



**TOWN OF CAREFREE
NOTICE OF PUBLIC MEETING of the BOARD OF ADJUSTMENT**

WHEN: MONDAY, MAY 10, 2021
WHERE: ZOOM WEB*
TIME: 5:00 p.m.

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the Carefree Board of Adjustment and to the general public that the Board will hold a public meeting on **MONDAY, MAY 10, 2021** at 5:00 p.m.

Members of the Board of Adjustment are participating by technological means or methods pursuant to A.R.S. §38-431(4).

**THE AGENDA FOR THE MEETING IS AS FOLLOWS:
CALL TO ORDER, SILENT ROLL CALL and PLEDGE OF ALLEGIANCE.**

ITEM 1. APPROVAL of the **BOARD OF ADJUSTMENT** meeting minutes dated **MARCH 08, 2021.**

ITEM 2. **CASE #:** 21-13-BOA

APPLICANT:	<u>APPLICANT</u> Victor E. Sidy, AIA LEED AP 2300 E. Utopia Rd. Phoenix, AZ 85024	<u>OWNER</u> Edward and Karen Carmines 6948 E. Stagecoach Pass Carefree, AZ 85377
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CASE LOCATION: 6948 E. Stagecoach Pass Road
Lot 670, Carefree Plat 3B (MCR: 98-37)
APN: 216-32-080

ZONING: Rural-70 (R-70), Single-Family Residential
70,000 square feet minimum lot size

GENERAL PLAN: The Carefree General Plan designates the property as Very Low Density Residential (VLDR)

REQUEST(S): **APPEAL** of the Zoning Administrator's interpretation of the Town of Carefree Zoning Ordinance, Section 11.02, *Nonconforming Buildings*,

Structures, and Uses as it applies to the R-70 Zoning District development standards.

ITEM 3. ANNOUNCEMENTS

ITEM 4. ADJOURNMENT

BOARD OF ADJUSTMENT

Samantha Gesell

Samantha Gesell, Planning Clerk 05/05/2021

Join Zoom Meeting

<https://us06web.zoom.us/j/2338819248>

Meeting ID: 233 881 9248

Dial by your location:

+12532158782

NOTE: A quorum of another public body of the Town of Carefree such as the Town Council or other committee, board, or commission created by the Town of Carefree, may be present and may participate in the public meeting noticed herein by discussing, proposing, and/or deliberating legal action to be taken by the BOARD OF ADJUSTMENT, although no legal action will be taken by such other body of the Town.



IF YOU REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY:

At least three (3) working days prior to the meeting date, please contact the:

Carefree Town
Clerk
8 Sundial Circle
PO Box 740
Carefree, AZ 85377

PHONE (480) 488-3686
FAX (480) 488-3845
email: kandace@carefree.org



TOWN OF CAREFREE
NOTICE OF PUBLIC MEETING of the BOARD OF ADJUSTMENT
DRAFT MINUTES

WHEN: MONDAY, MARCH 08, 2021
WHERE: ZOOM WEB*
TIME: 5:00 p.m.

Members of the Board of Adjustment are participating by technological means or methods pursuant to A.R.S. §38-431(4).

The meeting was called to order at 5:10 p.m.

BOARD MEMBERS PRESENT VIA ZOOM:

Chairperson Tom Cross
Vice Chairperson Lyn Hitchon
Board Member Heather Burgett
Board Member Peter Burns
Board Member Phil Corso
Board Member Ralph Ferro

ABSENT:

Board Member Dan Davee

STAFF PRESENT VIA ZOOM:

Stacey Bridge-Denzak, Planning Director
Samantha Gesell, Planning Clerk

ITEM 1. APPROVAL of the JOINT meeting minutes of the PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENT and the DEVELOPMENT REVIEW BOARD dated FEBRUARY 08, 2021.

Board Member Corso **MOVED** to **APPROVE** the minutes as presented. Board Member Burns **SECONDED** the motion, **PASSED** unanimously.

