

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: March 19, 2015

TO: County Development Review Committee

FROM: John Lovato, Development Review Specialist Sr.

VIA: Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF.: CDRC CASE # V 14-5310 Patrick Lysaght Variance

ISSUE:

Patrick Lysaght, Applicant, requests a variance of Article VII, Section 3.4.1.c.1.c (No Build Areas) of the Land Development Code, to allow the construction of an accessory structure on slopes greater than 30%, a variance of Article VII, Section 3.4.1.d.6 (Development Site), to allow the finished floor of a structure to exceed (5') above natural grade, and a variance of Article III, Section 2.3.6.b.1 (Height Restrictions) of the Land Development Code, and Section 3.8.2.d of Ordinance 2000-13 Tesuque Zoning District to allow the accessory structure to exceed the 18' height limitations for structures on a 15% slope or greater.

The Property Is Located At 11 Via Vecino In The Traditional Community of Tesuque, Within Section 31, Township 18 North Range, 10 East, (Commission District 1).

Vicinity Map:



REQUEST SUMMARY:

The subject lot was created in 1981, and is recognized as a legal lot of record. Currently, there is a 4,300 square foot residence on the property which is a legal non-conforming residence. In 1998, the previous property owner was granted a variance to allow the disturbance of 30% slopes and greater for a 549 square foot addition to the existing residence. A permit for the addition was issued in 1999.

On July 17, 2014, Building and Development Services received a complaint regarding unpermitted development on the subject property. On July 21, 2014, Code Enforcement conducted an inspection on the property and issued a Notice of Violation for unpermitted development and disturbing slopes in excess of 30%. A stop work order was placed on the construction and no further work has been done.

After further review of the Applicant's request, staff determined that the accessory structure also requires a variance to allow the structure to exceed the 18' height limitation on slopes 15% and greater and a variance to allow the finish floor to be more than 5' above natural grade. The unpermitted 600 square foot accessory structure sits on slopes greater than 30% and is raised on 6"x6" posts and contains no plumbing. The structure is 23'-10" high, and the finish floor of the structure is 7" above natural grade. A structural engineer determined that the structure is in compliance with all applicable State Building Codes and is structurally sound for required loads.

The Applicant states the variance is needed to provide an area for dry storage, a seasonal workshop for hobbies, and reduce noise and dust that routinely accompany stone and wood carving hobbies. The Applicant further states that the only other location on the property that meets code criteria is located on a ridgetop and is inaccessible. Staff has conducted a site visit to confirm there are no other locations on the property to place the accessory structure. The site contains slopes of 30% and greater and has limited area less than 30% that are inaccessible.

The owner of the Property Patrick S. Lysaght and Dianne M. Parrotte, acquired the Property by warranty deed recorded in Instrument # 1652127 in the Santa Fe County Clerk's records dated November 23, 2011. (Exhibit 2)

Notice requirements were met as per Article II § 2.4.2, of the Land Development Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty one days on the property, beginning on February 25, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on February 26, 2014, as evidence by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners. (Exhibit 6)

The planning committee for the Tesuque Land Use Plan submitted a letter opposing the request for variances based on the fact that the request did not meet Code requirements.

The Applicant was proposing to install a stone retaining wall to address his concerns about erosion control. Although, they observed that after heavy rainfall no erosion was detectable. Therefore the Applicant is no longer proposing a retaining wall, and a retaining wall is not required by County Code.

This Application was submitted on August 8, 2014. After review of the Application, it was determined that a slope analysis would be required. This requirement took some time by the Applicant to hire a Surveyor.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT:

Approval of a variance of Article VII, § 3.4.1.c.1.c (No Build Areas), to allow the after the fact construction of a 600 square foot accessory structure which disturbs slopes in excess of 30%, a variance of Article VII, Section 3.4.1.d.6 (Development Site), to allow the finished floor of a structure to exceed (5') above natural grade, and a variance of Article III, Section 2.3.6.b.1 of the Land Development Code and Section 3.8.2.d of Ordinance 2000-13 Tesuque Zoning District (Height Restrictions), to allow the accessory structure to exceed the 18' height limitation for structures on 15% slopes or greater, on a parcel containing 9.47 acres.

VARIANCES:

Article VII, § 3.4.1.c.1.c (No Build Areas) of the Land Development Code states: "The Following areas shall be set aside from use for development." (Natural slopes of 30% or greater).

Article VII, Section 3.4.1d.6 (Development Site) of the County Code states: Buildings shall be constructed only within development sites. For a structure built on a natural slope of over twenty percent (20%), the finished floor elevation at any point shall not exceed five feet (5') above the natural grade below that point.

Article III, Section 2.3.6b. of the Land Development Code and Section 3.8.2.d of Ordinance 2000-13 Tesuque Zoning District (Height Restrictions), States: The height of any dwelling or residential accessory structure located on land which has a natural slope of fifteen percent (15%) or

greater shall not exceed eighteen feet (18'). The vertical distance between the highest point of a building and the lowest point of a building at natural grade or finished cut grade, whichever is lower, shall not exceed thirty feet (30'). The Code Administrator may waive this requirement if the portion of the structure located on land over 15% slope is incidental to the entire site.

Article II, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified". **The variance criterion does not consider financial or medical reasons as extraordinary hardships.**

When seeking an administrative approval to build on natural slopes of thirty percent (30%) or greater, the Applicant must demonstrate that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes and standards set forth in Article III, Section 2.3 and Article VII, Section 3.4. (The Code, Article VII, Section 3.4.1(c)(1)(c)(iv).

The Code at Article VII, Section 3.4.1(d)(8), provides for individuals with a legal lot of record created prior to April 30, 1996, that has no buildable area to seek a variance to the buildable area requirements. The Code is silent on the right to seek a variance to Section 3.4.1(d) for other reasons.

Article III, Section 2.3.6b(1) provides that the Code Administrator may waive the height restriction where only an incidental portion of the structure is to be placed on slopes of more than fifteen percent (15%). In this case the entire structure is on slopes of more than thirty percent (30%) so the Administrator lacked authority to approve the height variance.

GROWTH MANAGEMENT AREA: El Norte, SDA-2

HYDROLOGIC ZONE: Tesuque Traditional Historic /Basin Fringe Hydrologic Zone, minimum lot size per Code is 50 acres per dwelling. Lot size can be reduced to 12.5 acres per dwelling with signed and recorded water restrictions of 0.25 acre feet. The Applicants property is 9.50 acres and is a legal lot of record.

ACCESS: Via Vecino.

FIRE PROTECTION: Tesuque Fire District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic System

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	No Comments

STAFF RECOMMENDATION: Denial of variances from Article VII, § 3.4.1.c.1.c (No Build Areas), to allow the construction of a 600 square foot accessory structure which disturbs slopes in excess of 30%, a variance of Article VII, Section 3.4.1.d.6 (Development Site), to allow the finished floor of the structure to exceed (5') above natural grade, and a variance of Article III, Section 2.3.6.b.1 and of Section 3.8.2.d of Ordinance 2000-13 Tesuque Zoning District (Height Restrictions), to allow the accessory structure to exceed the 18' height limitation for structures on a 15% slope or greater

If the decision of the CDRC is to recommend approval of the Applicant's request for variances, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre feet per year. A water meter shall be installed for the residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office at the time of Development Permit (As per Article III, § 10.2.2 and Ordinance No. 2002-13)

2. The Applicant must obtain a Development Permit from the Building and Development Services Department for construction of the Accessory Structure. (As per Article II, § 2).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).

EXHIBITS:

1. Letter of request
2. Warranty deed
3. Letter of opposition
4. Article VII, § 3.4.1.c.1.c (No Build Areas)
5. Article VII, § 3.4.1.d.6 (Development Site)
6. Article III, § 2.3.6.b.1 (Height Restrictions)
7. Ordinance 2000-13, § 3.8.2.d
8. Article II, § 3 (Variances)
9. Noticing
10. Applicants Plans and Engineer's Report
11. Site Photograph
12. Aerial of Site and Surrounding Area

Variance Request – Letter of Intent

This request for variance regarding building permit application for Patrick S. Lysaght and Dianne M. Parrotte (on Tract 1, within section 31, T. 18 N., R. 10 E., N.M.P.M. Santa Fe County, New Mexico, 11 Via Vecino, 87506) is for *i*) the slope of the property at the proposed building site, *ii*) to allow finished floor to be 5' above natural grade on slopes 20% and greater and *iii*) to allow the height of the finished building to exceed 18' maximum on slope greater than 15%.

At the building site the slope is greater than 30% and no available location on the property meets the slope requirements other than inaccessible hill top areas. The proposed structure is to serve a threefold purpose; *i*) to provide needed dry storage, *ii*) to enable a seasonal work shop area for stone and wood carving hobby activities, and *iii*) to greatly reduce the awareness and impact on neighbors to both noise and dust that routinely accompany stone and wood carving activities.

Additionally, the proposed structure will readily comply with all neighbor expressed aesthetic concerns of unobtrusiveness by blending in with the natural terrain, i.e. painting to match existing house color, screening with natural plantings, coyote fencing, etc. as appropriate. It is anticipated that the construction phase will be completed within 4-6 weeks from the resumption of works date.

Thank you very much for your consideration.

