

Staff Summary Report



Hearing Officer Hearing Date: September 15, 2009

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by the **LIND RESIDENCE (PL090302)** located at 626 East Taylor Street for one (1) use permit.

DOCUMENT NAME: 20090915dssl02 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **LIND RESIDENCE (PL090302)** (Kevin Lind, applicant/property owner) located at 626 East Taylor Street in the R1-6, Single Family Residential District for:

ZUP09122 Use permit to allow an accessory building (studio/workshop).

VAR09012 Variance to reduce the north rear yard setback from fifteen (15) feet to zero (0) feet.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

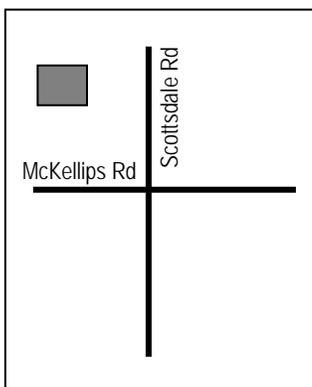
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval of ZUP09122- subject to conditions
Denial of VAR09012

ADDITIONAL INFO:



The Lind Residence is requesting a use permit for a detached accessory building (studio/workshop), and a variance to reduce the north rear yard setback from fifteen (15) feet to zero (0) feet. Staff recommends approval of the use permit for the detached accessory building; it is compatible with the existing residence and complies with the approval criteria for a use permit. However, staff recommends denial of the variance owing to lack of hardship, special circumstances or evidence indicating potential loss of substantial property rights. In accordance with the Zoning and Development Code, the applicant held a neighborhood meeting on August 31, 2009 and to date staff has received no opposition to this request

PAGES:

1. List of Attachments
2. Comments;
3. Reasons for Approval; Conditions of Approval; History & Facts/Description
4. Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor plan
6. Elevation
- 7-8. Staff Photograph(s)

COMMENTS:

The Lind Residence is requesting a use permit for a detached accessory building (studio/workshop), and a variance to reduce the rear yard setback from fifteen (15) feet to zero (0) feet. The proposed structure will be used for storage and a studio/craft space. The structure will be wood construction, and will complement the existing dwelling.

Public Input

The applicant held a neighborhood meeting on August 31, 2009; ten (10) neighbors attended the meeting and all expressed support for the accessory building with the reduced rear yard setback.

Use Permit

The Zoning and Development Code requires a use permit for accessory buildings that exceed eight (8) feet in height and/or exceed 200 vs. in area. Staff recommends approval of the use permit for the accessory structure. The workshop/studio is compatible with the existing structure and meets the following criteria for approval of a use permits:

- a) Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b) Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This use should not adversely impact neighboring properties with the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare.
- c) Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- d) Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses.
- e) Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;
 - Not applicable

Variance

The Zoning and Development Code Development Standards require the setbacks for accessory buildings, in the R1-6 Single Family Residence District, to be located five (5) feet from the side property lines and fifteen (15) feet from the rear property line. A provision is allowed for the rear yard measurement to be taken from the midpoint of the alley; which actually places the proposed structure ten (10) feet from the setback line which is the zero (0) property line. The applicant states in their letter that the structure is necessary for additional storage area, and that the location abutting the north property line conforms to building code to maintain safety and public access. Analysis of this request results in finding that there are no special circumstances or conditions affecting this building, land, or use to warrant approval of the variance. The property is rectangular in shape and is consistent with other properties on this block. Authorizing the variance is not necessary for the enjoyment of substantial property rights. It is possible to configure the proposed addition in compliance with current development standards by reducing the length of the structure and placing it a minimum of five (5) feet from the north property line or at the fifteen (15) foot setback. . Through a use permit process the Zoning Development Code allows a reduction of the rear yard setback by 20% or to twelve (12) feet. If the variance were approved consistent with the use permit standard allowance, the structure may be placed twelve (12) feet from midpoint of the alley or two (2) feet from the north property line.

We encourage the applicant to explore other designs that will conform to the setback standards in the R1-6, Single Family Residential District.

Conclusion

Staff recommends approval of the use permit and denial of the rear yard setback variance.

