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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E.

SUBJECT: View Claim Appeal Public Hearing
Next to 6807 Wilton Drive

DATE: August 24, 2012

City Administrator
Approval

Date

9/04/12

COUNCIL DISTRICT: #4

RECOMMENDATION

Staff recommends that the City council conduct a public hearing and upon conclusion consider adopting a resolution denying the appeal filed by Ernest and Okhoo Hanes and Mary McCallister, against the decision of the Public Works Agency approving the removal of fifteen (15) trees, to remove the tops of twenty one (21) trees and to preserve forty two (42) trees on city lots adjacent to 6807 Wilton Drive, to resolve a view claim from Phyllis Bishop.

EXECUTIVE SUMMARY

The View Ordinance provides a process for a View Claimant to restore a reasonable amount of the view that they had when they purchased their property, whether the trees are growing on public or private property. The View Claimant is responsible for paying between 50% and 100% of the cost of restoring their view depending on the circumstances. Trees growing on park property and certain California native trees are exempted from the ordinance.

Phyllis Bishop, the View Claimant has owned the property at 6807 Wilton Drive for 48 years. The View Claimant has a panoramic view of the San Francisco Bay and Golden Gate Bridge, but trees growing on City lots are blocking the view. The Appellants own the property at 6817 Wilton Drive. In 2009, the View Claimant cited the View Ordinance and requested permission to remove and prune trees growing on City lots. Public Works Agency, Tree Section staff approved the request, but the Appellants challenged the City and the matter was held in abeyance while the private view claim was resolved in the courts.

Between 2009 and 2011, the *Bishop v. Hanes* case went through Alameda County Superior Court and the State Court of Appeal. On October 27, 2011 the State Court of Appeal upheld the lower court's decision and confirmed the validity of the View Claimant's case. The Court did not direct the City to take action because the City had demonstrated a willingness to work with the View

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Claimant but had been blocked by the Appellants. In 2012, the Appellants removed trees on their property to restore the View Claimant's view of the San Francisco Bay and Golden Gate Bridge. On January 24, 2012, the View Claimant's attorney contacted City staff and requested a review of the 2009 view claim. City staff confirmed the View Claimant had the right to restore their view and began the View Preservation process on City lots. City staff determined that 15 trees should be removed and the tops removed from 21 trees, and 42 large trees be preserved on City lots.

On March 2, 2012, public notices were placed near the City lots and trees were marked for removal and the public was given the opportunity to appeal the View claim to the City Council. On March 29, 2012 the View Claim decision was issued (see *Attachment A-E*, City Determination). On April 16, 2012 the Appellants filed their appeal with the City Clerk's Office (see *Attachment J*, Hanes/McAllister Appeal).

Per Section 15.52.100 Procedure City Trees, the City Council shall determine if there was either error or abuse of discretion by City staff, or the City staff decision is not supported by the evidence in the record. The City Council shall determine if the proposed view restorative actions conform to the applicable criteria and sustain the staff recommendation, or require such changes or impose reasonable conditions of approval necessary to conform with said criteria.

OUTCOME

If the City Council sustains the PWA determination, the View Claimant will be authorized to remove, at their expense, up to 15 trees and to remove the tops of 21 small Acacia trees on City lots. Forty two (42) large trees will be preserved on City lots.

BACKGROUND

The View Claimant has owned the property at 6807 Wilton Drive since 1964. At the time they acquired the property, they had an unobstructed and panoramic view of the San Francisco Bay and Golden Gate Bridge. The extent of the view plane is shown in *Attachment B*. Under the View Ordinance, the View Claimant is entitled to a reasonable amount of the view that they had when they acquired their property. Over the years, trees have grown up and blocked the views.

Now that the *Bishop v. Hanes* case has been resolved, the remaining trees blocking the views are growing on City lots. The view plane established in the court case and the 2009 view claim determined which trees were blocking the view. On January 24, 2012 staff tagged the trees and posted a summary notice per the Tree Protection Ordinance. This was a staff error, as the Tree Protection Ordinance is not applicable because this was a view claim under the View Ordinance. On March 2, 2012 staff re-tagged the trees and posted the correct summary notice. City staff issued a determination (*Attachment A-E*) on March 29, 2012 that authorized the

removal of 15 trees and 21 Acacia trees could have their tops removed. Acacia trees are not California native trees and are not exempted from the ordinance. A total of 42 large trees will be preserved on City lots.

On April 16, 2012 the Appellants filed an appeal with the City Council against the March 29, 2012 View Claim Decision of the Public Works Agency (*Attachment J*). The Appellants listed the following as the basis for the appeal:

1. "Appeal period for this permit is insufficient."
2. "The Permit lacks a valid basis."
3. "The Permit is defective for a lack of "Open Space" information."
4. "The Permit was issued without a meaningful public notice and a public input period."
5. "The Permit fails to address ongoing landslide issues, restoration, and balancing considerations."

ANALYSIS

The Appellants raised five key points. They are listed below with staff's response.

1. *"Appeal period for this permit is insufficient. The deadline should not be set on Monday, 4/16/2012 for a lack of requisite filing period. Ten (10) working days from the date the permit was issued is 4/25/2012 at the earliest, even if the permit were valid in every respect. But, when a defective permit is issued as here (to be elaborated below), the appeal should not commence until defects are cured in accordance with the law the Tree Section purports to enforce" (see Attachment J page 3).*

Staff Response: Chapter 15.52.100(E) of the Oakland Municipal Code (OMC) states that an appeal shall be filed within ten (10) days after the date of a decision by City staff. On March 29, 2012, City staff issued written findings to View Claimant. Ten working days after the date of the decision would have been April 12, 2012. However, staff extended the appeal period to April 16, 2012 due to City of Oakland business shutdown days on March 30 and April 13, 2012. By setting the deadline for the appeal as April 16th, City staff complied with OMC.

2. *"The Permit lacks a valid basis. ...The permit in question demonstrates that Tree Section confuses its official duty with satisfying the private interest of the claimant based on a ruling in a private litigation which does not concern the City and at the expense of the public interest" (see Attachment J page 3).*

Staff Response: City staff evaluated the view claim using the criteria in Section 15.52.050 Standards for Resolution of Claims. The vantage point is from the View Claimant's rear deck (*Attachment B*). The View Claimant was entitled to a panoramic view that includes the San Francisco Bay, Golden Gate Bridge and other important landmarks (*Attachment G*). Based upon the size, shape and growing condition of the acacia trees, these trees are the result of natural

regeneration and were established within the past 10-15 years. The view restoration can only be accomplished by selective tree removal and the pruning the tops of acacia trees growing on the City lots. The larger trees are being preserved (*see Attachment H*). Selective pruning of individual tree branches are also included in the proposed work plan. The private litigation (*Bishop v. Hanes*) delayed implementation of View Claimant's right to restore their view by removing and pruning trees on City lots. The private litigation did not have any bearing on the City staff's consideration of the view claim.

3. *"The Permit is defective for a lack of "Open Space" information. The City property is specifically identified by its lot numbers and designated as the City's "Open Space," in the 1988 Report on 121 Open Space City properties along the Skyline Blvd., prepared by the then Director of City Planning, Alvin D. Jones as endorsed by the then City Manager, Henry L. Gardener. (Enclosure 2) As summarized in this report, the "Open Space" designation of these properties was effected by the City Council action in 1974, and the report reaffirmed and endorsed such designation and recommended to preserve these properties as "Open Space." ...The current OSCAR was adopted by the City in 1989, to remain effective until 201." (see Attachment J page 4).*

Staff Response: The City lots are not parks or zoned as Open Space. According to the Interim Planning and Zoning Director, "The Zoning designation of the referenced property (across from 9155 Skyline Blvd.) is indeed RH-4/S-10. The General Plan Map designation of the parcel (and the immediately surrounding parcels as well) is Hillside Residential. This is not designated as Open Space by the General Plan Map (as adopted March 24, 1998)."

Hillside Residential Zone 4 (RH-4) is intended to create, maintain and enhance areas for single-family dwelling on lots of 6,500 to 8,000 square feet in the Oakland hills.

The S-10 Zone is intended to create and preserve vistas of Oakland or the Bay as seen from the road and there are supplementary regulations for properties with the S-10 designation. S-10 Zone does not create park or open space property. Therefore, the City lots are not exempted from the View Ordinance.

4. *"The Permit was issued without a meaningful public notice and a public input period. Tree Section failed to provide the required notice and tagging readily visible to passersby as required under the view ordinance. Nor did it abide by the requirements set forth under the protected tree ordinance" (see Attachment J page 5).*

Staff Response: Initially, the staff erroneously tagged the trees under the Tree Protection Ordinance. On March 2, 2012, staff re-tagged the trees and placed a summary notice and re-checked the posting on March 13, 2012 and at the end of the posting period. All tagged trees and summary notice were found to be intact and clearly visible during posting period and therefore,

the requirements of the View Ordinance were met. The Protected Tree Ordinance does not apply to this situation.

5. *"The Permit fails to address ongoing landslide issues, restoration, and balancing considerations. In the City property in question, the landslide which began in 1989 due to a tree vandalism has not been addressed by the City and still presents an ongoing and future problems. Notably, Mr. Thomson's rogue cutting of City trees (many of protected size) which presented a redundant view obstruction to the view claimant appears to have started new landslides at this cutting location in the said City property. As noted in OSCAR, the entire Oakland hills are recognized as a landslide risk area. Given the existing evidence of threats, no tree cutting permit should issue without a thorough review of the soil stability problems associated with this tree cutting.*

Similarly, there is no reason for the Tree Section not to require the tree restoration of the view claimant. Given the fragile, steep terrain involved and the extent of depletion of trees planned, which will exceed 100 all inclusive, a thoughtful evaluation and planning should be implemented, but the Tree Section has failed to do so. The City will be well served by a permit which will establish meaningful restoration requirements as specified in Section 15.52.050E.5" (see Attachment J page 5).

Staff Response: A minor slump is present on the City lots and it is located approximately seventy-five (75) feet south of where the 8 trees approved for removal are growing (see Attachment H). Ten (10) Acacia trees are growing on the slump area and these trees are less than nine-inch trunk diameter. The tops of the trees are creating a very minor intrusion into the view plane and only the top portion of the trees will be pruned. The topped trees will continue to provide erosion control on the slope. Many of the Acacia trees to be removed are growing under large Monterey pine and cypress trees that are being preserved. The large trees' canopies will help to shelter the City lots from rainfall. The acacia trees' roots will remain in the ground and will help to maximize soil stability.

The small trees are growing under a group of five, very large Monterey pine and Monterey cypress that will be preserved. The trees that will be preserved are between eighty and one hundred feet tall. Their extensive crowns and root systems are providing significant benefits to the City's lot and this will not change when the small trees are removed. The amount of soil erosion and land stability provided by the small trees is insignificant compared to the large trees that have been growing there for decades.

The City Arborist has worked with geotechnical engineers and soil scientists on various projects and is well aware of landslide issues. Following the 1991 Oakland Hills Firestorm, the City Arborist worked on the removal of thousands of dead or dying trees and no landslides were created by the work planned, coordinated and administered by Tree staff.

