

**CITY OF OAKLAND**  
**AGENDA REPORT**

OFFICE OF THE CITY CLERK  
2006 JUN -9 PM 5:30

**TO:** Office of the City Administrator  
**ATTN:** Deborah Edgerly  
**FROM:** Public Works Agency  
**DATE:** June 20, 2006

**RE:** Resolution Denying The Appeal Filed By Les And Linda Hausrath, Against The Decision Of The Public Works Agency Approving The Issuance Of Tree Removal Permit DRO6-005 For 981 Grosvenor Place, In Order To Build A New Two-Story Detached Garage

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**SUMMARY**

This report provides background information and a recommendation regarding a Tree Removal Permit for the proposed removal of one (1) protected tree for a development related project. In order to preserve the appellant's right to appeal the staff decision approving the permit application, staff requests the concurrence of the City Council in waiving the three (3) appeal related deadlines contained in the Protected Tree Ordinance (PTO): (a) the appeal shall be filed within five (5) working days after the date of a decision by the Public Works Agency (PWA); (b) the hearing date set by the City Clerk shall be not more than thirteen (13) working days from the date of the decision by the PWA; and (c) if the appeal is not finally disposed of by the City Council within eighteen (18) working days of the date of the decision by the PWA, said decision shall be deemed affirmed, and the permit appeal denied.

Staff approved the Tree Removal Permit on the basis that the tree proposed for removal is growing within the footprint of, or too close to, the proposed construction of a new garage. There is no reasonable redesign of the site plan that would save the tree. Staff has prepared a resolution that will enable the City Council to implement a decision that denies the Hausrath's appeal and allows the issuance of the tree removal permit.

**FISCAL IMPACTS**

There is no fiscal impact to the City's budget if the appeal is denied or upheld.

**BACKGROUND**

On April 24, 2006, Tree Services approved a permit to remove one (1) 22-inch diameter Coast Live Oak from a developed lot at 981 Grosvenor Place. The property owner is Randy Gee and Camie Ujiie. The appellants are adjacent property owners from Hillcroft Circle.

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A site design conference was held on March 21, 2006, in an effort to address the concerns of both the appellants and the applicant. Attending the meeting were the applicant, the appellants, City staff and other concerned parties. A re-design of the garage to save the Coast Live Oak tree was discussed. This would require the applicant to significantly reduce the total usable floor area of the garage making it unable to accommodate two cars. Staff felt that a redesign of that extent would be unreasonable.

An appeal was filed by Les and Linda Hausrath on May 3, 2006 (see Attachment A). The following was stated as the basis for the appeal:

1. The language of the ordinance, “to insure the public health and safety” is the “operative criterion” for the remaining clauses in the sentence. The garage is not “in character with the neighborhood.”
2. The value of the tree is greater than the cost of preservation. The appeal states that “to replace the tree kind would cost tens of thousands of dollars, and its aesthetic value to the neighborhood is measureless.”
3. There should be no cutting of the remaining tree.
4. Retaining wall issues remain unresolved and could impact the remaining tree.

## KEY ISSUES AND IMPACTS

The first key issue is the waiving of the appeal related deadlines in the PTO. Due to report preparation timeframes (and public notification due to the Sunshine Ordinance) the City Clerk is unable to set a hearing date within 13 working days, and the City Council cannot dispose of the appeal within 18 days from the date of the decision by PWA. The waiving of the deadlines has been a routine request to the City Council in previous tree permit appeal hearings.

The second key issue is whether staff correctly followed the PTO guidelines in approving the tree removal application. Staff believes the PTO was properly applied and recommends that the City Council approve the resolution denying the appeal. The resolution allows the removal of one tree and requires the preservation of all other protected trees on the property.

Section 12.36.050 of the PTO lists the criteria used to determine if a tree should be removed or preserved (see Attachment C). This criteria review is a two-step process:

- First, the tree removals must be necessary in order to accomplish at least one of five possible objectives. In this case, removal of trees due to their proximity to a proposed structure complies with objective (A) (1).
- Second, regardless of the first determination, a finding of any one of five possible situations listed in the PTO is grounds for permit denial. For this project, two possible situations apply: 12.36.050 (B) (1) (a), reasonable redesign of the site plan, prior to construction, and Section 12.36.050 (B) (4), the value of the trees is greater than the cost of its preservation to the property owner.

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PWA was unable to support findings for denial based on the following:

- Reasonable re-design of the site plan, prior to construction, is not possible. A re-design of the proposed garage would not be reasonable based on the significant loss of total usable floor space resulting in the garage being unable to accommodate two cars. An existing one car garage is proposed to be demolished and replaced with a two car garage with a workshop/storage space as the second story. The interior width of the garage is the minimum allowed to accommodate the turning radius of a car from the existing driveway. The original garage design was downsized to allow greater space for the Oak tree to be preserved. As the majority of the garage area is to be built below the existing grade the tree approved for removal could not be preserved due to the significant root cutting necessary for excavation.
- The trunk diameter of the Coast Live Oak tree is 22 inches. The value of this tree as determined by a formula developed by the International Society of Arboriculture is \$7,900. The cost of preserving this tree, including any additional design and construction expenses, would exceed \$7,900. If preservation costs exceed the value of the tree proposed for removal, tree removal is allowed.

### **SUSTAINABLE OPPORTUNITIES**

Economic: The construction of a new garage will increase the property tax revenues paid to the county.

Environmental: There are no direct environmental opportunities associated with this appeal.

Social Equity: There are no social equity opportunities associated with this appeal.

### **RECOMMENDATION AND RATIONALE**

Staff recommends that the City Council waive the appeal deadlines mandated by the PTO. Staff feels that it is important for the appellants to have the opportunity to present their case before the City Council.

Staff recommends that the City Council approve the resolution denying the appeal of tree permit application DR06-005 and allowing the issuance of a tree removal permit for one tree at 981 Grosvenor Place since staff processed the permit in compliance with the PTO.

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**ALTERNATIVE RECOMMENDATION**

The City Council can reverse staff's decision and require the preservation of the one tree. The City Council can require changes or impose additional conditions of approval that, in its judgment, are necessary to ensure the tree permit decision conforms to the PTO conditions of approval in section 12.36.060. This action would be taken if the City Council found that staff made an error or abused their discretion when they approved the removal of the one tree. Section 12.36.060 (E) of the PTO allows any other conditions that are reasonably necessary to implement the provisions of the chapter. This alternative would require the property owner to redesign the garage.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the resolution denying the appeal of tree removal permit DR06-005 and issuing the tree permit for the removal of one tree at 981 Grosvenor Place. The Conditions of Approval for the tree removal permit will include tree protection measures such as fencing and a restriction against pruning the tree required to be preserved, and the planting of landscaping to serve as a screen in the rear of the property.

