

**TO: JAMES L. APP, CITY MANAGER**

**FROM: RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR**

**SUBJECT: OTR 08-002 - REQUEST TO REMOVE ONE OAK TREE (McDowell/Miller)**

**DATE: FEBRUARY 5, 2008**

**Needs:** For the City Council to consider a request by Mont McDowell & AnnMarie Miller, to remove one oak tree on the vacant lot located on the northwest corner of Cherry Street and James Street (See Vicinity Map, Attachment 1).

- Facts:**
1. The subject oak tree is a 12-inch diameter Blue Oak (*Quercus Douglasii*).
  2. The request to remove the tree is in relation to the applicant's proposal to build a custom house on the subject lot. Included with the staff report is a project narrative from Gary Harcourt, Architect, which indicates that if the subject oak tree is allowed to be removed it would allow more flexibility to design a custom house that would better take advantage of the amenities of the site such as the views and the other more aesthetic oak trees on the site. (See Attachment 2)
  3. Chip Tamagni of A&T Arborists has provided a report (Attachment 3), indicating the tree proposed for removal (Tree No. 2), is in poor condition and has a 30-degree lean towards the buildable area of the lot. The report indicates that as a result of the tree leaning, the main roots of the tree are exposed and show signs of damage and decay. Photos of the tree are included in the attached report.
  4. Since the tree shows signs of growth, the Director can not make the determination that the tree is "clearly dead or diseased beyond correction," and therefore, Section 10.01.050.C of the Oak Tree Ordinance would consider the tree "healthy" and require that the City Council make the determination of whether the tree should be removed or not, after consideration of the factors listed in Section 10.01.050.E. The factors and staff's responses are described in the Analysis and Conclusion section of this staff report.
  5. The applicant's have indicated their willingness of providing two replacement oak trees, consistent with the Ordinance, if the Council allows the removal of the 12-inch tree.

**Analysis  
And**

**Conclusion:** According to Section 10.01.050.E, there are several factors that the City Council needs to review when considering the removal of a “healthy” oak tree. These factors along with Staff’s analysis of each factor are listed below:

*D. If a request is being made to remove one or more healthy oak trees for which a permit to remove is required, the director shall prepare a report to the City Council, outlining the proposal and his recommendation, considering the following factors in preparation of his recommendation.*

- 1. The condition of the oak tree with respect to its general health, status as a public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility services, and its status as host for a plant, pest or disease endangering other species of trees or plants with infection or infestation;*

Chip Tamagni of A&T Arborists has provided a report (Attachment 3), indicating the tree proposed for removal (Tree No. 2), is in poor condition and has a 30-degree lean towards the developable area of the site. The report also indicates that as a result of the tree leaning, the main roots of the tree are exposed and show signs of damage and decay.

- 2. The necessity of the requested action to allow construction of improvements or otherwise allow reasonable use of the property for the purpose for which it has been zoned. In this context, it shall be the burden of the person seeking the permit to demonstrate to the satisfaction of the director that there are no reasonable alternatives to the proposed design and use of the property. Every reasonable effort shall be made to avoid impacting oak trees, including but not limited to use of custom building design and incurring extraordinary costs to save oak trees;*

Gary Harcourt, Architect has provided a narrative of the site characteristics along with a proposed custom house design for the lot. While there are other designs that could be used on the site that could preserve the tree, since the tree is in poor condition and has poor aesthetic value, removing the tree would allow for a better custom home design that would take advantage of the other better oak trees and provide for better views.

3. *The topography of land, and the potential effect of the requested tree removal on soil retention, water retention, and diversion or increased flow of surface waters. The director shall consider how either the preservation or removal of the oak tree(s) would relate to grading and drainage. Except as specifically authorized by the planning commission and city council, ravines, stream beds and other natural water-courses that provide a habitat for oak trees shall not be disturbed;*

There would not be any negative effects on soil retention, water retention or surface water flows for the neighborhood, if this tree were to be removed.