The Open Space Conservation and Recreation (OSCAR) element of the General Plan has a Policy CO-2.1 Slide Hazards that encourages “development practices which minimize the risk of landsliding.” OSCAR indicates “that about one-quarter of the City including the entire hill area is considered to have moderate to high potential for landsliding.” OSCAR suggests good development practices can reduce the risk of landslides but tree removals are not mentioned as having any impact on landsliding.

Mr. Alan L. Kropp, Geotechnical Engineer (No. 487) provided an opinion in an email to Barri Bonapaart, the attorney for Mr. and Mrs. Bishop. In the email on November 13, 2009, Mr. Kropp stated that the City lots adjacent to Mr. and Mrs. Hanes are “underlain by very strong sedimentary bedrock and landslides are rare” and that “sometimes, shallow slumping or erosion may occur, especially on slopes that have been steepened” by grading activities for roadways or building pads. Mr. Kropp wrote “the likelihood of landsliding resulting from tree removal is extremely remote and shallow slumping and/or erosion is unlikely.”

In late 2009, the Oakland Fire Department inspected the City lots in response to a complaint that overgrown vegetation posed a potential fire hazard. The Fire Department determined the excessive vegetation was violation of the Fire Code and hired a private contractor to remove weeds, brush and small trees on the City lots in order to reduce the risk of fire. It does not appear the vegetation removal work caused landslides.

The appellant’s concern about the potential landslide, restoration and balancing have been adequately addressed by staff and do not constitute any unusual or peculiar circumstance.

Conclusion: City staff processed the View Claim in a professional and objective manner. There was no error or abuse of discretion by City staff, staff’s decision is supported by substantial evidence in the record and the proposed view restoration work is consistent with the View Preservation Ordinance and arboricultural standards.

Staff has also revised the conditions of approval (see *Attachment E*) to require the View Claimant defend, indemnify and hold harmless the City in the event a lawsuit is filed by the appellant against the actions of the City, as well as if there is an accident or injury caused as a result of the tree removal work (see *Attachment E*).

A City Council resolution is attached for consideration.

PUBLIC OUTREACH/INTEREST

The trees were properly tagged and public notice was provided per the View Ordinance. The City did not receive any telephone calls, emails or letters from the public regarding the proposed tree removals except from the Appellants. Both the appellant and view claimant were provided notice of the public hearing before the City Council.

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COORDINATION

The Office of the City Attorney, Oakland Fire Department and the Office of Planning and Zoning were consulted for this report.

COST SUMMARY/IMPLICATIONS

There is a minor fiscal impact to the City from this recommendation. City staff will inspect the work performed on City lots and the estimated staff time will cost under \$500. The View Claimant will pay for the proposed tree work. As previously discussed, if there is a lawsuit filed by the appellant against the actions of the City a defense, indemnification and hold harmless clause has been included as a condition of approval for the view permit.

SUSTAINABLE OPPORTUNITIES

Economic: View restoration work maintains or enhances property values and meets the City Council Goal for a sustainable City.

Environmental: Preserving forty-two (42) trees on City lots conserves natural resources and provides a balance between view and tree values.

Social Equity: The View Claimant is entitled to a view that is part of the property rights associated with 6807 Bishop Drive.

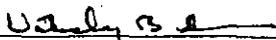
California Environmental Quality Act (CEQA)

The Project is exempt from CEQA under CEQA Guidelines Sections 15304 (Minor Alterations to Land), 15061(b)(3) (Review for Exemptions), 15307 (Actions by Regulatory Agencies for Protection of Natural Resources), and/or 15308 (Actions by Regulatory Agencies for Protection of the Environment), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provides an overall basis for CEQA clearance.

Specifically, the fifteen (15) trees approved for removal on the City lots do not exceed the 0.1% of the lot area threshold and are exempt under CEQA Guideline Section 15304 (Minor Alterations to Land). The total cross section area of the trunks approved for removal is 5.30 square feet or .034% of the City lots. The average trunk diameter of the trees in question is 8.2". To exceed the 0.1% threshold, approximately forty-three (43) trees would have to be removed. A worksheet is attached with the cross section area calculations (*Attachment I*).

For questions regarding this report, please contact James P. Ryugo, Building Services Manager at 615-5987.

Respectfully submitted,


VITALY B. TROYAN, P.E.
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Reviewed by:
James P. Ryugo, Building Services Manager

Prepared by:
Mitch Thomson, Arboricultural Inspector

Attachments

City Determination

- A. View Claim Decision
- B. Boundary and Topographic Survey
- C. Tree List – City Owned
- D. Tree Map
- E. Conditions of Approval
- E. Additional Conditions of Approval
- G. Pictures of Trees on City Lot (3 pictures)
- H. Pictures of large Pines on City Lot (3 pictures)
- I. CEQA Threshold Calculation Worksheet

Appellant's Attachment

- J. Hanes/McAllister Appeal

Attachment A

VIEW CLAIM DECISION – Chapter 15.52, Oakland Municipal Code
City of Oakland, Public Works Agency, Tree Services Division

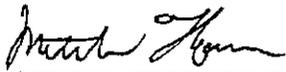
Claimant: Phyllis Bishop Claimant's Address: 6807 Wilton Drive
Decision: 3-29-12** City Property: Undeveloped Residential Lot, APN 048D-7292-26-02

FINDINGS

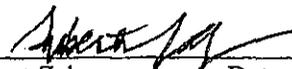
Some of the trees growing on undeveloped, city-owned lot, confronting 6807 Wilton Drive, diminish the beneficial use, economic value and enjoyment of views naturally accruing to the claimant's property pursuant to Chapter 15.52 of the Oakland Municipal Code. The claimant shall be allowed to remove, at her expense, eight (8) protected trees, remove eight (8) small trees that are not protected, top a group of eleven (11) small acacia trees, top a group of ten (10) small acacia trees and remove low limbs from five very large Monterey pines and Monterey cypress. Instead of describing, (a) the character of the view, (b) the character of the view obstruction and (c) the extent of benefits and/or burdens derived from the trees in question, the following information is provided as justification for the tree work that is approved:

1. The judgment in case number RG09-443093, the Superior Court of the State of California, Alameda County, Lloyd and Phyllis Bishop, plaintiffs, versus Ernest and Okhoo Hanes, created a view corridor; see attached Boundary and Topographic Survey prepared by Storrs Land Surveying. The view corridor extends over the city-owned lot in question.
2. City of Oakland staff testified in trial that the City of Oakland was prepared to consider the removal or substantial thinning of the City's trees, once the obstructions from the Hanes' trees were removed. The Hanes removed their trees and the view obstruction on the city lot was given a final assessment.
3. The attached Tree List and Tree Map identify the trees on the City lot that may be removed, the trees that may be topped and the trees that shall be preserved. Trees A-D and tree H may have low limbs removed. The attached Conditions of Approval provide more detail and information regarding this decision.

No replacement planting on the city property shall be required. When the acacia trees are topped, substantial portions of the trees shall remain and continue to provide erosion control. Eleven other trees shall be preserved, are growing in the area where relatively small trees will be removed and will continue to provide erosion control and other benefits. Five of the eleven trees have a height of eighty to one hundred feet; they have very wide crowns and removal of the relatively small understory trees approved for removal will not have a detrimental effect on the city-owned property.

 3-29-12

Mitch Thomson Date
Certified Arborist WE-1937A
Certified Tree Risk Assessor #907

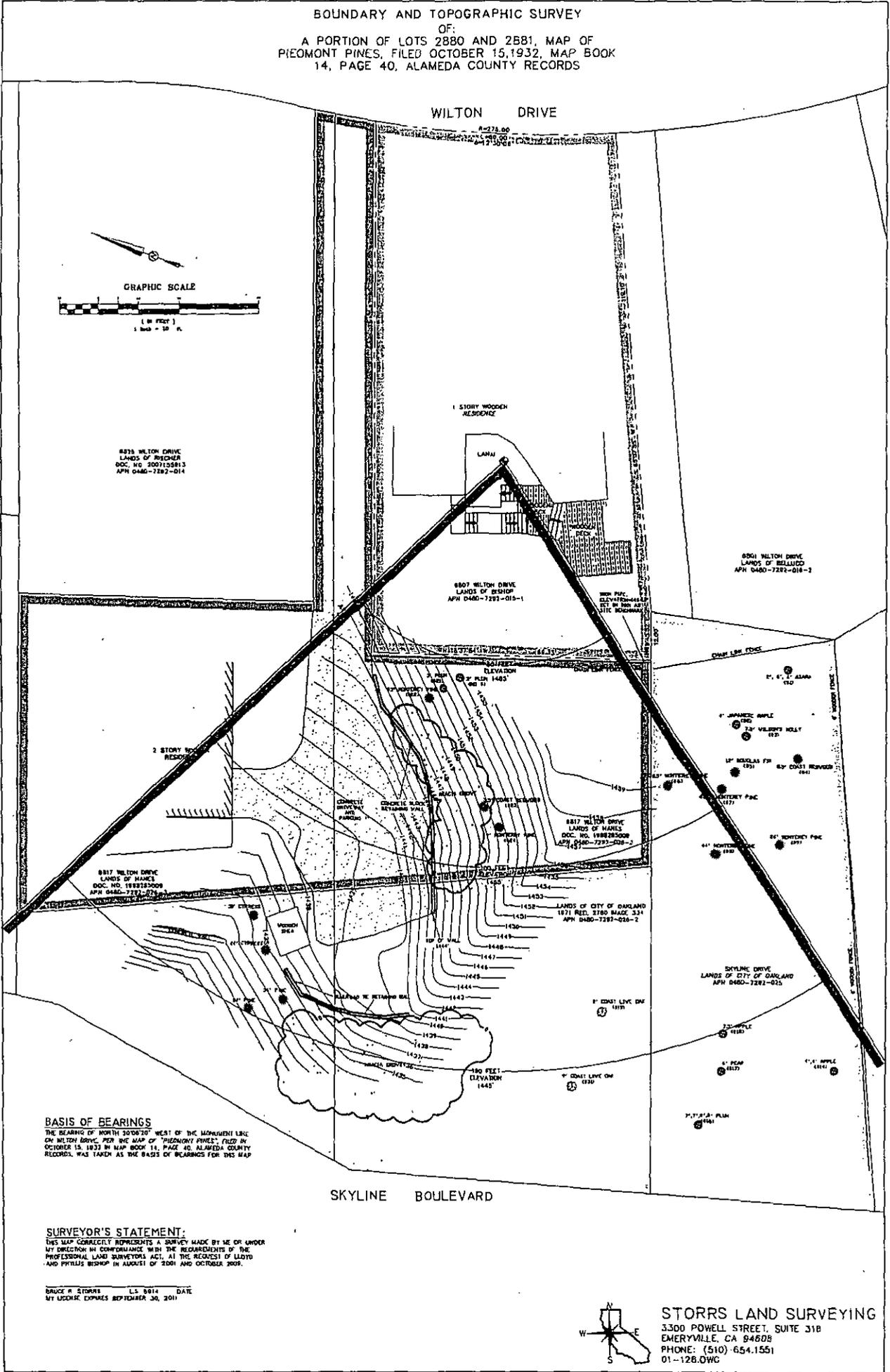
 3-29-12

Robert Zahn Date
Senior Forester
Certified Arborist WE-8102A

*** This decision of the Public Works Agency, Tree Services Section may be appealed by the view claimant or any other interested party, to the City Council within ten (10) working days after the date of this decision and by 5:00 p.m. An appeal shall be on a form prescribed by and filed with the City Clerk, at One Frank H. Ogunva 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 \$500.00, 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.*

Attachment B

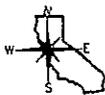
BOUNDARY AND TOPOGRAPHIC SURVEY
 OF:
 A PORTION OF LOTS 2880 AND 2881, MAP OF
 PIEDMONT PINES, FILED OCTOBER 15, 1932, MAP BOOK
 14, PAGE 40, ALAMEDA COUNTY RECORDS



BASIS OF BEARINGS
 THE BEARING OF NORTH 30°06'20" WEST OF THE MONUMENT LINE
 ON WILTON DRIVE, PER THE MAP OF "PIEDMONT PINES", FILED IN
 OCTOBER 15, 1932 BY MAP BOOK 14, PAGE 40, ALAMEDA COUNTY
 RECORDS, WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP

SURVEYOR'S STATEMENT:
 THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER
 MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE
 PROFESSIONAL LAND SURVEYORS ACT, AT THE REQUEST OF LLOYD
 AND PHYLLIS BISHOP IN AUGUST OF 2001 AND OCTOBER 2009.