Respectfully submitted,

  
**RAUL GODINEZ, II, P.E.**  
Director, Public Works Agency


Reviewed by:  
Bruce Saunders, Assistant Director

Prepared by:  
Dan Gallagher, Tree Supervisor II  
Department of Infrastructure & Operations

Attachments:

- A. Appeal filed
- B. PWA decision letter, with conditions of approval
- C. OMC Section 12.36.050 Criteria for Tree Removal Permit
- D. Building Plans

APPROVED AND FORWARDED TO THE  
CITY COUNCIL:

  
**OFFICE OF THE CITY ADMINISTRATOR**

Item: \_\_\_\_\_  
City Council  
June 20, 2006

CITY OF OAKLAND  
OFFICE OF PARKS & RECREATION

OFFICE OF THE CITY CLERK  
OAKLAND  
06 MAY -3 PM 2:34

TREE REMOVAL PERMIT APPEAL FORM

- 1. Date: 5-3-06
- 2. Appellant's Name: Les & Linda Hausrath
- 3. Appellant's Address: 981 Hillcroft Circle  
City, State & Zip: Oakland, CA 94610  
Telephone #: (510) 834-5652
- 4. Tree Removal Permit Number: # DR06-005
- 5. Address of Tree Removal: 981 Grosvenor Place
- 6. Basis for Appeal: See attached (3 pages)

I HEREBY CERTIFY UNDER PENALTY OF PERJURY, THAT I AM THE OWNER OF:

- THE REAL PROPERTY DESCRIBED IN (5) ABOVE, OR
- REAL PROPERTY ADJOINING AND/OR CONFRONTING THE REAL PROPERTY DESCRIBED IN (5) ABOVE.

Signature: Les Hausrath Date: 5-3-06

FOR OFFICE USE ONLY

Appeal Hearing Date: June 30, 2006

Received By: [Signature]

Appeal Fee Paid: CHIC # 4091 \*\$50 fee for Tree Appeal

Receipt #: 049

Note: Appeals must be heard by the tree committee at its next scheduled meeting.

We own the adjoining property (981 Hillcroft Circle) to 981 Grosvenor Place. We appeal the granting of the Tree Removal Permit #DR 06-005 on the following grounds: There was both error and an abuse of discretion, and the decision is also not supported by the evidence in the following regards:

1. The decision states that the application complies with Section 12.36.050(A) (1), but the application clearly does not comply with this section. The section states that: “(A) In order to grant a tree removal permit, the city must determine that tree removal is necessary in order to accomplish...1. To insure the public health and safety as it relates to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers.” The phrase “to insure the public health and safety as it relates to” clearly modifies the remaining clauses in the last sentence, and is the operative criterion.

The decision simply states that a protected Coast Live Oak needs to be removed to construct a two-car garage. The decision says nothing about insuring public health and safety. Building an optional two-car garage does not require removal of a protected tree, and there is no “impact” on public health and safety by building the garage. If the City’s interpretation of the ordinance were followed literally, any tree that is in the way of any construction could be removed. That is clearly not the intent of the Ordinance. Further, the large majority of 1920’s houses in this neighborhood have modest, single car garages; there is no reason to remove a protected tree to allow a very large two-car, two-story garage/storage building of over 800 square feet, particularly since the applicants are also substantially expanding (about 60 percent increase) the size of their house. Even though the garage may be allowed under zoning, the “impact on public health and safety” finding that ostensibly justifies the tree removal cannot be made, because the proposed garage structure which “requires” the tree removal is not necessary,

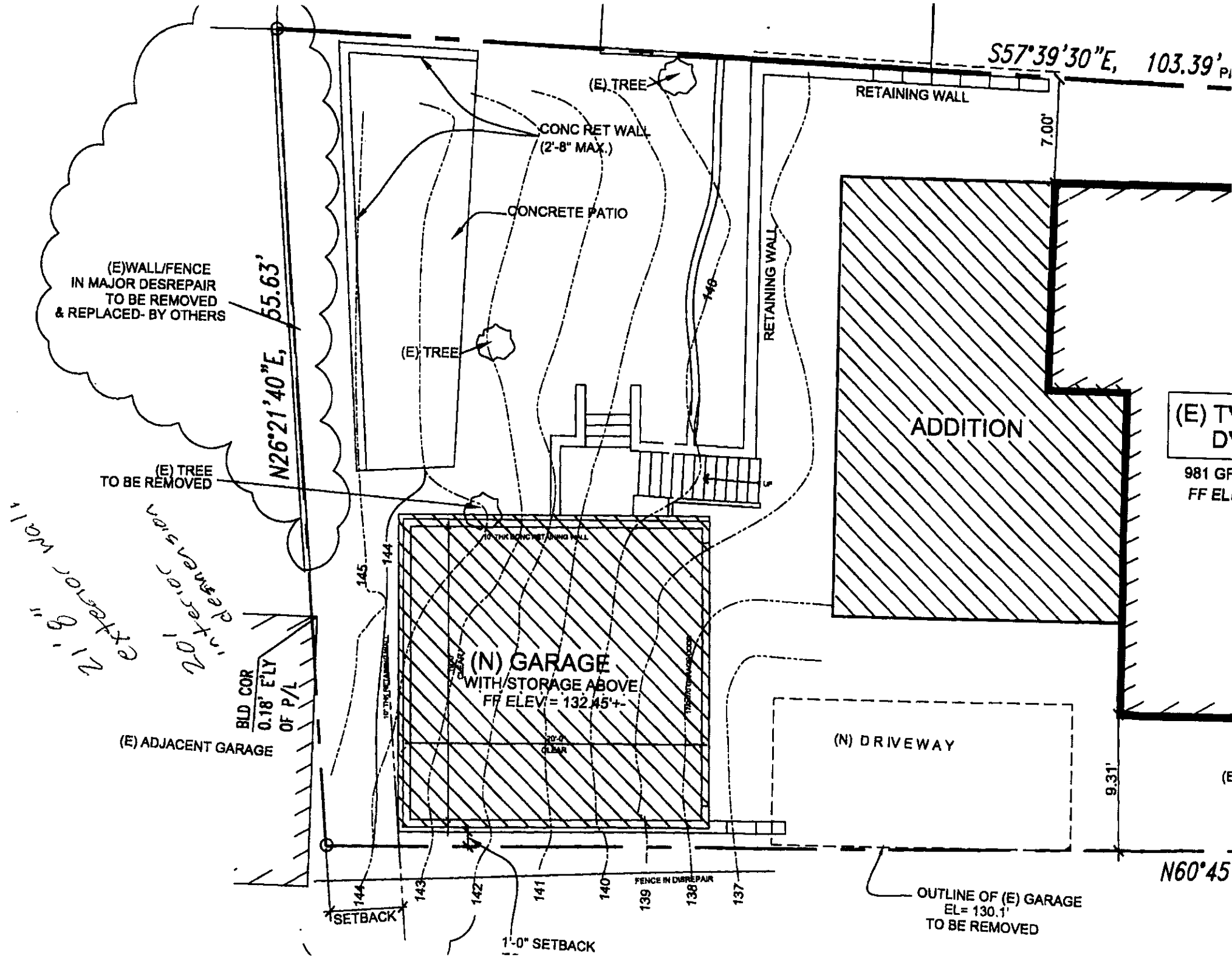
required, or in character with the neighborhood.