4. *The number, species, size and location of existing trees in the area and the effect of the requested action on shade areas, air pollution, historic values, scenic beauty and the general welfare of the city as a whole;*

There are six other oak trees on this property which will be preserved. Additionally, removing the subject tree would promote long-term growth of healthier oak trees on the site, specifically Tree No. 1.

5. *Good forestry practices such as, but not limited to, the number of healthy trees the subject parcel of land will support.*

See comments above. .

Planning Staff has been to the site and reviewed the situation along with the information provided by the applicants'. While it is evident that a house could be built on the lot in a manner that would not require the removal of the tree, based on the tree having low aesthetic value and taking in consideration that an Architect is involved to design a custom house for the lot that would take advantage the views the lot has to offer, along with preserving the other better trees on the lot, removal of Tree No. 2 would seem appropriate. Additionally, since it would appear that if the tree was preserved that it would cause problems with a future house which would more than likely require removal in the future and since it is disrupting the health of Tree No. 1, which is a healthier more aesthetic tree, removal of the tree would meet the intent of the Oak Tree Ordinance.

Since the tree removal is being requested at this time to allow for the design of a custom home to be built in the future, a condition of approval has been added to the resolution that would not allow the removal of the tree until a grading permit is issued by the City for the house on the lot.

**Policy**

**Reference:** Paso Robles Municipal Code Section 10.01.010 (Oak Tree Ordinance)

**Fiscal**

**Impact:** None.

**Options:**

- A. Adopt Resolution No. 08-xx approving OTR 08-002, allowing the removal of the 12-inch Blue oak tree, based on the tree being in poor health, and having a hazard of falling and damaging the private property, and require two 1.5-inch diameter oak trees to be planted or the necessary donation made to the City's Oak Tree fund.
  
- B. Amend, modify or reject the above options.

**Report prepared by: Darren Nash, Associate Planner**

Attachments:

- 1. Vicinity Map
- 2. Conceptual Site Plan
- 3. Architect's Narrative
- 4. Arborist Report
- 5. Resolution to approve the removal of the tree.

H:\Darren\oaktreeremoval\Cherry St.

RESOLUTION NO. 08-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
AUTHORIZING THE REMOVAL OF ONE OAK TREE  
(MCDOWELL / MILLER)

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WHEREAS, Mont McDowell and AnnMarie Miller have submitted a request to remove a 12-inch Blue Oak Tree on the vacant site located on the northwest corner of Cherry Street and James Street; and

WHEREAS, the removal of the tree would allow for the design of a custom home that would take advantage of the other more aesthetic trees on the site, as well as take advantage of the views the site has to offer; and

WHEREAS, the Director could not make the determination that the tree is “clearly dead or diseased beyond correction,” and therefore, Section 10.01.050.C of the Oak Tree Ordinance would consider the tree “healthy” and require that the City Council make the determination of whether the tree should be removed or not, after consideration of the factors listed in Section 10.01.050.E; and

WHEREAS, Chip Tamagni of A & T Arborists submitted an Arborist Report indicating that the tree is in poor condition, with the possibility of falling on a future structure; and

WHEREAS, Gary Harcourt, Architect has submitted a conceptual site plan along with a narrative that give his recommendation for the removal, since it would allow for a better custom design for the lot; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles does hereby:

1. Authorize the removal of one (1) 12-inch Blue Oak tree based on the tree being in poor condition and the removal is necessary to prevent damage to private property as well as to promote growth and preservation to the other existing oak trees. The oak tree shall not be removed prior to the issuance of a Grading Permit by the City;
2. Require the planting of two (2) 1.5-inch diameter Blue Oak replacement trees; to be planted at the direction of the Arborist, or make a donation in the amount of \$200 per tree to be paid to the City’s Oak Tree replacement fund.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 5<sup>th</sup> day of February 2008 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