BRUCE H. STORRS L.S. 8914 DATE
 MY LICENSE EXPIRES SEPTEMBER 30, 2011



STORRS LAND SURVEYING
 3300 POWELL STREET, SUITE 318
 EMERYVILLE, CA 94608
 PHONE: (510) 654-1551
 01-128.0WC

Attachment C

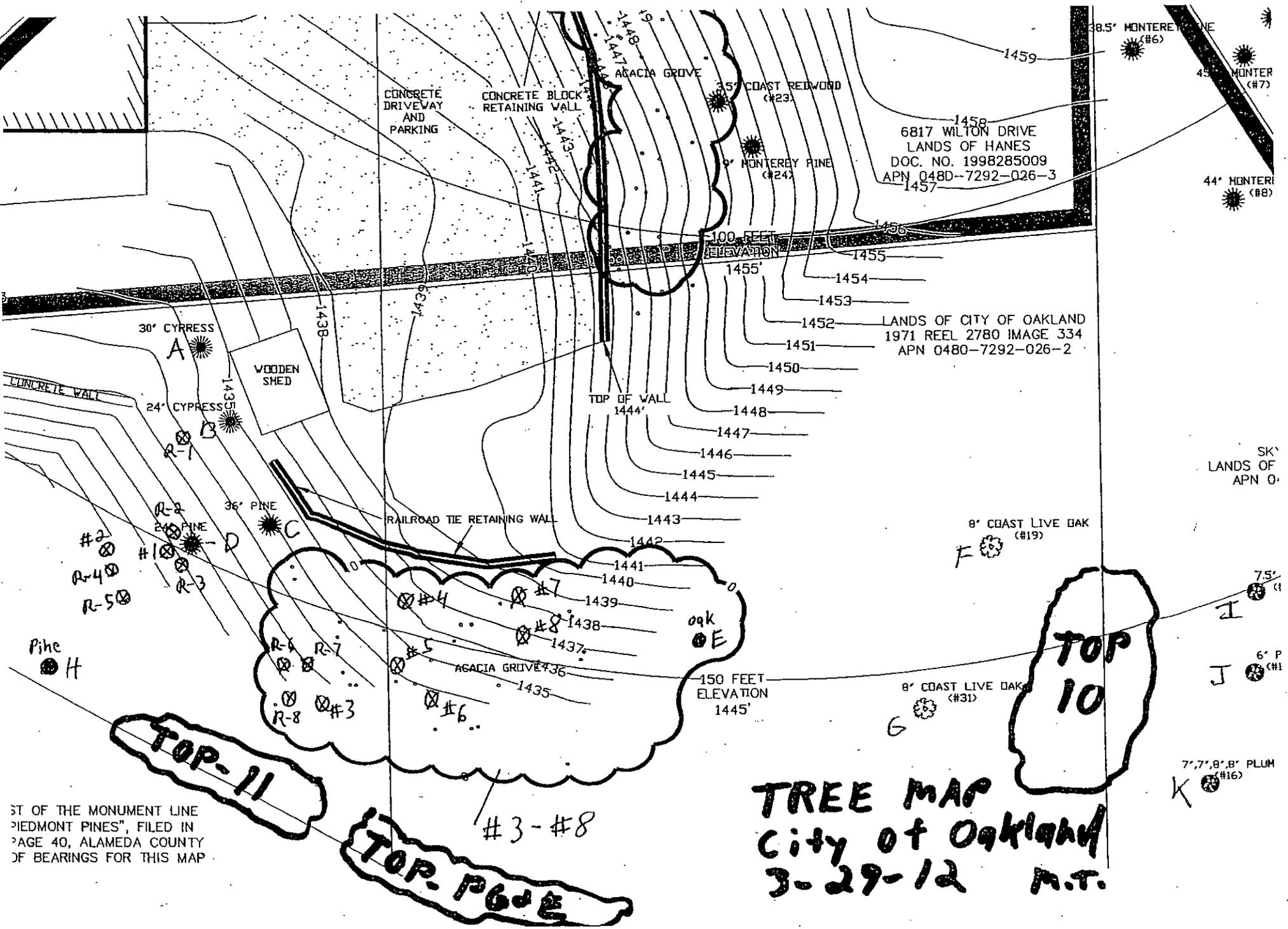
View Claim - Phyllis Bishop

Tree List: City Owned, Undeveloped Lot
Next to 6807 Wilton Drive

View Claim Decision
3-29-12

	Identification	Species	DBH	Location
REMOVAL APPROVED - Protected size trees	#1	Blackwood acacia	6", 4"	Next to 24" pine
	#2	California Bay	6.5", 5", 4.5", 4.5"	Next to 24" pine
	#3	Blackwood acacia	4", 6.5", 8"	Acacia grove
	#4	Blackwood acacia	7" x 3	Acacia grove
	#5	Plum	9"	Acacia grove
	#6	Blackwood acacia	8", 8"	Acacia grove
	#7	Plum	7", 4"	Acacia grove
	#8	Plum	7", 5.5", 8"	Acacia grove
REMOVAL APPROVED - Small trees, not protected size, 8 total		Blue paint, vertical stripe on trunk		
	R-1	Bay	8"	Next to 24" cypress
	R-2	Blackwood acacia	6"	Next to 24" pine
	R-3	Blackwood acacia	3"	Next to 24" pine
	R-4	Bay	6.5"	Near 24" pine
	R-5	Bay	5.5"	Near 24" pine
	R-6	Bay	5.25"	Acacia grove
	R-7	Bay	3	Acacia grove
R-8	Bay	4.25"	Acacia grove	
TOPPING APPROVED - Small trees, not protected size, 11 total	Blue paint, dot on trunk	Blackwood acacia	less than 9"	Steep bank, below acacia grove
TOPPING APPROVED - Small trees, not protected size, 10 total	Blue paint, dot on trunk	Blackwood acacia	less than 9"	South side of lot, south of oak trees F & G
TREE PRESERVATION REQUIRED	A	Monterey cypress	30"	Next to wooden shed
	B	Monterey cypress	24"	Next to wooden shed
	C	Monterey pine	36"	Below wooden shed
	D	Monterey pine	24"	Below wooden shed
	E	Coast live oak	9"	Edge of acacia grove
	F	Coast live oak	8"	South of acacia grove
	G	Coast live oak	9"	South of acacia grove
	H	Monterey pine	24"	North end of lot
	I	Apple	7.5"	South end of lot
	J	Pear	6"	South end of lot
	K	Plum	7", 7", 8", 8"	South end of lot

Attachment D



Attachment E pg.1

View Claim - Phyllis Bishop

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CITY OF OAKLAND, PUBLIC WORKS AGENCY, TREE SERVICES DIVISION

CONDITIONS OF APPROVAL

View Claim: Phyllis Bishop

Decision 3-29-12

All other trees on the city owned lot, confronting 6807 Wilton Drive, shall be preserved and no additional work shall be done unless authorized by this department. The Public Works Agency, Tree Services Division, grants you conditional authorization to do tree work at your own expense. The following conditions apply:

1. The Tree Services Division may rescind this letter of authorization at any time if Tree Services determines that the public interest requires it.
2. You and the contractor performing the tree work must sign, date and return one of the enclosed Hold Harmless agreements at least 48 hours prior to the start of work.
3. Proof of contractor licensing and insurance must be provided to this department no earlier than 30 days prior to, and not less than 48 hours prior to the start of work. All tree work must be performed in a competent and professional manner by a state licensed tree contractor (C-61/D-49 or C-27) possessing the following minimum insurance: \$1,000,000 workers compensation; \$1,000,000 automobile liability (bodily injury and property damage); commercial general liability with \$1,000,000 bodily/personal injury, \$1,000,000 property damage or \$2,000,000 combined single limit for bodily injury and property damage.
4. Original insurance certificates must be sent by the insurance company, a minimum of 48 hours prior to the start of work, directly to City of Oakland, Tree Services Division, Attention: Mitch Thomson, 7101 Edgewater Drive, Oakland, CA 94521. Photocopies of certificates will not be accepted.
5. You must notify this office of the start date at least 24 hours before beginning work. The project must be done in a timely manner. Once the contractor starts work, it must be completed within ten (10) calendar days.
6. Traffic control on public streets shall be provided as required by the most current issue of the CAL TRANS Manual of Traffic Controls.
7. The contractor must submit a work plan to Tree Services for review and approval. The work plan must explain the equipment that will be used to do the tree work, work location and traffic control. Traffic control must explain signage and how vehicle traffic will be facilitated for property owners affected by the jobsite.

Attachment E pg.2

View Claim - Phyllis Bishop

3-29-12

8. All limbs, wood and debris resulting from the work must be removed immediately from the site and disposed of legally. The cleanup must be "pitch fork clean" meaning any small debris that can be picked up with a four-tined pitchfork must be removed from the site. Failure to do so will result in the department billing you for such services (if necessary) and could ultimately lead to a lien being placed on your property.
9. Wood chips may not be left on site.
10. No portion of the trees shall be drug or pulled on the slope.
11. All depressions in the soil resulting from the tree work shall be repaired by filling with soil to original grade. The work shall be done with hand tools.
12. Foot traffic shall be minimized on the slope.
13. Slopes damaged by foot traffic or tree work shall be repaired at your expense per the city's specifications.
14. If the street is damaged it shall be repaired at your expense per the city's specifications.
15. No work shall be done during high fire hazard periods designated as Red Flag Day(s).
16. The department reserves the right to stop your contractor's work if the soil is too wet due to recent rains.
17. Damage or destruction of any other trees not approved by this letter will be considered illegal tree removals. The consequences of such action may lead to fines, replacement trees or both.
18. The work must be done Monday through Friday. No work is allowed on weekends, furlough days or city holidays.
19. See the attached photographs for more information; 4 attached.

If you have any questions, please telephone Arboricultural Inspector Mitch Thomson at 615-5850. The Tree Services office is open Monday through Friday, 7:00 am to 3:30 pm.