2. The value of the tree (22" inches in diameter and maybe 30 feet tall) is greater than the cost of preservation. Value is a relative term, since trees "contribute to the attractiveness and livability of the city...contribute to the visual framework of the city...contribute to the economy by sustaining property values...[and] provide screens and buffers to separate land uses, landmarks of the city's history and a critical element of nature in the midst of urban settlement." For all these reasons it is in the interest of the public health, safety and welfare of the Oakland community to protect and preserve trees by regulating their removal; to prevent unnecessary tree loss..." Section 12.36.010(A)(C). Trees are to be preserved in Oakland, particularly large heritage trees. The value of the tree to be removed is greater than an arbitrary value of \$7,900 assigned by a trade society publication. To replace the tree in kind would cost tens of thousands of dollars, and its aesthetic value to the neighborhood is measureless. Further, the cost of redesign should not be dispositive: the applicants stated for months to us, our neighbors and the Lakeshore Homes Association that they had no plan to remove the tree, and they submitted plans to the Association including a garage that did not require removal. They have now chosen to design a larger, out-of-scale garage and remove a tree of enormous value. To find – at this juncture – that the cost of re-design exceeds the "value" of the tree is not supported by the evidence and would be an abuse of discretion under the facts here, because the applicants themselves chose to alter their plans to cause removal of the tree.

3. There should be no cutting of the tree to remain, because the only reason to allow cutting any limbs on that tree would be to facilitate a second story on the garage structure for storage. Given the intent of the Ordinance to preserve trees to serve as buffers and to separate land uses, allowing the remaining tree to be reduced in size is inconsistent with that intent and totally unnecessary as the applicants do not need a substantially increased house and a very large two-story garage/storage structure in order to accommodate reasonable living needs for the neighborhood.

4. Issues with respect to the retaining wall installed on site without benefit of the required City permit and to the impact of any future construction on or relating to that wall remain unresolved. Any such work could impact the remaining tree to be preserved and protected and until such impact is fully known, it is an abuse of discretion and error to allow removal of the Coast Live Oak Tree.





(E) WALL/FENCE  
IN MAJOR DESREPAIR  
TO BE REMOVED  
& REPLACED- BY OTHERS

N26°21'40"E, 55.63'

(E) TREE

CONC RET WALL  
(2'-8" MAX.)

CONCRETE PATIO

(E) TREE

(E) TREE  
TO BE REMOVED

RETAINING WALL

7.00'

S57°39'30"E, 103.39'

RETAINING WALL

ADDITION

(E) T  
D'

981 GF  
FF EL

*20' interior clearance  
21.8" exterior wall*

BLD COR  
0.18' E'LY  
OF P/L

(E) ADJACENT GARAGE

(N) GARAGE  
WITH STORAGE ABOVE  
FF ELEV = 132.45'+-

(N) DRIVEWAY

N60°45'

OUTLINE OF (E) GARAGE  
EL = 130.1'  
TO BE REMOVED

SETBACK

1'-0" SETBACK

FENCE IN DISREPAIR

145  
144

143

142

141

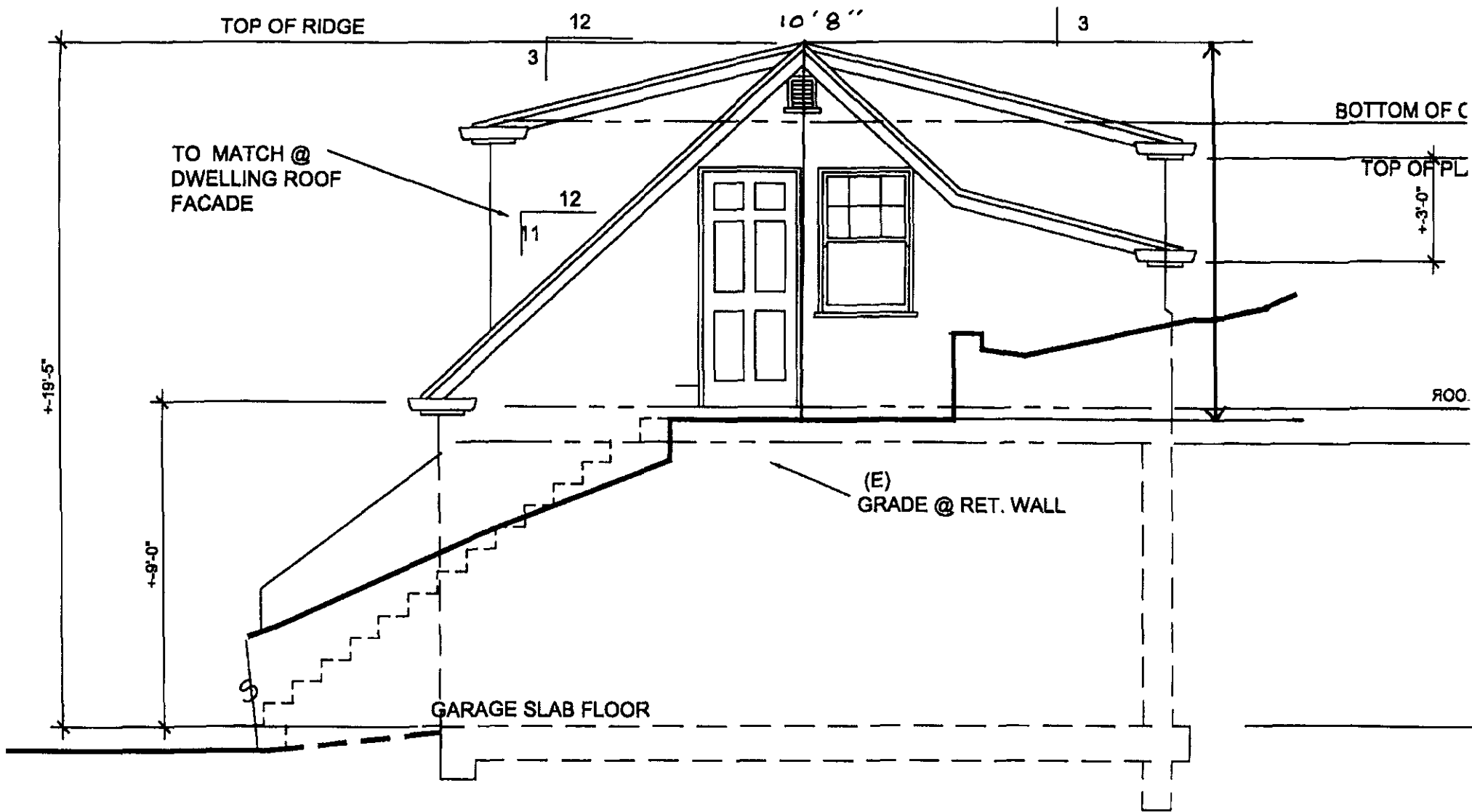
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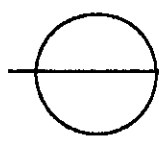
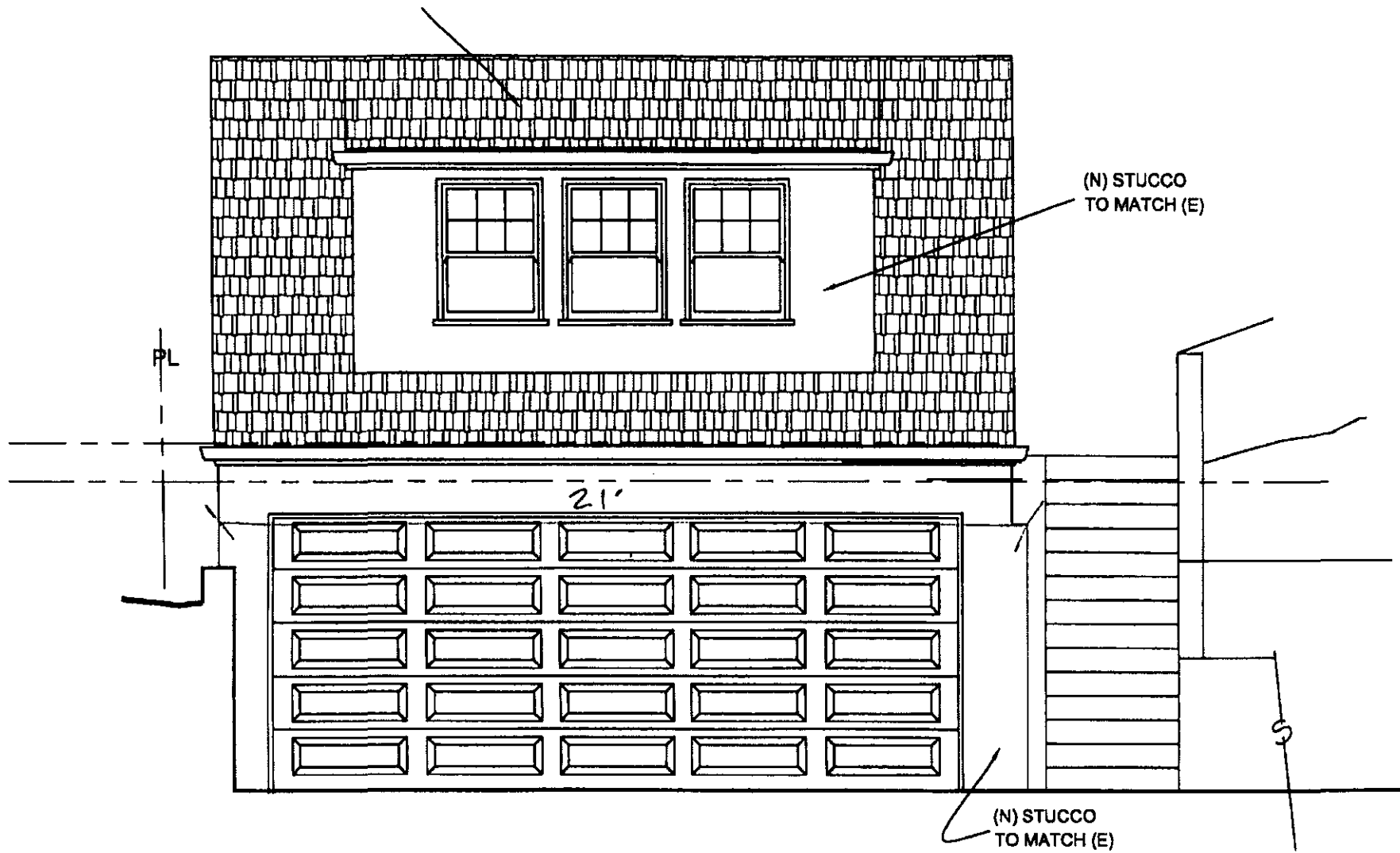
138