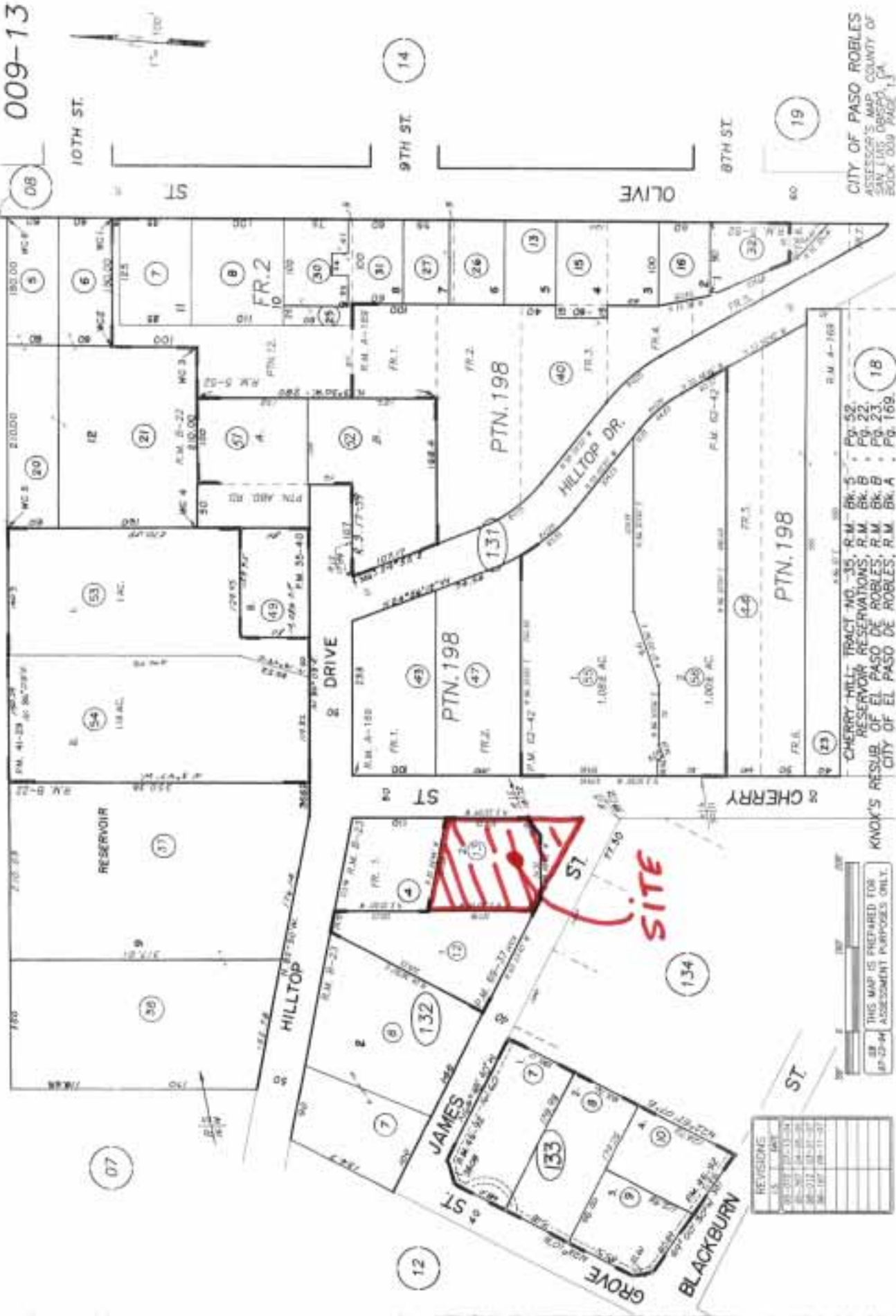
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Frank R. Mecham, Mayor

ATTEST:

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Deborah Robinson, Deputy City Clerk



CITY OF PASO ROBLES  
 ASSESSOR'S MAP COUNTY OF  
 SAN LUIS OBISPO, CA  
 BOOK 009 PAGE 13

CHERRY HILL TRACT NO. 35 R.M. BK. B  
 RESERVOIR RESERVATIONS, R.M. BK. B  
 OF EL PASO DE ROBLES, R.M. BK. B  
 CITY OF EL PASO DE ROBLES, R.M. BK. A

THIS MAP IS PREPARED FOR  
 ASSESSMENT PURPOSES ONLY.

