

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



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Commission Action:

STAFF REPORT: REGULAR CALENDAR**THIR**

APPLICATION NO.: 4-95-196

APPLICANT: Rusty Russell

AGENT: Don Schmitz

PROJECT LOCATION: 27979 Borna Dr., unincorporated Malibu area, Los Angeles County

PROJECT DESCRIPTION: Construction of 3,186 sq. ft., 15 ft. high from existing grade single family residence, 676 sq. ft. guest house, corral, septic system, 2,200 cu. yds. of grading (1,100 cu. yds. cut and 1,100 cu. yds. fill), and placement of a temporary trailer on the site during construction only.

Lot area:	9.66 acres
Building coverage:	4,262 sq. ft.
Pavement coverage:	4,800 sq. ft.
Landscape coverage:	2 acres
Parking spaces:	2
Plan designation:	M2; 1 unit per 20 acres
Ht abv fin grade:	15 ft.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning Approval in Concept, Los Angeles County Fire Department Approval in Concept, Los Angeles County, L. A. County ERB Approval.

SUBSTANTIVE FILE DOCUMENTS: 4-95-125 (Burrett), 4-94-122 (Schmitz), 4-94-122A (Schmitz), 4-95-126 (Whaling), 4-93-146--149 (Lough).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with special conditions relating to landscaping, geology, drainage and erosion control, future development, color restriction, fence type, temporary use of trailer, and wild fire waiver. The site is located on a ridgetop visible from State Park land and is located within the Solstice Canyon Watershed as designated in the

Malibu/Santa Monica Mountains Certified LUP, which is considered guidance. Additionally, the property is located adjacent to the Escondido Canyon Wildlife Migration Corridor. The site is also located in close proximity to the Solstice Canyon blue line stream, on a steeply sloping lot with high potential for erosion. The applicant has redesigned the project to cluster the development in one location. The site has been graded (as quantified above) without the benefit of a coastal development permit which created two flat pad areas. The applicant is proposing to locate the house, guest house and garage on one of the existing pads. Natural vegetation is re-establishing itself on the second pad. The proposed water tank is located at an approximate 2130 ft. elevation and will be visible from State Park lands. Thus, staff recommends approval of the proposed project provided that the above stated conditions are imposed.

STAFF RECOMMENDATION

I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided

assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Revised Landscaping and Erosion Control Plans

Prior to issuance of permit, the applicant shall submit detailed revised landscaping and erosion control plans, consistent with the recommendations made by Geosystems' Engineering-Geologic Report, prepared for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes at the completion of grading. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) All cut and fill slopes shall be stabilized and planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. This requirement shall apply to all disturbed soils.
- (c) The development process shall minimize sediment from runoff waters during construction through the use of sediment basins (including debris basins, desilting basins, or silt traps) on the project site prior to or concurrent with the initial grading operations and maintained through the development process. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- (d) Vegetation within 50 feet of the proposed house may be removed to mineral earth. Selective thinning, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. However, in no case should vegetation thinning occur in areas greater than a 200' radius of the main structure or guest unit. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur.
- (e) Landscaping of the water tank and residence shall be required for purposes of screening and softening the visual impacts of the structures. Native visually compatible plant type species shall be used.

2. Geology.

All recommendations contained in the Updated Soils and Engineering Geologic Report dated 8/30/95, prepared by California GeoSystems shall be incorporated into all final design and construction plans, including foundations, driveway, the septic system and drainage, and all plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit the applicants shall submit evidence to the Executive Director of the consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

3. Drainage and Erosion Control Plans.

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and erosion control plan, designed by a licensed engineer which will not result in increases in either peak run-off volume or velocity for a 25 year / 24 hour rainfall event. Specifically, runoff volumes and velocities for a 25-year and 24-hour event must be calculated for existing and post-project conditions to demonstrate that no increase in runoff volume or velocity will occur. The drainage and erosion control plan shall include, but not be limited to, a system which collects run-off from the roofs, patios, driveways, parking areas, private roadway, and other impervious surfaces, and discharges it in a non-erosive manner, including if appropriate on-site detention/desilting basins, dry wells, etc. Should the project's drainage structures fail or result in erosion, the applicant/landowner shall be responsible for any necessary repairs and restoration.

4. Color Restriction.

Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the subject structure and roof to colors compatible with the surrounding environment. White tones shall not be acceptable. All windows shall be of non-glare glass. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens.

5. Future Development.

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 4-95-196, and that any future structures, additions or improvements to the property, including but not limited to clearing of vegetation and grading, the expansion of

agricultural plantings, the construction of fences, gates, other barriers, or outbuildings, that might otherwise be exempt under Public Resources Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. Vegetation clearance consistent with Special Condition 1(d) of this permit shall be permitted. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

6. Fences.

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, plans indicating the type of fencing to be used in the subject development, including the horse facility. The applicant agrees that the fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife. Barbed wire, mesh or chain link fencing shall not be permitted. Fencing of the entire parcel shall not be permitted.

7. Removal of Trailer.

With the acceptance of this permit, the applicant agrees that the temporary trailer for occupancy during construction shall be removed from the site within thirty days of issuance of the certificate of occupancy for the residence from Los Angeles County.