137

9.31'




**RIGHT SIDE ELEVATION**  
 SCALE 1/4" = 1' - 0"



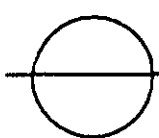
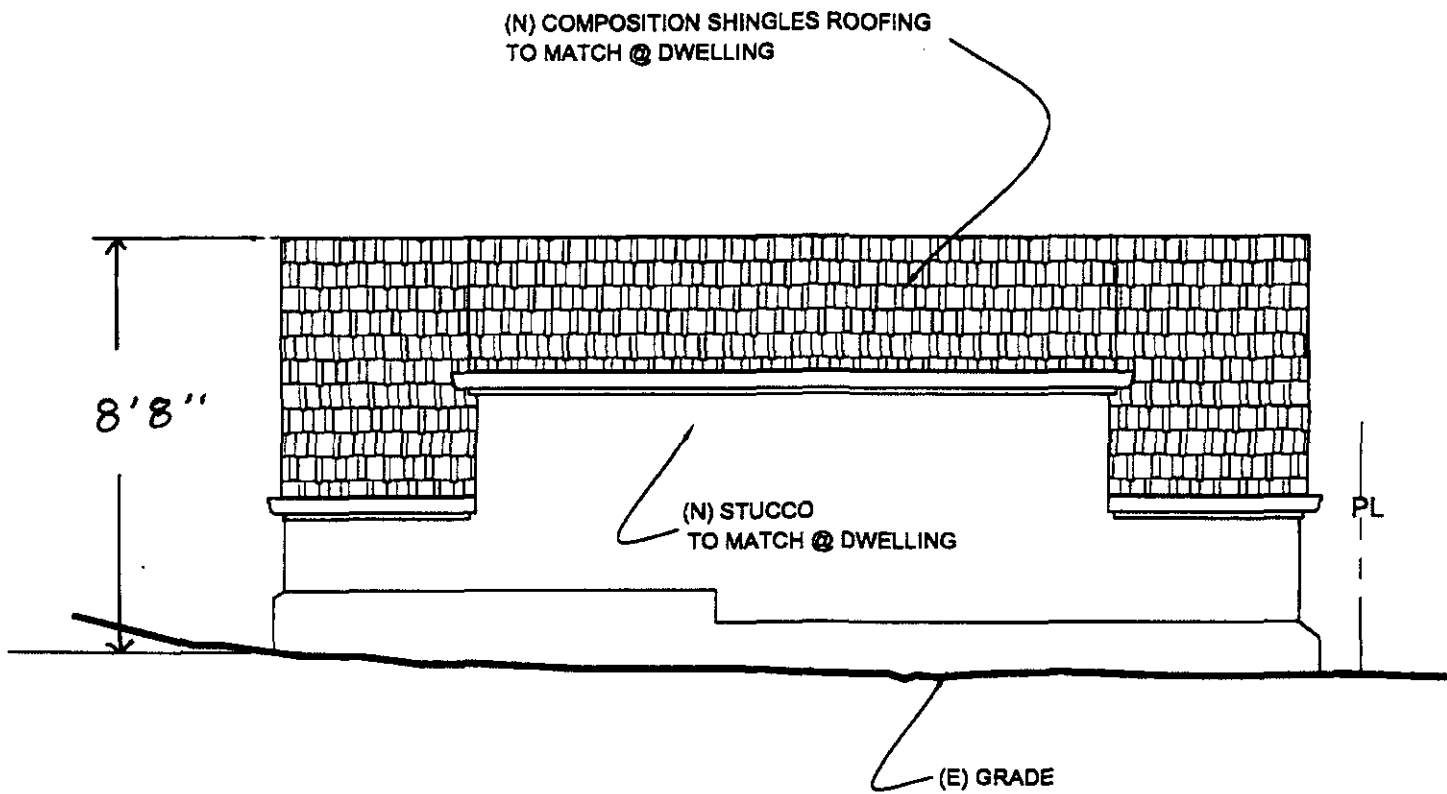
# FRONT ELEVATION

SCALE

1/4" = 1' - 0"

## GARAGE ELEVATIONS





# REAR ELEVATION

SCALE

1/4" = 1' - 0"

## TREE PERMIT

City of Oakland, Public Works Agency

Permit #DR06-005  
981 Grosvenor Place  
Applicant: Randy Gee

Approved: April 24, 2006  
Expires: One Year from Date of Issuance

### Removal Approved

#1	Coast Live Oak		
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### Preservation Required

A	Coast Live Oak	▶	All other protected trees
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As per Chapter 12.36 of the Oakland Municipal Code, this Development-related permit approves the removal of one (1) protected tree and requires the preservation of one (1) protected tree in the center of the rear yard and all other protected trees on the lot, subject to conditions of approval. This permit is effective five (5) working days after the date of this decision unless appealed as explained below. This permit is defined as a Development-related permit due to the proposed residential development on the site.

