

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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STAFF REPORT: CONSENT CALENDAR

APPLICATION: 4-99-176

APPLICANTS: Marvin Stutz and Donna McKenna

AGENT: Lee Jubas

PROJECT LOCATION: 6692 Wildlife Road, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct single story, 21.5 ft. high, 2144 sq. ft. accessory structure with two garages, guest room, bathroom, and bar. Construct six foot high concrete block fire wall at edge of canyon. Remove and replace septic system. Remove unpermitted chicken house, shack, wood fencing, pipe corral and shade structures. Grading of 209 cu. yds. (169.4 cu. yds. cut and 40 cu. yds. fill with remainder to be used for leveling out the existing yard area).

Lot area:	63,455 sq. ft.
Building coverage:	2,144 sq. ft.
Pavement coverage:	10,690 sq. ft.
Landscape coverage:	22,817 sq. ft.
Parking spaces:	five covered
Height above finished grade:	21.5 ft.

LOCAL APPROVALS: City of Malibu, Planning Department, Approval in Concept, August 2, 1999; Environmental Health, Approval, July 20, 1999.

SUMMARY OF STAFF RECOMMENDATION

The proposed development is a hybrid accessory building including guest quarters, garage, and pool house to be located to the rear of the lot near a canyon containing a blue line stream (Walnut Canyon). Walnut Canyon is a LUP-designated locally disturbed sensitive resource area. The project design has been modified through addition of a fire wall on the canyon edge to avoid requirement of fuel modification within the disturbed resource area. Staff recommends approval of the proposed project with special conditions regarding future improvements, landscape and fuel modification, geology, wild fire waiver of liability, and condition compliance.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan; Geosystems, Soils and Engineering-Geologic Investigation for Proposed Guest House, Addition and Swimming Pool, December 7, 1998; Coastal Development Permit 4-98-194-A1 (Sittig).

RESOLUTION:

The staff recommends that the Commission APPROVE the permit application with special conditions.

MOTION

I. Staff recommends a YES vote on the following motion:

I move that the Commission approve with special conditions CDP # 4-99-176 per the staff recommendation as set forth below.

A majority of the Commissioners present is required to pass the motion.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

II. Approval with Conditions

The Commission hereby **grants**, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse effects 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. Future Development Deed Restriction

This permit is only for the development described in coastal development permit No. 4-99-176. Pursuant to Title 14 California Code of Regulations Sections 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures, or property, including but not limited to clearing of vegetation and grading, other than as provided for in the approved landscape plan prepared pursuant to Special Condition 2, that might otherwise be exempt under Public Resource Code 30610(a), (b), will require an amendment to this permit or an additional permit from the Coastal Commission or the affected local government authorized to issue such coastal development permits.

Prior to the 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, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This

deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Landscaping and Erosion Control Plans

Prior to the issuance of the coastal development permit, the applicant shall submit landscaping and fuel modification plans prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

A) Landscaping Plan

- 1) All graded and disturbed areas including areas of removal of unpermitted development on the subject site shall be planted and maintained for erosion control and visual enhancement purposes immediately after the completion of grading and excavation. This requirement shall continuously apply should grading and disturbance take place in stages throughout site development. Final landscape planting and maintenance necessary to achieve compliance with the approved landscape plan shall be implemented no later than sixty (60) days after the completion of construction of the residence. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species that tend to supplant native species shall not be used.
- 2) All graded and disturbed areas including removal of unpermitted development shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years from the date of initial planting, and this requirement shall apply to all disturbed soils. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape requirements set forth in this special condition. Additional site stabilization measures, such as the placement of geotextiles or other temporary measures, shall be implemented if necessary to control erosion from disturbed soils until planted species are established.
- 3) Should grading take place during the rainy season (November 1—March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize

sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

- 4) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final landscape, erosion control or drainage plans shall be reported to the Executive Director. No changes to said plans shall occur without a Coastal-Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan

approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

3. Plans Conforming to Geologic Recommendations

All recommendations contained in the Geosystems, Soils and Engineering-Geologic Investigation for Proposed Guest House, Addition and Swimming Pool, December 7, 1998 shall be incorporated into all final design and construction including foundations, grading, drainage, and erosion control. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs, including the landscaping and erosion control plan required pursuant to Special Condition 2.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading 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. The Executive Director shall determine whether required changes are "substantial."