8. Wild Fire Waiver of Liability.

Prior to the issuance of the coastal development permit, the applicants shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant proposes the construction of a 3,186 sq. ft., 15 ft. high from existing grade single family residence on 9,00 sq. ft. building pad, 676 sq. ft. guest house, corral, septic system, 2,200 cu. yds. of grading (1,100 cu. yds. cut and 1,100 cu. yds. fill), and the placement of a temporary trailer onsite during construction of the proposed project.

This site is located within the Solstice Canyon Watershed and is immediately adjacent to the Escondido Canyon Wildlife Corridor, which connects Latigo and Solstice Canyons. The project site is located on a southern face of a

prominent ridgeline in the high stretches of the Santa Monica Mountains. The Solstice Canyon blue line stream is approximately 200 feet to the south of the site. The project would be visible from state parklands to the north. The house and guest house are sited on the lower elevations of the property at 1997 ft. and 2005 ft elevations. The water tank is sited at an approximate 2130 ft. elevation.

The site has been subject of past unpermitted grading activity which created two flat pads; however the applicant asserts that the grading occurred prior to his purchase of the property. In addition, the applicant has calculated the previous grading to be approximately 2,200 cu. yds. total (1,100 cu. yds. fill and 1,100 cu. yds. cut). Staff comparison of 1977 infrared aeriels and film (showing no grading) with 1986 aeriels (grading clearly visible) concluded development of the pads had occurred during the intervening years.

Vegetation clearance on the site for purposes of fire protection and development will not extend beyond the lower slope of the site. The upper ridgeline along the easterly portion of the site marks a drainage divide that abuts Solstice Canyon blue line stream. Although the project, as modified by the applicant since originally submitted, would not require vegetation clearance on the side of the ridge draining to the blue line stream, the parcel contains steep slopes and construction would nevertheless pose potential erosional impacts to the ESHA due to site discharge of sediment load.

The Commission has approved development in the vicinity, and where projects were located within the Solstice Canyon Watershed, the Commission required adherence to the resource policies contained in Chapter 3 of the Coastal Act by means of clustering development, limiting total development, and other measures applicable to the proposed project. As noted, the proposed project has been modified one time to relocate the guest house and eliminate a second driveway entrance. As originally proposed by the applicant, the two structures, with two attendant driveways, were sited on separate pads created by previous, unpermitted grading. Such a configuration would have encouraged the possible occupancy of the "guest house" as a permanently occupied second unit, an intensity of land use inconsistent with past Commission decisions regarding development of a single site in a significant watershed (immediately adjacent to a wildlife corridor and parkland).

The proposed project was approved in concept by the Los Angeles Department of Regional Planning. The project was also reviewed by the County's Environmental Review Board, which recommended reducing the number of structures and driveways to three structures and one driveway, and implementing erosion control measures.

B. Environmentally Sensitive Habitat Areas

An environmentally sensitive habitat area is defined in Section 30107.5 of the Coastal Act as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development." Coastal Act policies extend protection to stream beds and their adjacent areas, and protect the continuity of vegetation

cover. The Malibu/Santa Monica Mountains Land Use Plan, which the Commission has relied upon in past permit decisions, has identified six classes of sensitive environmental resources that require protection pursuant to the requirements of the Coastal Act; those applicable to the present project include significant watersheds (Solstice Canyon Significant Watershed) and inland ESHAs (Solstice Canyon blue line stream corridor).

The 9.66-acre site of the proposed project is located within the Solstice Canyon Significant Watershed, and while downslope from the immediate drainageway of the Solstice Canyon blue line stream, discharges generally into the area tributary to the stream. The project is in the critical upper watershed area of Solstice Canyon where deep canyons drain the steeper slopes contributing runoff waters downstream. The southeastern-most portion of the parcel, not proposed for development, drains into a recognized blueline stream which is identified as an inland ESHA, approximately 200 feet south of the applicant's site.

As stated in the preceeding section, this project seeks to legalize the unpermitted grading of two flat pad areas where the total grading equals 2,200 cubic yards. The applicant proposes the construction of a 3,186 square foot, 15 foot high single family residence and a 676 sq. ft. guest house on this ridge. The project also includes an approximate 90 ft. long private paved driveway, an approximate 7,000 sq. ft. horse corral, a water well and tank, and a private septic system. The clearance of all vegetation within a 50-foot radius of residentially-occupied structures, required for fire protection, increases the total building envelope to nearly 44,000 square feet. In addition, to meet fire protection requirements, the applicant will be required to thin vegetation at least 150 feet beyond the primary radius of vegetation control.

To determine consistency of the proposed project with Coastal Act policies protective of environmentally sensitive habitat areas, the Commission considers:

Section 30231:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30250(a) states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have

significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30240:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30231 of the Coastal Act calls for protection, and where possible, enhancement of the biological productivity and quality of coastal waters, including streams and drainage areas. The policy requires control of run-off and siltation, and preservation of natural vegetation buffer areas. Section 30231 also requires the maintenance of natural buffer areas to protect riparian habitat. Section 30250 of the Coastal Act requires that new development not create individually or cumulatively adverse impacts on coastal resources. Finally, Section 30240 of the Coastal Act requires the protection of significant environmentally sensitive habitat areas and also specifies that development in adjacent areas be sited and designed to prevent adverse impacts to ESHAs.