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. The use appears to be compatible with the site and adjacent properties.
3. There appears to be a demonstrated need for this accessory building.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

REASON(S) FOR DENIAL:

1. No special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is not necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will may be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

CONDITION(S) OF APPROVAL:

1. Obtain all necessary clearances and permits from the Building Safety Division.
2. Accessory building to complement the main residence in color, form and material.
3. Accessory building not be used for sleeping or living purposes and shall have no cooking facilities.
4. The accessory building not to be rented separately from the main residence as an office or accessory unit.
5. Provide a set of plans for the file with site data listing the height of existing dwelling and the proposed accessory building. The height of accessory building not to exceed the height of existing residence.
7. The rear yard setback approved for a reduction to twelve (12) feet as measured from midpoint of the alley or two (2) feet from the north property line.

HISTORY & FACTS: None pertinent to this case

DESCRIPTION: Owner – Kevin Lind
Applicant – Kevin Lind
Existing Zoning – R1-6, Single Family Residential District
Proposed building area- 534 s.f.
Proposed side yard setback- 5'
Proposed rear yard setback- 0' (from north property line)

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

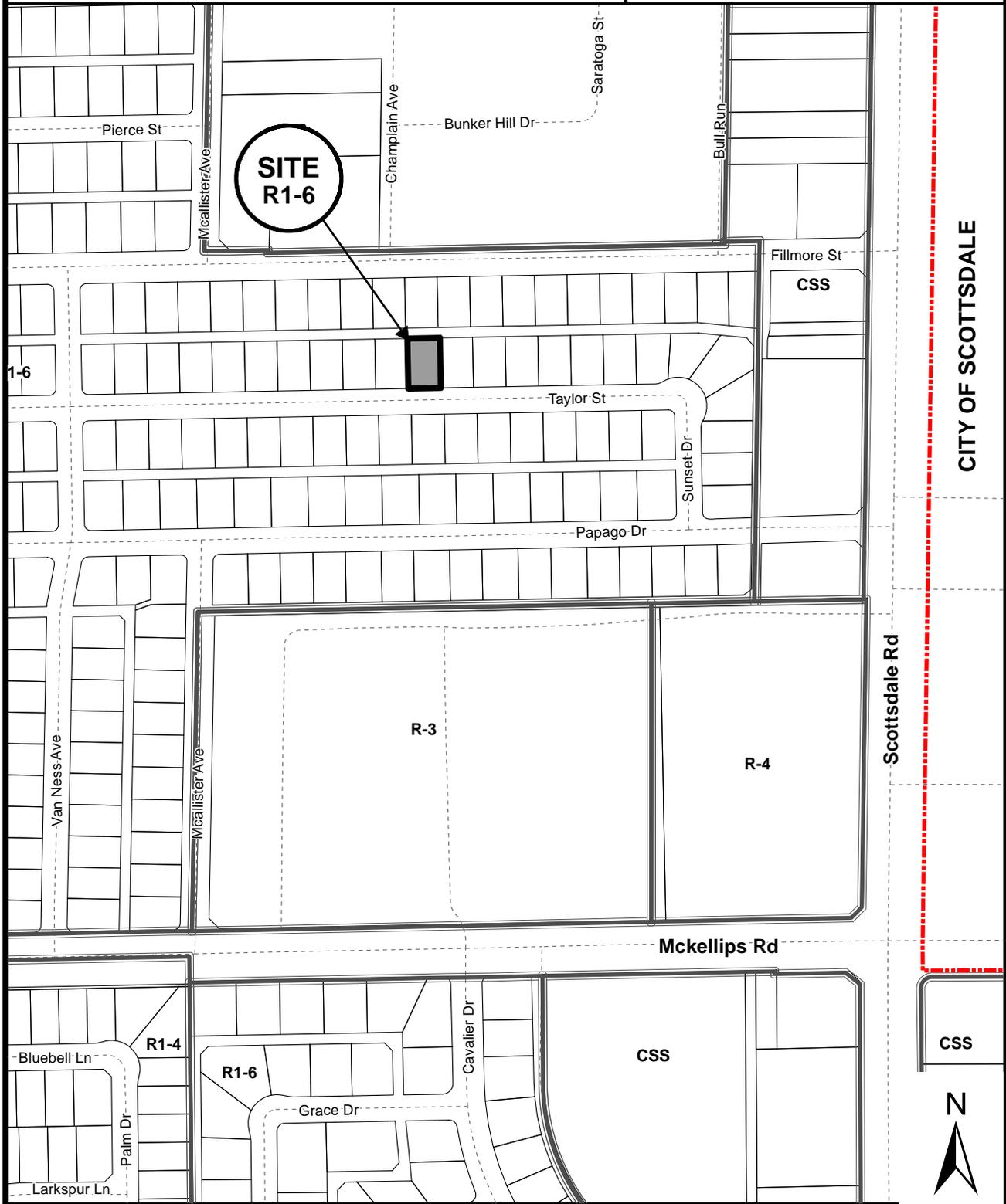
Part 3, Chapter 4, Section 3-401

Part 4, Chapter 2, Section 4-202.

Part 6, Chapter 3, Section 6-308 and Section 6-309

LIND RESIDENCE

PL090302



Location Map



LIND RESIDENCE (PL090302)

Kevin Lind
626 E. Taylor St.
Tempe, AZ 85281
(602) 312-8089
Julie_Lind@cox.net

Letter of Explanation for Variance

Project: Kevin Lind
626 E. Taylor St.
Tempe, AZ 85281

Request: To add a structure to the northwest portion of the property located on the property line on the north side only. Therefore, we are requesting a reduction in the required setback from 5' 0" to 0" on the northern alley side due to existing conditions.

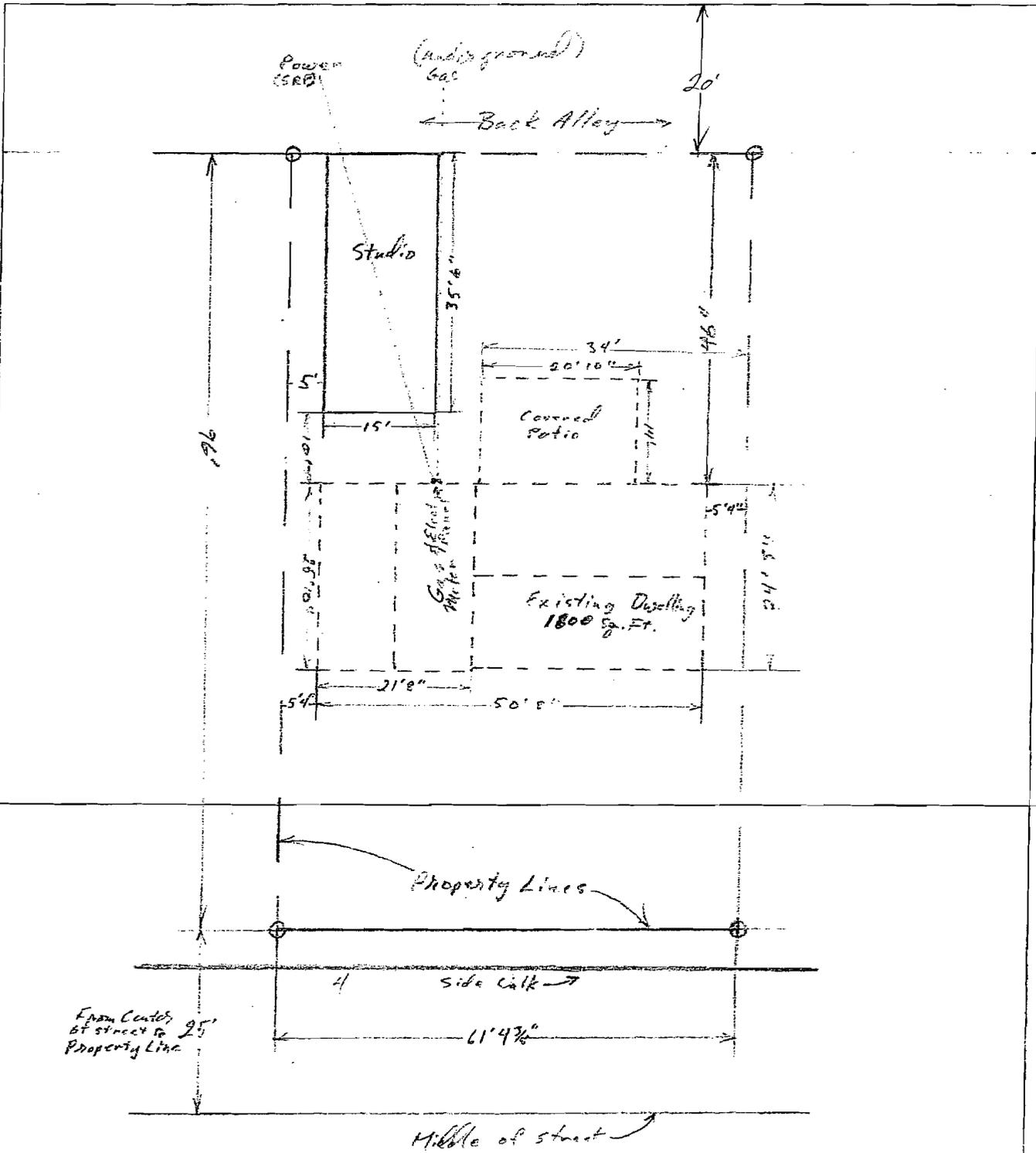
Whereas: The board may grant a variance to the technical provisions of the building code when it can be established that a manifest injustice would be done. A variance shall not be granted by the board unless it is found that:

- a. **Special circumstances or conditions apply to the request.** The special circumstances are that the original carport and possible storage area had been converted to inside living space prior to our purchase of the property. This left a need for storage and work space in an alternate location on the property.
- b. **Granting the variance is necessary for the preservation and enjoyment of substantial property rights.** The need to have storage and work space on this property is relevant to our quality of life and enjoyment. The proposed placement of the building on the property will allow us to maintain needed open space in our yard.
- c. **Granting the variance will not be materially detrimental to persons residing or working in the premises, to adjacent or surrounding property or to the public in general.** The space and location of the requested building will enhance the premises with regard to best use of space, the need for organization and the look of the property from within and without.
- d. **Granting the variance will be in harmony with the purposes sought to be attained by the building code.** The location close to the alley is within the purposes of the building code to maintain public safety, allow access, the property value, neighborhood aesthetics, quality of life and use of existing space.

Thank you for your consideration on this matter.



Kevin Lind

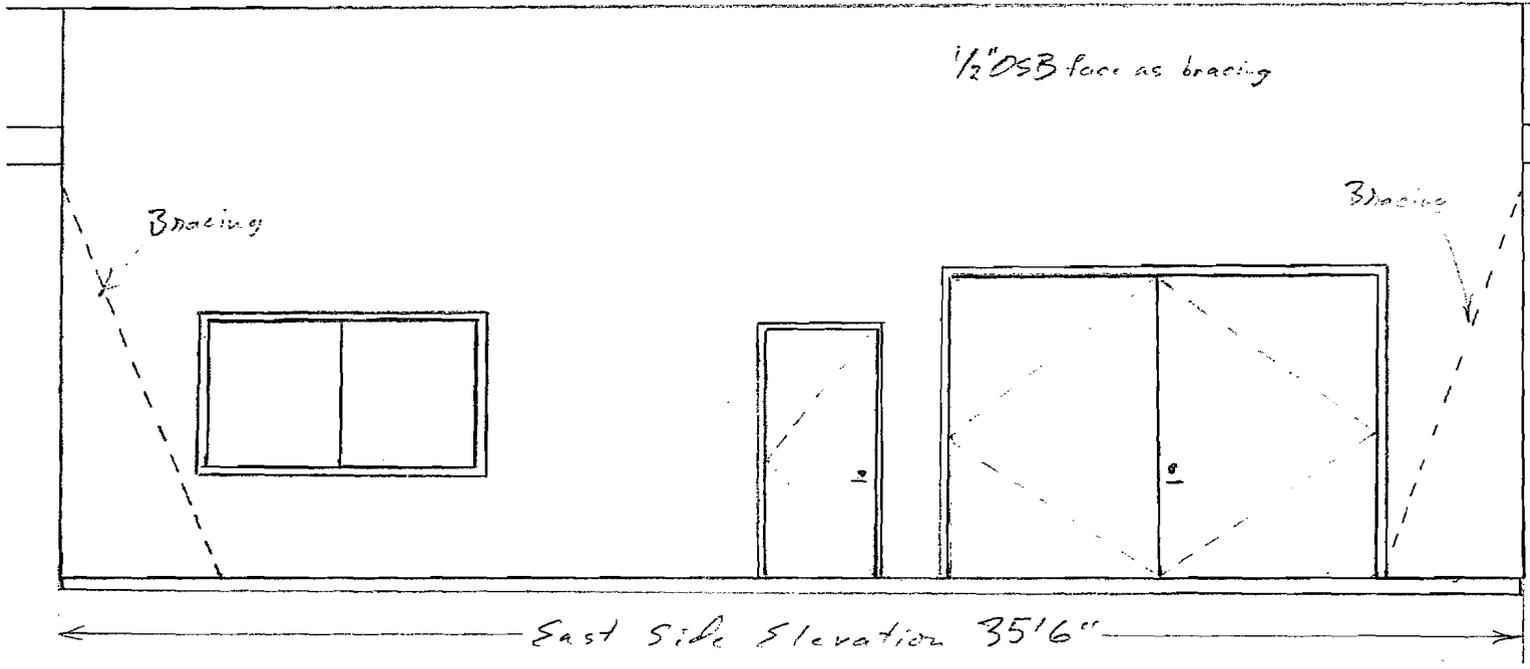
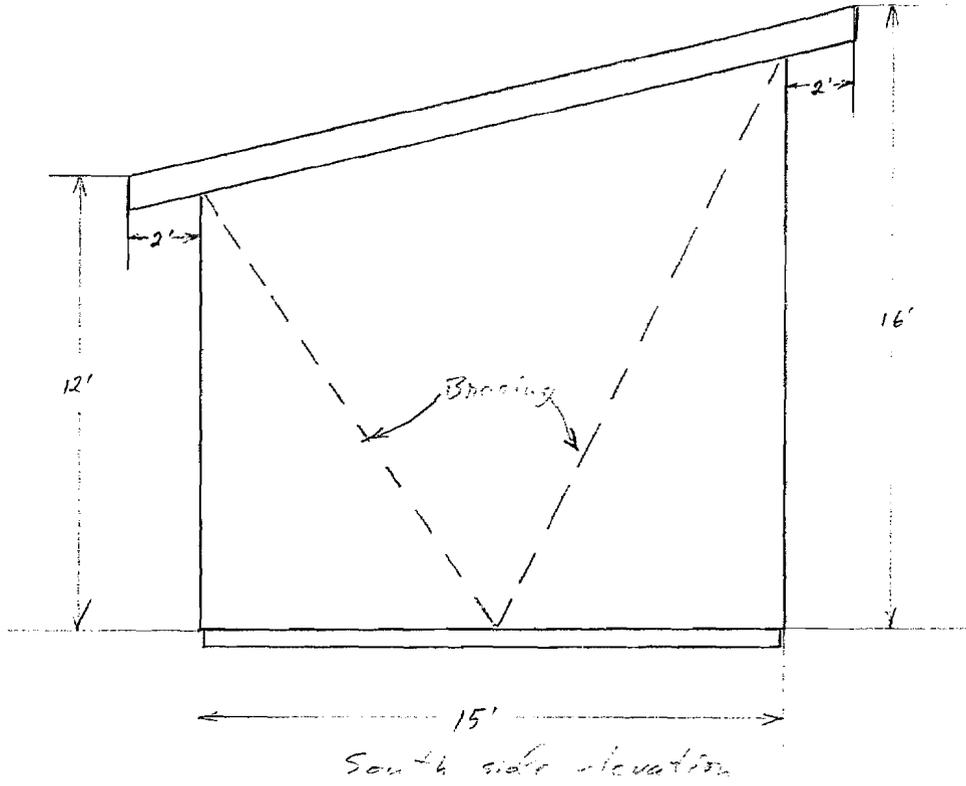


NORTH

SCALE 1" = 20'

Residential Structures

Title	Site Plan
Sheet No.	RES - 02



Structure Elevation:

URS-09



LIND RESIDENCE

626 EAST TAYLOR STREET

PL090302

FRONT OF RESIDENCE





LIND RESIDENCE

626 EAST TAYLOR STREET

PL090302

**REAR OF RESIDENCE – PROPOSED
LOCATION OF ACCESSORY BUILDING**