ITEM 2: **CASE NUMBER:** 20-12-V

APPLICANT: Tyler Green
 11480 North 85th Street
 Scottsdale, AZ 85260

CASE LOCATION: 1110 Ocotillo Circle
 APN: 216-33-101

ZONING: R1-18 Single Family Residential Zoning District
18,000 square feet minimum lot size

REQUEST: **APPROVAL** of a **VARIANCE** to the Zoning Ordinance standards to allow for construction of a small garage addition to the existing home within a portion of the side yard building setback where such structures are not allowed. The proposed encroachment would be:

1. Ten feet (10') into the required ten-foot (10') side yard building setback.
2. Allow a lot coverage area of 4,158 square feet (53.3%), whereas the Ordinance only allows a maximum of 25% lot coverage for various building additions.

NOTE: The lot is smaller than the minimum size for its zoning district. This request is for relief from the side yard setback requirements.

ITEM 3: **CASE NUMBER:** 20-13-V

APPLICANT: Tyler Green
11480 North 85th Street
Scottsdale, AZ 85260

CASE LOCATION: 1108 Ocotillo Circle
APN: 216-33-102

ZONING: R1-18 Single Family Residential Zoning District
18,000 square feet minimum lot size

REQUEST: **APPROVAL** of a **VARIANCE** to the Zoning Ordinance standards to allow for construction of a small garage addition to the existing home within a portion of the side yard building setback where such structures are not allowed. The proposed encroachment would be:

1. Ten feet (10') into the required ten-foot (10') side yard building setback.
2. Allow a lot coverage area of 4,140 square feet (53.1%), whereas the Ordinance only allows a maximum of 25% lot coverage for various building additions.

NOTE: The lot is smaller than the minimum size for its zoning district. This request is for relief from the **side yard** setback requirements.

Planning Director Stacey Bridge-Denzak presented details of the variance requests together via PowerPoint. However, two separate motions and actions are required for each. They are

neighboring cases on Ocotillo Circle and are requesting small garage additions into their side yard setbacks as well increases to their lot coverage.

Case 20-12-V, 1110 Ocotillo Circle, is requesting an encroachment of 10 feet into the 10 foot side yard setback and increases the lot coverage to 53.3%, where only 25% is permitted.

Case 20-13-V, 1108 Ocotillo Circle, is a similar request, to build into the 10 foot setback where 10 foot is required and requesting an increase of the lot coverage to 53.1%.

Director Bridge-Denzak noted that what brings these type of variances forward is that the properties are zoned R1-18 but are attached properties, which is unusual for the Town of Carefree. Ms. Bridge-Denzak noted that both of the properties are undersized by less than half the required lot size. The properties are adjoined and share a property line. Adding, the garage additions would basically be mirrored and will blend together, in a sense, working as one building.

Director Bridge-Denzak explained where the applicant is proposing the additions are non-conforming conditions and each lot at its front and back also shares non-conforming conditions. Concluding, the property owners working together and utilizing the same architect are creating what they believe will be a cohesive elevation and development.

Applicant Tyler Green responded to concerns from Board Member Corso regarding fire access to the rear of the properties explaining that the fire access is around the neighboring homes through the common areas, similar to when these were originally built.

Mr. Green also responded to Chairperson Cross, reassuring that the non-native palm trees in the front yard of 1110 Ocotillo Circle will be removed and not replaced.

Board Member Corso asked if the application requests are self-imposed hardships. Director Bridge-Denzak responded "no", and provided reasons as to why it is not.

Vice Chairperson Hitchon **MOVED** to **APPROVE CASE #20-12-V** requesting a **VARIANCE** to the Zoning Ordinance standards to allow for construction of a small garage addition to the existing home within a portion of the side yard building setback where such structures are not allowed with the following conditions:

1. Three zoning variances are hereby granted to expand a legal nonconforming residential structure and site wall encroaching in the side and rear building setbacks and exceeding lot coverage as follows:
 - a) Allow encroachment of 10 feet into the required 10-foot east side yard setback for building additions; and,
 - b) Allow a lot coverage area of 4,158 square feet (53.3%), whereas the Ordinance only allows a maximum of 25% lot coverage for garage addition.
2. The building permit development plans shall conform to the development plans date stamped December 17, 2020 submitted in association with this application.
3. The granting of these variances shall be null and void if the building permit is not issued within one year of approval.

Board Member Corso **SECONDED** the motion, **PASSED** unanimously.