Attachment F

ADDITIONAL CONDITIONS OF APPROVAL VIEW CLAIM: PHYLLIS BISHOP

The following additional conditions are imposed:

20. To the maximum extent permitted by law, the applicant and its contractor shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City for or on account of any damage to property or bodily injury, including death, or damage sustained or arising out of, related to or caused by in any way from the performance of work in this View Claim matter. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees

21. To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to this View Claim matter, City's CEQA approvals and determination, and/or notices in the View Claim matter; or (2) implementation of such. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

22. Within ten (10) calendar days of the filing of any Action as specified in conditions 20 or 21 above, the View Claimant and/or its contractor shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.

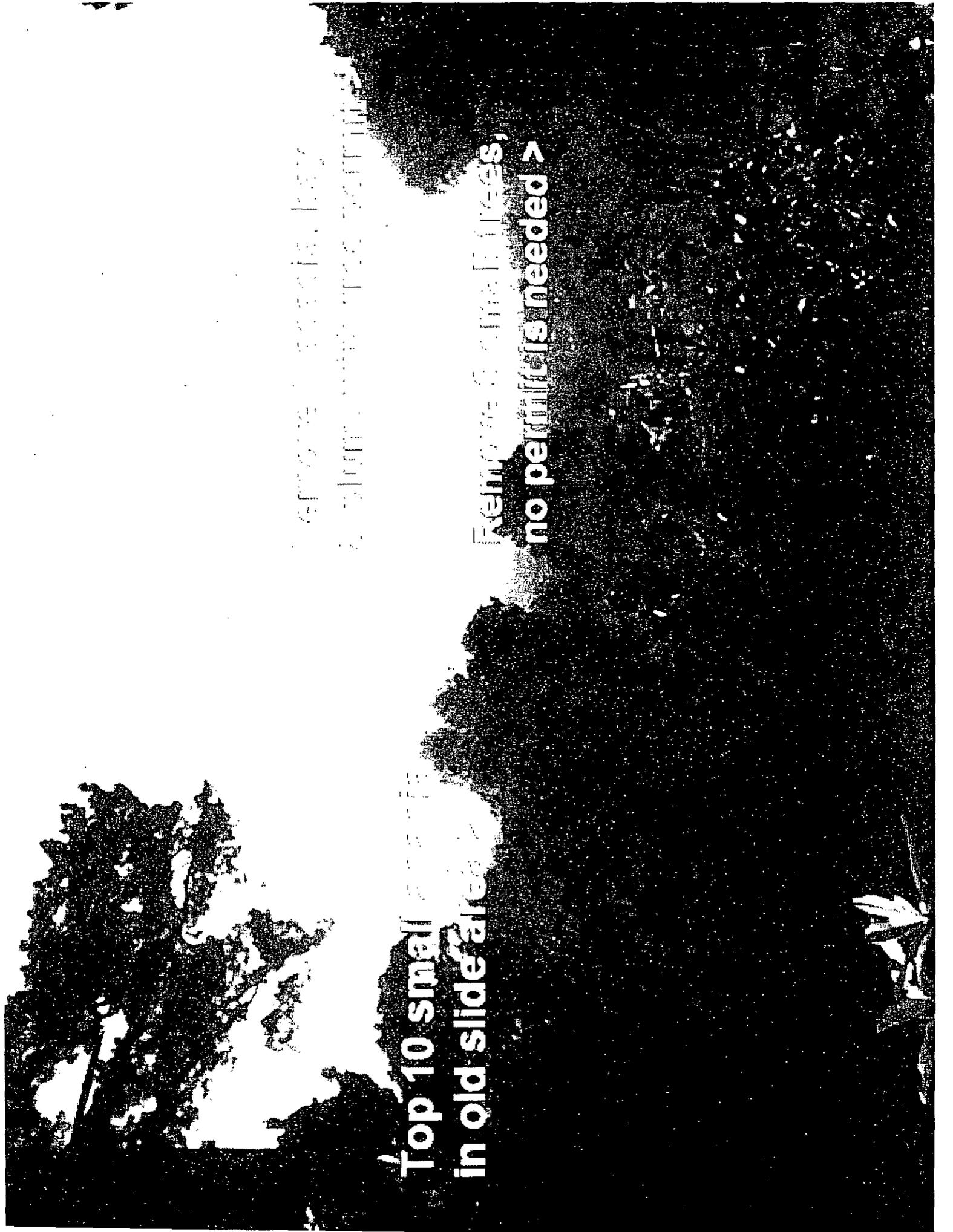
Attachment G

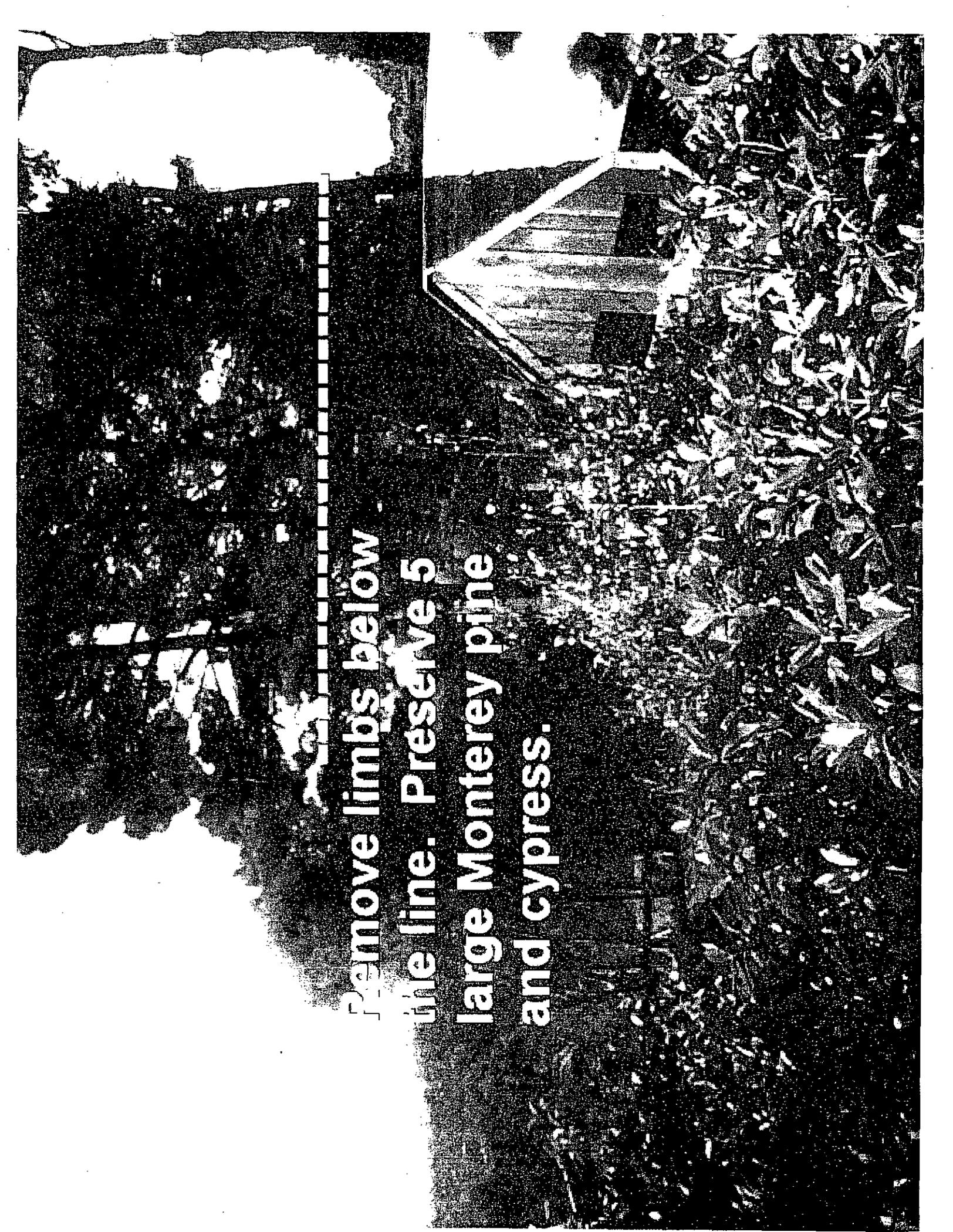
Pictures of Trees on City Lot (3 pictures)

Remove small trees, brush
and shrubs from the area

Top 10 small trees
in old slide area

Remove small trees, brush,
no permit is needed >

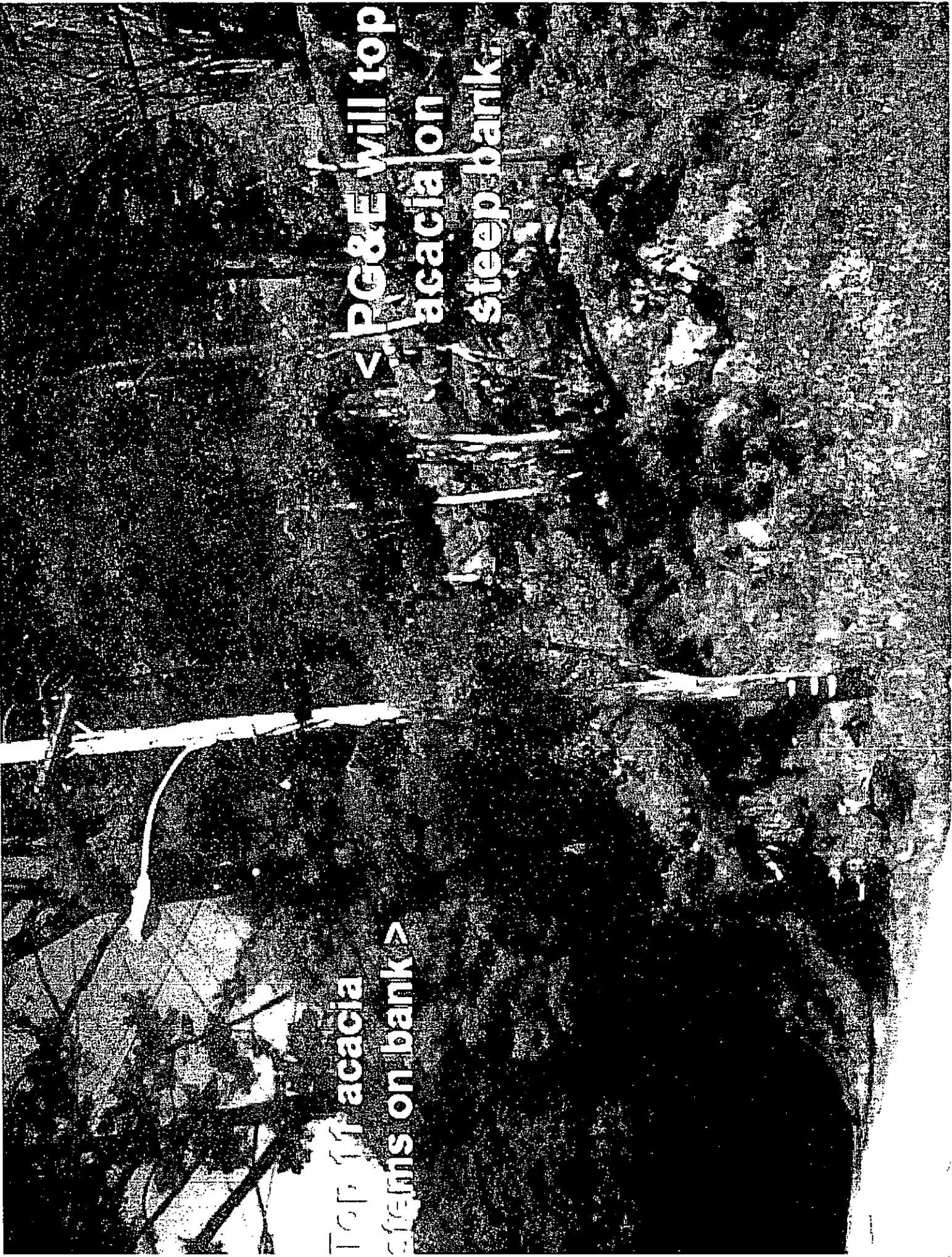


A black and white photograph of a wooded area. In the foreground, a wooden structure, possibly a shed or a small building, is partially visible. A dashed white line runs across the middle of the image, separating the foreground from the background. The background is filled with dense foliage, including trees and bushes. The overall scene appears to be a natural, wooded environment.