Solstice Canyon comprises 2,880 acres of land situated west of Corral Canyon and North of Pacific Coast Highway in the Santa Monica Mountains. The watershed actually includes both the main canyon and Dry Canyon, a small tributary to the east. The canyon contains significant wildlife values and includes a perennial stream, a waterfall and riparian woodland with stands of sycamore and white alder as well as high scenic values. In the past the area was known to contain nesting sites for the endangered peregrine falcon and may have potential for future re-introduction efforts. Much of the northern portion of the watershed, comprising approximately 825 acres is State and Federal parkland. Some of the southern portion, comprising approximately 400 acres, of the watershed is also parkland. The majority of the lots on the eastern side of the watershed are large parcels, 40 to 80 acres in size. The western portion of the watershed is characterized by smaller, less than twenty acre, sites. There are over forty of these smaller lots in the middle portion of the watershed. At 9.66 acres, the applicant's parcel is among the smallest of these.

In certifying the Malibu/Santa Monica Mountains Land Use Plan (LUP) in December, 1986 the Commission approved the designation of Solstice Canyon as one of eight Significant Watersheds, and approved the Solstice Canyon Blue Line Stream as one of many inland ESHAs. In addition, the LUP has designated the canyons and riparian habitat within each Significant Watershed (which were previously designated by the County as Significant Ecological Areas) as

Environmentally Sensitive Habitat Area's (ESHA's). All lands within Significant Watersheds are designated M-2 (20 acre minimum parcel size) for purposes of development due to the sensitive resources contained in each. All parcels of less than 20 acres are nonconforming but may be developed if found consistent with all other policies after extensive review. Those lots which cannot sustain development are eligible for the County's lot retirement program.

In certifying the Malibu/Santa Monica Land Use Plan the Commission found that the land use and development policies within the LUP are consistent with the Coastal Act Policy. Therefore, as noted previously, the Commission has relied upon the LUP as guidance in the analysis of a development's consistency with the Coastal Act. The LUP policies provide specific recommendations for development consistent with the resource protection policies of the Coastal Act. For example, Section 30231 of the Coastal Act mandates that run-off be controlled, adverse effects from waste water are minimized and buffer areas from riparian habitats are maintained. As a result, in numerous projects involving development near riparian habitats the Commission has required setbacks of septic systems, provided for in Policy 80 of the LUP. For these reasons, the Commission has routinely required 50-foot setbacks of all development from blue-line streams, as provided in Policy 79, thereby providing buffer areas for habitat protection and erosion control. Likewise, as provided in Policy 72 (which protects undisturbed watershed areas through open space conservation easements), the Commission has routinely required open space or conservation deed restrictions or easements on projects located within watersheds, consistent with Section 30231 and 30240 of the Coastal Act.

The Land Use Plan policies addressing protection of ESHA's and Significant Watersheds are among the strictest and most comprehensive in addressing new development. In its findings regarding the Land Use Plan, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found in its action certifying the Land Use Plan in December 1986 that:

coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

The LUP contains several policies protective of significant watersheds and associated ESHA:

Protection of Environmental Resources

P63 Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table 1 and all other policies of this LCP.

LUP Table 1 policies for parcels under 20 acres in a significant watershed provide in pertinent part as follows:

Allowable structures shall be located in proximity to existing roadways, services and other development to minimize impacts on the habitat.

Structures shall be located as close to the periphery of the designated watershed as feasible, or in any other location in which it can be demonstrated that the effects of development will be less environmentally damaging.

Grading and vegetation removal shall be limited to that necessary to accommodate the residential unit, garage, and one other structure, one access road, and brush clearance required by the Los Angeles County Fire Department. The standard for a graded building pad shall be a maximum of 10,000 square feet.

New on-site access roads shall be limited to a maximum length of 300 feet or one-third of the parcel depth, whichever is smaller. Greater lengths may be allowed through conditional use, provided that the environmental review Board and County Engineer determine that there is no acceptable alternative.

Site grading shall be accomplished in accordance with the stream protection and erosion control policies.

Approval of the development shall be subject to review by the Environmental Review Board.

As set forth above, the project proposed has been evaluated for consistency with the Table 1 policies cited above, to ensure the project's consistency with the applicable resource protection policies of the Coastal Act, upon which the LUP is based. The first two policies deal with the siting of development. The house and guest house (as revised by the applicant) are located approximately 50 feet, at the closed point, from Baller and Borna Road. The project, as revised, clusters the residence and guest house in close proximity to the existing roadways. In addition, the subject parcel is located adjacent to the western boundary line of the watershed and, therefore, is located on the periphery of the watershed as required by the second Table 1 policy.