This decision of the Public Works Agency, Tree Services Division may be appealed by the applicant, or the owner of any "adjoining" or "confronting" property, to the City Council within five (5) working days after the date of this decision and by 5:00 p.m. The term "adjoining" means immediately next to, and the term "confronting" means in front of or in back of. An appeal shall be on a form prescribed by and filed with the City Clerk, at One Frank H. Ogawa Plaza, second floor. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City or wherein such decision is not supported by the evidence in the record and must include payment of \$50.00, in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal this decision and raise any and all issues in your appeal may preclude you from challenging this determination in court.

### **OAKLAND MUNICIPAL CODE SECTION 12.36.050(A) FINDINGS**

The application complies with Section 12.36.050(A)(1) of the Oakland Municipal Code. One Coast Live Oak needs to be removed to construct a two-car garage. The tree is located within the footprint of the building and must be removed to allow space for the project.

### **OAKLAND MUNICIPAL CODE SECTION 12.36.050(B) FINDINGS**

#### **Tree removal cannot be avoided by reasonable re-design (OMC Section 12.36.050(B)(1)(a).**

A re-design of the site plan, prior to construction, is not reasonable. The proposed two car garage requires a minimal interior width of 20 feet to allow for an adequate turning radius from

the driveway. The garage foundation is designed to be built on the property line to provide tree A (to be preserved) with as much protected space as possible (10 feet).

A single car garage currently exists and the property owners have applied to replace it with a two-car garage.

**Adequate provisions for drainage, erosion control, land stability or windscreen have been made (OMC Section 12.36.050(B) (2).**

One Oak tree (22 inches in diameter) will be removed from the lot to build the garage. As a result of the tree removal, Tree Services does not anticipate any problems with drainage, erosion control and land stability or windscreen.

Tree canopies intercept rainfall and reduce surface erosion. Also, tree root systems help stabilize the upper portion (top 3 feet) of the soil. When a tree is removed from the site, its assistance with reducing soil erosion and stabilizing the hill will be lost.

This loss will be offset by the garage because it will cover soil that was once exposed to surface erosion.

**The value of the trees is not greater than the cost of their preservation to the property owner (OMC Section 12.36.050(B) (4).**

The trunk diameter of tree #1 is 22". The value of the tree as determined by a formula developed by the International Society of Arboriculture is \$7,900. The cost of redesign and construction expenses would significantly exceed the value of the tree. Therefore, there are no grounds for permit denial.

#### **OAKLAND MUNICIPAL CODE SECTION 12.36.070(E) CEQA REVIEW**

The construction of an accessory structure is categorically exempt from environmental review pursuant to Section 15303 of the State CEQA Guidelines. No further environmental review is required.

#### **OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL**

##### **1. Limitations on Tree Removals**

Tree removals, as defined in the Protected Trees Ordinance, Section 12.36.020 of the Oakland Municipal Code, may not commence unless and until the applicant has obtained all other necessary permits pertinent to site alteration and construction.


##### **2. Defense, Indemnification & Hold Harmless**

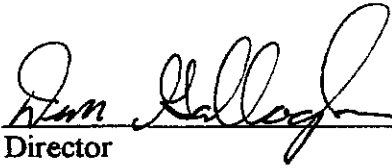
*Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.*

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

3. **Fencing.** *Tree protection fence must be installed before this permit, or any other city permits, are issued. Contact Tree Services for a field inspection in order to release your permits. Fencing must be installed to protect trees from construction activities before the start of any clearing, excavation, construction or other work on the site. The applicant must install a fence to protect tree 'A' listed above in Preservation Required. The fence shall be chain-link, minimum five feet tall, with 1-7/8" diameter metal pipe driven two feet into the ground for posts. The attached sign, "Warning – Tree Protection Zone", shall be attached to the fence and maintained during the project. Fencing shall remain in place throughout the duration of the project and may only be moved or removed with the consent of the Tree Services Section. The fence shall be installed as shown on the attached Tree Protection Fence Plan.*
4. **Tree Protection Zone.** Tractor work, storage of material, depositing soil, removing soil, trenching, cutting roots, parking of equipment or any other work activities are prohibited within fenced tree protection zones for the duration of the project. If any work must occur within protection zones, it shall be approved in advance by the Tree Services Section. Failure to comply with this requirement may result in fines and/or replacement trees and suspension of permits, for working illegally around protected trees.
5. **Debris.** All debris from the tree removal work shall be removed from the property within two weeks of it being cut. It shall be properly disposed of in a legal manner.
6. **Excavation and Fill.** Excavation of existing soil shall not be performed and fill soil shall not be deposited within fenced tree protection zones. Fill soil shall not be allowed to migrate into fenced tree protection zones.
7. **Tree Damage.** If any damage to a protected tree should occur during or as a result of work on the site, the contractor, builder or owner shall promptly notify the Tree Services Section of such damage.
8. **Replacement Planting In Lieu Fee.** One replacement tree is required but cannot be planted due to site constraints. An in lieu fee of \$360.00 is to be substituted for the required replacement planting. Such revenue shall be applied toward tree planting in city parks, streets and medians. *This fee shall be paid prior to the issuance of this permit*

9. **Drainage.** Water from rain gutter downspouts shall not be directed toward existing oak trees, or wet the soil within 10 feet of existing oak trees.
10. **Landscaping.** If landscaping is installed under the drip line of existing oak trees, it shall comply with the latest edition of Compatible Plants Under and Around Oaks, by the California Oak Foundation. For more information contact the foundation at [www.californiaoaks.org](http://www.californiaoaks.org) or (510) 763-0282.
11. **Oak Pruning.** Limbs on one of the oak trees may be removed by the applicant to accommodate the north wall of the applicant's garage. Construction personnel shall not prune the tree. Tree pruning shall be performed by a licensed, insured tree work contractor that has an arborist on site certified by the International Society of Arboriculture.
12. **Site Posting.** The applicant shall post a copy of the tree removal permit in plain view on site while tree removal work is underway.
13. **Recordation of Conditions.** The applicant/owner(s) shall record the conditions of approval attached to this permit with the Alameda County Recorder's Office in a form prescribed by the Director of Public Works.