Vice Chairperson Hitchon **MOVED** to **APPROVE CASE #20-13-V** requesting a **VARIANCE** to the Zoning Ordinance standards to allow for construction of a small garage addition to the existing home within a portion of the side yard building setback where such structures are not allowed with the following conditions:

1. Three zoning variances are hereby granted to expand a legal nonconforming residential structure and site wall encroaching in the side and rear building setbacks and exceeding lot coverage as follows:
 - a) Allow encroachment of 10 feet into the required 10-foot west side yard setback for building additions; and,
 - b) Allow a lot coverage area of 4,140 square feet (53.1%), whereas the Ordinance only allows a maximum of 25% lot coverage for garage addition.
2. The building permit development plans shall conform to the development plans date stamped December 17, 2020 submitted in association with this application.
3. The granting of these variances shall be null and void if the building permit is not issued within one year of approval.

Board Member Ferro **SECONDED** the motion, **PASSED** unanimously.

ITEM 4. ANNOUNCEMENTS

There were no announcements.

ITEM 5. ADJOURNMENT

The meeting was adjourned by unanimous consent at 5:26 p.m.

BOARD OF ADJUSTMENT

Tom Cross, Chairperson

Samantha Gesell

Samantha Gesell
Planning Clerk 03/08/2021

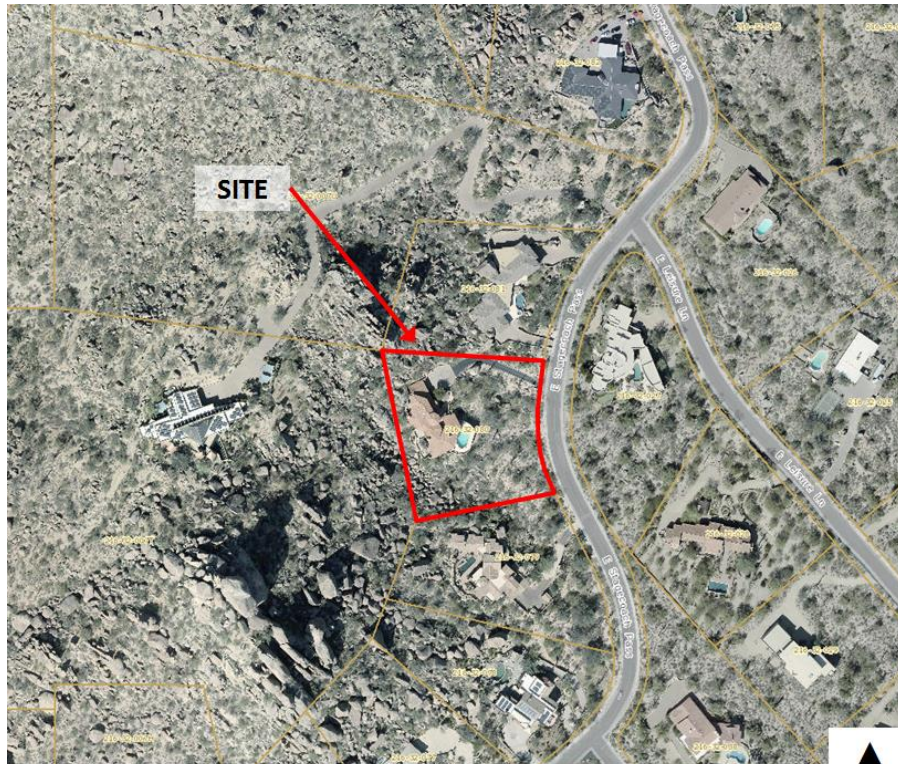


STAFF REPORT – Board of Adjustment

MEETING DATE: MAY 10, 2021

Item No. 2

SUBJECT	Appeal of Zoning Administrator Decision, Case No. 21-13-BOA		
REQUEST	Pursuant to Article III., Section 3.04 (4) (A) (1) any person aggrieved or affected by a decision of the Zoning Administrator may file an appeal with the Board of Adjustment.		
	Key Items for Consideration: <ol style="list-style-type: none">1) Subject property location: 6948 East Stagecoach Pass, Lot 670 of Carefree Plat 3B.2) The structure is considered legal nonconforming.3) The legal nonconforming features include the following:<ol style="list-style-type: none">a) Encroachment into the rear building setback for the existing residence.b) Primary building height.4) The appellant is requesting that the nonconforming standards of the original structure be utilized for a new building design.5) Citizen participation requirements were met.		
APPELLANT/ OWNER INFO	<table border="0"><tr><td data-bbox="406 997 893 1165"><u>Appellant /Architect:</u> Mr. Victor Sidy Victor Sidy Architect 2300 E. Utopia Road Phoenix, AZ 85024</td><td data-bbox="893 997 1510 1165"><u>Owner:</u> Mr. and Mrs. Edward and Karen Carmines 7832 E. Parkview Lane Scottsdale, AZ 85255</td></tr></table>	<u>Appellant /Architect:</u> Mr. Victor Sidy Victor Sidy Architect 2300 E. Utopia Road Phoenix, AZ 85024	<u>Owner:</u> Mr. and Mrs. Edward and Karen Carmines 7832 E. Parkview Lane Scottsdale, AZ 85255
<u>Appellant /Architect:</u> Mr. Victor Sidy Victor Sidy Architect 2300 E. Utopia Road Phoenix, AZ 85024	<u>Owner:</u> Mr. and Mrs. Edward and Karen Carmines 7832 E. Parkview Lane Scottsdale, AZ 85255		