4. 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.

5. Condition Compliance

(a) Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the

applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

(b) Within 30 days of issuance of this permit the applicant shall remove the unpermitted chicken house, shack, corral and shade structures. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct a hybrid single story, 21.5 ft. high, 2,144 sq. ft. accessory structure with two garages, guest room, bathroom, and bar, construct a fire wall at edge of canyon, remove and replace the septic system, and remove unpermitted development consisting of a chicken house, shack, wood fencing, pipe corral and shade structures. Total grading is proposed at 209 cu. yds. (169.4 cu. yds. cut and 40 cu. yds. fill with remainder to be used for leveling out the existing yard area).

The project site is presently developed with a single family residence, which results from a second story addition joining previously two separate single family residences. Although the design appears as two structures, there is a second story bridge hallway connecting the two buildings. This existing building was considered as a single residence in the local government review of the project and the applicant has submitted correspondence indicating that the combined building is one residence. Any future effort to remove the second story addition would be subject to a coastal development permit for creation of two single family residences.

There are no records of previous coastal development permits for the project site although there was a waiver for removal and replacement of a septic system (4-99-020-W, Stutz and McKenna). The present project's removal and replacement supersedes the waiver request which was not implemented.

The project site is a 1.456 acre parcel on Wildlife Road in the Point Dume area of the City of Malibu. The area is generally developed with single family homes on canyons or bluffs adjacent to disturbed and/or undisturbed habitat areas. In this case, the subject site is near a canyon containing a blue line stream (Walnut Canyon). Walnut Canyon in the portion south of Pacific Coast Highway is a LUP-designated locally disturbed sensitive resource area.

The project design originally resulted in vegetation clearance in the disturbed sensitive resource area for purposes of fuel modification for fire safety. Staff objected to this

design because removal of vegetation in the DSRA would be inconsistent with preservation and/or restoration of native vegetation in the canyon. This design has been modified through addition of a six foot high concrete block fire wall on the canyon edge to avoid extension of the County Fire Department required fuel modification below the canyon edge i.e. within the LUP-designated disturbed resource area.

The proposal includes removal of unpermitted development consisting of a chicken house, wood fencing, pipe corral and shade structures. The chicken house and some wood fencing is along the edge of the canyon (i.e. the DSRA) and the remainder of the unpermitted development is within the DSRA with the shack, corral and shade structures in the canyon bottom adjacent to the blue line stream.

B. Guest Unit

The proposed project includes a single story, 21.5 ft. high, 2,144 sq. ft. accessory structure with two garages, guest room, bathroom, and bar. This accessory structure contains an approximate 300 sq. ft. guest room with a closet separated by a five foot wide hallway from a bathroom. The 200 sq. ft. restroom has access from a pool area on the opposite (north) side of the structure. There is an outdoor bar area proposed between the bathroom and the proposed pool. There are no internal doorways on either the bathroom or the guestroom. A laundry area alcove is located along the outside wall of the bathroom. A five car garage is propose on the southeast walls of the bathroom and guest room and a two car garage is proposed along the northwest side of the guest room and bathroom. The two garages are separated by the previously noted five foot wide hallway.

Such development as presently proposed is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. In particular, the construction of this structure with a guest unit, which may become a potential second residential unit on a site where a primary residence exists, will intensify the use of the site and impacts on public services, such as water, sewage, electricity and roads.

Section 30250 of the Coastal Act addresses the cumulative impacts of new development. Section 30250(a) of the Coastal Act states:

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 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 the surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

In addition, the Coastal Act requires that new development, including accessory structures, be permitted only where public services are adequate and only where coastal resources will suffer adverse cumulative impacts from such development. The Commission has repeatedly emphasized the need to address the cumulative impact of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impacts problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects.

Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, the presence of second units on each existing lot within the Coastal Zone would create adverse cumulative impacts on coastal resources and coastal access. The issue of second units on lots with primary residences consistent with the new development policies of the Coastal Act has been a topic of local and statewide review and policy action by the Commission.

The Commission examines the potential future impacts on coastal resources that might occur with any further development of the proposed structure or any change to residential use. Impacts such as traffic, sewage disposal, recreational uses, and grading can affect the scenic quality and natural resources of the area and are associated with the enlargement of existing residential structures or the development of an additional unit. Limiting the size and use of appurtenant structures generally reduces the impacts on services such as roads, water and sewage disposal.

