

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY,
COLORADO, APPROVING THE ESTATE OF MARVIN TILLMAN SITE PLAN REVIEW AND
ACTIVITY ENVELOPE AMENDMENT**

Resolution No. ~~050~~-2012

RECITALS

1. The Estate of Marvin Tillman (hereafter "Applicant") has applied to the Pitkin County Board of County Commissioners (hereafter "BOCC") to obtain Site Plan approval to construct a new single-family residence. In addition, the Applicant is requesting an amendment to the approved Activity Envelope to allow development on slopes in excess of 30%. The parcel is within a designated scenic view protection area as seen from Snowmass Creek Road.
2. The parcel is located on Shield O Road, on the east side of the road just above the intersection with Snowmass Creek Road, and is more specifically described in Exhibit A.
3. The parcel contains 1.08 acres and is a nonconforming size parcel within the RS-30 zone district.
4. The Hearing Officer granted approval of an Activity Envelope for the Tillman parcel, pursuant to Determination No. 01-2008. The neighbor, Stonywood Trust, appealed the approval to the BOCC; the BOCC denied the appeal and upheld the Hearing Officer's Determination with modifications to the conditions of approval, pursuant to Resolution No. 079-2008. The Activity Envelope Plan was recorded in Plat Book 88 at Page 58.
5. Stonywood Trust filed an appeal with the Pitkin County District Court on July 25, 2008. The District Court affirmed the decision of the BOCC on August 21, 2010. On October 5, 2010, Stonywood Trust appealed the decision of the District Court to the Colorado Court of Appeals. The ongoing litigation imposed a stay on the processing of the Site Plan Review application. The BOCC granted relief from the stay, pursuant to Resolution No. 76-2011. The BOCC allowed the Applicant to proceed at his own risk with the Site Plan Review application and the subsequent Board of Adjustment application for setback variances, but stated that the Applicant shall not submit any building or other development permit applications, until the litigation has been resolved or further relief from the stay is granted. The Court of Appeals has since affirmed the judgment of the District Court and concluded "that the record supports Pitkin County's approval of the Estate's application for an activity envelope."
6. The BOCC heard this application at duly noticed public hearings on March 14 and April 25, 2012, at which times evidence and testimony was presented with respect to this application.
7. The BOCC finds that the Site Plan complies with the applicable standards in the Land Use Code ("Code").
8. The BOCC further finds that is appropriate to modify the approved Activity Envelope to include areas of slopes in excess of 30% that were previously excluded from the envelope, pursuant to Resolution No. 079-2008. The BOCC finds that the slopes in excess of 30% within the Activity Envelope are due to the presence of minor man-made changes in the gradient of an otherwise continuous slope of less than

30%, and an engineer has asserted that these slopes are not prone to instability and that development within these areas will not cause greater instability.

9. The BOCC further finds that the proposed development is consistent with the criteria for development within the Scenic View Protection Area. The residence projects above a ridgeline when viewed from a portion of Snowmass Creek Road (below/east of the residence and to the south of the residence), however, there is no alternate building site on the parcel. The residence has been designed to lessen the visual impact as seen from Snowmass Creek Road to the extent practicable, including limiting the mass, bulk and height of the residence.

NOW, THEREFORE, BE IT RESOLVED by the Pitkin County Board of County Commissioners that it does hereby approve the Estate of Marvin Tillman Site Plan Review and Activity Envelope Amendment, subject to the following conditions, which shall run with the land and be binding on all successors in interest:

1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.
2. The conditions of BOCC Resolution No. 079-2008 shall remain in full force and effect, unless amended by other conditions herein.
3. The floor area on the parcel shall be limited to a maximum of 1,474 square feet of floor area as shown on the attached floor plan (Attachment B) and the maximum height of any structures shall be limited to less than 20 feet as shown on the attached elevations (Attachment C). The 1,474 square feet of floor area is exempt from growth management.
4. The Applicant shall comply with all standards for development within Scenic View Protection Areas as represented in the application and approved in this Resolution. The exterior of the residence shall utilize indigenous earth tone materials or colors and the roofs shall have a non-reflective color or composition. Reflective roof materials shall not be used unless the materials are treated prior to installation to eliminate reflectivity, with the exception of materials associated with solar or photovoltaic equipment. Driveway lighting is prohibited and all other lighting shall comply with the lighting code.
5. Prior to submission of any future building permit applications for the residence, the Applicant shall be required to submit for approval by the County Attorney and Community Development a Site Plan in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.12. The above referenced approvals shall be a condition precedent to finalization and recordation of them. The Site Plan shall be amended as follows, prior to recordation:
 - A. Amend the Activity Envelope to include the areas of slopes in excess of 30% that were excluded from the envelope recorded in Plat Book 88 at Page 58.
 - B. Designate a location within the Activity Envelope for a potential future community mail/trash facility.
6. Prior to issuance of building permits for the residence, the Applicant shall:
 - A. Provide proof of an adequate water supply (in terms of quantity and availability) for domestic and fire protection purposes, and for irrigation purposes, if applicable.

- B. Complete a fireplace/woodstove registration form with the Community Development Department, if necessary.
 - C. Obtain a County access/driveway permit, which shall be reviewed and approved by the Basalt and Rural Fire Protection District and Planning/Zoning.
 - D. Submit a drainage and erosion control plan for review and approval by Planning/Zoning. If the total development disturbs one (1) acre or more, the Applicant shall apply for and obtain a State Stormwater Permit. All historic and natural drainage patterns shall be maintained. Stormwater shall be detained onsite and allow infiltration of runoff prior to discharge. The plan shall ensure that drainage is directed away from the cut slope below the residence and above Snowmass Creek Road.
 - E. Submit a construction management plan for review and approval by Planning/Zoning. The plan shall detail all parking and staging; parking is prohibited along Shield O and Snowmass Creek Roads.
 - F. Pay the applicable road and employee housing impact fees.
 - G. Obtain an On-Site Wastewater Treatment System construction permit from Environmental Health.
 - H. Submit a detailed revegetation plan for disturbed areas with appropriate seed mixes for review and approval by Planning/Zoning. Top soil shall be stored on-site and re-used for revegetation and landscaping purposes. The plan shall include revegetation of the cut bank above Snowmass Creek Road with native grasses with temporary irrigation for two growing seasons to ensure the success of the revegetation.
 - I. Submit a detailed landscaping plan.
 - J. Submit a detailed exterior lighting plan. Driveway lighting is prohibited, and exterior lighting shall be minimized on the north, east and south sides of the residence.
 - K. A geotechnical engineer licensed in the State of Colorado shall be required to demonstrate that the foundation can be engineered so that the residence does not destabilize the slope below the house and above Snowmass Creek Road.
7. Utility lines shall be installed in Snowmass Creek and Shield O Roads to the Activity Envelope, and shall not be extended through the cut bank above Snowmass Creek Road.
8. Landscaping shall be substantially consistent with the landscaping shown on the site plan. Areas disturbed by construction shall be re-vegetated within one growing season of the project's completion. Landscaping shall be completed prior to issuance of the Certificate of Occupancy for the residence.
9. No development in excess of 30" above or below natural grade shall occur within the setbacks of the parcel, with the exception of driveways and associated retaining walls of up to 6' above or below natural grade and fencing. Landscaping in the form of berms shall not exceed four feet from the most restrictive grade. Any development located within setbacks mandated by County zoning regulations that does not comply with these restrictions shall require a variance from the Board of Adjustment. Approval of an activity envelope within such setbacks does not assure approval of a variance.
10. The Applicant shall provide adequate engineering of any retaining walls over 4' in height and/or any improvements to retaining walls over 4' in height. All retaining walls shall be a maximum of 7' in height.
11. Prior to commencement of any earthmoving or other construction activity, the Applicant shall stake the corners of the activity envelope and install construction fencing around the construction site within the perimeter of the activity envelope. The fencing shall remain in place until issuance of a Certificate of Occupancy.