LAND USE	<u>General Plan</u> The Carefree General Plan designates the subject site and surrounding properties as Very Low Density Residential (VLDR), 2-acre minimum. <u>Zoning</u> The zoning for the subject lot and surrounding properties is Rural-70 (70,000 square foot minimum lot size). The property is 71,281 square feet. <u>Existing Use</u> A single-family residence is located on the subject property. The property was platted back in 1962 under Maricopa County, prior to the Town's incorporation. The home was built in 1986 when different development standards were in place. This is a legal nonconforming structure.		
LOCATION & CONTEXT	6948 East Stagecoach Pass, Lot 670 of Carefree Plat 3B (MCR: 98-37) APN 216-32-080		



Source: Maricopa County Assessor, 2020

NORTH



Source: Maricopa County Assessor, 2018

NORTH

Summary

On February 2, the iconic 'Wedding Cake House' designed by renowned architect Gerry Jones was severely damaged by fire. Subsequent to that, the owner came in to Town Hall to ask what his options to rebuild were per the Town's development requirements. At that time the Zoning Administrator (ZA) explained this structure was considered legal non-conforming since it was constructed in the rear yard setback and taller than today's residential height standard. She further explained that this situation falls under Article XI. Nonconforming Uses, Section 11.02 Nonconforming Buildings, Structures, and Uses, Subsection (2), that reads in part: "Any nonconforming building, structure, or use, or one (1) or more of a group of nonconforming buildings, structures, or uses related to one (1) industry and under one (1) ownership, which has been damaged by war, riot, fire, flood, explosion, earthquake, or other act of God may be reconstructed and used as before, if commenced within six (6) months of such calamity." The ZA further described that according to the Zoning Ordinance, there were two options:

1. Rebuild the structure as it originally was designed and constructed, including location, height, and architectural style and details; or,
2. Build a new structure that meets all current Town development standards in the style and manner preferred.

Following a conversation with one of the owner's representatives after the above meeting, it was relayed to the ZA that the owner does not want to rebuild the 'Wedding Cake House' as it was, but wants to utilize the original design parameters to build a new home more to the owner's liking. The ZA stated that is not in line with how the Ordinance was interpreted and enforced by her.

The Ordinance however, does allow for an appeal of the ZA decision by way of the Board of Adjustment. Article III. *Administration*, Section 3.04 *Powers and Duties*, Subsection (A) reads: "The Board of Adjustment shall hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by the Zoning Administrator in the enforcement of this Ordinance."

The appellant submitted the application following a discussion with staff about the process (See Exhibit A).

Analysis

Staff understands that this is an emotional time for the owners. However, the point of the non-conforming requirements is to allow relief for an owner to rebuild his home exactly as it was so they are not restricted or penalized by current development standards. The owner claims he was never happy with the floor plan, house style, and rebuilding this Gerry Jones home today would be too costly. These are subjective concerns, particularly cost, that staff cannot consider when enforcing the Zoning Ordinance.