The third Table 1 standard requires minimization of grading and vegetation removal and limits the size of the graded pad area. As stated previously, the site has been improved with two unpermitted flat pads. Staff investigation of aerial photographs has determined that the subject parcel was graded between 1977 and 1986 (see Project Description Section). The applicant estimates the total grading of both pads to equal 2,200 cu. yds. As revised, the project clusters the proposed structures and eliminates one driveway, thereby reducing additional grading that would otherwise be required. The building pad area is 9,600 sq. ft. which is in conformance with the maximum 10,000 sq. ft. guideline outlined in the LUP.

Although minimized, the grading and vegetation removal for the placement of the residence, deck, water tank, pool, garage and horse corral will still result in a loss of watershed cover that protects the drainages below the ridge from erosion and sedimentation. Policy 89 of the Malibu/Santa Monica Mountains Land Use Plan provides that the Commission approve final site plans including drainage and erosion control plans to ensure that there are no adverse environmental impacts resulting from an increase in run-off. Policy 91 provides that projects shall "minimize impacts and alterations of physical

features, such as ravines and hillsides, and processes of the site (i.e. geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible." Policy 81 provides that post-development runoff into coastal waters, streams, wetlands and riparian areas not exceed the peak level prior to development. Policy 86 requires a drainage control system to minimize the effects of run-off and erosion. Other policies in the LUP require that landscaping plans ensure long-term abatement of erosion problems. All these policies, following the mandates of Sections 30231 and 30250 of the Coastal Act, provide that the biological productivity and quality of coastal streams be maintained, that the habitat values of undisturbed watersheds be protected against significant disruption, and that development not increase adverse impacts through uncontrolled run-off and reduced buffer areas. Similarly, Policies 63, 64, 68, and 69 address protection of ESHAs and adjacent areas from disruptive development pursuant to Section 30240 of the Coastal Act.

The construction of a residence and driveway with amenities, will alter the drainage and erosion of the ridge on which the development is proposed. With the reduction of vegetation cover, an increase in impervious surfaces, and the change in grade there will be an increase in siltation and run-off from the site down the slopes, which will in turn affect the quality of the coastal waters in the drainages immediately below the site and at the bottom of the canyons, and thus affect the quality of the Solstice Canyon Watershed. Increased erosion and the degradation of habitat will also occur through the increased run-off from the road. The proposed paving for the driveway will result in a far greater fraction of rainfall which does not infiltrate but instead runs off the developed surfaces. The increased runoff will contribute to increased erosion and sedimentation of downstream areas if not properly controlled. Therefore, to ensure that increased runoff resulting from grading and construction does not result in adverse impacts to the watershed and downstream ESHAs, the Commission finds it necessary to require the applicant to submit and implement drainage control plans, as noted in Special Condition 3. Such plans shall utilize on-site detention and retention basins if necessary to adequately control runoff. This drainage plan, prepared by a licensed engineer or hydrologist, shall show the direction of water from the site, and shall show curbs on Borna Drive if the licensed engineer or hydrologist concurs that curbs are required to ensure that run-off is directed away from the watershed.

The Commission further finds that in order to protect the undisturbed areas of this site, to minimize the disturbance of the site and thus reduce the loss of habitat and watershed, and to protect the integrity and value of the watershed into which this site drains, the applicant shall be limited in the removal or thinning of any vegetation to a 200 foot radius around the residence, and the clearance necessary for the horse corral and a path leading from the residence to this corral. The Los Angeles County Environmental Review Board has required that the applicant separate runoff from the corral from driveway runoff and that the corral have a drain for runoff filtration. The ERB has also required that an on-site detention basin be installed to control erosion. The corral will be located within the fuel modification area necessary to protect the residential structure and as such, will not result in additional, significant adverse impacts to vegetation on the site.

The applicant shall be required to submit a landscaping and fuel modification plan to ensure that all disturbed and graded areas are landscaped to compensate for the reduction in watershed cover. The applicant shall be restricted in his clearance of vegetation to a radius zone of 50 feet around the residence which may be cleared of all vegetation or landscaped, as noted in Special Condition 1. A second radius zone extending to a maximum of 200 feet, if required by the Los Angeles Fire Department shall be thinned of vegetation. The applicant shall be required to include a fuel modification plan within this landscaping plan. The plan shall also depict all vegetation currently on site and identify vegetation proposed for removal or reduction in height or bulk to reduce the fuel load. The applicant shall be prohibited from clearing all vegetation in this second zone. These two conditions, listed as Special Conditions 1 and 3, shall be required to reduce the potential for an increase in the volume or velocity of run-off from the site and thereby reducing any adverse effects that may result on the watershed because of the development.

For all of these reasons, the Commission finds that as conditioned, the proposed project is consistent with the applicable Coastal Act policies protective of environmentally sensitive habitat areas.