**Remove limbs below
the line. Preserve 5
large Monterey pine
and cypress.**

Top of acacia
stems on bank >

< PG&E will top
acacia on
steep bank.



Attachment H

Pictures of large Pines on City Lot (3 pictures)

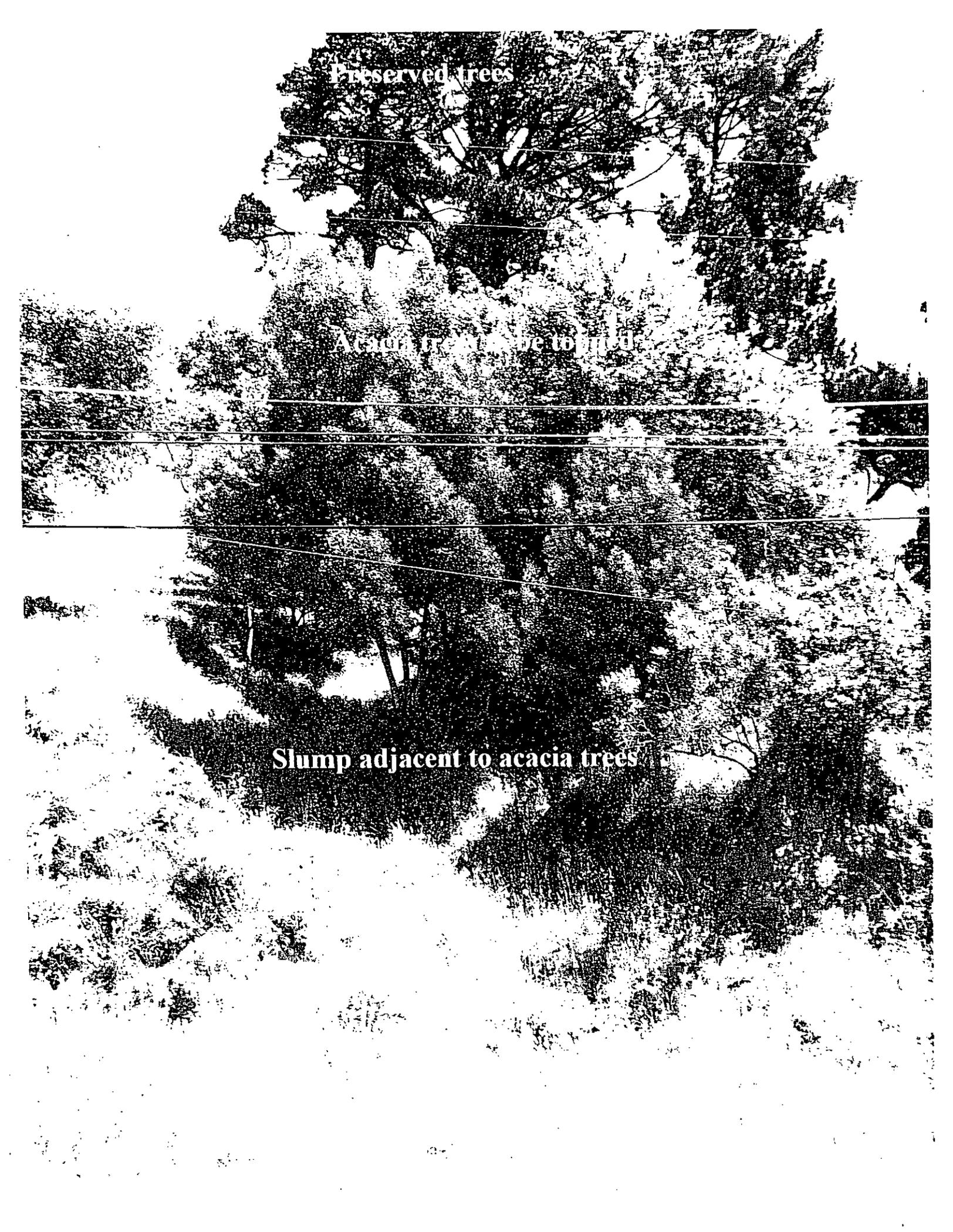
Preserved trees

Acacia trees to be removed

Acacia trees

Edge of Home Blvd





Preserved trees

Acacia trees to be topped

Slump adjacent to acacia trees

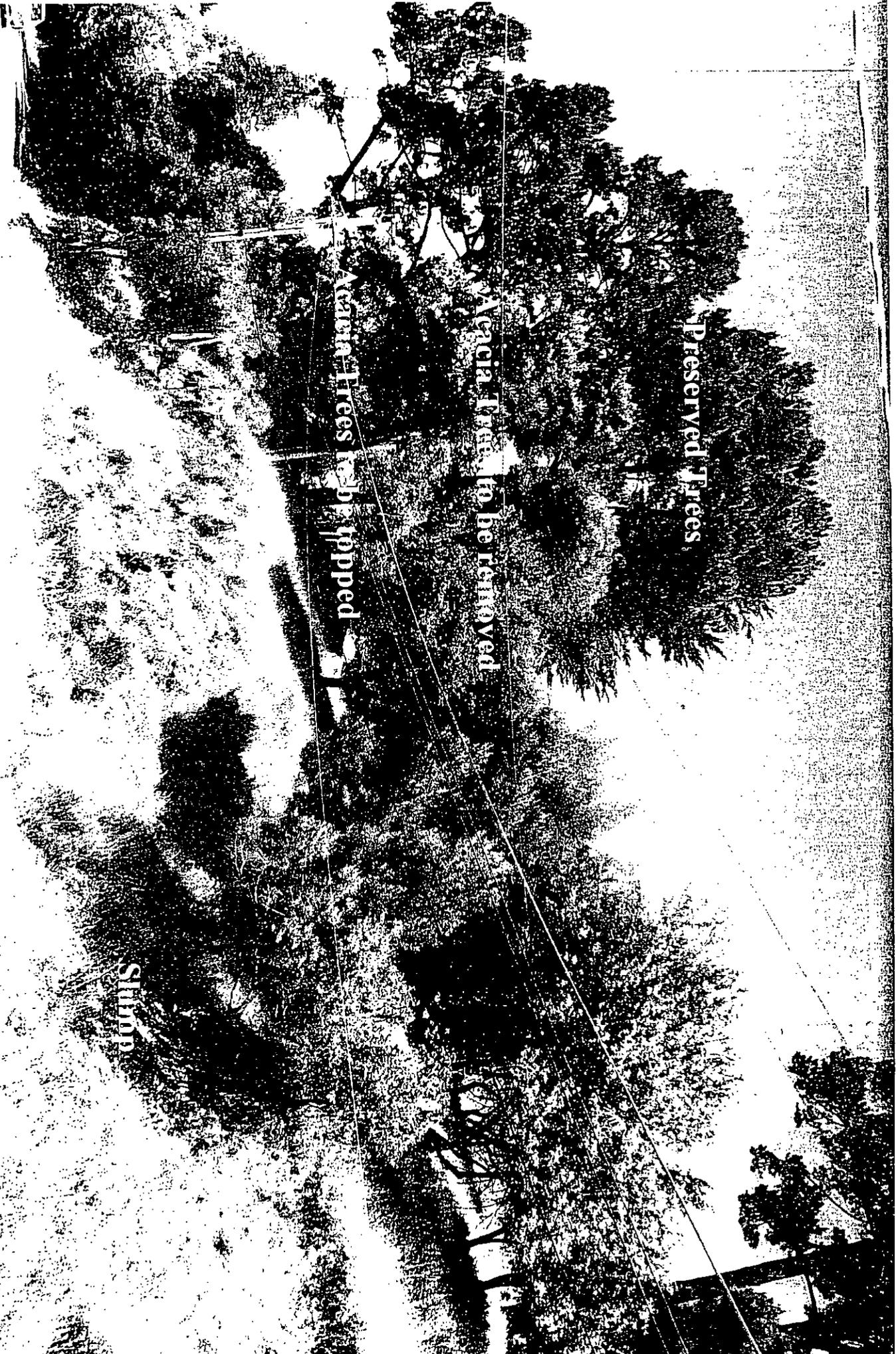
Preserved Trees

Acacia Trees to be removed

Acacia Trees to be fipped

Slugg

Skyline Blvd.



ATTACHEMENT I
Tree List: Cfty Owned, Undeveloped Lot
Next to 6807 Wilton Drive

	Identification	Species	DBH	Trunk Cross Section Area - Square Inches
REMOVAL APPROVED - Protected size trees	#1	Blackwood acacia	6", 4"	41
	#2	California Bay	6.5", 5", 4.5", 4.5"	85
	#3	Blackwood acacia	4", 6.5", 8"	96
	#4	Blackwood acacia	7" x 3	114
	#5	Plum	9"	64
	#6	Blackwood acacia	8", 8"	100
	#7	Plum	7", 4"	51
	#8	Plum	7", 5.5", 8"	112
REMOVAL APPROVED - Not protected size	R-1	Bay	8"	50
	R-2	Blackwood acacia	6"	28
	R-3	Blackwood acacia	3"	7
	R-4	Bay	6.5"	33
	R-5	Bay	5.5"	24
	R-6	Bay	5.25"	22
	R-7	Bay	3"	7
	R-8	Bay	4.25"	14
			848	TOTAL SQUARE INCHES

TREES

848 Square Inches ÷ 144 = 5.89 Square Feet of Trunk Area

Lot Area = 15,673 Square Feet

5.89 Trunk Area ÷ 15,673 Lot Area = .0003758 of Lot Area

.0003758 = .03758% = .04% of Lot Area (rounded)

THRESHOLD

0.1% Lot Area = CEQA Trunk Area Threshold

0.1% x 15,673 Square Feet Lot Area = 15.67 Square Feet Trunk Area Threshold

5.89 Square Feet Trunk Area < 15.67 Square Feet Threshold

.04% Lot Area < .1% Threshold

Attachment J

Appellant's Attachment

Hanes/McAllister Appeal

17 Pages

FILED
OFFICE OF THE CITY CLERK
OAKLAND

FAX COVER SHEET

2012 APR 16 PM 4:22

Via Fax Transmission to (510) 238-6699

Date: April 16, 2012

To: City of Oakland, Office of the City Clerk
Attn: Ms. LaTonda Simmons

From: Ernest & Okhoo Hanes, adjacent property owners
Mary McCalhster, concerned citizen

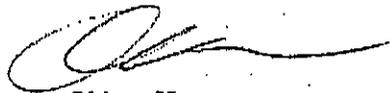
RE: View Preservation Appeal for City Trees

Dear Ms. Simmons:

Please find faxed herewith the above-referenced Appeal. Please note that a check for the filing fee of \$50.00 is being placed in the United States Postal Service first-class mail, as of today, 4/16/2012, addressed to you at 1 Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612. We were told that a credit card payment was not available.