  
Arboricultural Inspector                      Date

*for*  4/24/06  
Director    Date

cc: Leigh McCullen, Community & Economic Development Agency, Building Services, 250 Frank H. Ogawa Plaza, Suite 2340, Oakland, CA 94612



## ATTACHMENT C

**Section 12.36.050    Criteria for tree removal permit review.  
Chapter 12.36 of the Oakland Municipal Code  
Protected Tree Ordinance**

- A.** In order to grant a tree removal permit the City must determine that removal is necessary in order to accomplish any one of the following objectives:
1. To insure the public health and safety as it relates to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers;
  2. To avoid an unconstitutional regulatory taking of property.
  3. To take reasonable advantage of views, including such measures as are mandated by the resolution of a view claim in accordance with the view preservation ordinance (Chapter 15.52 of this code);
  4. To pursue accepted professional practices of forestry or landscape design. Submission of a landscape plan acceptable to the Director of Parks and Recreation shall constitute compliance with this criterion;
  5. To implement the vegetation management prescriptions in the S-11 site development review zone.
- B.** A finding of any one of the following situations is grounds for permit denial, regardless of the findings in subsection A of this section:
1. Removal of a healthy tree of a protected species could be avoided by:
    - a. Reasonable redesign of the site plan, prior to construction;
    - b. Trimming, thinning, tree surgery or other reasonable treatment.
  2. Adequate provisions for drainage, erosion control, land stability or windscreen have not been made in situations where such problems are anticipated as a result of the removal.
  3. The tree to be removed is a member of a group of trees on which each tree is dependent upon the others for survival.
  4. The value of the tree is greater than the cost of its preservation to the property owner. The value of the tree shall be measured by the Tree Reviewer using the criteria established by the International Society of Arboriculture, and the cost of preservation shall include any additional design and construction expenses required thereby. This criterion shall apply only to development-related permit applications.