Sincerely,


Patrick Lysaght & Dianne Parrotte

11 Via Vecino, Santa Fe, NM 87506 ph: 512.364.3600



NBD-7

WARRANTY DEED

William A. MacGillivray and Susan MacGillivray, Trustees of the William and Susan MacGillivray Living Trust dated May 12, 1997, and any amendments thereto, for consideration paid, grant to Patrick S. Lysaght, a single man and Dianne M. Parrotte, a single woman, as tenants in common, whose address is 11 Via Vecino, Santa Fe, NM 87506 the following described real estate in Santa Fe County, New Mexico:

Tract 1, as shown and delineated on plat of survey entitled "Boundary Survey Plat for Patrick S. Lysaght and Dianne M. Parrotte Tract 1, Within Section 31, T. 18 N., R. 10 E., NMPM...", recorded November 23, 2011 in Plat Book 739, Page 029, # 1652068, records of Santa Fe County, New Mexico.

SUBJECT TO: taxes and assessments for 2011 and subsequent years.

SUBJECT TO: matters as dscribed in Exhibit "A" attached hereto.

with warranty covenants.

Witness our hands this 19 day of November, 2011.

WILLIAM AND SUSAN MacGILLIVRAY
LIVING TRUST dated May 12, 1997, and
any amendments thereto

William A. MacGillivray
William A. MacGillivray, Trustee

Susan MacGillivray
Susan MacGillivray, Trustee

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF CALIFORNIA

COUNTY OF San Diego

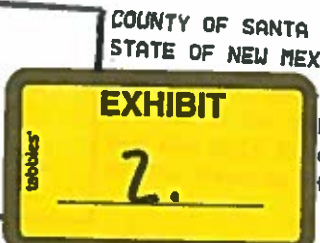
This instrument was acknowledged before me on November 19th, 2011 by William A. MacGillivray and Susan MacGillivray, Trustees of the William and Susan MacGillivray Living Trust dated May 12, 1997.

Commission Expires: Jun 17, 2015

C.R. Neumann
Notary Public



REC'D
CLERK
RECORDED
11/23/2011



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

WARRANTY DEED
PAGES: 2

That This Instrument Was Filed for
RD Day Of November, 2011 at 02:17:35 PM
orded as Instrument # 1652127
f Santa Fe County

NBD-8

EXHIBIT "A"

Reservations and exceptions contained in United States Patents recorded in Book B, Page 443 and Book Q-1, Page 210, records of Santa Fe County, New Mexico.

Easement in favor of Public Service Company of New Mexico, recorded in Book V, Page 592 and Book 692, Page 489, records of Santa Fe County, New Mexico.

Easements as provided for in Warranty Deed, and rights incident thereto, recorded in Book 397, Page 871, records of Santa Fe County, New Mexico.

Terms, conditions, stipulations, obligations and easements in Well Sharing and Easement Agreement, recorded in Book 596, Page 128, records of Santa Fe County, New Mexico.

Terms, conditions, stipulations, obligations and easements in Road Maintenance and Easement Agreement, recorded in Book 596, Page 140, records of Santa Fe County, New Mexico.

Restrictive covenants, recorded in Book 596, Page 147 and Book 652, Page 436, records of Santa Fe County, New Mexico.

Terms, conditions, stipulations and obligations in Utility Agreement & Easement, recorded in Book 596, Page 154, records of Santa Fe County, New Mexico.

Roadway and utility easement as shown on plat of survey filed in Plat Book 92, page 27 and amended in Book 109, page 5, records of Santa Fe County, New Mexico.

Covenants and Restrictions recorded September 13, 2011 as Instrument #1645107, records of Santa Fe County, New Mexico.

Terms conditions contained in Encroachment Easement Declaration recorded 11-23-, 2011 as Instrument # 1652124, records of Santa Fe County, New Mexico.

Rights of others in and to Foot Path together with notes, easements and rights incident thereto as shown and delineated on plat of survey entitled "Boundary Survey Plat for Patrick S. Lysaght and Dianne M. Parrotte Tract 1, Within Section 31, T. 18 N., R. 10 E., NMPM...", recorded November 23, 2011 in Plat Book 739, Page 029, # 1652068, records of Santa Fe County, New Mexico.

REC
CLERK
RECORDED
11/23/2011

NBD-9

October 27, 2014

Mr. John Lovato
Development Review Specialist
PO Box 276
Santa Fe, NM 87504-0276

RE: Case # 14-5310

Dear Mr. Lovato,

We are members of the planning committee for the Tesuque Land Use Plan. We have reviewed the variance request made by Mr. Patrick Lysaght regarding his property at 11 Via Vecino in Tesuque.

We oppose the request for the variances for constructing in a slope in excess of 30%, building at a height greater than 18 feet above the natural grade and the construction of the addition to his residence. We fully support staff's recommendation of denial.

Mr. Lysaght and his contractor have already constructed the addition, apparently without a permit or any consideration of the rules and laws that apply to all of us. We do not feel it is appropriate to plead innocence after the fact. We see no hardship created by his own actions.

Respectfully,

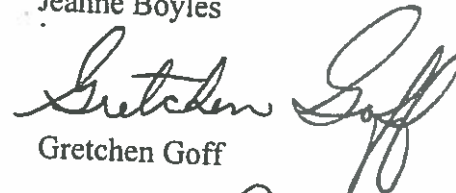
Tesuque Planning Committee Members


Margo Cutler, Chairperson


Wm. David Dougherty


Sue Barnum


Jeanne Boyles


Gretchen Goff


Cam Duncan

cc: Manuel Roybal, CDRC District 1



NBP-10



November 6, 2014

County Land Use Administration Office
P.O. Box 276
Santa Fe, NM 87504-0276

Subject: CDRC Case # V 14-5310

Dear County Land Use Administrator,

We have no objection to Patrick Lysaght's petition for variance, per the above-referenced case.

Sincerely,

A handwritten signature in black ink that reads "Jeremy A. Sabloff".

Jeremy A. Sabloff
President

JAS/rkbv

January 25, 2015

J. Russell Bellamy
68 Palo Duro Road
Santa Fe, NM 87506

John Lovato, Case Manager
Land Use Department
County of Santa Fe
P.O.Box 276
Santa Fe, NM 87504

Re: CDRC Case # 14-5310, Lysaght, 10 Via Vecino

Dear Mr. Lovato,

My house is on Palo Duro Road past where it intersects with Via Vecino Road. I object to the granting of any variance which the applicant has requested in this case. The current structure on this property is an eyesore to say the least.

The applicant has ignored County Land Use Code requirements and has ignored the private restrictive covenants which govern the use of his property. There seems no justification in granting a request for variance in this case.

Sincerely,


J. Russell Bellamy

MARK K. ADAMS
BRUCE HALL
JOHN P. SALAZAR
JOHN P. BURTON
CATHERINE T. GOLDBERG
EDWARD RICCO
W. MARK MOWERY
PATRICK M. SHAY
ELLEN T. SKRAK
HENRY M. BOHNHOFF
CHARLES K. PURCELL
ANDREW G. SCHULTZ
SCOTT D. GORDON
NELSON FRANSE
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CHARLES J. VIGIL
THOMAS L. STAHL
DAVID W. BUNTING
LESLIE MCCARTHY APODACA
JEFFREY M. CROASDELL
SUNNY J. NIXON
JEFFREY L. LOWRY
R. TRACY SPROULS
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ALAN HALL
THOMAS A. OUTLER
SETH L. SPARKS
LISA CHAVEZ ORTEGA
JOCELYN C. DRENNAN
MICHAEL J. BRESCIA

AARON C. VIETS
KURT B. GILBERT
RICK BEITLER
JUSTIN A. HORWITZ
SANDRA L. BEERLE
JENNIFER L. STONE
VALERIE REIGHARD DENTON
BRENDA M. SAIZ
BRIAN P. BRACK
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TYLER M. CUFF
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DENISE M. CHANEZ
ROBERT J. SANCHEZ
MELANIE B. STAMBAUGH
JENNIFER L. HOLLANDER
STEPHEN R. MARSHALL
SHANNON M. SHERRELL
RICHARD E. HATCH
JESSICA R. TERRAZAS
TARA L. EDMON
MATTHEW M. BECK

RODEY, DICKASON, SLOAN, AKIN & ROBB, P. A.

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JOHN N. PATTERSON
DAVID P. BUCHHOLTZ**

**BERNARD S. RODEY (1856-1927)
PEARCE C. RODEY (1880-1958)
DON L. DICKASON (1906-1999)
WILLIAM A. SLOAN (1910-1993)
JACKSON G. AKIN (1919-2010)
JOHN D. ROBB (1924-2014)**

**ALBUQUERQUE OFFICE
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P. O. BOX 1888
ALBUQUERQUE, NEW MEXICO 87103
TELEPHONE (505) 765-5900
FACSIMILE (505) 768-7365**

**WRITER'S DIRECT NUMBER
(505) 954-3921**

JPATTERSON@RODEY.COM

January 7, 2015

John Lovato, Case Manager
Land Use Department
County of Santa Fe
P.O. Box 276
Santa Fe, NM 87504

Re: **CDRC Case #14-5310, Lysaght, 10 Via Vecino**

Dear Mr. Lovato:

I represent Mr. & Mrs. Sam Burford, owners of the lot adjoining the applicant's lot to the east. The Burfords have instructed me to inform the Committee that they object in the most strenuous terms to the granting of any variance which the applicant has requested.

The applicant has ignored County Land Use Code requirements just as he has ignored the private restrictive covenants which govern the use of his property. There is no circumstance in this case which would justify the granting of a variance.