If you have any questions or problems with this transmission, please call Okhoo Hanes at (510) 227-0970. Thank you very much for your assistance on this matter.

Sincerely yours,



Okhoo Hanes

Total pages faxed: 17 (in bracket [])

Excluding this
Cover Sheet



City of
OAKLAND

Office of the City Clerk

AGENDA MANAGEMENT UNIT

1 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612
Tel. (510) 238-6406 | Fax (510) 238-6699

VIEW PRESERVATION APPEAL CLAIM FORM FOR CITY TREES

TO BE COMPLETED BY CITY CLERK STAFF

PROPERTY LOCATION:

4-16-12
DATE
N/A
AMOUNT
HEARING DATE
Kevell
CLERK STAFF

THIS FORM MUST BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

APPELLANT INFORMATION

Hanes; McCallister	Okhos & Ernest; Mary	(510) 227-0970	
LAST NAME	FIRST NAME	DAYTIME PHONE	
1530 Silver Trail	Napa	CA	94558
ADDRESS	CITY	STATE	ZIP
Adjacent property owners; concerned citizen			
RELATIONSHIP TO VIEW CLAIM SITE (e.g. adjacent property owner)			

CLAIM INFORMATION

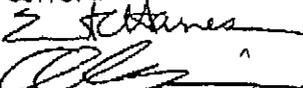
City Lots #2880, 2881, 2882, 289S3, Assessor's Map 48D Oakland	CA	94611
ADDRESS OF VIEW CLAIM	CITY	STATE ZIP
4/11/2012, modifying the 3/28/2012 decision not publicized until 4/11/2012.		
DATE OF CITY STAFF DECISION		

O.M.C. 15.52.100 (E) A claimant or any other interested party may appeal any decision of city staff granting or denying a view claim to the City Council. The appeal shall be filed within ten (10) days after the date of a decision by city staff, and shall be made on a form prescribed by and filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was either error or abuse of discretion by city staff, or wherein the city staff decision is not supported by the evidence in the record.

Please provide a detailed statement of why there was either error or abuse of discretion by city staff or why the city staff decision is not supported by the evidence in the record (Attach additional pages if necessary)

Please see the attached.

I declare and affirm under penalty of perjury that the statements made herein are true and correct.



APPELLANT SIGNATURE

Mary McCallister
by Oliver Hanes
asper mutual agreement

4/16/2012

DATE

PLEASE CONTACT THE OFFICE OF THE CITY CLERK FOR ADDITIONAL QUESTIONS at (510) 238.8406

*Completed forms will be forwarded to the Rules and Legislation Committee for scheduling.

Attachment to the Appeal
April 16, 2012
A Detailed Statement of Errors, Abuse of Discretion,
and Decision unsupported by the Evidence in the Record
by the Tree Section
In Issuing the View Claim Permit under Ch.15.52.100E

To sum up at the outset, the tree permit in question should be revoked for their fundamental and fatal defects, abuse of discretion, and a lack of a valid legal basis as detailed below.

This appeal subsumes that the Oakland Sunshine Ordinance No. 12483, among others, shall apply to this proceeding.

(1) Appeal period for this permit is insufficient:

The appeal deadline should not be set on Monday, 4/16/2012 for a lack of requisite filing period. Ten (10) working days from the date the permit was issued is 4/25/2012 at the earliest, even if the permit were valid in every respect. But, when a defective permit is issued as here (to be elaborated below), the appeal should not commence until defects are cured in accordance with the law the Tree Section purports to enforce. Otherwise, limited resources of the City and the public are needlessly wasted. No one, least of all the budget-crunched City of Oakland, should not be forced to squander limited resources for the City employees' failure to perform their duties to abide by the law and serve the Oakland public.

The Tree Section purports to have issued a permit to accommodate a view claim of a single property owner at 6807 Wilton Drive, Oakland, CA 94611, (who no longer lives at the property), ostensibly dated on 3/28/2012. However, Mr. Robert Zahn's email (Enclosure 1) shows, this permit consisting of four (4) pages was not made available until 4/11/2012, in which Mr. Zahn added some information concerning the permit. Despite its post-dating, therefore, for all practical purposes, the permit was issued on 4/11/2012, if at all, not 3/28/2012. Consequently, the appeal period should not close at least until 4/25/2012 (and later until the permit defects are cured and a meaningful appeal can thus be filed.)

(2) The Pennit lacks a valid basis:

Tree Section purports to rely on a private "view corridor" produced on behalf of the view claimant in a private litigation. Suffice to point out that the City was not a party nor an intervener in this lawsuit and has no obligation, legal or otherwise, to enforce a matter of private dispute. The City's involvement in this lawsuit was limited to the partisan participation of Mitch Thomson, "Tree Reviewer," as an "expert" witness for the view claimant. Records indicate that Mr. Thomson arranged a City tree cutting which presented a redundant view obstruction to the view claimant in the midst of the trial in collusion with the view claimant, as documented by Mr. Bruce Saunders, the former Assistant Director of Infrastructure, Oakland Public Works.

Most importantly, the view ordinance specifically protects *public* "view corridors," but has no mention of a private view corridor. To the extent the purported *private* "view corridor" of the view claimant extends to the City property, any nuling on such a "corridor" has no effect on the City. No judge has power to legislate beyond the scope of the view ordinance as set forth therein.

It must also be noted that Mr. Thomson's action throughout this process amounts solely to serve the private interest of one view claimant under the color of his authority of his official position, but derogates any other considerations, particularly the general public interest. His action is in error, comprises an abuse of discretion beyond the authority of his office, and is not supported by any evidence contained in the permit. The permit in question demonstrates that Tree Section confuses its official duty with satisfying the private interest of the claimant based on a ruling in a private litigation which does not concern the City and at the expense of the public interest.

(3) The Permit is defective for a lack of "Open Space" information:

Our email inquiry to Mr. Ryugo was answered by Mitch Thomson, which was repeated by Mr. Robert Zahn in his email of 4/11/2012. In both "answers," these Tree Section personnel in essence refused to ascertain the status of the "Open Space" designation of this particular City property involved. They concluded that the City property is not "Open Space," because (1) its zoning is R4-S10 residential; and (2) It does not show as "Open Space" in the General Plan map, but did not identify the specific source of either information.

These two reasons given by the Tree Section in no way refute the "Open Space" designation of this particular City property and comprises merely unsubstantiated, unspecified hearsay.

The Tree Section neglects to mention that zoning and the Open Space designation are not mutually exclusive. For example, R4 residential zoning and S10 Scenic Road zoning coexist for both public and private properties. The appellants' property are zoned for both kinds of zoning, as is the City property adjacent to their property. The view claimant's property is zoned only for residential designation. In addition, the "Open Space" designation exists for this City property by the City's official action.

The City property is specifically identified by its lot numbers and designated as the City's "Open Space," in the 1988 Report on 121 Open Space City properties along the Skyline Blvd., prepared by the then Director of City Planning, Alvin D. Jones, as endorsed by the then City Manager, Henry L. Gardener. (Enclosure 2) As summarized in this report, the "Open Space" designation of these properties was effected by the City Council action in 1974, and the report reaffirmed and endorsed such designation and recommended to preserve these properties as "Open Space." And in 1989, reflecting this report and the Council's reaffirmation of "Open Space," the Council amended the view ordinance specifically to subject the view ordinance to the City's General Plan (i.e. the Open Space, Conservation, and Recreation Element of the General Plan, or "OSCAR"). The current OSCAR was adopted by the City in 1989, to remain effective until 2015. It has been known that the General Plan Map, especially the computerized version, does not necessary indicate "Open Space" of smaller sizes due to extreme graphical compression or other technical difficulties.

Tree Section has not produced any record, decision, or action by the City to refute this legislative history and the "Open Space" designation contained therein, nor did it give any cogent reason why it should not be honored as such. Accordingly, the permit is invalid for a lack of legitimate authority.

Tree Section has thus failed to take requisite consideration for this "Open Space" under the view ordinance. By claiming that the Protected Tree Ordinance (Ch. 12.36 O.M.C.) does not apply to this permit (Tree Section initially relied on this ordinance, but later cancelled to rely on the view ordinance instead), the Tree Section also failed to comply with its requirements, despite the fact that many trees in the permit are of protected size and species.

The Tree Section's permit thus fails both under the view ordinance and the protected tree ordinance. As such, this permit should not issue to begin with, but even if it were issued, should not stand as a valid permit until all ordinance requirements are met, at a minimum.

The Tree Section has at its disposal all Public Works records to review and verify the City's action and determination. Failure to consummate this process and to rely on unsubstantiated hearsay is in and of itself dereliction of duty and abuse of discretion. It is the Tree Section's threshold duty to ensure compliance with the law in issuing a permit, especially when the Tree Section has been apprised of its defects long in advance, not that of the appellate body.

(4) The Permit was issued without a meaningful public notice and a public input period:

Tree Section failed to provide the required notice and tagging readily visible to passersby as required under the view ordinance. Nor did it abide by the requirements set forth under the protected tree ordinance. In its apparent haste to foreclose realistic public participation, Tree Section did not make the permit known expeditiously or provide for a reasonable comment period. (E.g. The initial permit, now canceled, under the protected tree ordinance mentioned only 8 trees. Now reconstituted under the view ordinance, the permit involves 27 trees, but no notice whatsoever was made known prior to 4/11/2012, and the tagging or marking shown on the permit are essentially invisible or intelligible for passersby in violation of the ordinances.)

In view of the nature of public concerns involved and their wide-range and long-range implications for failing to sustain the public resources of the City of Oakland, a minimum of 30 days (or more realistically 60-90 days) should be made available AFTER a valid and lawful permit was issued. One only needs to be reminded of the catastrophic consequences which resulted from the senseless depletion of redwoods in early days of Oakland. Tree Section, of all agencies, is charged with a foresight and a long-range sustainability of City's tree resources. No regard appears to have been dispensed here in issuing the permit in question.

(5) The Permit fails to address ongoing landslide issues, restoration, and balancing considerations:

In the City property in question, the landslide which began in 1989 due to a tree vandalism has not been addressed by the City and still presents an ongoing and future problems. Notably, Mr. Thomson's rogue cutting of City trees (many of protected size) which presented a redundant view obstruction to the view claimant appears to have started new landslides at this cutting location in the said City property. As noted in OSCAR, the entire Oakland Hills is recognized as a landslide risk area. Given the existing evidence of threats, no tree cutting permit should issue without a thorough review of the soil stability problems associated with this tree cutting.