The Commission has many past precedents on similar projects that have established a maximum size of 750 sq. ft. habitable space for development which may be considered a secondary dwelling unit. The proposed structure with an approximate 300 sq. ft. guest room needs to be consistent with the Commission's certification of the Malibu/Santa Monica Mountains LUP and past permit actions allowing for such structures in the Malibu area. The project's guest room is consistent with the 750 sq. ft. maximum guest unit limitation in these decisions albeit the Commission must address future development which may be inconsistent (below). Modifications, however, to the structure such as creating doorways from the bathroom and guest room to the hall and walls and doorways enclosing the hall could result in the guest room being integrated

with the bathroom to constitute a guest house. Further modifications could consist of integration of the laundry area to this combined guest room and bathroom area. Additionally, enclosing the bar area would add a kitchen area. Such modifications would be subject to a coastal development permit if conditioned as recommended below.

To ensure that no additions or improvements are made to the accessory building that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction. Recordation of such a document requires the applicant to obtain an amended or new coastal permit if additions or improvements to the development (guest unit) are proposed in the future as required by *Special Condition number one (1)*.

Thus, the findings attached to this permit and *Special Condition number one (1)* will serve to ensure that the proposed development results in the development of the site that is consistent with and conforms to the Chapter 3 policies of the Coastal Act. The Commission finds that as conditioned, the proposed project is consistent with Section 30250(a) and with all the applicable policies of the Coastal Act.

C. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

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.

In addition, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) contains policies that provide useful guidance in evaluating the consistency of the proposed development with the policies of the Coastal Act. These policies have been found by the Coastal Commission in certifying the LUP to incorporate the resource protection requirements of Coastal Act Sections 30240 and 30231 for application to specific sensitive resource areas in Malibu and therefore continue to serve as guidance in reviewing proposed development for consistency with Coastal Act policies. Further, although the City of Malibu has been incorporated since certification of LUP was certified, the LUP continues to be used for guidance, as in Commission review of Coastal Development Permit 4-98-194-A1 (Sittig) on the October, 1999 agenda.

Specifically applicable LUP policies addressing the protection of DSRs and ESHAs and thereby incorporating the resource protection policies that are relevant to the proposed project include (paraphrased): ***P 74 development located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources; P 91 development designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site.***

In addition, the LUP contains Table 1 policies specifically applicable to designated habitat areas or categories. Pertinent Table 1 policies regarding ESHAs applicable to the proposed project include:

The project site includes habitat mapped as a Disturbed Sensitive Resource Area (DSR) on the certified LUP maps; therefore, specifically Table 1 policies applicable that provide guidance in evaluating the proposed project include:

DISTURBED SENSITIVE RESOURCES

- ***In disturbed riparian areas, structures shall be sited to minimize removal or riparian trees.***
- ***Removal of native vegetation and grading shall be minimized.***
- ***Site grading shall be accomplished in accordance with the stream protection and erosion policies.***
- ***Disturbed, sensitive ravines and canyons at Point Dume should be retained in their existing condition or restored.***

As discussed above, the applicant proposes to construct a single story, 21.5 ft. high, 2,144 sq. ft. accessory structure with two garages, guest room, bathroom, and bar, a fire wall at the edge of the canyon, remove and replace the septic system, and remove a chicken house, shack, corral and shade structures.

The subject parcel takes access off Wildlife Road and contains a deep, flat rectangular area that slopes at the rear into, and comprises a portion of, Walnut Canyon. The parcel is of relatively low relief until approximately the 90 foot elevation line, at which point the lot slopes at slightly more than a 5:1 ratio southwesterly toward Walnut Creek. The canyon, which is mapped in the LUP as a Disturbed Sensitive Resource Area (DSRA), drains into Walnut Creek, which is a designated blue-line stream on the U.S. Geologic Survey quadrangle maps. The creek itself is not designated as an Environmentally Sensitive Habitat Area in the LUP, but in its lower reach is an ESHA as defined by the Coastal Act because of the presence of native riparian vegetation. Walnut Creek empties into the Pacific Ocean approximately one half mile south of the applicants' parcel and the off-shore area is designated as an environmentally sensitive habitat area in the certified LUP. The certified LUP maps show that the boundary of the disturbed sensitive resource area along the upper edge of Walnut Canyon.