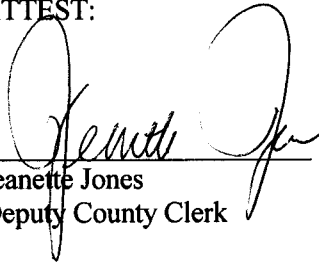
12. Snow shall not be pushed off of the driveway toward or over the cut bank above Snowmass Creek Road (to the west of the driveway).
13. The owner shall be liable for any damage to Snowmass Creek Road that results from the excavation or construction on the parcel or from drainage issues on the parcel. If the road is damaged, the owner shall restore the road to a condition acceptable to the County Engineer. Temporary disturbance to Snowmass Creek Road may occur to extend utilities to the parcel.
14. No calculations for height, bulk, setback, size, floor area, or any other building and zoning requirements have been conducted. These requirements will be considered at the time of building permit. Any structures represented in the application may not comply with building and zoning regulations.
15. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
16. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code, § 2-20-170 and C.R.S., § 24-68-105. The statutory vested rights granted herein shall expire on April 25, 2015.

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES WEEKLY on the 9th day of February, 2012.

APPROVED AND ADOPTED this 25 day of April, 2012.

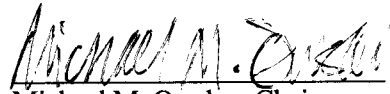
PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS in the Aspen Times Weekly on the 17th day of May, 2012.

ATTEST:



Jeanette Jones
Deputy County Clerk


BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO



Michael M. Owsley, Chairman


Date: 5-9-2012

APPROVED AS TO FORM:



John Ely,
County Attorney

APPROVED AS TO CONTENT:



Cindy Houben,
Community Development Director

PID 264522400583
Case #P028-11

Boce Reso 050-2012

**EXHIBIT A
LEGAL DESCRIPTION**

Order No.: 46189

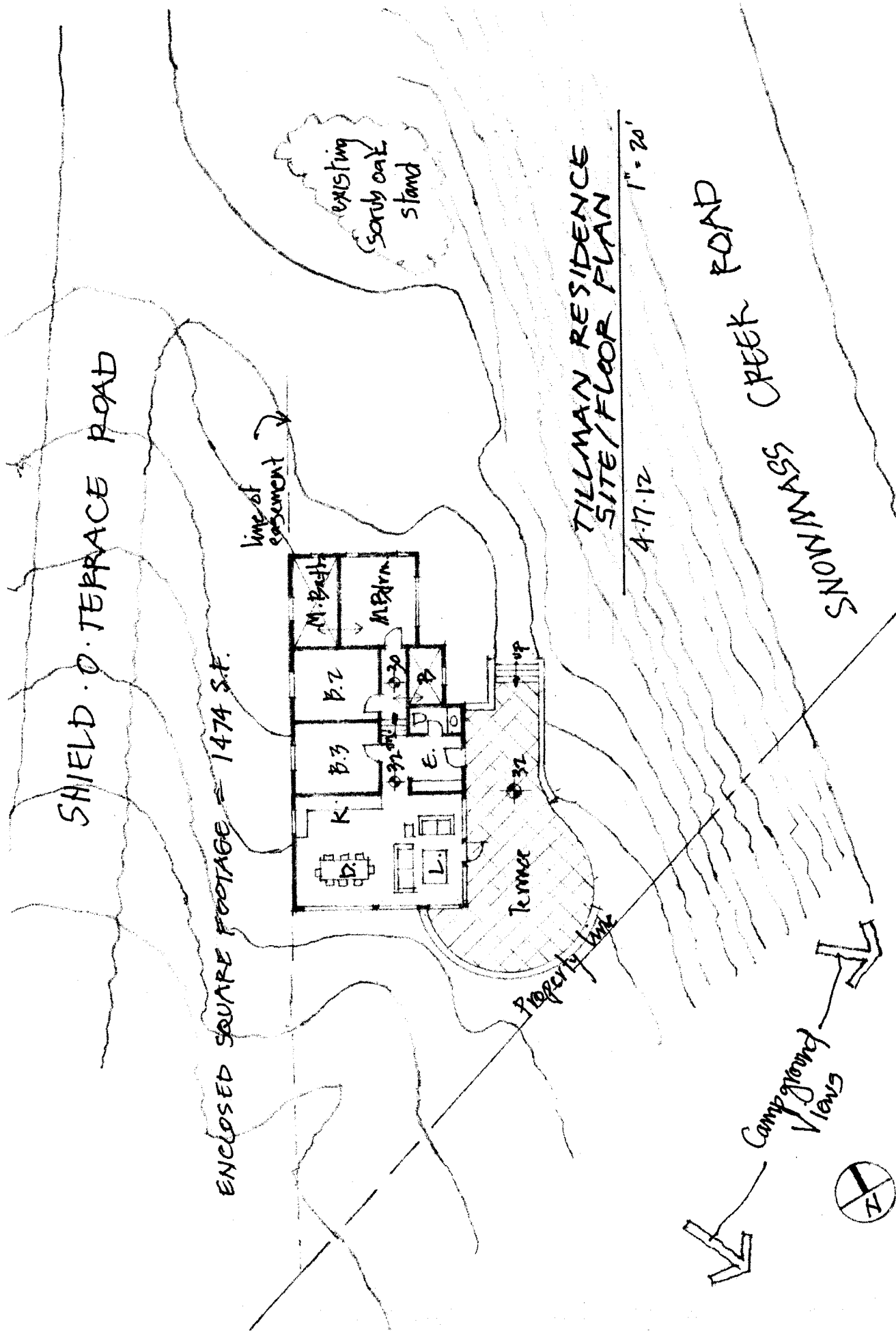
A tract of land situated in Lot 3, Section 22, Township 9 South, Range 86 West of the Sixth Principal Meridian, described as follows:

Beginning at a point being 233.67 feet N. $89^{\circ}09'$ East 107.88 feet North, and 89.45 feet West from the South Quarter Corner of Section 22, Township 9 South, Range 86 West of the 6th Principal Meridian;
thence East along the North Boundary of the McKenzie Patent 219.85 feet to the center of the Snowmass Road;
thence North $28^{\circ}19'$ East 414.65 feet along the center line of the Snowmass Road;
thence North $59^{\circ}58'$ West 45.08 feet;
thence South $35^{\circ}01'$ West 161.84 feet;
thence South $47^{\circ}17'$ West 363.60 feet;
thence South $64^{\circ}17'$ West 19.38 feet to the Point of Beginning.

County of Pitkin, State of Colorado

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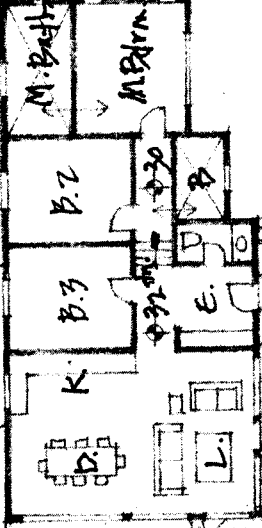


SHIELD O. TERRACE ROAD

ENCLOSED SQUARE FOOTAGE = 1474 S.F.

line of easement

existing scrub oak stand



terrace

Property line

TILLMAN RESIDENCE SITE/FLOOR PLAN

4-17-12

1" = 20'