Sincerely,


John N. Patterson

b. Buildable Areas. Each lot shall have a Buildable Area which shall meet the following criteria:

- 1) The natural slope is less than thirty percent (30%);
- 2) New lots shall contain an area suitable for building, including areas suitable for access corridor and utility sites and corridors which can be developed in accordance with these terrain management regulations and other requirements of the Code.
- 3) Meet all required setback standards for ridgetops, drainage ways, etc.
- 4) Contain a site with slope of less than fifteen percent (15%) and soils adequate by type and thickness in order for installation of a septic tank with leach field to be approved. In all other cases, alternative liquid waste disposal will be required.

c. No Build Areas

- 1) The following areas shall be set aside from use for development:
 - a) areas of rock outcropping, wetlands, arroyos and natural drainage ways;
 - b) A minimum of twenty-five feet (25') set back is required from the natural edge of streams, waterways, drainage ways or arroyos that may convey a discharge ("Q") of one hundred cubic feet per second (100 cfs) or more, generated by a design storm (100 year recurrence, 24 hour duration); the required setback may be increased if the Code Administrator determines that a clear hazard exists because of slope stability and hydrologic/hydraulic conditions. In evaluating the need to increase the setback, the Code Administrator shall consider property and channel slope, velocity of channel flow, hydraulic radius, roughness coefficient and sectional area of the particular drainage way. A requirement for increased setback imposed by the County shall not be interpreted to be an engineered development plan for development or encroachment to any FEMA designated 100 year floodplain or significant tributary thereof.
- c) Natural slopes of thirty percent (30%) or greater. Exceptions may be approved by the Code Administrator for :
 - i. access corridors, utility corridors and landscape areas proposed on natural slopes in excess of thirty percent (30%) that disturb no more than three (3) separate areas of no more than one thousand (1000) square feet each, provided the applicant demonstrates that no alternative development location is available; and
 - ii. arroyo crossings may be approved which disturb more than one thousand (1000) square feet in each instance provided that slope stability and hydrologic/hydraulic conditions are not changed from pre-development values; and
 - iii. siting of structures to preserve remaining traditional agricultural lands and uses.
 - iv. The applicant shall demonstrate that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes and standards set forth in Article III, Section 2.3 and Article VII, Section 3.4. See the Guidelines for Site Planning and Development in Santa Fe County.
- 2) No Build Areas may be used as part of the dedicated open space or may be included in lots as conservation easements or may be platted as common area within a subdivision or land division.



d. Development Site

- 1) Development of lots for buildings, access, utilities and required landscaping shall occur only within approved development sites within the Buildable Area. (see Article X, Definitions). (Note: if soils are not suited for septic tanks, alternative liquid waste disposal systems or treatment methods shall be proposed. see Article VII, Section 3.4.2, Soils).
- 2) Only land within approved development sites shall be graded, paved or built upon:
- 3) Excavation, grading and cut-and-fill for the purposes of site development shall be limited to approved development sites and kept to a minimum to maintain existing land forms and contours (See Article VII, Sections 3.4.3. and 3.4.5 for grading and vegetation performance standards);
- 4) The development site on a ridgetop must be set back from the shoulder toward the crest of a hill or ridge. The shoulder is defined as the line where the profile of the upper slope of an elevation (hill, ridge, mountain, escarpment, etc.) changes from thirty percent (30%) or greater slope to less than thirty percent (30%) slope.
 - a) All buildings shall be setback-horizontally from the shoulder in order to accomplish the following purposes:
 - (1) protection of slope stability where soil conditions are prone to severe erosion; and
 - (2) siting of structures so that existing vegetation is used to screen visual impacts of development or to preserve native trees from disturbance or removal; and
 - (3) siting of structures so that their form does not dominate prominent skylines or disrupt significant views or unique landforms which have been identified by the County for protection; and
 - (4) siting of structures to preserve remaining traditional agricultural lands and uses. See the Guidelines for Site Planning and Development in Santa Fe County.
 - b) Temporary fences or construction barriers shall be erected during construction in order to prevent disturbance and protect the shoulder and slope from erosion or failure.
 - c) Subsection Reserved for future set back requirements due to wildfire hazards.
- 5) Roads, driveways and utilities shall be constructed only within approved development sites;
- 6) Buildings shall be constructed only within development sites. For a structure built on a natural slope of over twenty percent (20%), the finished floor elevation at any point shall not exceed five feet (5') above the natural grade below that point;
- 7) Density transfers are encouraged to take advantage of naturally occurring development sites below ridgetops and to set aside ridgetop areas for open space.
- 8) Any legal nonconforming lot, that is, a legal lot of record which was created before April 30, 1996 (Ordinance N. 1996-3 adopted March 12, 1996) and which does not contain a Buildable Area as defined in Article VII, Section 3.4.1.b of the Code, is eligible for application for a variance to the Buildable Area standard. See Article I, Section 3, Variances.

3.4.2 Soils

- a. Proposed developments must demonstrate the suitability of soils for all proposed land uses, including but not limited to: building foundations, fill, road construction, liquid waste disposal, underground utilities, and drainage control measures pursuant to the applicable Soil And Water Conservation District and New Mexico Environment Department requirements.

EXHIBIT

S.

2.3.4b Any development site on a ridgetop must be set back from the shoulder toward the crest of a hill or ridge pursuant to Article VII, Section 3.4.1 d. Performance Standards for Development Site.

2.3.5 Shared points of ingress and egress to adjacent development sites is encouraged, unless it can be demonstrated that additional or separate access is necessary. Design standards and submittal requirements as set forth in Article III, Section 4.4.3a. for Driveway Access, and Article VII, Section 3.4.4. Roads and Driveways shall be applied.

2.3.6 Height Restrictions for Dwellings or Residential Accessory Structures

2.3.6a. For the purpose of this Section, height means the vertical distance from any point on the upper surface of a building or structure to the natural grade or finished cut grade, whichever is lower, directly below that point.

2.3.6b. The height of any dwelling or residential accessory structure shall not exceed twenty-four feet (24'). The vertical depth of fill materials from the natural grade, with or without retaining walls, shall be considered as a component of the building or structure; this depth shall be included in the determination of building height. Chimneys may extend three feet (3') beyond the height limitation. In addition:

1. The height of any dwelling or residential accessory structure located on land which has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18'). The vertical distance between the highest point of a building and the lowest point of a building at natural grade or finished cut grade, whichever is lower, shall not exceed thirty feet (30'). The Code Administrator may waive this requirement if the portion of the structure located on land over 15 % slope is incidental to the entire site.
2. On ridgetops as defined in Article X of the Code, only one story buildings are allowed. On ridgetops, the height of any dwelling or residential accessory structure shall not exceed fourteen feet (14'), except one story pitched roof style buildings may be allowed a maximum height of eighteen feet (18') provided such roof can be screened from a public way and pursuant to a site visit and approval of the Code Administrator.
3. Structures for agricultural purposes shall meet the requirements of Article III, Section 1.

2.3.6c. Requests for residential accessory structures such as windmills and radio antennas to exceed the maximum height restrictions shall be reviewed for approval by the County Development Review Committee. When an exception to the height restrictions is desired, the applicant shall submit plans for the installation and operation of the accessory structure with a report explaining why the requested height of the structure is necessary for proper function. The County Development Review Committee shall consider: whether the requested structure is reasonably necessary to be on the proposed site; whether the applicant has demonstrated that the requested height is the minimum height necessary for the proposed structure to function properly, not to exceed a maximum height of forty-five feet (45'); and the size of the lot and impact on neighboring properties.

2.3.7 Terrain Management

All development of a lot, tract, or parcel shall be done in accordance with the Santa Fe County Land Development Code, Article VII, Section 3. Terrain Management.

EXHIBIT

6.

III - 3

1 data is unavailable, compliance will be determined by a comparison of
2 samples for which data is available.

3 3) For all new buildings and additions to existing structures which are
4 located on development sites where any portion of land has a natural slope
5 prior to development of fifteen percent (15%) or greater and on ridgetops,
6 window and door glazing shall be limited to no more than thirty percent
7 (30%) of a facade and shall be non-mirrored and the LRV shall be less than
8 twenty (20), except:

9 i. glazing shall be limited to no more than fifty percent (50%) under
10 portals eight feet (8') or deeper, or

11 ii. this subsection shall not apply to glazing on a south-facing facade
12 where incorporated into a documented, design solar heating application
13 equivalent to one for which the annual "Solar Saving Fraction (SSF)"
14 exceeds sixty percent (60%). See for example "Passive Solar Design
15 Handbook", Balcomb et al., DOE/Los Alamos National Laboratories, 1984.

16 d. Height on slopes and on Ridgetops

17 1) On ridgetops as defined in this Section, only one story buildings are
18 allowed and the height of any structure shall not exceed fourteen feet (14').
19 Chimneys may extend three feet (3') beyond the height limitation.

20 2) The height of any dwelling or residential accessory structure located on
21 land which has a natural slope of fifteen percent (15%) or greater shall not
22 exceed eighteen feet (18'). The vertical distance between the highest point
23 of a building and the lowest point of a building at natural grade or finished
24 cut grade, whichever is lower, shall not exceed thirty feet (30'). The Code
25 Administrator may waive this requirement if the portion of the structure
26 located on land over 15 % slope is incidental to the entire site.

27 e. Landscaping

28 1). Indigenous evergreen trees at least five feet (5') tall and approximating
29 the original density and type existing on the site prior to disturbance shall be
30 used for screening and buffering of structures and cuts and fills, where
31 required, in order to maintain year round screening.

32 2). Cut slopes with a slope or retaining wall closer than six feet (6') from
33 the edge of a road or driveway, where the planting area for trees is limited,
34 may be screened with a trellis supporting planted vegetation or some other
35 similar means which creates a natural screened effect.