The Commission has found, in past permit actions, that the canyons of Point Dume are disturbed sensitive resource areas. While such areas may contain modified habitats that no longer offer their original, undisturbed biological significance they are nonetheless sufficiently valuable to warrant protection from further impacts.

Modified habitats may, in fact, be more vulnerable to damage from the potentially adverse impacts of development in or adjacent to such areas than more pristine areas. For example, undisturbed riparian areas ordinarily contain a variety of tree and shrub species with established root systems interspersed with compatible ground covering native species. Such established cover slows rainfall runoff and siltation from canyon slopes, thereby limiting the impact on creeks. Accordingly, disturbed vegetation adjacent to riparian corridors buffers the natural ecosystems and reduces disturbance, such as accelerated gullying or siltflow from grading or an increase in impervious surfaces that may result from development. For this reason, disturbed habitat may be even more vulnerable to additional disturbance than might be the case in more robust, pristine ecosystems.

In addition to the lack of buffering characteristics, the denuded habitat that often characterizes disturbed areas lacks the extent of protective cover that might otherwise shelter birds and small mammals from predation by domestic pets. The roaming cats and dogs of residential dwellers are particularly destructive to ground foraging birds, such as quail, and waterfowl that feed in stream corridors and nest on the banks. The disturbance caused by the mere presence of domestic animals may disrupt the normal activities of sensitive species. The impacts of domestic pets can be reduced by protecting and enhancing the protective cover provided by intact native vegetation in the riparian canyons affected by adjacent residential development.

In addition, fragmented, "fringe" habitat located in transitional or remnant habitat areas often has special biological significance, in part because it represents a last remaining refuge for wildlife species displaced by surrounding development. At times the fringe habitat acts as a transitional zone of vegetation offering locally rare nesting or feeding opportunities. These remaining habitat areas provide particularly valuable cover for

avian species relying on the stream corridor for feeding, nesting, and roosting. This phenomenon is nowhere more evident than in the Mediterranean climate that characterizes the Malibu area: the attendant warm, dry summers often coincide with dwindling freshwater supplies. Habitats with relatively extensive canopy cover, such as the willows and oaks found in the bottom of Walnut Canyon downstream of the project site, may become crucial to wildlife survival during summer conditions.

Some native sage scrub vegetation was observed during the staff site visit on the slopes on the site above Willow Creek, which showed the potential recovery of those slopes even though the site had been previously used for grazing animals. If allowed to recover naturally, the native vegetation appears likely fill in the canyon slopes up to the top of the slope, i.e. the boundary of the disturbed resource area. As the result, a significant increase in habitat value, erosion control, and other ESHA buffering capacity can be expected to enhance the biological productivity of the downslope riparian corridor ESHA, consistent with the goals of Coastal Act Section 30231 and 30240.

A key means of achieving this goal is to limit fuel modification necessary to protect proposed development from occurring in the sensitive canyon areas, particularly on slopes that drain to stream corridors. Vegetation modification such as thinning or removal generally required within a 200 foot radius of habitable structures by the Los Angeles County Fire Department may adversely affect native habitat areas. Therefore, to ensure that modified for fuel management purposes does not affect such areas, the Commission has required that adjacent proposed development subject to such management requirements be set back sufficiently to prevent extension of the zone of clearance or thinning into the sensitive resource area.

To minimize additional impacts to these disturbed sensitive areas, the Commission has required development to be located close to the roads and back from the canyon edges (CDPs 4-98-194 (Sittig), 4-96-004 (Farrer), and 4-95-230 (Stanley). In addition, although the Commission has not established a specific distance that development must be setback from the canyons on Point Dume, the Commission has in some cases required new development to be setback at least as far as existing adjacent development. In permits 5-89-308 (Albert) and 5-88-870 (Martinez), for example, the Commission required the applicants to revise their plans to resite development back from the canyon edge.

In the case of the proposed project, an approximate forty foot buffer area and a fire control wall are proposed between the proposed residence and edge of the canyon. The project originally included clearance into the canyon for a distance of 100 feet below the canyon edge, consisting of reduction in fuel loading by thinning and replacement with less flammable species. To avoid disturbance of this area below the canyon i.e. DSRA edge, the previously noted six foot high concrete block fire wall was added to the project proposal.

Special condition 1 limits the fuel modification below the top of the slope descending into Walnut Canyon to the area specified in landscaping plan specified in special

condition 2. This condition ensures that the buffer from the DSR is maintained, thereby limiting further degradation of the habitat area or erosional effects from the alteration of vegetation.