The Zoning Administrator stands by her interpretation, and is concerned with

how this may set a precedent when regulating future non-conforming structures. However, she does agree that utilizing the existing footprint of the home is a valid request under this appeal. Limiting additional disturbance on Black Mountain is a benefit to the Town since it is an important Carefree landmark (See Exhibit B). However, the ZA does not agree with maintaining the same height and massing as the original structure, but building a completely new home. First, the way the Zoning Ordinance is currently written, the intent of residential development is to create a low profile, contextual buildings that fit into the backdrop of the Sonoran Desert. While at one time a multi-tiered architectural approach (i.e. the Wedding Cake House), was acceptable in Carefree; no home would be permitted like that today. Based on today's Zoning requirements, not even through a Mountainside permit process would this type of home be approved.

In the narrative it discusses a proposed maximum building height of 28 feet from natural grade (the original structure is 30 feet). However, currently building height is measured from lowest finished floor to highest point of the roofline/parapet. Natural grade is not a component of building height, especially as it pertains to an already developed property. In the current Zoning Ordinance, 24 feet is the maximum permitted building height.

The appellant also introduces concepts related to Mountainside standards. In staff's opinion, cumulative height is not relevant to this discussion and confuses the request. If the owner would like to build a new home under the Mountainside requirements, that can be processed. However, per the plans, a cumulative height of 55'9" does not meet the Mountainside standard of 40 feet maximum. It is reduced from the existing calculation for cumulative height, but that was nonconforming as well. What this further shows is the structure is large in terms of massing as well as height.

In conclusion, the Zoning Administrator provided an interpretation that was fair and just to this property owner, and which would be extended to any other property owner found in these unfortunate circumstances. What staff sees is utilizing select criteria to meet the owner's desires, but not the Town's. Under the Board of Adjustment's powers, granting relief from setback constraints to minimize impacts to the environment is in line with Carefree's community vision. However, granting building height relief is in conflict with Carefree's development values of today.

Citizen Participation

The required notification for an Appeal of the Zoning Director's determination includes notice of hearing by both publication in a newspaper and by posting the notice on site of the affected property affected. This has been met. Staff received 3 communications from nearby residents. Each expressed concerns about the condition the structure was in and when it would be improved/repaired. One neighbor was in support of the request to encourage a speedier redevelopment. She felt that it was unsightly and passes along dust on windy days. The other two neighbors felt that it should redevelop based on today's zoning standards. Staff stated they

have that option or to rebuild as it existed before the fire. One neighbor understood that rebuilding in its current location made sense. The second gentleman asked if its use was going to change and create more traffic; staff replied no, it will remain a single-family residential use.

**BOARD OF
ADJUSTMENT**

The Board of Adjustment is being asked to uphold, overturn, or modify the Zoning Administrator's decision.

ATTACHMENTS

- Exhibit A. Narrative
- Exhibit B. Plans
- Exhibit C. Sections/Elevations



Date: March 31, 2021

Attn: Board of Adjustment, Town of Carefree

Re: 6948 E Stagecoach Pass, Carefree
Narrative regarding adjustment request

Dear Board of Adjustment:

On February 2nd, 2021, the Carmines residence at 6948 E Stagecoach Pass caught fire in the early morning hours. The home was under renovation and no one was then residing on premises; however, the home incurred significant damage. Various construction professionals, including myself, are recommending that in order to be rebuilt, much of the house would need to be demolished, keeping primarily the foundations, retaining walls, site hardscape, portions of the lower-level walls, and some limited salvageable portions of the building fabric.

With this request, the owners respectfully request the following:

- 1) That it is allowable to rebuild within the portion of the original building footprint that encroaches into the rear setback where the damaged home had been located.
- 2) That the building height can rise up to 28' high in the central portion of the structure, similar to what had previously existed.
- 3) That the cumulative height be allowed as per the original structure: approximately 55' as measured from the base of the pool retaining walls on the southeast side to the highest point on the roof.

Regarding the first point, a significant portion of the original residence had been built within the rear setback. This appears to have been acceptable to the Town when the home was built: the approved plans by Gerry Jones dated 6 June 1984 clearly indicate the 60' rear setback, and a proposed encroachment into the setback as far as 24' to the rear property line was clearly stipulated. The home appears to have been built accordingly.

Regarding the second point, portions of the original residence had been built up to approximately 28' above natural grade – specifically at the central tower – in excess of the 24' height limit.