Similarly, there is no reason for the Tree Section not to require the tree restoration of the view claimant. Given the fragile, steep terrain involved and the extent of depletion of trees planned, which will exceed 100 all inclusive, a thoughtful evaluation and planning should be implemented, but the Tree Section has failed to do so. The City will be well served by a permit which will establish meaningful restoration requirements as specified in Section 15.52.050 E.5. The Tree Section has not shown any reason or ground why restoration should not be required. The hold harmless agreement, which cannot be enforced without further expenditure of limited City resources, will be patently insufficient and inadequate without specific substance to ensure meaningful restoration under the circumstances.

From the foregoing, the permit should be dismissed as invalid forthwith, not ripe for any appeal consideration. It lacks a valid basis, does not comply with applicable ordinances, fails to ensure public participation, and contravene the OSCAR Element of the General Plan and related legal requirements. For its fundamental flaw and defects numerated above, this permit should be cancelled or remanded without further action, and no appeal should take ^{place} until the Tree Section's duty to serve the public be established in every respect in accordance with the law.

Your consideration will be greatly appreciated.

Respectfully submitted,

E. Hanes

Okhoo

Okhoo and Ernest Hanes, adjacent property owners and taxpayers

Mary McCallister

by Okhoo/Hanes as per mutual agreement

Mary McCallister, concerned citizen

- Enclosures: (1) 4/11/2012 email of Mr. Robert Zahn without attachments; and
(2) 1988 City Report on 121 Open Space City Properties along the Skyline Blvd.
(3) 4/16/2012 email of Mary McCallister re signature.



{ Page 7 of 17 }

View Claim Decision

Wednesday, April 11, 2012 4:14 PM

From: "Zahn, Robert" <RZahn@oaklandnet.com>

To: hanesok@sbcglobal.net

Cc: "Ryugo, Jim" <JRyugo@oaklandnet.com>, "Levin, Brooke A." <blevin@oaklandnet.com>,
"Ortiz, Celso" <COrtiz@oaklandcityattorney.org>, "Morodomi, Mark"

<MMorodomi@oaklandcityattorney.org>, "Simmons, LsTonda" <LSimmons@oaklandnet.com>

2 Files (281KB)



View Clai...

View Decl...

Dear Mrs. Hanes,

I apologize for the delay in replying about the Bishop's view claim. Attached is the decision.

We have researched your inquiry about the City-owned parcel being zoned as "open space". The information given to us from Interim Planning and Zoning Director is the zoning designation of the referenced property (across from 9155 Skyline Blvd.) is confirm as Hillside residential or RH-4/S-10. The General Plan Map designation of the parcel (and the immediately surrounding parcels as well) is Hillside Residential. This is not designated as Open Space by the General Plan Map (as adopted March 24, 1998).

The appeal ending date is April 16, 2012 at 5:00 pm. If you choose to file an appeal of this decision please submit the View Claim Appeal Form (attached) to the City Clerk's Office.

Robert C. Zahn
Senior Urban Forester
Certified Arborist #8102A
Department of Facilities & Environment
City of Oakland | Public Works Agency | APWA Accredited Agency
7101 Edgewater Dr, Bldg 4 | Oakland, CA 94621
(510) 615-5852 | (510) 615-5645 Fax
rzahn@oaklandnet.com

Report A Problem | Public Works Agency Call Center | (510) 615-5566
www.oaklandpw.com | pwacallcenter@oaklandnet.com | Mobile app: [SeeClickFix](#)

P. 149

CITY OF OAKLAND Interface Letter

To: City Manager Attention: Henry L. Sawyer Date: December 15, 1983

From: Director of City Planning

Referral from City Council:
City-owned lots on Skyline Boulevard

Subject: City-owned lots on Skyline Boulevard

This is in response to a City Council request made at its September 15, 1983 meeting that the Planning Department review data collected for the 1974 study of undeveloped City-owned property on Skyline Boulevard for the purpose of assisting the Council on matters concerning these properties. It is recommended that the Council approve its 1974 action which designated properties to be reserved by the City as open space. Further, it is recommended that the City Council approve the action. The amendment attached would make certain limited modifications to the categories in the 1974 City Planning Department report which will not affect the character or natural resources of the Skyline Boulevard scenic corridor.

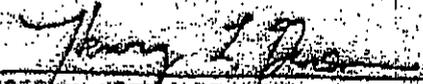
Council should direct staff to investigate sale or exchange of any land not identified in the amendment, with the conditions that the sale or exchange would automatically come before the City Planning Commission as part of the normal property procedure.

It is further recommended that Council direct staff to develop an annual maintenance budget estimate for those Skyline properties retained by the City and to investigate utilizing some portion of the proceeds of any sale or transfer of City-owned parcels in the Skyline corridor to establish a trust fund for such as yet untended maintenance activity. Finally, it is recommended that Council direct staff to utilize the provisions of Proposition 13 (1975) which permits, under certain conditions, properties purchased with gas tax fund to be subsequently used for parks and recreation purposes.

A resolution has been prepared which would uphold the previous action of City Council regarding the disposition of the City-owned parcels on Skyline Boulevard as directed by the recommendations in the attached report. The resolution would direct staff to enter into discussions with EBPB for the possible transfer of lots of interest to them as parkland open space and to investigate establishment of a trust fund from the proceeds of sales of any City-owned parcels on Skyline Boulevard to maintain these lots retained by the City on that stretch of road.


ALVIN D. JONES

APPROVED AND FORWARDED TO THE CITY COUNCIL:


Office of the City Manager

Attachments

72
12-13-83

SKYLINE BOULEVARD: A STUDY OF CITY-OWNED PROPERTY

Proposed Amendment to the 1974 City Planning Department Report

Background

There are presently 121 undeveloped parcels in City ownership located along Skyline Boulevard between Joaquin Miller Park and Robert Sibley Regional Volcanic Preserve. Skyline Boulevard, a designated Scenic Route, is a Citywide resource, and this particular stretch of road combines some of the best panoramic views and natural resources within a residential setting. Of these City-owned parcels, 107 were designated for retention in the 1974 City Planning Department study which was accepted by the City Council. For the most part, the parcels are steep and wooded, uphill or downhill properties, situated along a winding and relatively narrow stretch of Skyline Boulevard. Many are about 5,000 to 7,500 square feet in size, although because there is variation and some are substandard in size, the word "parcel" is generally used in this report instead of "lot" which suggests a standard building site. (See Map).

When the City Council directed the study of City-owned Skyline properties in 1974, there were 185 parcels in City ownership. These had been acquired between 1933 and 1971, with the hope that eventually the two-lane road would be realigned and upgraded at various points. In November 1972, the City Planning Commission conducted a public hearing regarding the long-range improvement program for Skyline Boulevard. There was significant community response and the majority of speakers were opposed to all changes which would alter the conditions of the roadway and the character of the corridor. The Planning Commission recommended that the road remain a scenic route and on May 23, 1972 City Council voted to "terminate the proposed improvement program for Skyline Boulevard."

In 1974, to determine the disposition of what had become, in effect, an open space preserve, City Council requested recommendations from the Planning Department.

The ensuing study was a comprehensive interdisciplinary effort calling on the expertise of engineers, geologists, designers, naturalists and other specialists. Each parcel was evaluated individually, with extensive field work. In order to develop a ranking system, seven objectives were established as criteria for retention. The formulation of these objectives was directly influenced by policy statements adopted by the City Council in the Oakland Comprehensive Plan, which are cited in the original report.

For every objective satisfied, a parcel earned one point; relative merit was established by point accumulation. In addition, a negative point was given to any parcel which could be developed for residential use without critically altering the unique character of Skyline Boulevard, impeding driver safety or destroying important resources. After the scores were tallied, the parcels were examined in terms of the total configuration of City-owned property on Skyline. After sketching alternative combinations, these final categories evolved: Category A, Highest Priority for Retention; Category B, Very High Priority for Retention; Category C, High Priority for Retention; Category D, Sell but prior action by City is required; and Category E, Sell as is.

The City Planning Department report was presented to the City Planning Commission, and at the public hearing there was renewed community reaction against change to a unique City resource. When the matter came before the City Council on November 12, 1974, Council accepted the recommendations of the report. The original categorization and subsequent disposition of properties is summarized below:

72
12-13-88

UNDEVELOPED CITY-OWNED PARCELS ON SKYLINE BOULEVARD

CATEGORY	1974	Sold	Remain 1988
A	30	0	30
B	29	3 (to EBRD)	26
C	51	0	51
D	41	30	11
E	33	28	5
TOTAL	184	61	123

Revisiting the Parcels in 1988

The Planning Department and the Office of Parks and Recreation have recently revisited the remaining parcels to see if development patterns, natural conditions, zoning regulations, or other factors have changed in a manner which might suggest modifying the original categories.

An independent evaluation of the natural and scenic assets by the Office of Parks and Recreation confirmed the high desirability of retaining all properties in the A and B categories as open space, and many of the parcels in Category C. Working together, the Planning Department and Office of Parks and Recreation then identified some opportunities to generate revenue while remaining consistent with the objectives established in the 1974 study and maintaining the character and natural resources of the Skyline corridor. The recommendations are as follows:

1. Proceed with the sale of 14 parcels which remain in the D and E categories.
2. Recategorize ten Category C parcels to category D, less two for exchange purposes, if feasible.

(C) 2905

This property is separated from a large group of City-owned parcels (2907, 2908, 2911, 2912) by privately held parcel 2906. The original report suggested selling 2905 if 2906 became developed. Pursue swapping 2905 for 2906. If not feasible, sell 2905.

(C) 1047, 1048

(C) 1055, 1058, 1059

(C) 1096, 1097, 1098, 1098

72
12-13-88

These parcels are located on the downhill side of Skyline Boulevard between Shepherd Canyon Road and Colton Drive. The 1974 report recommended that if future residential patterns warrant, these properties could be considered for sale. It is believed that with the recently adopted provisions of the

S-11 Site Development Review Zone combined with the strengthening of the view plane obstruction provisions in the S-10 Scenic Route Combining Zone (i.e. change conditional use approval to a Major Variance requirement), these lots could be developed without view impediment. Within the context of the overall holdings on Skyline, these lots have very low significance from a natural resource standpoint because they are entirely covered with eucalyptus. As for views, it is possible that the view will be improved because development under the S-11 will require clearing of eucalyptus trees which presently obstruct the view from the road.

Lot 1047 or 1048 should be used in exchange for private parcel 1085. By acquiring parcel 1085, the City will augment an existing open space cluster at lots 1076-1077-1078, and create an excellent view turnout which incorporates the "unbuildable" property under the PG & E powerline.

Assuming this exchange is accomplished, there would remain a total of 9 parcels in City ownership at three separate points of concentration along the downhill side of Skyline Boulevard between Shepherd Canyon and Colton, in addition to the PG & E powerline right-of-way which is expected to remain clear of residential development. Prior to the sale or swap of parcels redesignated from Category C to D, it would be advisable to map them on the North Hill Area Site Development Map for the location of driveways and structures. Groupings of four lots are highly conducive to the use of a shared driveway which runs parallel to Skyline Boulevard and places houses and garages well below the grade of the road. Groupings of two and three lots also offer opportunities for shared access which can minimize the impact of development.

- 3. Undertake a negotiated sale with adjoining property owners for certain lots with the condition that these properties are not to be used for new single family homes. They may, however, be used for additions to existing houses, subject to zoning regulations for sideyards, setbacks and the like.