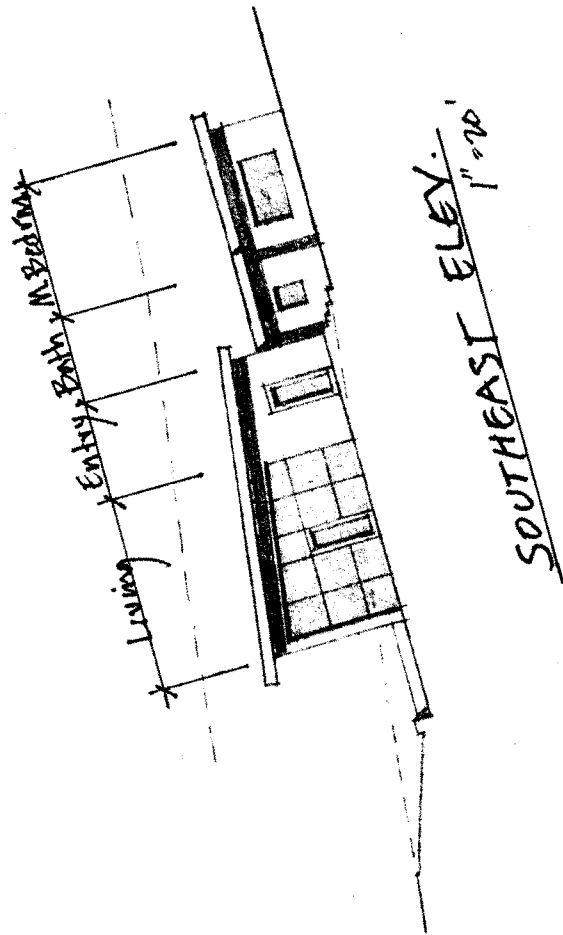
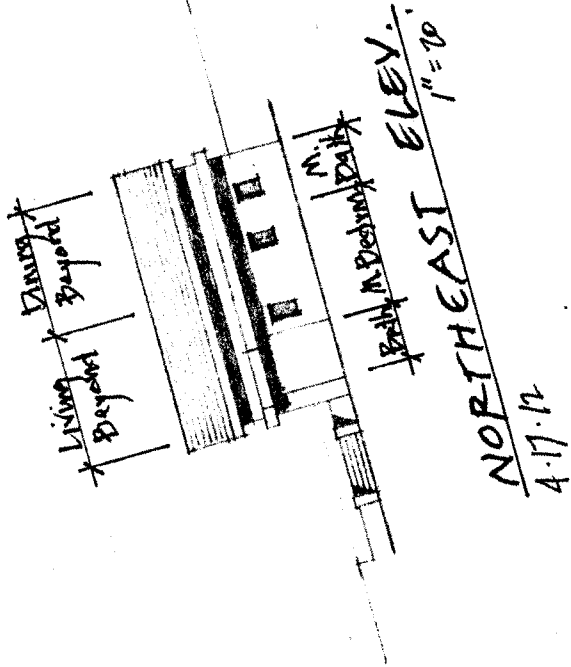
SNONNAGES CREEK ROAD

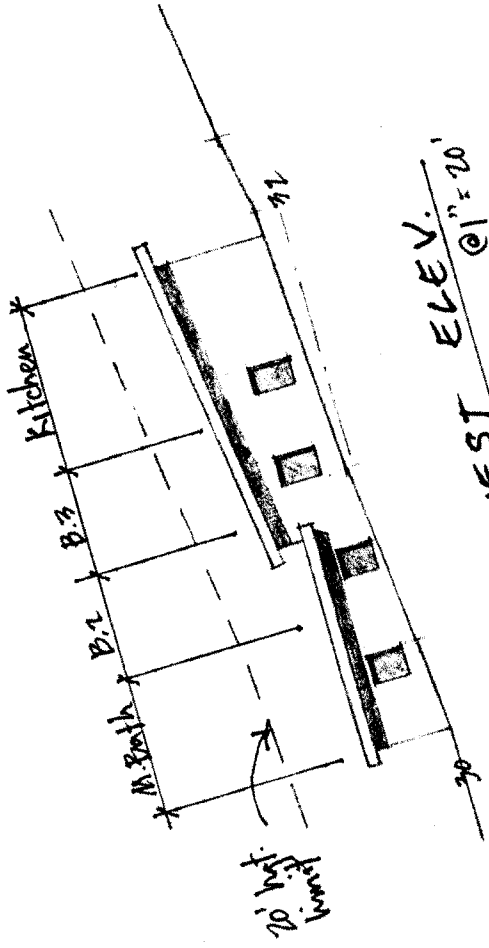
Campground Views



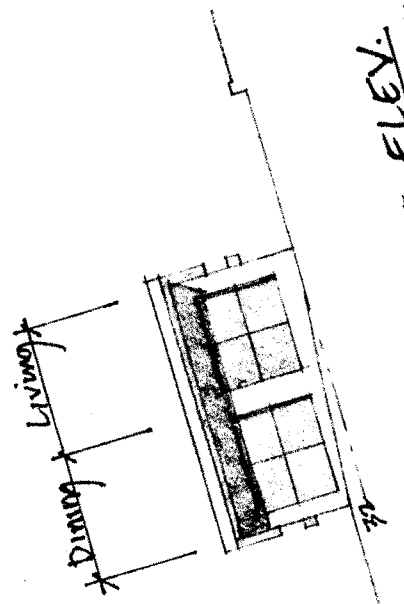
Boce Reso-050-2012

Exhibit C





NORTHWEST ELEV.
 @ 1" = 10'
 4.17.12



SOUTHWEST ELEV.
 @ 1" = 10'