C. Geology; Hazards.

Section 30253 of the Coastal Act states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

In addition, the Commission has relied on the policies of the County's certified Land Use Plan for the Malibu/Santa Monica Mountains for guidance in past decisions governing development proposals in the Santa Monica Mountains. The LUP contains the following policies:

- P 147: Continue to evaluate all new development for impact on, and from, geologic hazard.
- P 149 Continue to require a geologic report, prepared by a registered geologist, to be submitted at the applicant's expense to the County Engineer for review prior to approval of any proposed development within geologically unstable areas including landslide or rock-fall areas and the potentially active Malibu Coast-Santa Monica Fault Zone. The report shall include mitigation measures proposed to be used in the development.
- P 156 Continue to evaluate all new development for impact on, and from, fire hazard.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The applicant has submitted an Updated Soils and Engineering-Geologic Report for the site dated 8/30/99 prepared by California GeoSystems for the subject site. This report updates the Preliminary Soils and Engineering Geologic Investigation for the site dated December 23, 1986 prepared by Geosystems. The applicants' consultants determined that the proposed project site is grossly and surficially stable and therefore suitable for the proposed development. The applicant's geological investigation states that:

It is the finding of this firm that the proposed building and or grading will be safe and that the property will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property or current drainage patterns in compliance with the county code, provided our recommendations are followed.

Based on the recommendations of the consulting geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as the geologic consultant's geologic recommendations are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting Engineering Geologist as conforming to their recommendations, pursuant to Special Condition 2.

In addition, because the the project is located on a ridge adjacent to steeply sloping canyons it is critical that runoff from the proposed project is controlled and runoff volumes are reduced to insignificant levels to ensure runoff from the site does not increase erosion on and off-site. Therefore, the Commission finds it necessary to impose Special Condition 3 to require the submittal of drainage and erosion control plans prepared by a licensed engineer. The Commission also finds it necessary to impose a landscaping condition to ensure graded and disturbed slopes are stabilized after final grading.

Additionally, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks. Through the waiver of liability, required by Special Condition 8, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development.

For all of the reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act.

D. Visual Resources.

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the certified LUP contains the following policies regarding landform alteration and the protection of visual resources which are applicable to the proposed development:

- P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.
- P90 Grading plans in upland areas of the Santa Monica Mountains should minimize cut and fill operations in accordance with the requirements of the County Engineer.
- P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.
- P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:
 - be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.
 - minimize the alteration of natural landforms.
 - be landscaped to conceal raw-cut slopes.
- P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

The applicant proposes the construction of a 3,186 sq. ft., 15 ft. high from existing grade single family residence, 676 sq. ft. guest house, corral, septic system, 2,200 cu. yds. of grading (1,100 cu. yds. cut and 1,100 cu. yds. fill). The applicant is also proposing the placement of a temporary trailer on the site during construction of the proposed project. The parcel is located on a prominent ridge in the upper Solstice Canyon watershed in the Santa Monica Mountains. The site is backdropped completely by State and National National Park Service land and is visible from these park areas.

The proposed residence is located on a previously graded unpermitted building pad which required approximately 1,100 cu. yds. of grading to construct. In addition, a second unpermitted pad was constructed 200 feet to the east of this main pad and required a similar amount of grading to construct. The proposed residence is located on the portion of the site which minimizes grading and the visual impact of the residence. Originally the applicant was proposing to locate the guest unit on the second pad area located 200 feet east of the main residence. In response to concerns raised by commission staff relative to the potential adverse environmental and visual impacts of locating the guest unit in this location the applicant re-sited the guest unit adjacent to the residence. Clustering development to the southwestern portion of the site will minimize the visual impacts of the proposed development.

Development on ridgetop areas in the Santa Monica Mountains is made more visually intrusive by the use of bright colors, red tile roofs, or white tones. The use of earth tones for buildings and roofs minimizes the visual impact of structures and helps them to blend in with the natural setting. The proposed residence is single-story, which helps to minimize the profile of the structure and thereby reduces viewshed impacts that would otherwise exist. Nevertheless, because the proposed site is visible from significant public park lands, the Commission finds it necessary to impose Special Condition 4 to restrict the color of the subject structures to those compatible with the surrounding environment. This condition also prohibits the use of white tones and requires the use of non-glare glass windows.

In addition, the use of native plant materials in landscaping plans can soften the visual impact of construction in the Santa Monica Mountains. The use of native plant materials to revegetate graded areas not only reduces the adverse affects of erosion -- which can degrade visual resources in addition to causing siltation pollution in nearby ESHAs -- but ensures that the natural appearance of the site remains after development to the maximum extent feasible. Therefore, as mentioned previously, the Commission finds it necessary to impose Special Condition 1 to require the applicant to submit detailed landscaping and erosion control plans that will utilize native, drought resistant plants as listed by the California Native Plant Society , Santa Monica Mountains Chapter.

Furthermore, the Commission finds it necessary to impose a future development restriction via Special Condition 5 on the proposed development, to ensure that any future development that might otherwise be exempt from Commission permit requirements is reviewed by the Commission for conformity with the visual resource policies of the Coastal Act.

For all of these reasons, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. Cumulative Impacts.

Section 30250 of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant, adverse effects, either cumulatively or individually, on coastal resources. Section 30250 of the Coastal Act states in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30250 of the Coastal Act addresses the cumulative impacts of new developments. Based on these policies, the Commission has limited the development of second dwelling units on residential lots in the Santa Monica Mountains. The Commission has found that guest houses or second units can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

Through hearing and voting on past permit actions, the Commission has established a maximum size of 750 sq. ft. for guest houses. As proposed, the 676 square foot guest house is consistent with past Commission decisions. However, in order to ensure that no additions are made to the guest house without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future improvements deed restriction, which will require the applicant to obtain a new permit if additions or changes to the development are proposed in the future. As conditioned, the guest house will be in conformance with Section 30250 of the Coastal Act.