36 3.8.3. Administrative approval

37 The Code Administrator may approve siting or design of a structure which minimally
38 deviates from strict compliance with terrain management standards or architectural and
39 appearance standards upon a finding that the proposed deviation results in a decrease of
40 the visual or environmental impact of the development or reduces site grading. In making
41 this finding, the Administrator shall consider existing topography, effects on native
42 vegetation, soils and erosion potential, location of infrastructure, proposed site
43 improvements and other proposed changes that would protect the public interest and
44 further the intent of terrain management or architectural and appearance standards.



7 NBD 17

2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

SECTION 3 - VARIANCES

3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

In no case shall any variation or modification be more than a minimum easing of the requirements.

3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

3.4 Height Variance in Airport Zones

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the



CERTIFICATION OF POSTING

I herby certify that the public notice posting regarding Land Development
Case # V-14-5310 was posted for 21 days on the property beginning
The 25 day of February
_____**


Signature

*Photo of posting must be provided with certification

****PLEASE NOTE:** Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 21 days. It is the applicant's responsibility to ensure that the notice is on the property for the full 21 days.

STATE OF NEW MEXICO }
 }
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 25th day of
February, 2015, By Patrick Smith & Lyndee Lysaght.


Notary Public

My Commission Expires:
April 27, 2015



NBD-19

From: Patrick Lysaght <cationxyz@gmail.com>

To: me2thedoc <me2thedoc@aol.com>

Subject: posting

Date: Wed, Feb 25, 2015 2:25 pm

Attachments: 138.JPG (8132K), 139.JPG (9387K)

2 Attached Images



From: Patrick Lysaght <cationxyz@gmail.com>

To: me2thedoc <me2thedoc@aol.com>

Subject: posting photos

Date: Wed, Feb 25, 2015 2:24 pm

Attachments: 136.JPG (7017K), 137.JPG (7402K)

2 Attached Images



NBD-21

The newspapers of **New Mexico** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web (www.PublicNoticeAds.com), not scattered among thousands of government web pages.

County: Santa Fe
Printed In: Santa Fe New Mexican
Printed On: 2015/02/26

LEGAL # 98033

CDRC CASE # V 14-5310

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Patrick Lysaght, Applicant, for a variance of Article VII, Section 3.4.c.1.c (No Build areas) to allow disturbance of 30% slopes to construct an accessory structure, a variance of Article VII, Section 3.4.1.d.6 (Development Site), to allow the finished floor of a structure to exceed (5') above natural grade, and a variance of Article III, Section 2.3.6.b.1 (Height Restrictions), to allow the structure to exceed the 18' height limitation for buildings on 15% slope or greater. The property is located 11 Via Vecino in the Traditional Community of Tesuque, within Section 31, Township 18 North Range 10 East, (Commission District 1).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 19th day of March 2015, at 4 p.m. on a petition to the County Development Review Committee, and on the 12th day of May 2015, at 5 p.m. on a petition to the Board of County Commissioners.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

All interested parties will be heard at the Public Hearing prior to the Commission taking action. All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Published in The Santa Fe New Mexican on February 26, 2015

Public Notice ID: 22213960

NBP-21A

Patrick Lysaght and Dianne Parrotte
11 Via Vecino
Santa Fe, NM 87506
512.364.3600
cationxyz@gmail.com

The proposed building project, 14374, seasonal workshop and dry storage - consists of concrete-base and post construction for the foundation on sloped terrain. Each concrete base is dug at least 3' into virgin soil with steel wire tied ½" rebar box steel structural (concrete) reinforcement with ½" vertical steel rod as a pin connection 15" into both the center of 6x8" posts and the concrete base for structural integrity.

There are 16 concrete base / post assemblies which disturb the natural terrain ~ 2.25 square feet each.

Total Terrain Disturbance:

1.5 x 1.5 ft X 16 = 36 square ft total.

It has been proposed to add a stone retaining wall on the high elevation side of the south load bearing set of concrete/post assemblies to assure erosion control. However, following the September 20 extreme rainfall it has been observed that there is **no evidence of terrain erosion on the slope** due to masking of rainfall by the building structure itself.

I will readily comply with the recommendations of the panel regarding inclusion or omission of the proposed stone retaining wall on the slope. **if a retaining wall is recommended**, it will be constructed as follows:

2-3' high and 32' long X 1.5' wide => approximately 48 square feet terrain disturbance

For completeness, I have included photos of the construction (taken after the strong rainfall) indicating the degree of slope disturbance due to the concrete-post construction (36 sqft total).



NBD-22



Hands Engineering, Inc.

September 12, 2014

Mr. Patrick Lysaght
11 Via Vecino
Santa Fe, NM 87506

**RE: LYSAGHT RESEDENCE
11 VIA VECINO
SANTA FE, NEW MEXICO
Hands Engineering Project No. 2014-4351**

Dear Mr. Lysaght:

Per your request, Hands Engineering, Inc. was employed to perform a site visit to the referenced site. On August 21, 2014, James Hands visited the site to gather the data necessary for our analysis. The purpose of the site visit was to evaluate the structural condition of the newly constructed dry storage and exterior deck.

Please note that the evaluation was a visual observation and plans were later made available to our office. The report and drawings provided to our office are also enclosed.

I have analyzed the drawings for the following members and design criteria listed:

- 1) Roof framing members.
- 2) Floor framing members.
- 3) Foundation sizes based on assumed soils conditions.
- 4) Details of roof framing structural connections.
- 5) Lateral restraint system provided by shear walls and wood cross bracing.
- 6) Retaining walls for erosion control.

Seismic Design

- 1) Factor
1=1.0
SDS=0.480
Ss=
SD1=0.229
S1=
SITE CLASS: D
- 2) Seismic Design Category: D
- 3) Seismic Resisting System: Per ASCE 7-05 Table 12.2-1: Part 13
- 4) Seismic Response Coefficient: Cs=0.1
- 5) Response Modification Factor (S), R: 6.5
- 6) Analysis Procedure: Equivalent Lateral Force

NBP-23

Building Codes and Standards:

- A) 2009 International Building Code
- B) 2009 International Residential Code
- C) American Institute of Concrete Institute 318 "Building Code Requirements for Reinforced Concrete"
- D) ANCI/NF&PA NDS "National Design Standard for Wood Construction"
- E) American Institute of Timber Construction: "Timber Construction Manual"

Design Loads: Occupancy Category: II

- A) Live Loads: (Live Load Reduction Per IBC 1607.9.2)
 - 1) Roof: 30 PSF
 - 2) Floors: 75 PSF

- B) Snow Loads:
 - 1) Flat Roof Snow Load Pf: 30 PSF
 - 2) Factors: Ce 1.0
Ct 1.0
I 1.2

- C) Ground Snow Load: Pg=43 PSF

- D) Wind Load:
 - 1) Basic Wind Speed: 3 Second Gust 90 MPH
 - 2) Factors: I=1.0
GCPi=±.18
Exposure C
 - 3) Components and Cladding (Effective Area = 10 Sq. Ft.)
 - Zone 1 10.0/-17.7 (Interior)
 - Zone 2 10.0/-29.6 (Edges)
 - Zone 3 10.0/-44.6 (Corners)

My conclusion for the structural construction of this wood framed building to be used as dry storage are in compliance with the codes listed above and are structurally sound for the loads required.

The drawings produced by the owner are approved per my analysis and review of the attached documents.

The conclusions and opinions stated are based on our understanding of the facts and evidence stated in the discussion above. Should additional facts or evidence become available pertaining to this project I reserve the right to review that information and revise my opinions when appropriate.

Please do not hesitate to contact our office should you have any questions or if we can be of further assistance.

Respectfully submitted,

James A. Hands

James A. Hands, PE
President

JAH/lmh

Encl: Report, Drawings



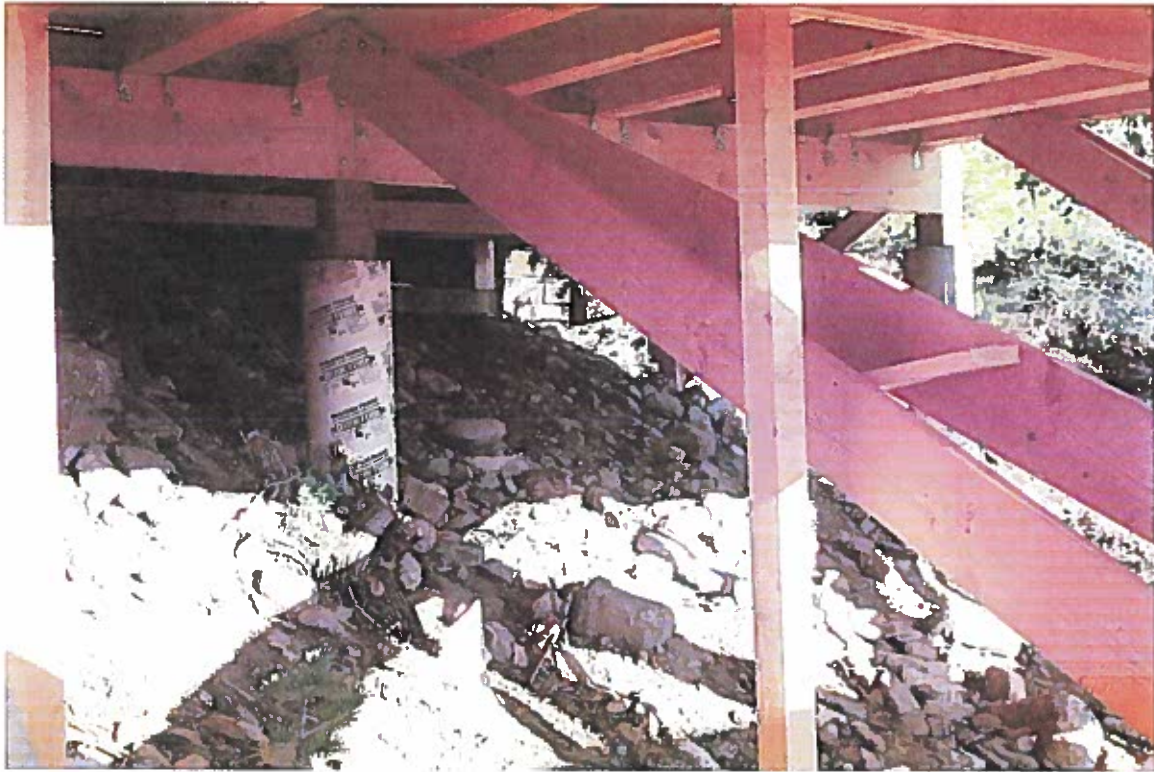


CONCRETE + POST CONSTRUCTION ON SLOPE WITH CROSS BRACING
LADDERS SHOWN LEANING AGAINST POSTS FOR DECK (SOUTH SIDE) TO ADD
STRUCTURAL INTEGRITY - WIDER FOOT PRINT WITH VERY LITTLE ADDED WEIGHT