Regarding the third point, the original residence had been designed such that the distance between the lower pool deck and the base of the upper

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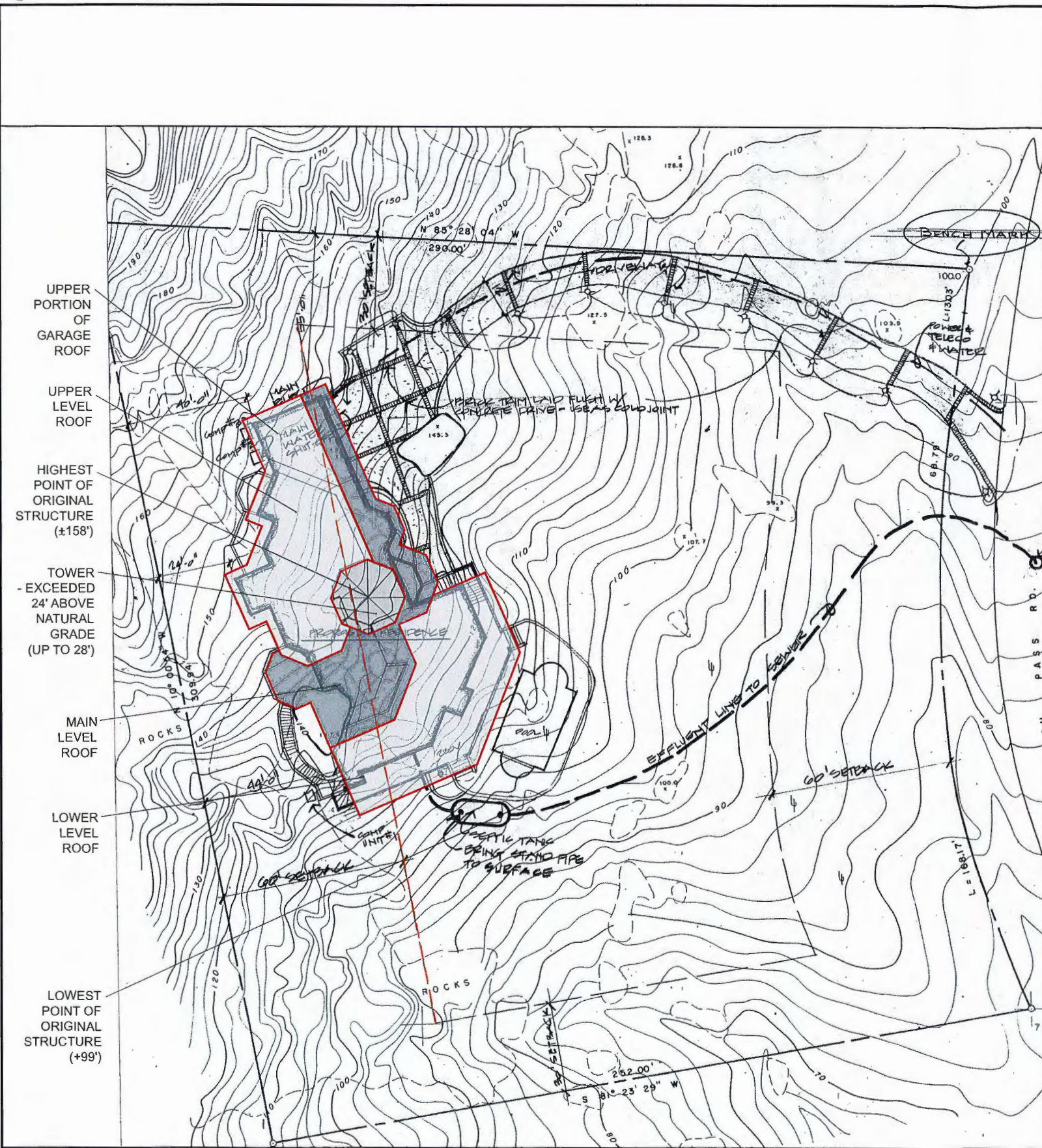
floor roof plate was 40'; however, the cumulative height exceeds this due to the retaining walls on the downhill side of the pool at the lowest point, and the tower at the highest point, which produce a cumulative dimension of approximately 55'-9".

The owners do not expect to rebuild the house according to its previous design – though iconic to some locals, it was very much a product of its time. Nonetheless, the intention for rebuilding would be to retain much of the original building program and massing, and to not significantly alter the site outside the original development boundary.