The applicant proposes to install a temporary trailer for living quarters during construction. The Commission, through past permit actions has considered such trailers to be second units and subject to the same consideration as guest houses. Because the applicant proposes the construction of a guest unit, the trailer must be a temporary use only, to comply with the restriction to one accessory structure. To avoid the excessive cumulative impacts that would accrue if an additional second unit were permanently approved, the Commission finds that use of a trailer on site is acceptable only until Los Angeles County issues a certificate of occupancy for the main residence. Special Condition 7 requires that the temporary trailer be removed after such issuance.

For these reasons, the Commission finds that, as conditioned, the proposed project is consistent with Section 30250 of the Coastal Act.

F. Septic System.

The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

In addition, the Malibu/Santa Monica Mountains Land Use Plan contains the following policies concerning sewage disposal:

P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause or aggravate public health problems.

P218 The construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes...

P226 The County shall not issue a coastal permit for a development unless it can be determined that sewage disposal adequate to function without creating hazards to public health or coastal resources will be available for the life of the project beginning when occupancy commences.

The applicant has submitted favorable results of a soil percolation test performed on the subject property by Geosystems, Inc., consulting, dated October 12, 1993. The report indicates that the site percolates adequately and the effluent disposal on the site will not affect on-site or off-site stability. The Commission has found in past permit decisions that a favorable percolation test report, in conjunction with adequate setbacks from streams or other water resources, ensures that the discharge of septic effluent from a proposed project will not have adverse effects upon coastal resources. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

G. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity

with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned will not prejudice the County's ability to prepare a Local Coastal Program for the Santa Monica Mountains which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

There are no negative impacts caused by the proposed development, as conditioned, which have not been adequately mitigated. Therefore, the proposed project, as conditioned, is found consistent with CEQA and the policies of the Coastal Act.

0104R



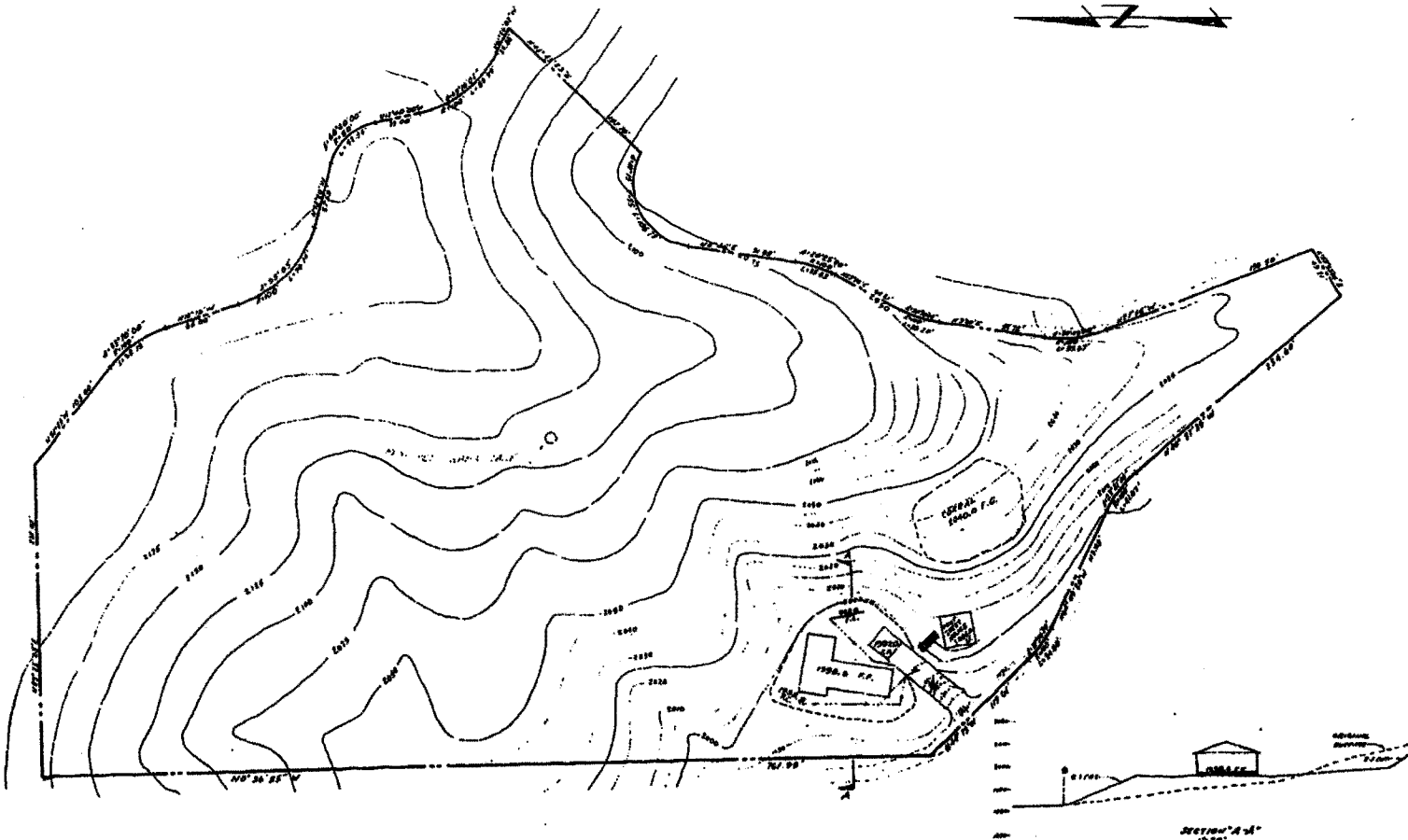
EXHIBIT NO. 1
APPLICATION NO.
4-95-196
LOCATION MAP