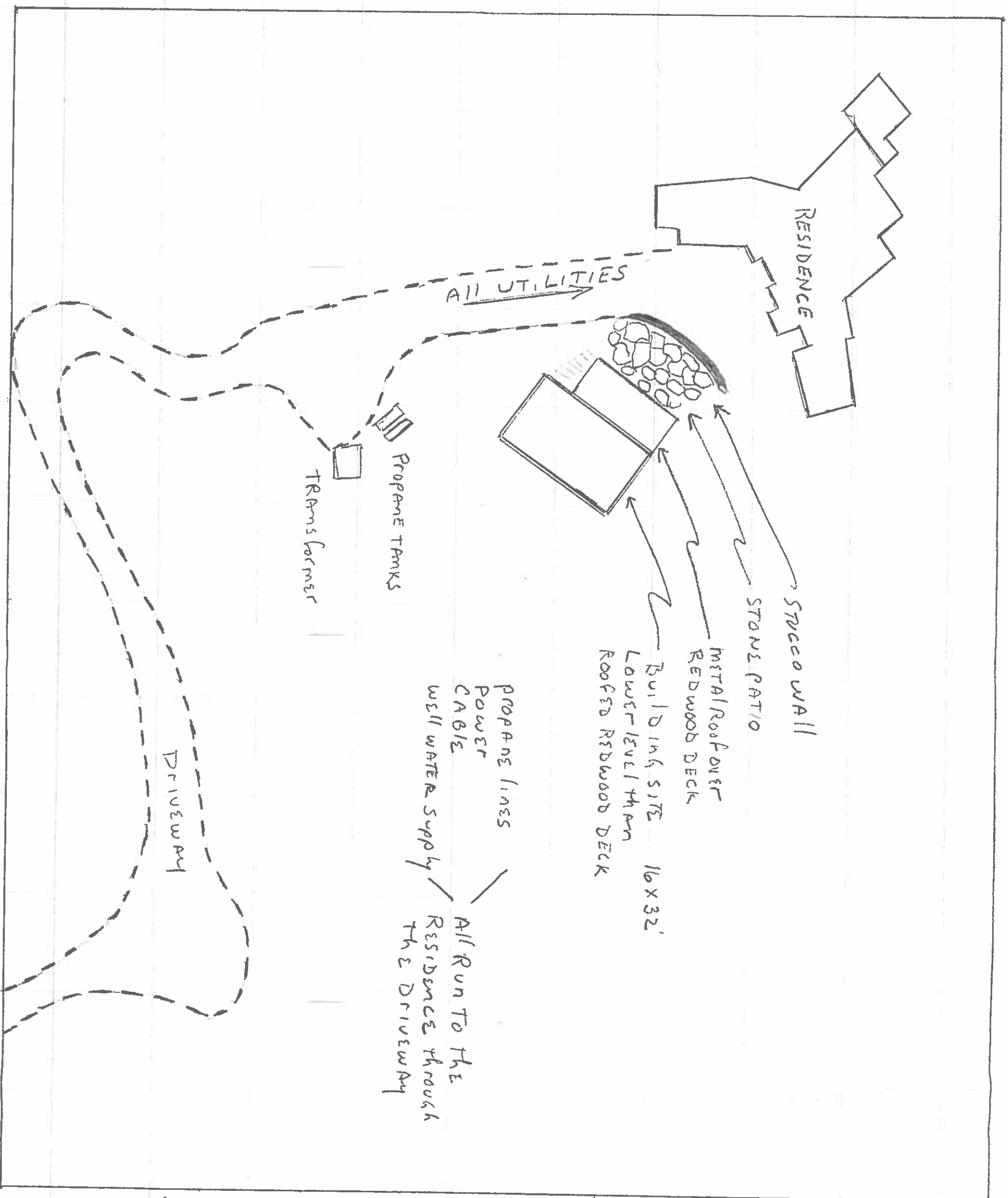
OPTIONAL RETAINING WALL WOULD PREVENT SOIL EROSION AROUND
CONCRETE BASE SECTIONS, HOWEVER - NO EVIDENCE OF EROSION HAS
BEEN DETECTED FOLLOWING HARD RAINFALL SEPT 20. THEREFORE
RETAINING WALL IS LIKELY NOT NECESSARY. WILL ADD OR OMIT
WALL AS PER PANEL RECOMMENDATION.

NBD-26



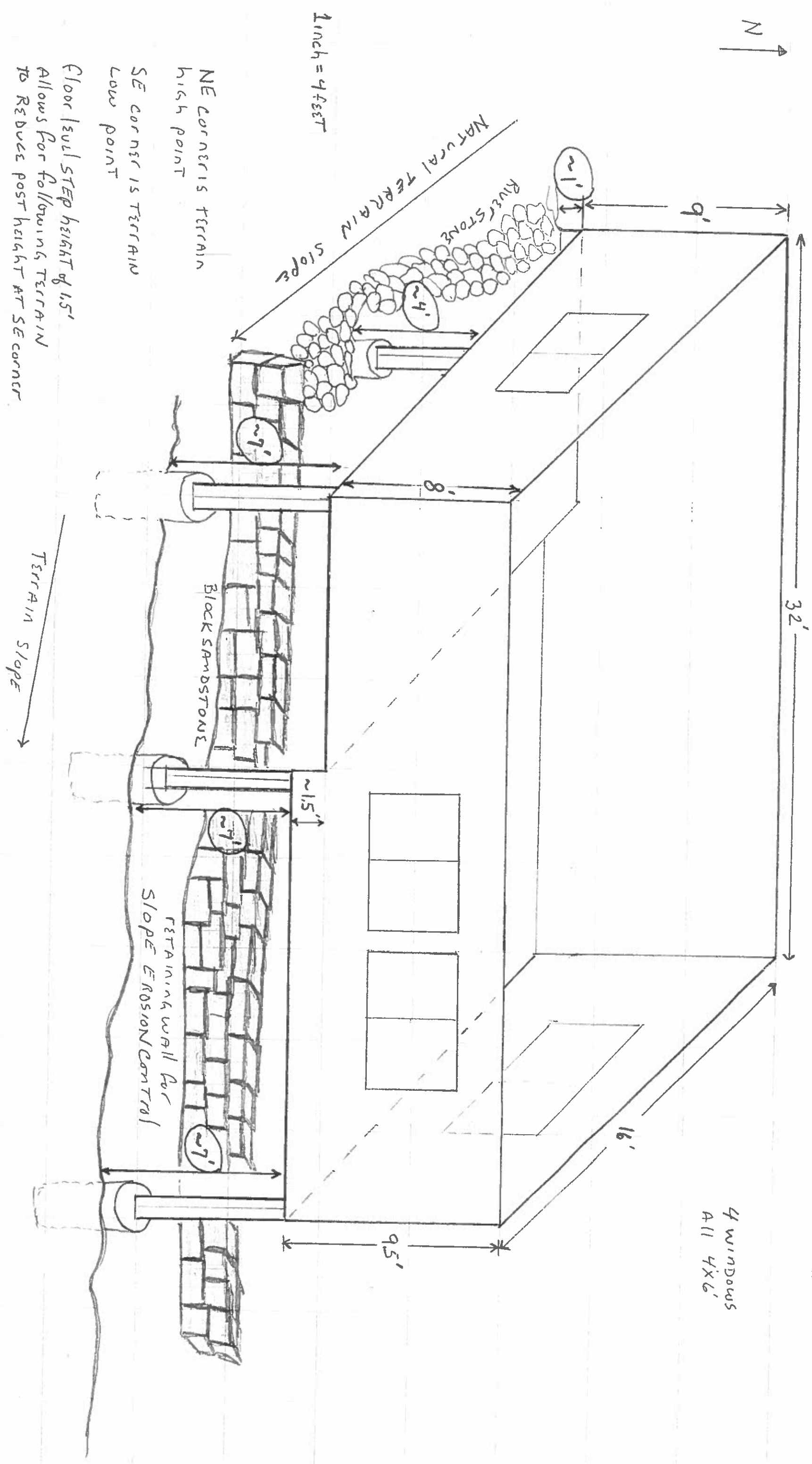
TWO ADDITIONAL VIEWS OF SLOPE TERRAIN WITH CONCRETE PADS + POSTS. VISUAL CONCERNS WILL BE ADDRESSED AS PER NEIGHBORHOOD FEEDBACK I.E. PLANTING OF TREES, LATILLAS ADDED TO MASK CONSTRUCTION CROSS BRACING, ETC.