The removal of existing accessory buildings and the unpermitted corral and shade structure as proposed will result in grading and disturbance of vegetation in the DSR area. Special Condition 2 requires that the applicants prepare a landscape plan that utilizes appropriate native plant species and ensures that disturbed areas are stabilized and replanted immediately. This requirement will provide additional native plant habitat for wildlife species and protect Walnut Canyon and Creek from potentially increased site runoff and erosion. Implementation of the approved landscape plan, as previously discussed, will minimize the potential for increased sedimentation of the environmentally sensitive Walnut Creek corridor and will therefore reduce the potentially adverse impacts upon the downslope ESHA that the project might otherwise pose.

The Commission finds, in summary, that Special Conditions 1, 2 and 3 are necessary to control erosion, buffer the sensitive habitat area from the potentially adverse effects of adjacent development, protect and restore native vegetation on the slopes of Walnut Canyon, and protect and enhance the biological productivity of the downslope environmentally sensitive habitat stream corridor, consistent with the requirements of the Coastal Act. Therefore, for the reasons stated above, the Commission finds that only as conditioned is the proposed project consistent with the habitat and coastal resource protection policies of Sections 30231 and 30240 of the Coastal Act.

D. Geology and Fire 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.

The proposed development is located in the Santa Monica Mountains, an area 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 prominent geomorphic feature in the area is Pt. Dume to the southwest. Physical relief across the lot is approximately forty feet of elevation change at a 4:1 slope with

the proposed building at the approximate 95 foot elevation. Slope drainage is by drainage directed through drains toward the east to two rip rap flow (energy) dissipators.

1. Geology

The applicant has submitted a Geosystems, Soils and Engineering-Geologic Investigation for Proposed Guest House, Addition and Swimming Pool, December 7, 1998 which states that:

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

Given the findings and recommendations of the consulting engineering geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the 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 geologists as conforming to their recommendations, as noted in special condition number four (4) for the final project plans for the proposed project.

2. Erosion

The application includes a detailed drainage plan. Surface drainage is by drainage collected from the site and conveyed to two rip rap energy or flow dissipators. As noted above, the unnamed tributary is a USGS-designated blue line stream and is designated in the certified LUP as a locally disturbed sensitive resource area.

The project will significantly increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. If not controlled and conveyed off the site in a non-erosive manner, this runoff will result in increased erosion on and off the site. Increased erosion may also result in sedimentation of the nearby stream. The drainage plan addresses the need to control and convey runoff. The Commission has found in similar projects that additional landscaping and erosion control measures are necessary to ensure site stability and avoid adverse impacts on nearby streams, by stabilizing slopes and controlling fuel modification, as well as controlling interim erosion impacts and monitoring. Therefore, the Commission finds it necessary to require the applicant to submit a detailed landscaping and erosion control plan for the proposed development.

Special condition number two (2) is necessary to ensure that the landscape and erosion control plan is reviewed and approved by the consulting engineering geologist and includes measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring. Such a plan ensures site stability and avoidance of the potentially

adverse impacts of erosion and sedimentation in a manner consistent with PRC Section 30253.

In addition, special condition number three (3) ensures that removal of natural vegetation for the purpose of fuel modification does not take place without the proposed development being implemented. This will avoid unnecessary fuel modification without an underlying permitted development. Such fuel modification would be inconsistent with PRC Section 30253 provisions to ensure site stability and avoid potentially adverse impacts of erosion and sedimentation.

3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

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 these associated risks. Through the waiver of liability, 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, as incorporated by condition number five (5).

The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, 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.

The applicant proposes to construct a replacement 2,500 gallon septic system with seepage pits as shown on the plans approved by the City of Malibu, July 20, 1999. The conceptual approval by the City of Malibu Environmental Health Department indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. In addition, the proposed septic disposal system is located more than 200 feet from the blue line stream at the bottom of Walnut Canyon. Thus, if constructed in accordance with the approved plan submitted to the City of Malibu, the system would not adversely affect the biological productivity and quality of coastal waters. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

F. Violation

The proposal includes removal of unpermitted development including the chicken house, shack, corral and shade structures. To ensure the project site is landscaped and unpermitted development is removed in a timely manner, special condition six (6) requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within ninety (90) days of Commission action and remove of the including the chicken house, shack, corral and shade structures within thirty (30) days of issuance of the coastal development permit.

Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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 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 development 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 City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a 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)(A) 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 effect which the activity would have on the environment.

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act. Act.



PCat \rightarrow Left @ Zumber
Immediate Fight on Wildlife

6692 WILKIE RD.

Exhibit 1:
Application 4-99-176
(Stutz & McKenna)
Project Location

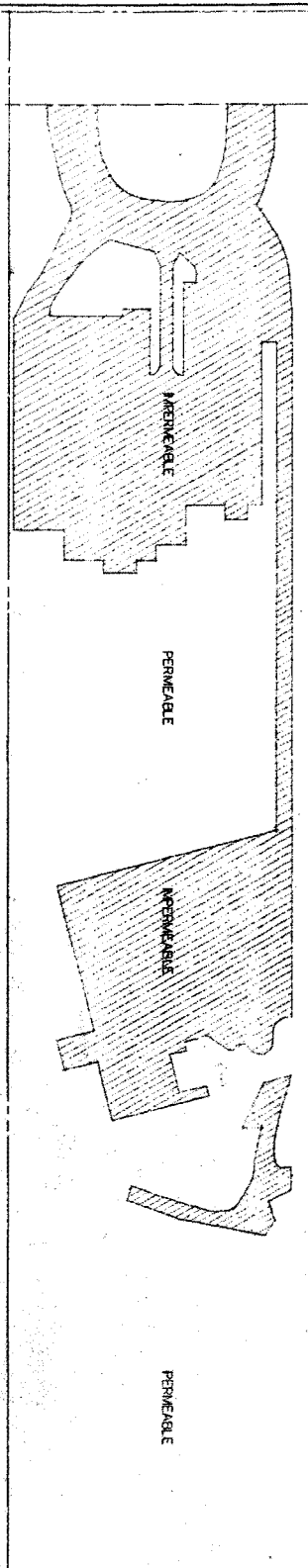
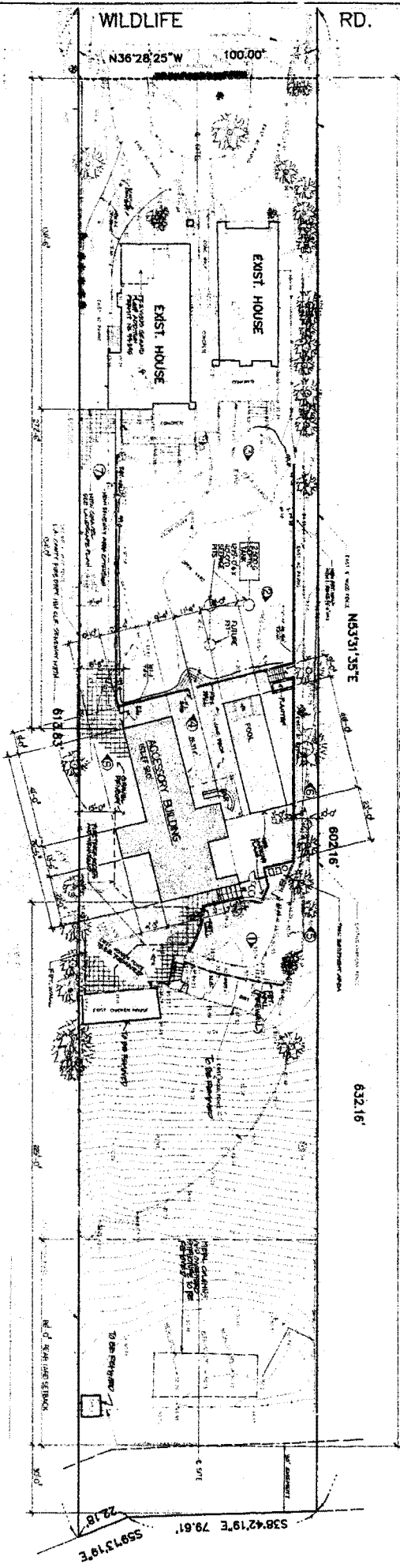


Exhibit 2:
Application 4-99-176
(Stutz & McKenna)
Site plan

SCALE: 1"=40'

OF 2 SHEETS

SITE PLAN
A0.2

NOV 08 1999

**STUTZ
McKENNA
RESIDENCE**

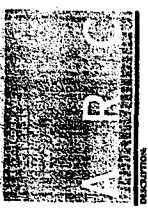
6032 Wilder Road
ACCESSORY BUILDING

THE PLANNING AND DESIGN OF THIS
PROPERTY AND CONSTRUCTION OF THIS
BUILDING ARE IN ACCORDANCE WITH THE
APPLICABLE ORDINANCES OF THE CITY OF
ST. LOUIS, MISSOURI, AND THE
STATE OF MISSOURI, AND THE
DESIGNER HAS NO KNOWLEDGE OF ANY
VIOLATIONS OF THE SAME.