21'8" exterior wall

20' interior dimension

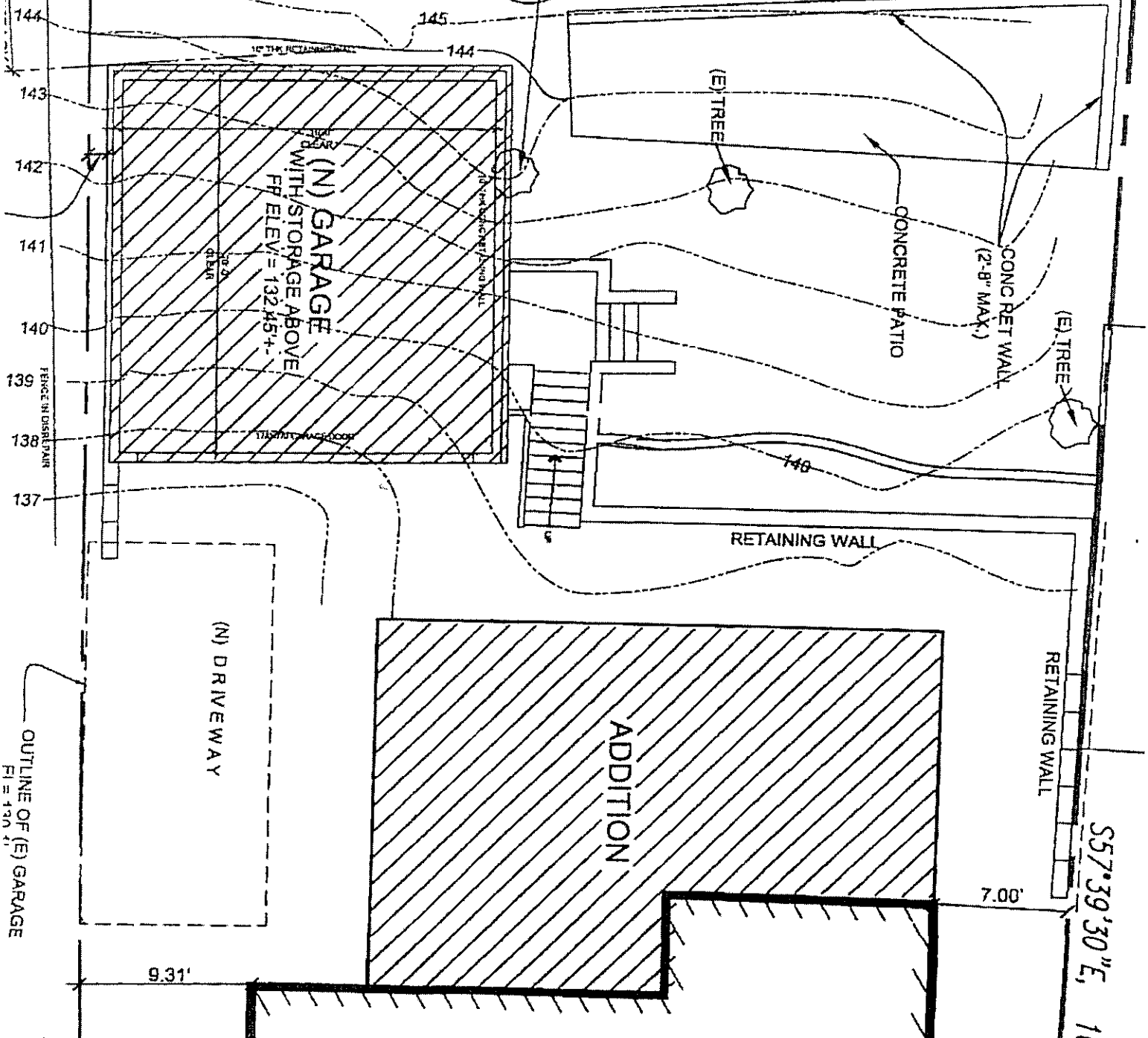
(E) ADJACENT GARAGE

BLD COR  
0.18' E'LY  
OF P/L

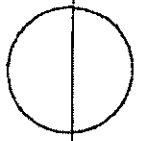
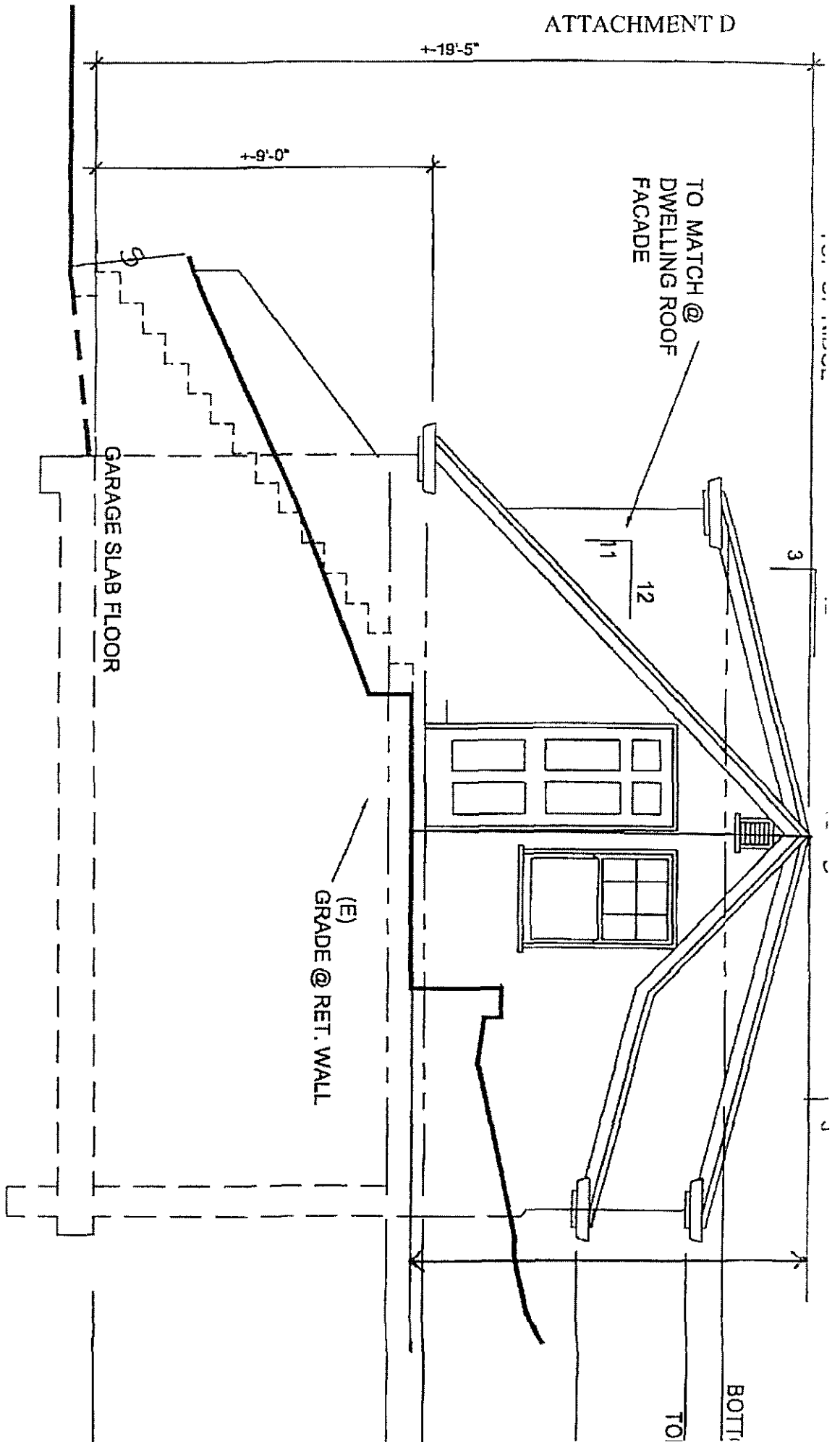
(E) TREE  
TO BE REMOVED

(E) WALL/FENCE  
IN MAJOR DESREPAIR  
TO BE REMOVED  
& REPLACED BY OTHERS

N26°21'40"E, 55.63'



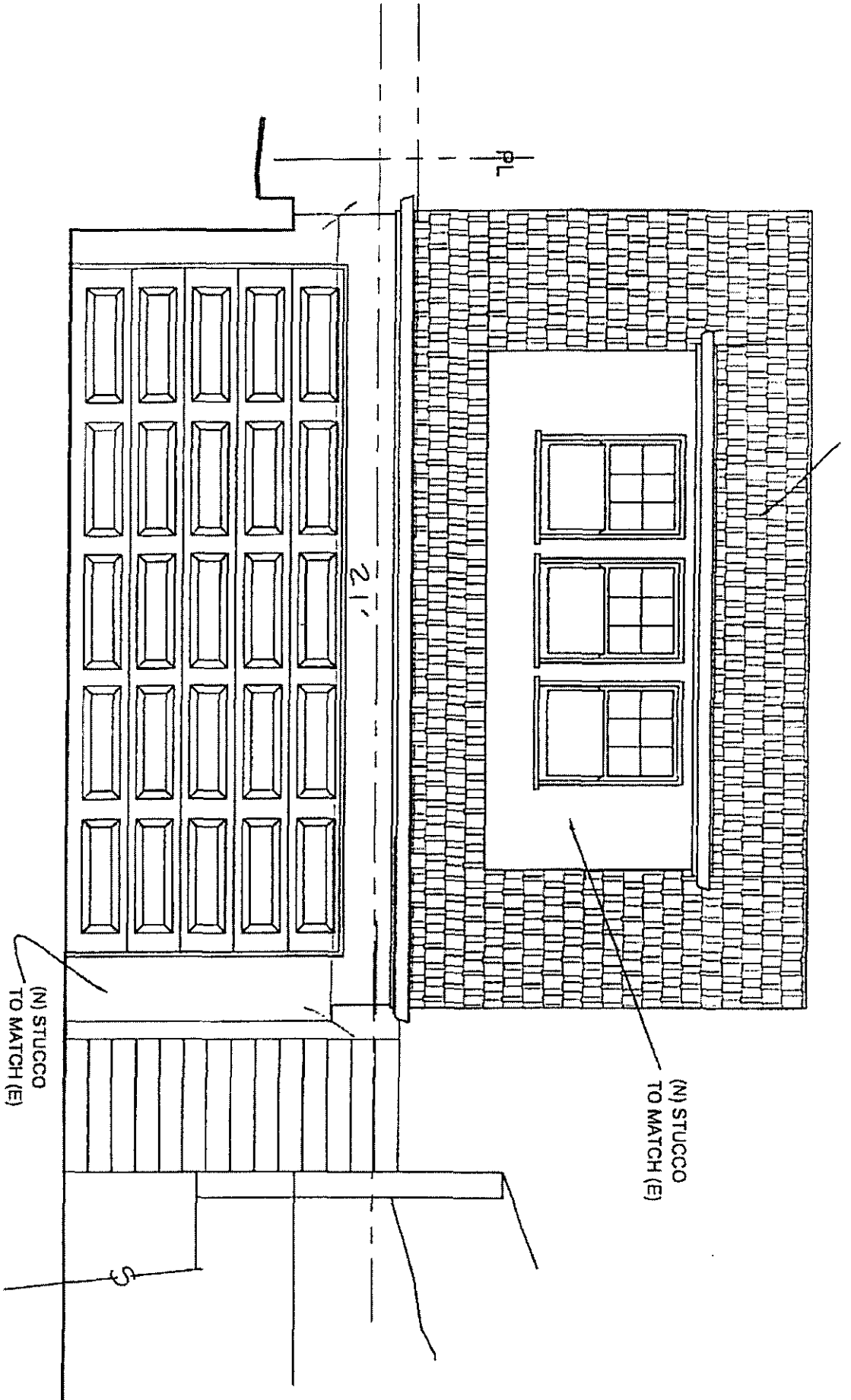
ATTACHMENT D



RIGHT SIDE ELEVATION

SCALE

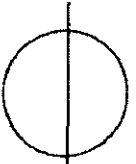
1/4" = 1'-0"