- (B) Portion of 1123
- (B) Portion of 1124

These two lots are among the four undeveloped corners at the Skyline/Shepherd Canyon intersection. It would not jeopardize the gateway effect desired here if a limited portion of each lot were sold to the adjoining owner for a house addition.

- (C) 2882
- (C) Lot North of 2882

Located on the uphill side between Ascot Drive and Burton Drive, these lots were retained for geologic interest. The geologic display along Skyline would be preserved even if the upper portion of the properties were used by abutting owners for residential-related purposes.

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(B) 2233

Located on an uphilly promontory corner between Cartersbrook Drive and the entry to Redwood Regional Park, this lot has no safe access from Skyline. Desirable natural shrubs could be preserved if the parcel became part of an abutting property.

Enter discussions with the East Bay Regional Park District to transfer ownership to that Agency certain properties of possible interest to them for permanent open space, conservation and recreation purposes. For properties of marginal interest to the ERPD, consider transfer at the City's original cost. While the City would not make a profit on the transaction, it would be relieved of the long term maintenance responsibility and the district would be assured of permanent open space status on such properties.

a. Properties which adjoin ERPD property:

- (B) 1298 (1/2 lot)
- (B) 1295
- (B) 1671, 1672
- (B) 2992
- (A) 2905

ONE

b. Properties across Skyline from main to ERPD facility:

- (C) 2885
- (C) 2883, 2882
(2884, 2881 - private)
- (C) 2121

c. Properties for Klamath-Mendocino Preserve:

- (C) 1161 - 1165
- 1160 - private
- (C) 1159
- 1158 - private
- (B) 1154 - 1157
- (B) 1211 - 1212
- (C) 1129 - 1135
- (D) 1172 - 1173

d. Any other property of interest subsequent to the date of this report to the ERPD for permanent open space purposes.

Maintenance of Remaining Properties

Regardless of the precise number of additional lots, if any, which are sold, there continues to be a maintenance responsibility for the properties received and that responsibility is unfunded at this time. A desirable and permanent use of at least part of the properties...

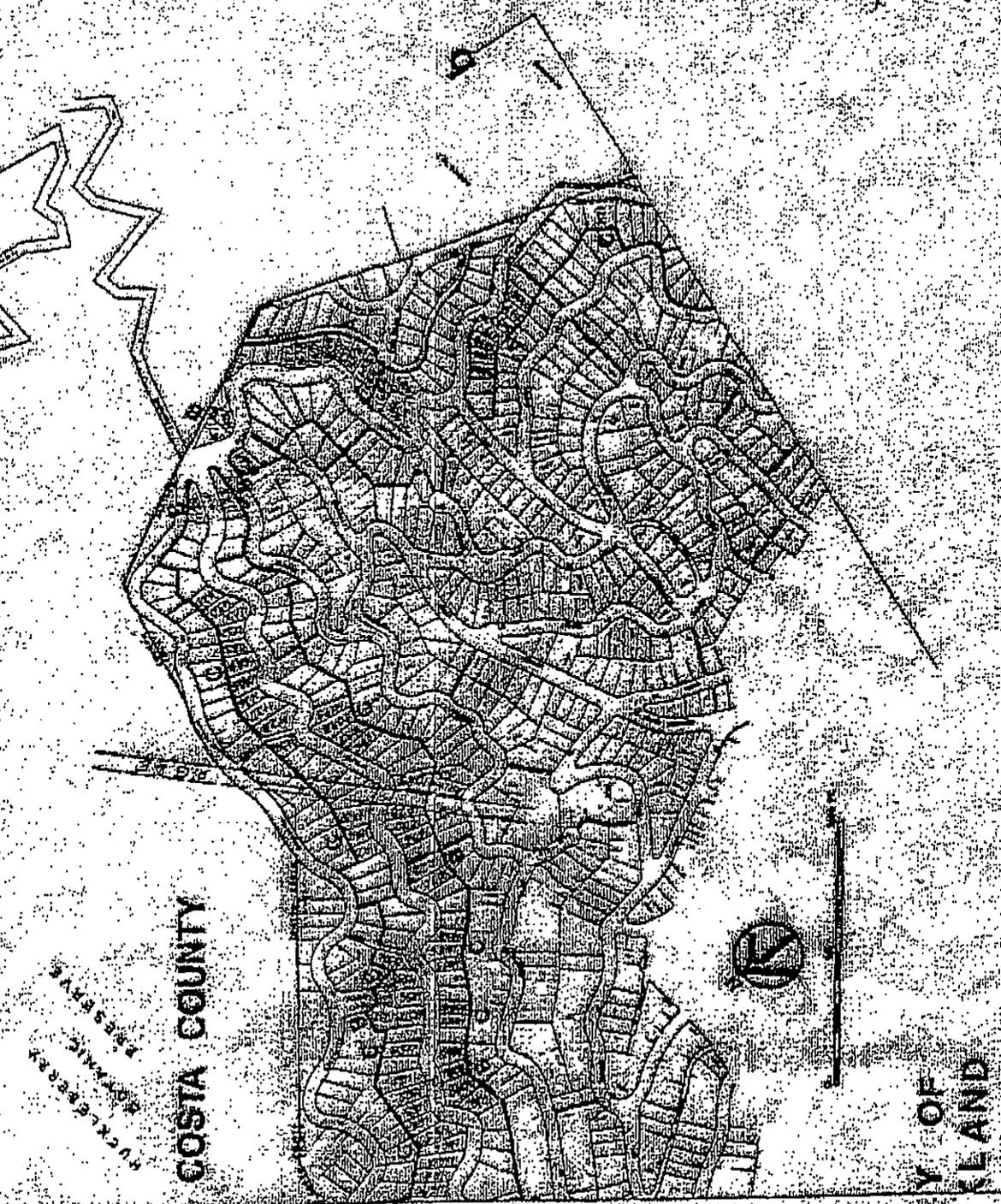
-5-

trust account which would form the nucleus of a fund for maintaining Skyline properties and installing signage or amenities along the official Scenic Route. Once established, the fund would be partially self-generating by means of interests and of equal importance, would provide a magnet for donations from those who are "Friends of Skyline Boulevard" desiring to contribute to the enhancement of the open space along the scenic corridor.

Oakland City Planning Department
December 7, 1988

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UNDEVELOPED CITY-OWNED PARCELS
ON SKYLINE BLVD., 1988 Page 2 of 3



FRANKLIN
MUNICIPAL
RESERVE

COSTA COUNTY

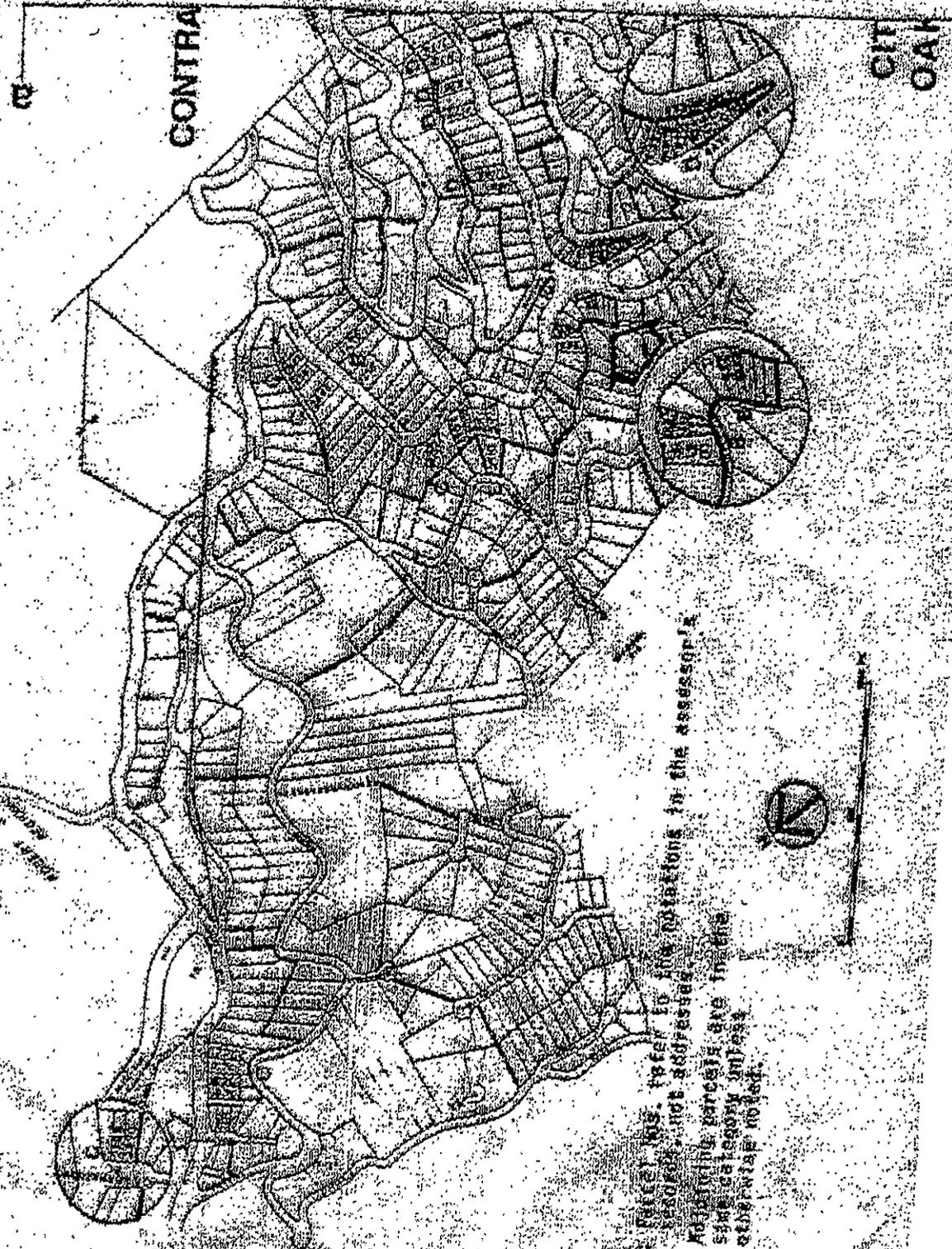
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OAKLAND

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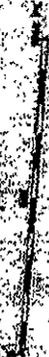
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UNDEVELOPED CITY-OWNED PARCELS
ON SKYLINE BLVD, 1988 Page 1 of 3



NOTES: Parcel nos. refer to the notations in the assessor's records and address.
 Adjacent parcels are in the same category unless otherwise noted.



UNDEVELOPED CITY-OWNED PARCELS
ON SKYLINE BLVD., 1988 Page 3 of 3

REAR PORCH
MEDICAL
PARK

19



12-13-88



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Appeal to Save Oakland Trees

Monday, April 16, 2012 5:12 AM

From: "Mary McAllister" <rmarymcallister@comcast.net>
To: hanesok@sbcglobal.net

To Okhoo Hanes:

This is to confirm our discussions of April 14 and 15, 2012 that you were authorized to sign the April 16, 2012 appeal to the City on the Tree Section's view claim tree permit on my behalf due to my being out of town. I wish to be listed as a joint appellant, to be signed by you for both of us.

Mary McAllister