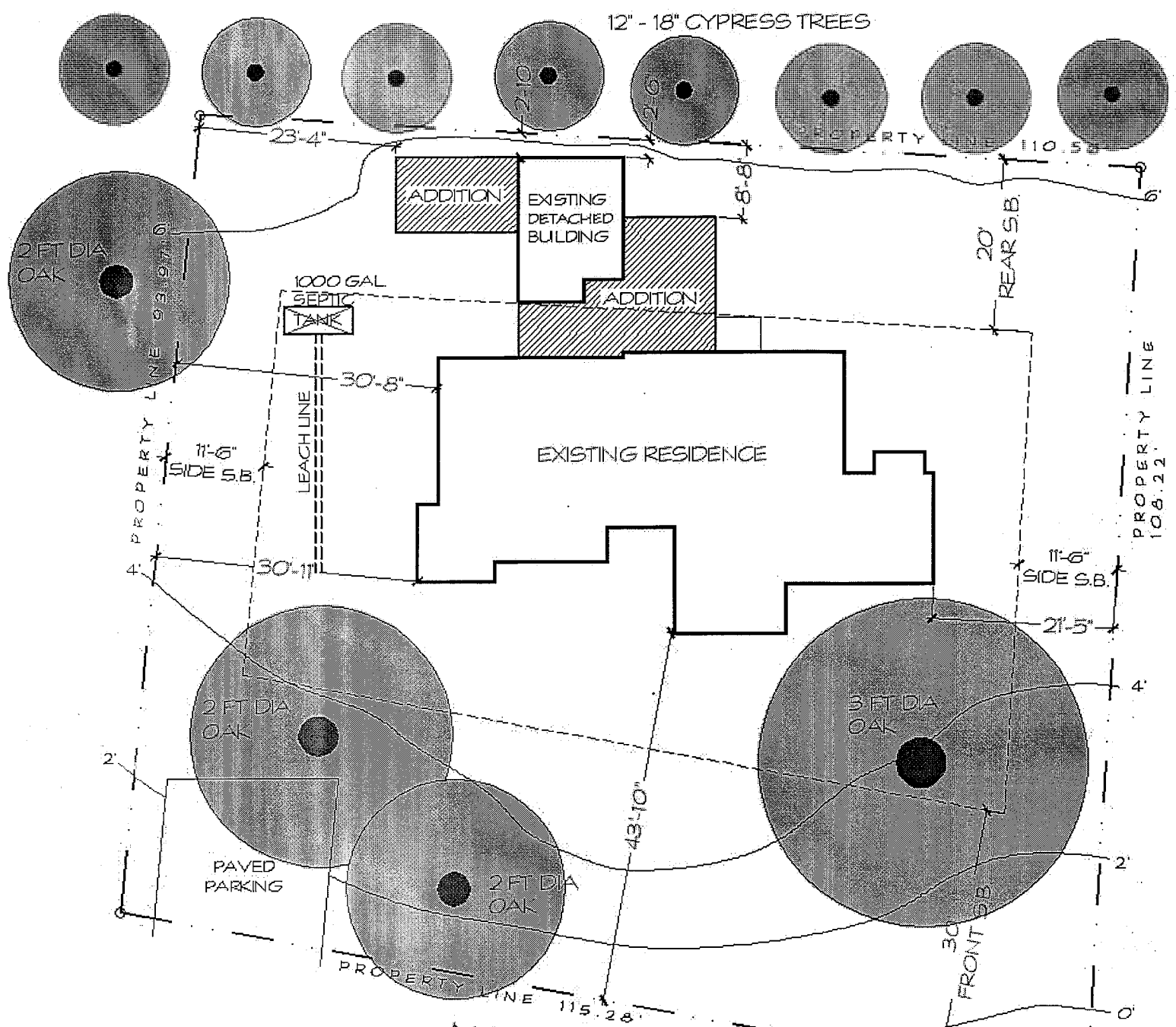
NORTH ELEVATION



SOUTH ELEVATION

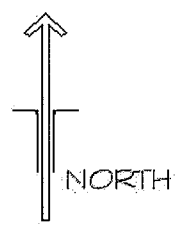
EXTERIOR MATERIALS TO MATCH EXISTING:  
ROOF: 1/2" ASPHALT/FLUTE SHINGLES (40 YEAR LIFE)  
SIDING: WOOD SHAKE (40 YEAR LIFE)  
WINDOWS: VINYL CLAD

**ELEVATIONS**  
SCALE 1/8" = 1'-0"



LEGAL:  
 A.P.N. 169-051-003  
 ZONING:  
 LDR/2.5-D-S-RAZ  
 LOT SIZE:  
 11,382 SF

**MEADOW ROAD**  
 (PRIVATE ROAD OFF EL CAMINO ESTRADA)



# SITE PLAN

SCALE: 1/8" = 1'-0"