W 21 a

Legal Description: A portion of the east 1/2 of the northwest 1/4
of Section 21, T.1 S., R.18 W., S.O.R., County of Los Angeles

Earthwork Quantity: 1100 cu. yd.
1100 cu. yd.

SCALE: 1" = 40'



DEC 24

EXHIBIT NO. 2

APPLICATION NO.

4-95-196

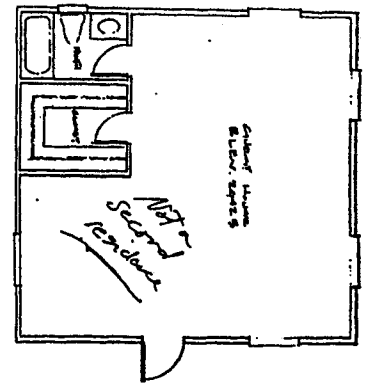
SITE PLAN

RECEIVED

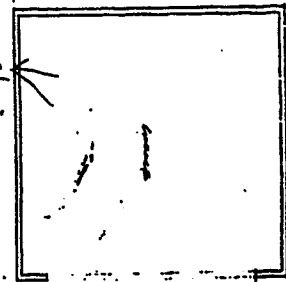
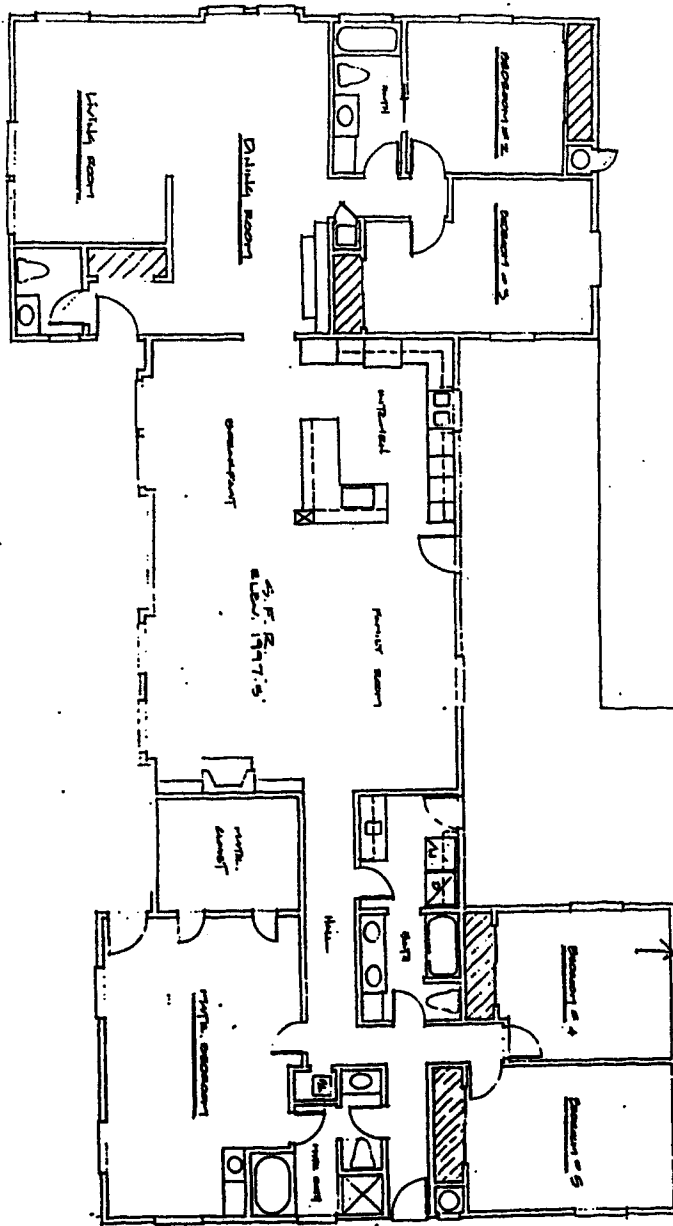
SEP 25 1965

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

GUEST HOUSE FLOOR PLAN



S.F.R. FLOOR PLAN



ALL FT.
solid lines — measure
dashed — as on PT
shaded areas — on PT

4-95

EXHIBIT NO. 3

APPLICATION NO.