NBD-27



PATRICK LYSAGHT
 11 VIA VICINO 87506
 512.364.3600

Dry STORAGE FOUNDATION SHOWN WITHOUT SOUTH & EAST SIDE DECK SUPPORT STRUCTURE



NE corner is terrain high point
 SE corner is terrain low point
 Floor level STEP height of 1.5'
 Allows for following terrain to reduce post height at SE corner

Terrain Slope

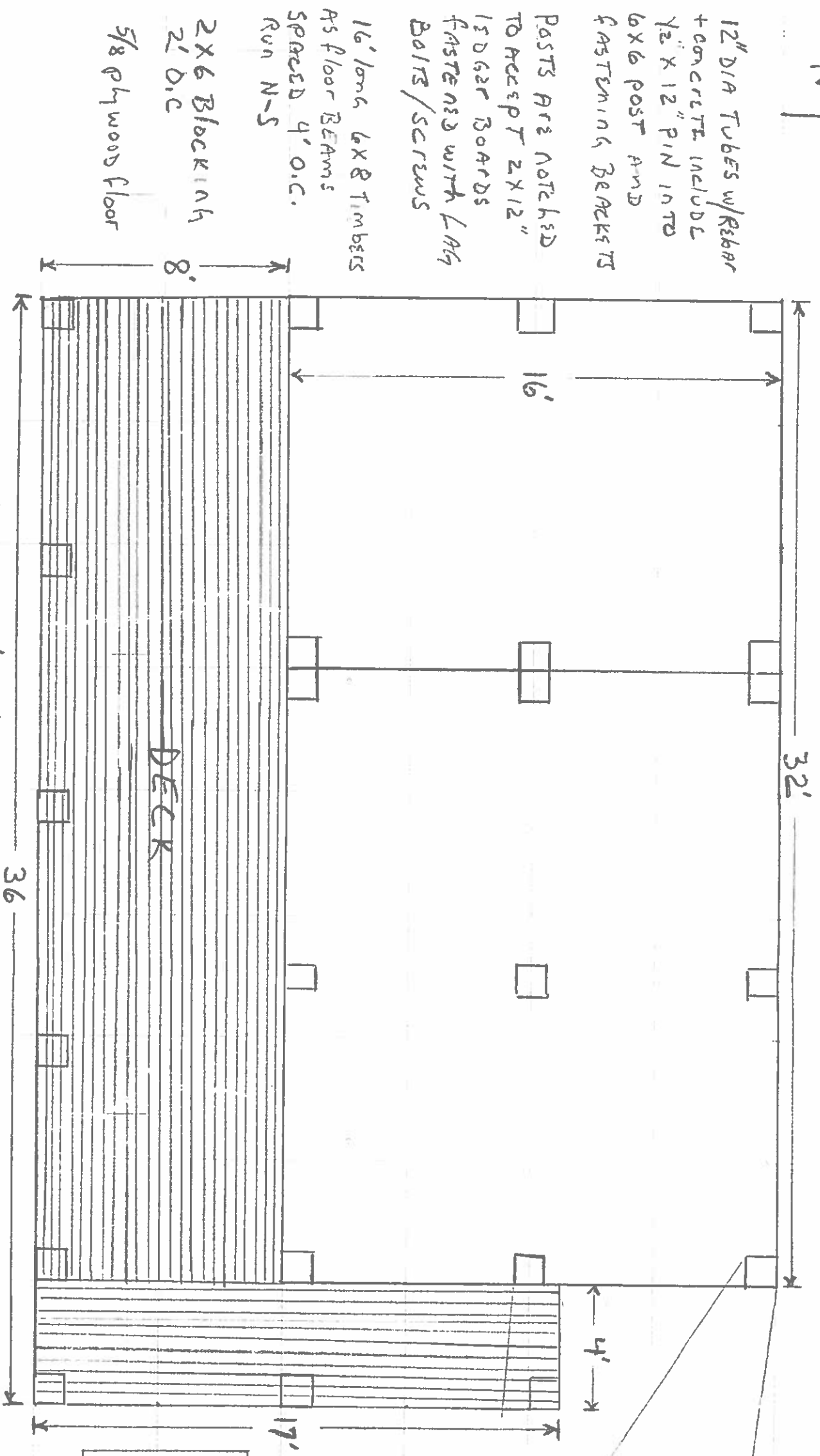
4 windows
 All 4x6'

PATRICK LYSAGHT
 11 VIA VEIND 87506
 512.364.3600



Dry Storage Building Foundation Plan
 32' x 16' with support DECK on South + East side

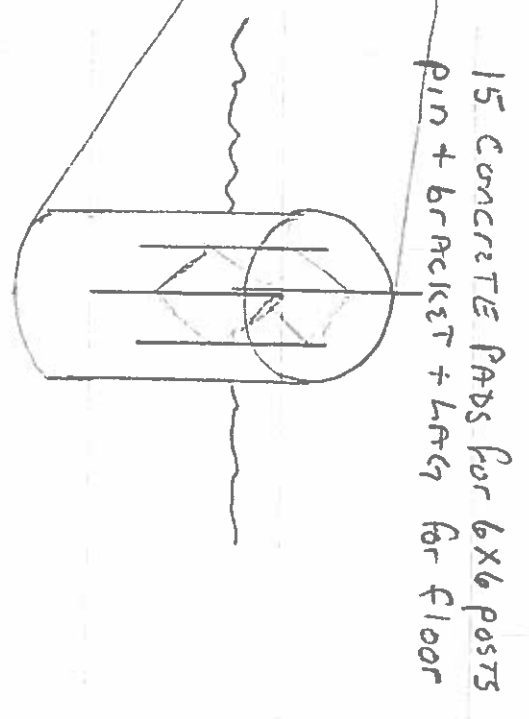
1 inch = 4 feet



12" DIA TUBES w/ REBAR + CONCRETE INCLUDE 1/2" X 12" PIN INTO 6X6 POST AND FASTENING BRACKETS
 POSTS ARE NOTCHED TO ACCEPT 2X12"
 JOIST BOARDS
 FASTENED WITH LAG BOLTS / SCREWS
 16' long 6X8 TIMBERS AS FLOOR BEAMS SPACED 4' O.C. RUN N-S
 2X6 BLOCKING 2" D.C.
 5/8 Plywood floor

SOUTH DECK 8' X 32'
 EAST DECK 4' X 16'

DECK STRUCTURE SERVES AS OUTRIGGER for DRY STORAGE BUILDING



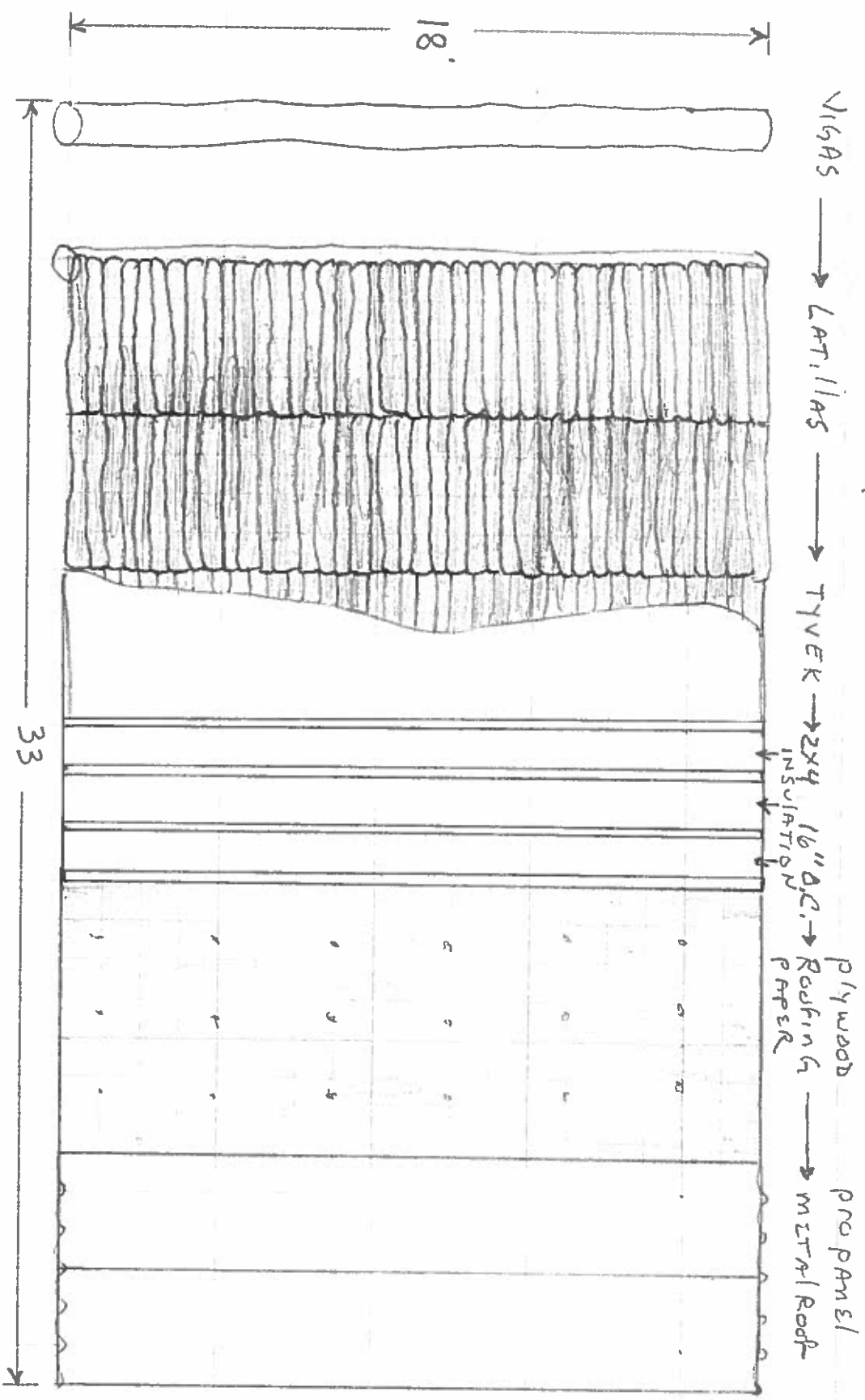
12" DIA TUBE / CONCRETE
 4 #4R 1/2" DIA STEEL WIRE TIE
 ALL TUBES GET 3' MINIMUM IN HOLE IN VIRGIN TERRAIN