NO DATE 08/99

LEE JUBAS AIA
ARCHITECTURE PLANNING

TEL. 314.444.4444
FAX. 314.444.4444
WWW.LJUBAS.COM



FIRST FLOOR PLAN

PROJECT	STUTZ & MCKENNA
DATE	8/99
SCALE	1/4" = 1'-0"
DRAWN BY	LEE JUBAS

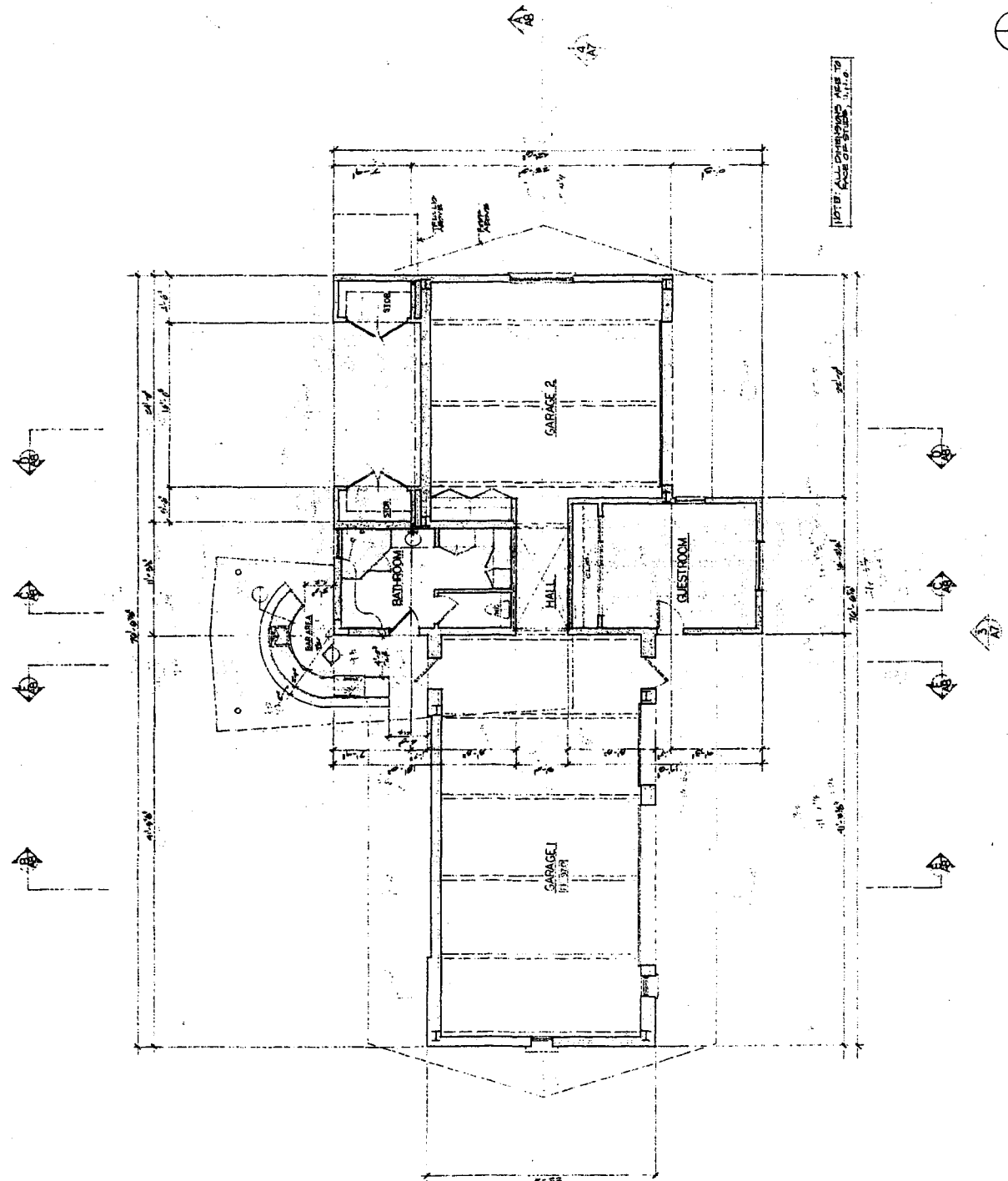


Exhibit 3
Application 4-99-176
(Stutz & McKenna)
Floor Plan

STUTZ McKENNA RESIDENCE

0002 Wildlife Road

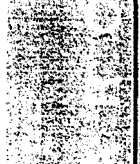
ACCESSORY BUILDING

THE STUTZ & MCKENNA ARCHITECTS
10000 WILDLIFE ROAD
SUITE 100
DALLAS, TEXAS 75243
TEL: 214-444-8881
FAX: 214-444-8882
EMAIL: info@stutzmckenna.com

NO.	DATE	DESCRIPTION
1	11/08/99	PRELIMINARY
2	11/08/99	REVISION
3	11/08/99	REVISION
4	11/08/99	REVISION