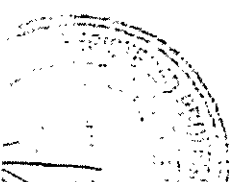
FRONT ELEVATION

SCALE

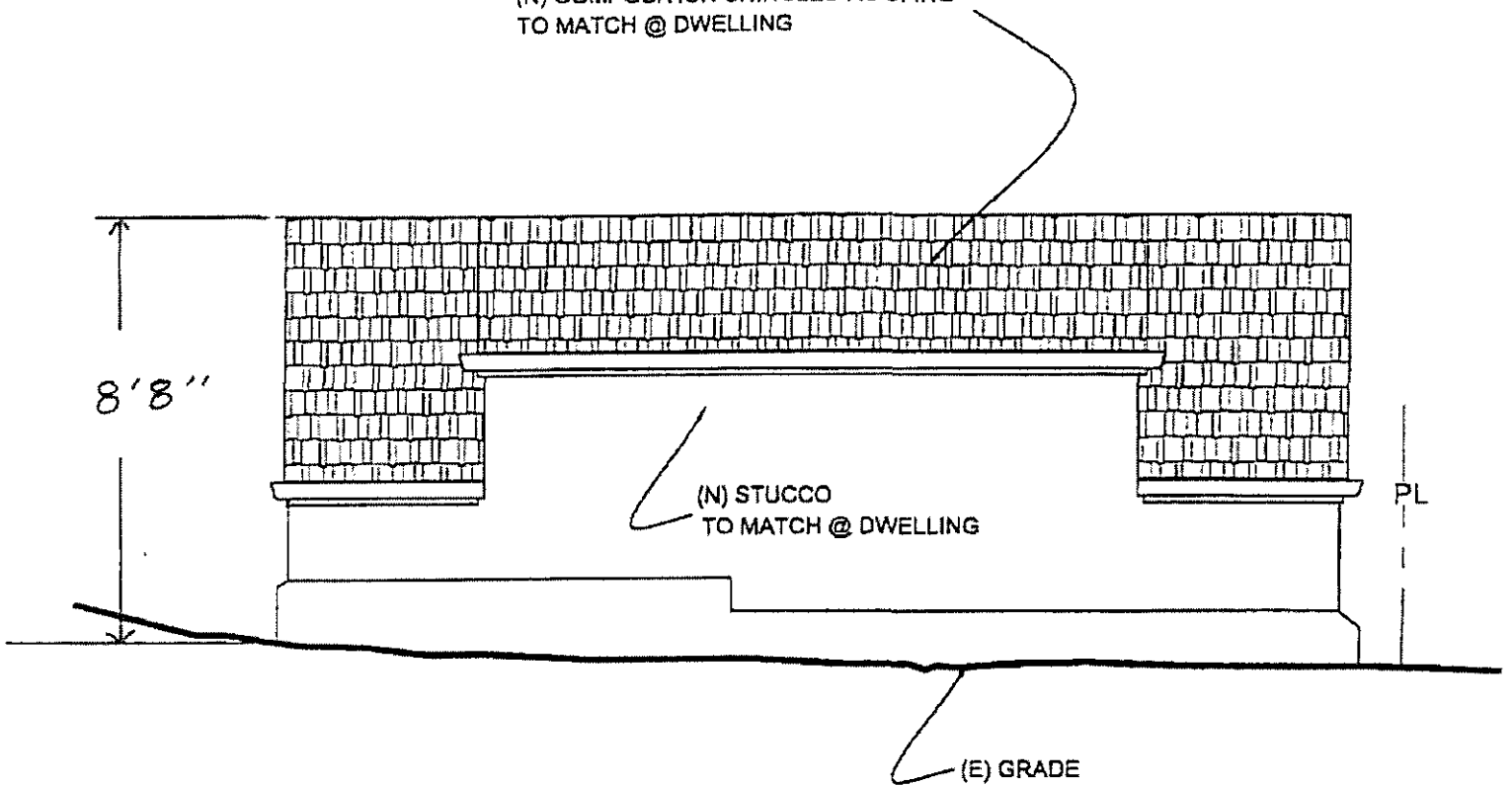
1/4" = 1' - 0"



GARAGE ELEVATIONS



(N) COMPOSITION SHINGLES ROOFING  
TO MATCH @ DWELLING



# REAR ELEVATION

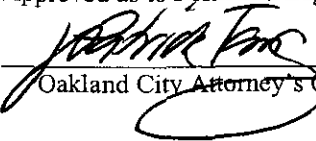
SCALE

1/4" = 1' - 0"

OFFICE OF THE CITY CLERK  
OAKLAND

2006 JUN -8 PM 5:30

Approved as to Form and Legality:

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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RESOLUTION DENYING THE APPEAL FILED BY LES AND LINDA HAUSRATH AGAINST THE DECISION OF THE PUBLIC WORKS AGENCY APPROVING THE ISSUANCE OF TREE REMOVAL PERMIT DR06-005 FOR 981 GROSVENOR PLACE

WHEREAS, on January 18, 2006, John Marsh, ("Applicant") submitted an application for Tree Removal Permit (TRP) DR06-005 to remove one tree from 981 Grosvenor Place in order to build a two car garage; and

WHEREAS, due notice of the application was given to all affected and interested parties; and

WHEREAS, on April 24, 2006, the Public Works Agency (PWA) approved the issuance of TRP DR06-005 for the removal of one protected tree from said property; and

WHEREAS, the decision was justified on the basis that Section 12.36.050 (A) (1) of the Protected Trees Ordinance justifies approval of the tree removal based on the tree's proximity to a proposed structure; and

WHEREAS, on June 20, 2006, Les and Linda Hausrath ("Appellants"), filed an appeal with the Office of the City Clerk against the PWA decision approving TRP DR06-005; and

WHEREAS, the appeal came before the City Council on June 20, 2006, and the appellants, and interested neutral parties were given ample opportunity to participate in the public hearing and were given a fair opportunity to submit relevant evidence to the City Council; and

WHEREAS, the public hearing on the appeal and application was closed by the City Council on June 20, 2006, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP DR06-005 subject to certain conditions noted below was passed; now, therefore, be it

RESOLVED: That the decision of the Public Works Agency is hereby affirmed; and be it

FURTHER RESOLVED: That the appeal filed by Les and Linda Hausrath against the decision of the PWA approving the removal of trees in TRP DR06-005 is hereby denied; and be it

FURTHER RESOLVED: That in accordance with the criteria established in Sections 12.36.050 (A) (1) of the Oakland Municipal Code, the removal of one tree in TRP DR06-005 is hereby approved by the Office of Planning and Building; and be it

FURTHER RESOLVED: That in accordance with Section 12.36.060 (A) and (B) of the Oakland Municipal Code, the conditions of approval in the tree permit shall be provided during the construction period; and be it

FURTHER RESOLVED: That the City Council, having heard, considered and weighed all the evidence presented on behalf of all parties and being fully informed of the application, finds, for all the reasons stated in this resolution that the appeal should be denied. Therefore, the decision of the Director, PWA, approving tree removals is affirmed, the appeal is denied, and the application for tree removals is approved subject to the conditions of approval; and be it

FURTHER RESOLVED: That the record relating to this application and appeal includes, without limitation the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the applicant and his representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, and all notices in relation to the application and attendant hearings;
4. all oral and written evidence received by the City staff, and City Council before and during the public hearings on the application and appeals;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) Oakland Municipal Code, (b) other applicable City policies and regulations; and (c) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That the City Council hereby adopts the CEQA findings of the City's Environmental Review Officer and finds that the Project is exempt from CEQA under CEQA Guidelines Section 15311 and directs that the Review Officer prepare a Notice of Exemption for filing at the County Recorder; and be it

FURTHER RESOLVED: That the Office of the City Attorney has approved this resolution and a copy will be on file in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_  
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

LATONDA SIMMONS  
Interim City Clerk and Clerk of the Council  
of the City of Oakland, California