WATER HARVESTING GUTTER TO RUN ALONG SOUTH ROOF EDGE WITH PITCH TO SE CORNER DOWN SPOUT TO 120G TANK MOUNTED ON GROUND @ SE CORNER

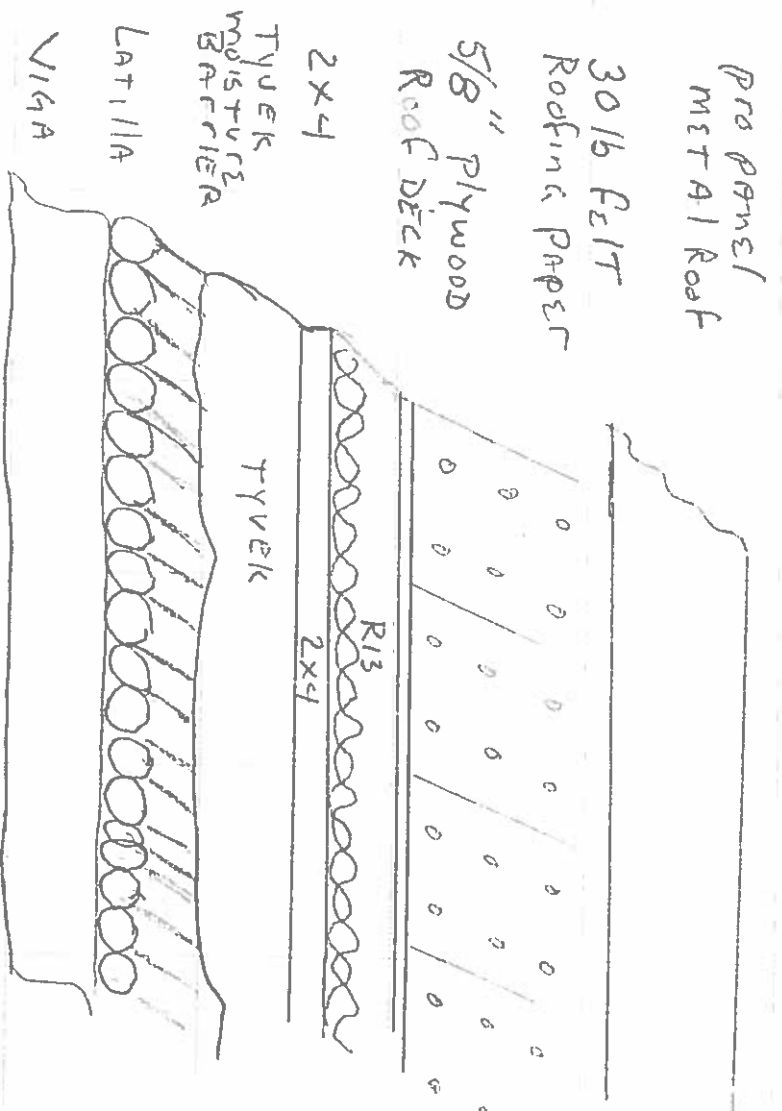
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 512.364.3600

NBD-26

Dry Storage Roof Plan



9 VIGAS 18' long, 10" DIA SPACED 4' O.C.
 LATILLAS COVER SPAN BETWEEN VIGAS
 TYVEK MOISTURE BARRIER OVER LATILLAS
 2X4 20' long 16" OC PROVIDES OVERHANG
 R13 BATT INSULATION IN 2X4 FRAMING
 5/8" THICK 4X8' PLYWOOD DECK OVER FRAMING & INSULATION
 30 lb ROLLED ROOFING BIK PAPER OVER PLYWOOD
 PRO PANEL METAL ROOFING