Mr. and Mrs. Carmine very much intend to continue to preserve the natural desert vegetation and boulders that are so distinctive to the property. Granting them these requests and allowing them to rebuild within the parameters set forth by the original home would support them in this goal.

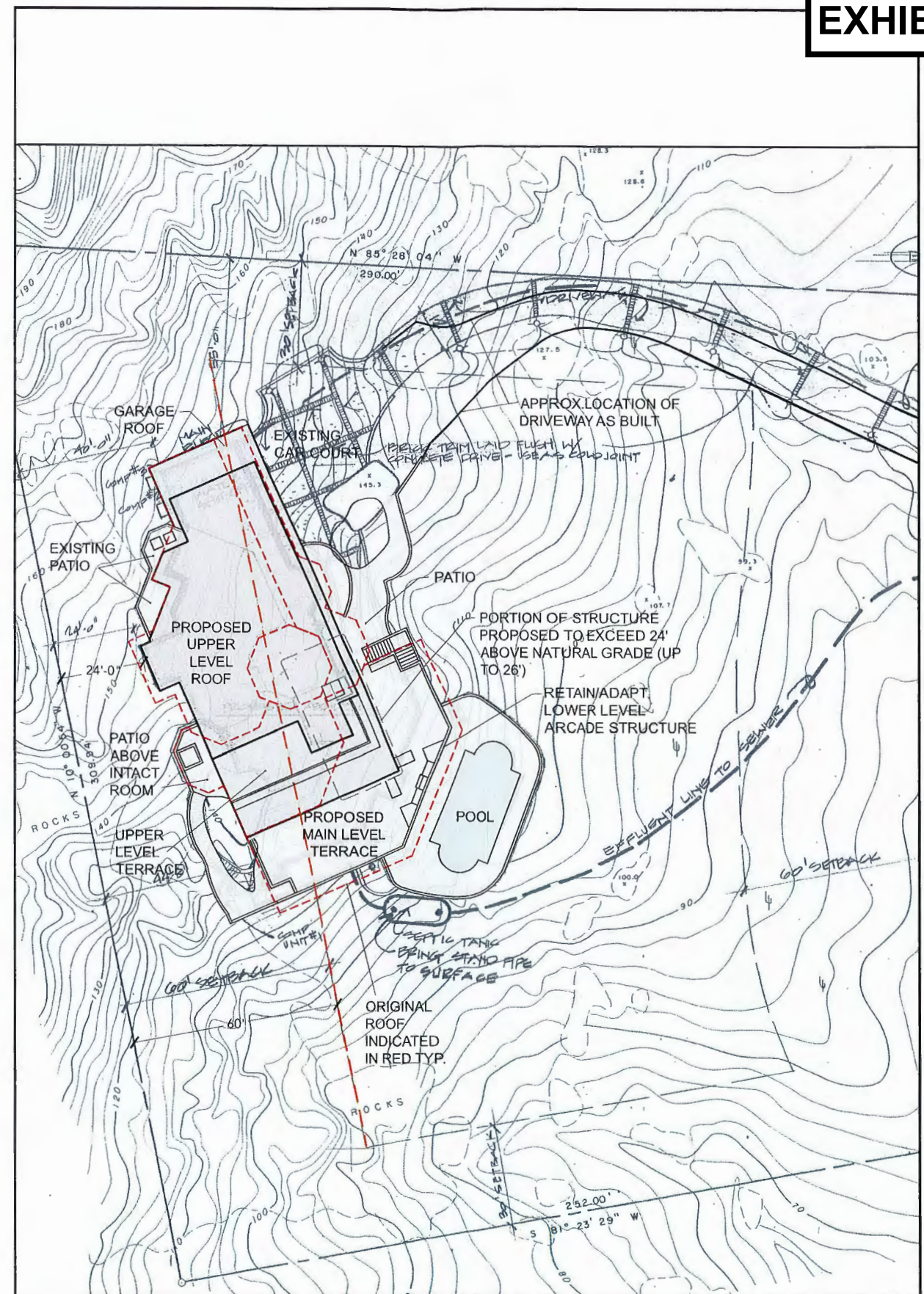
Respectfully Submitted,

Victor E. Sidy, AIA LEED AP