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LEE JUBAS, AIA
ARCHITECT - PLANNING

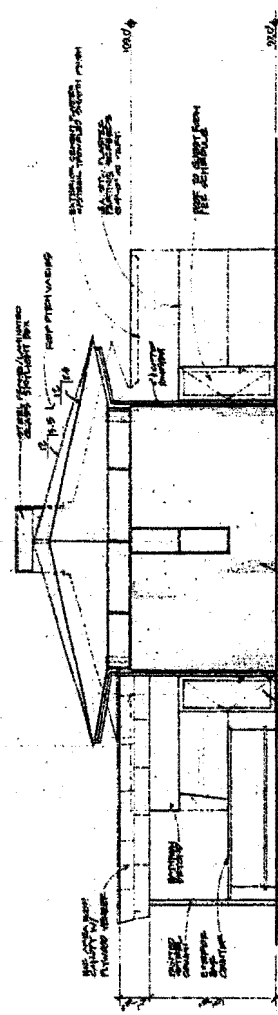
TEL: 214-444-8881
FAX: 214-444-8882
EMAIL: info@stutzmckenna.com



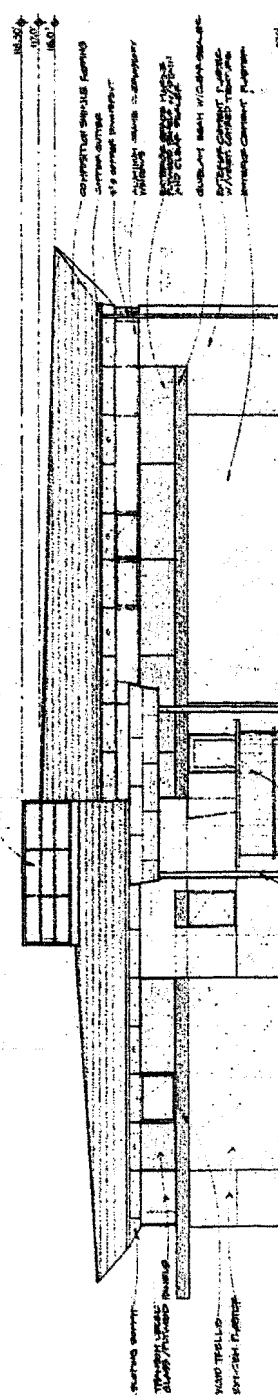
BUILDING ELEVATIONS

PROJECT: STUTZ & MCKENNA RESIDENCE
DATE: 11/08/99
DRAWN BY: J. JUBAS
SCALE: 1/8" = 1'-0"

NOV 08 1999



SOUTH ELEVATION



WEST ELEVATION

Exhibit 4a:
Application 4-99-176
(Stutz & McKenna)
Elevation

ACCESSORY BUILDING

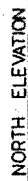
MO	DATE	15308

TEL 310 444 8651
FAX 310 478 5323
EMAIL Marketing@aol.com

PROJECT	DATE	SCALE	DRAWN BY
		3'-1'-0"	

A7 or **2-SKTS**

NOV 08 1999



Elevation