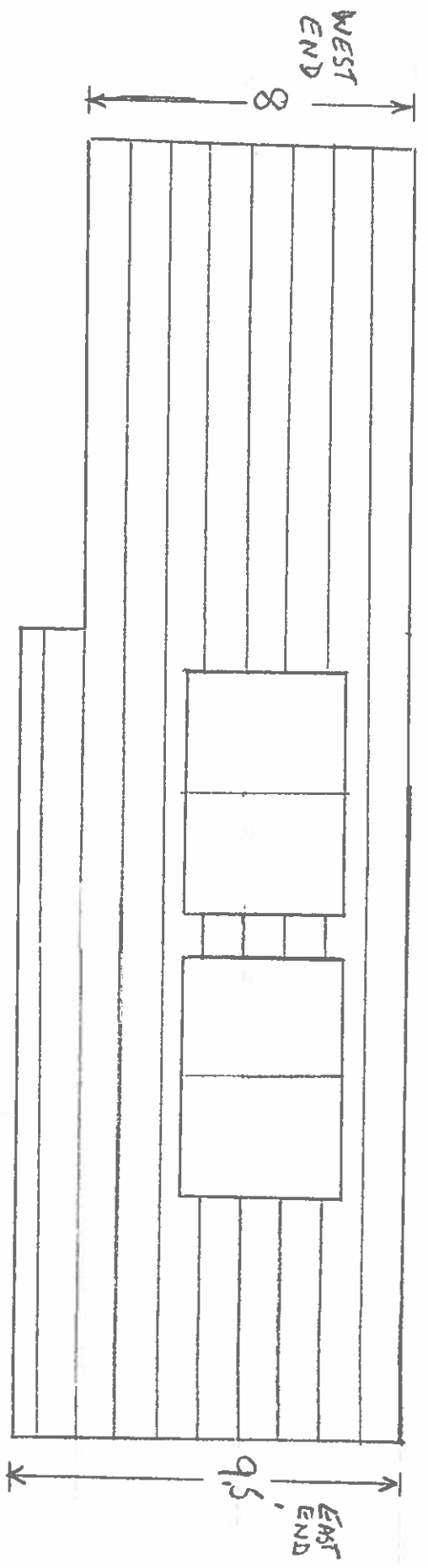
1 inch = 4 feet

PATRICK LYSAUGHT
 11 VIA VECINO 87506
 512.364.3600

1 inch = 4 feet

Wall sections with windows

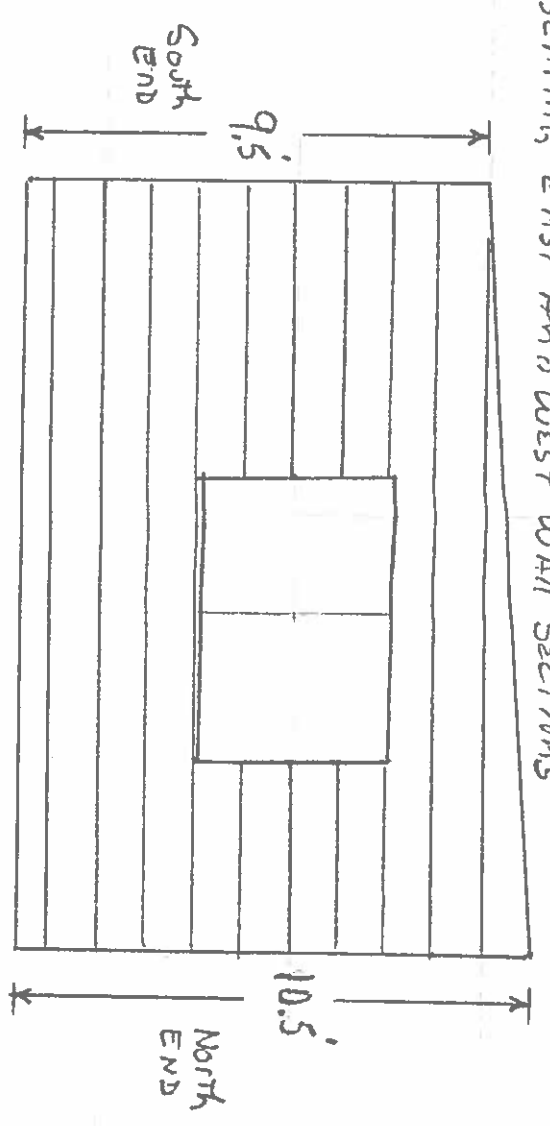
South wall shown from outside



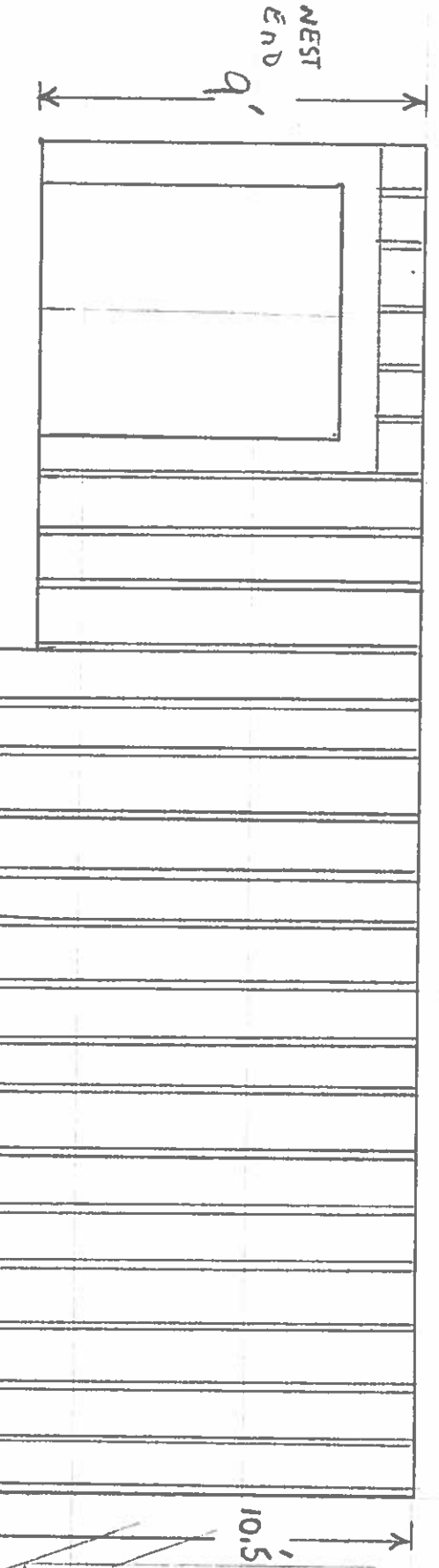
All 4 windows are operable sliders 4'x6'
 Framing: 2x6 16" o.c. for load bearing, North and South wall sections
 2x4 16" o.c. for non-load bearing, East and West wall sections

Hardie board will be painted
 to match lights and color
 of main house

East wall shown from outside



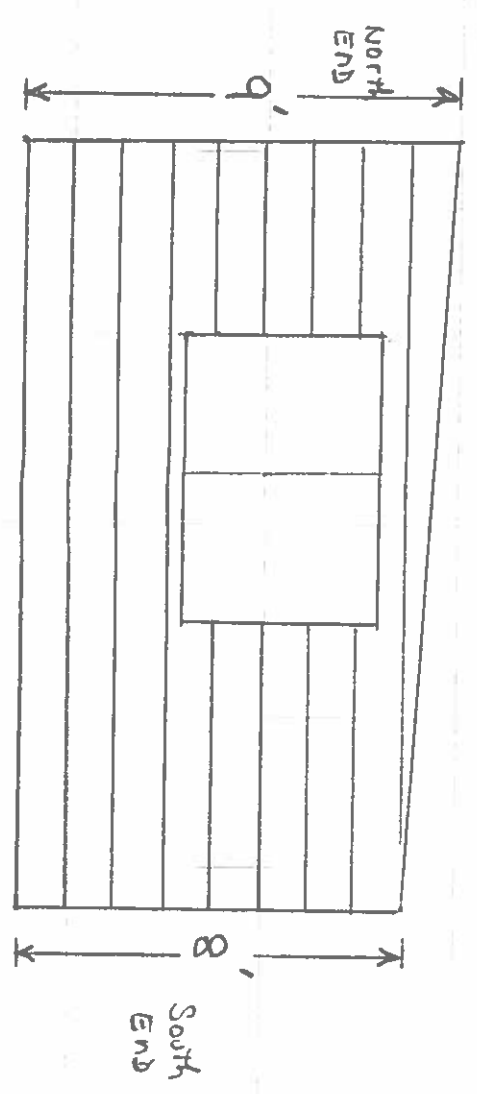
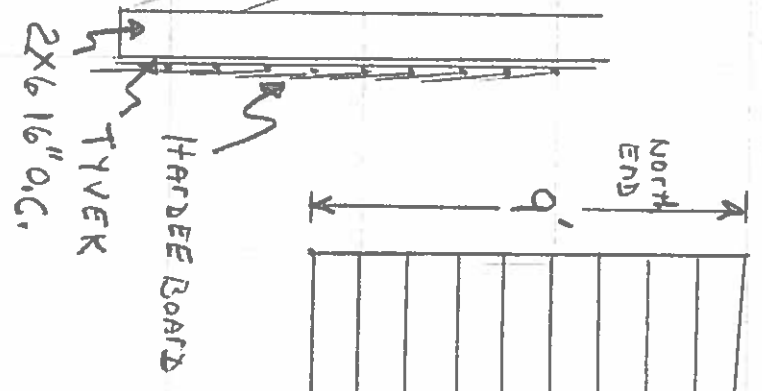
West wall shown from outside



North wall shown from inside

Double door: 2 each 3x7' custom doors
 Exterior of all framed walls is wrapped with Tyvek moisture barrier
 and covered with Hardie claboard concrete sections to dry-in

At this time no wiring, plumbing or insulation is planned



PATRICK LYSAAGH
 11 VIA VECINO 87506
 512.364.3600



EXHIBIT
11

NBD 33



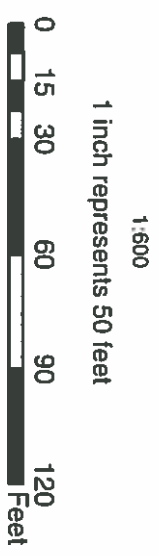
Legend

- ROADS
- DRIVEWAYS
- PARCELS

tabbler

EXHIBIT

12.



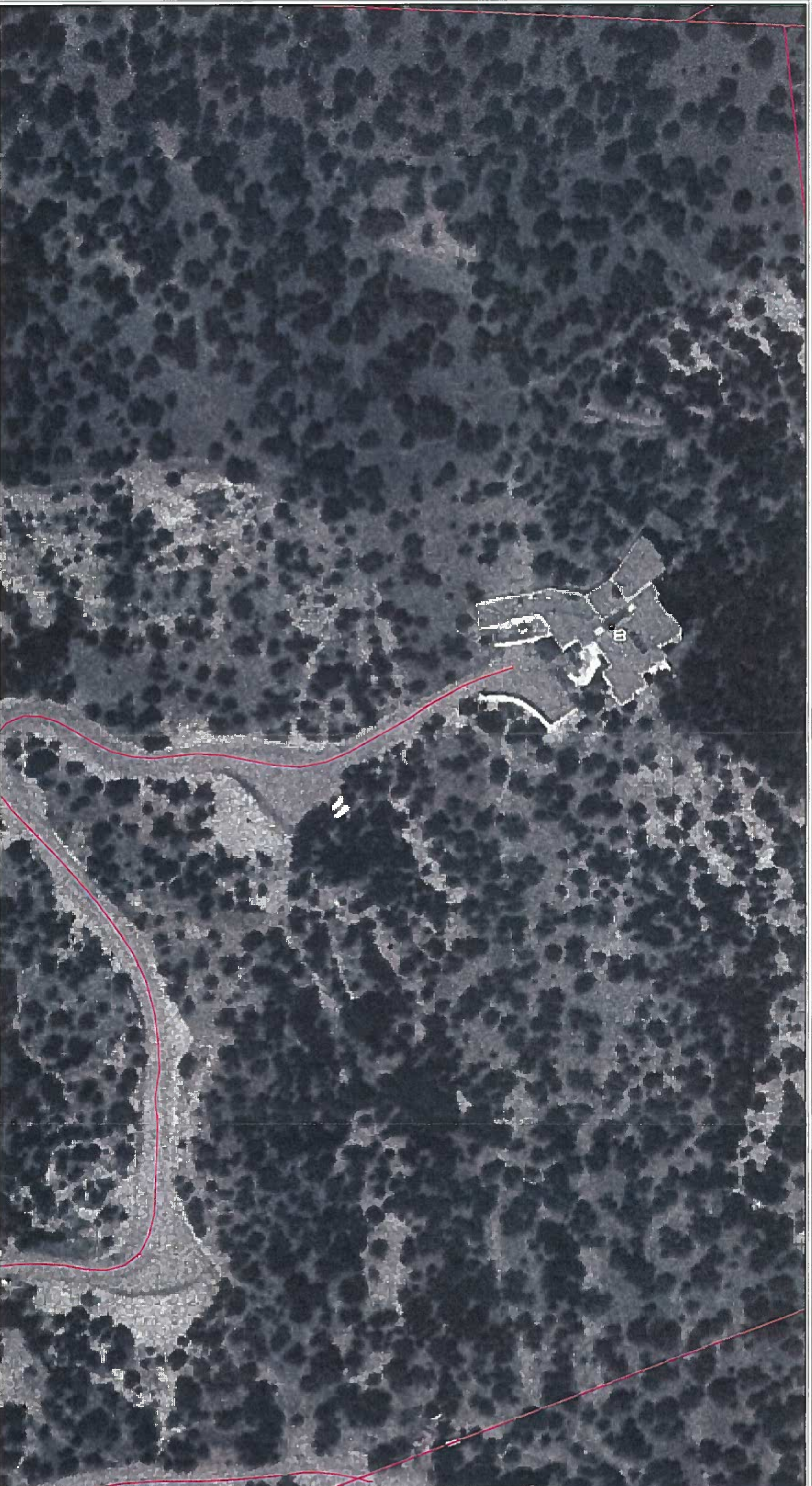
2008 Imagery
2 FOOT CONTOURS

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
User are solely responsible for
confirming data accuracy.



March 11, 2015

NSR-24



Legend

- ROADS
- DRIVEWAYS
- PARCELS

1:600

1 inch represents 50 feet



1992 Imagery
2 FOOT CONTOURS

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confirming data accuracy.



March 11, 2015

NBD-35