4-95-196

FLOOR PLAN

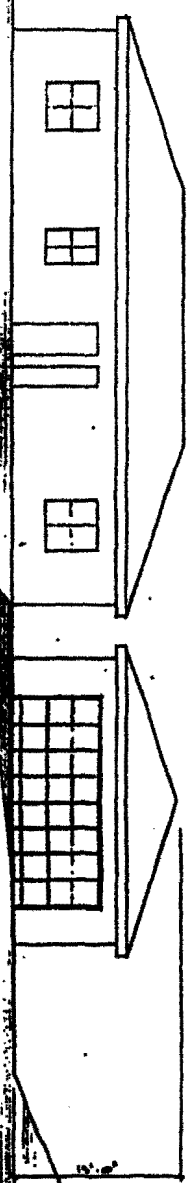
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Date: 9/25/65

Prepared by: [illegible]
Date: 9/25/65

Master
Guest
Floor

E

SOUTH



NORTH

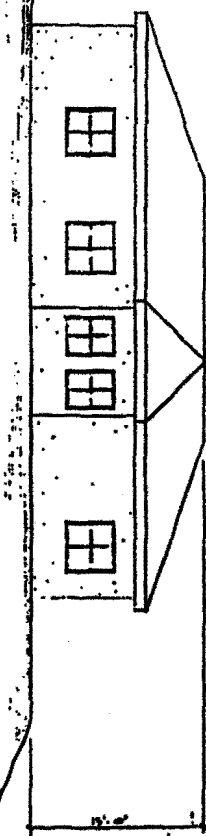


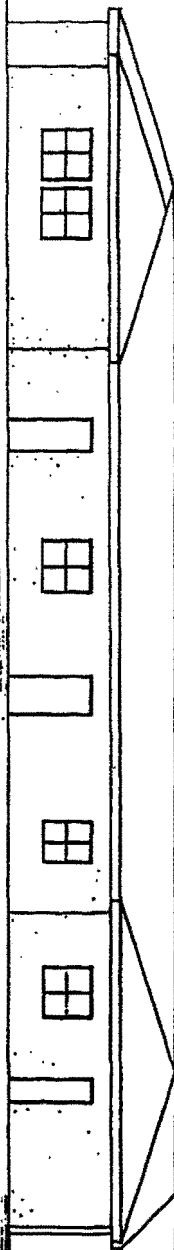
EXHIBIT NO. 4
APPLICATION NO.
4-95-196
ELEVATION

Plotted by: Jeff Burch
Date: 1/14/04

Prepared by: Jeff Burch
For: Mr. Jeff Burch
Re: 4-95-196

104

EAST



WEST

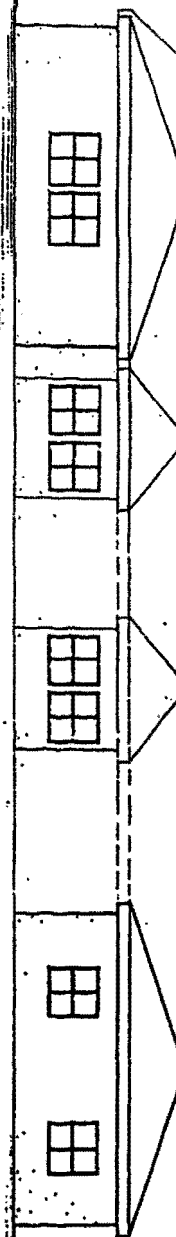


EXHIBIT NO. 5

APPLICATION NO.

4-95-196

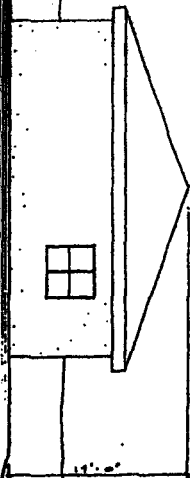
ELEVATION

House owned by
J. J. Smith
201 10th St.
St. Louis, Mo.

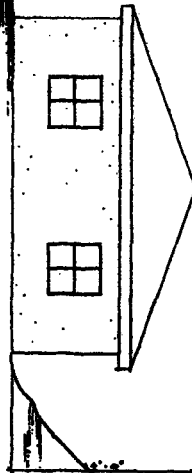
House owned by
J. J. Smith
201 10th St.
St. Louis, Mo.

Page 4 of 4

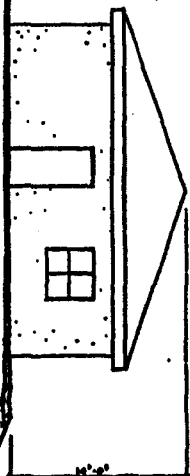
SOUTH



EAST



WEST



NORTH

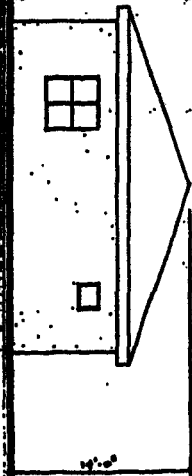


EXHIBIT NO. 6

APPLICATION NO.

4-95-196

GUEST HOUSE SKETCH