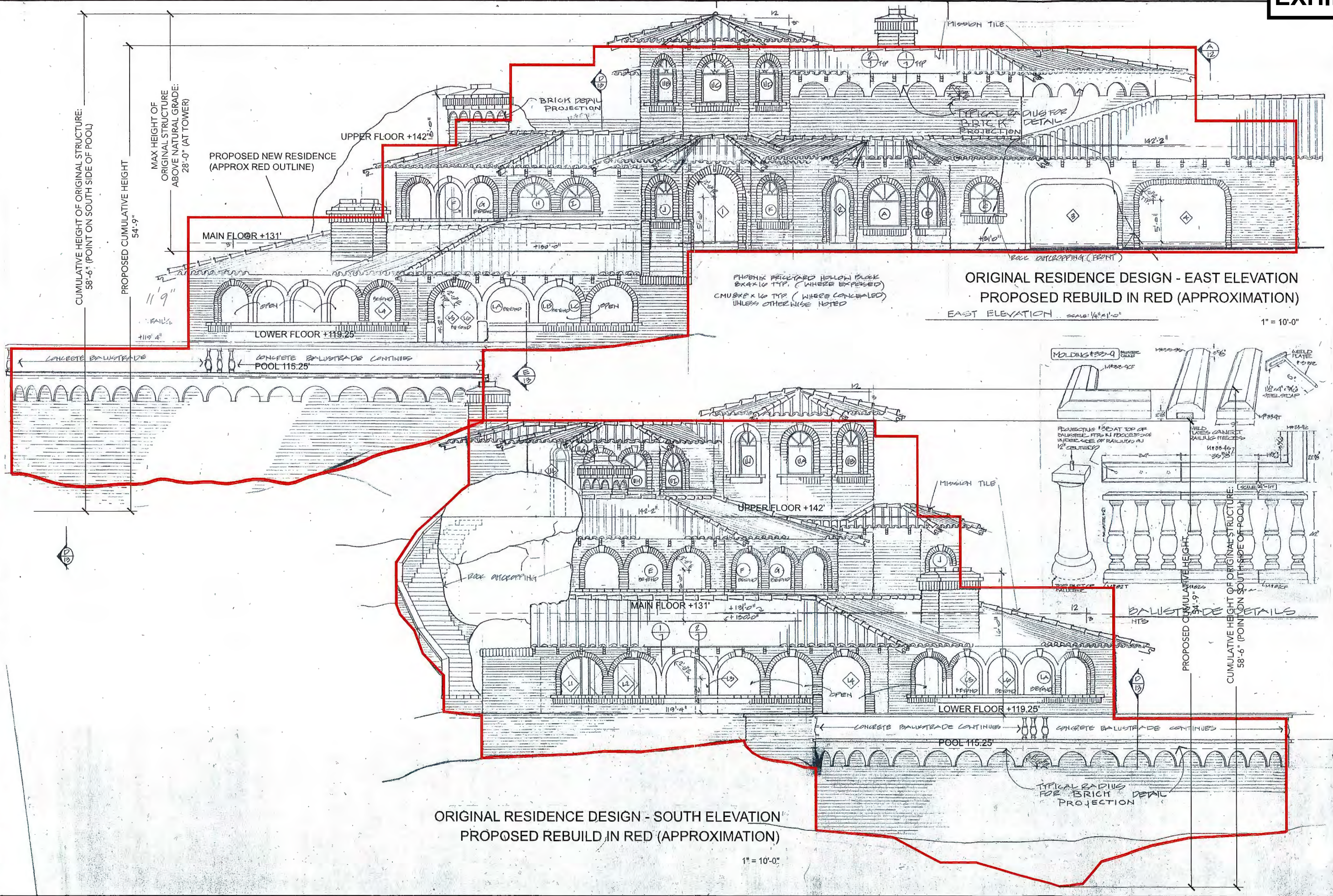
SITE PLAN - AS ORIGINALLY PERMITTED (1980'S)

1" = 40'-0"



SITE PLAN - PROPOSED CONCEPT

1" = 40'-0"



ORIGINAL RESIDENCE DESIGN - EAST ELEVATION
PROPOSED REBUILD IN RED (APPROXIMATION)

EAST ELEVATION SCALE: 1/8" = 1'-0" 1" = 10'-0"

ORIGINAL RESIDENCE DESIGN - SOUTH ELEVATION
PROPOSED REBUILD IN RED (APPROXIMATION)

1" = 10'-0"