REVISIONS	DATE

**Attachment 1**  
 Vicinity Map  
 (OTR 08-002)



DATE  
01.08.08

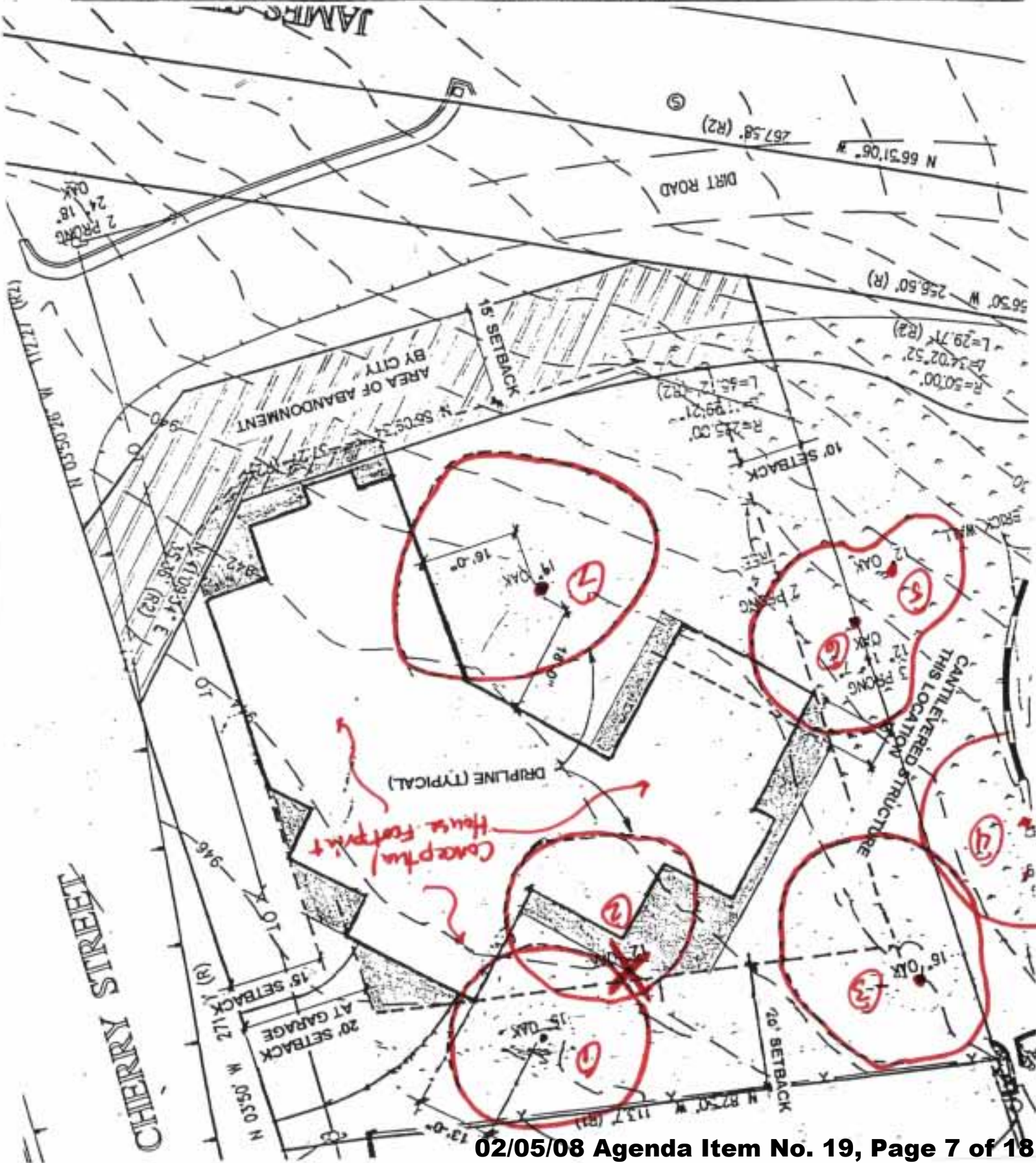
Custom Residence  
For  
Mont & AnnMarie McDowell

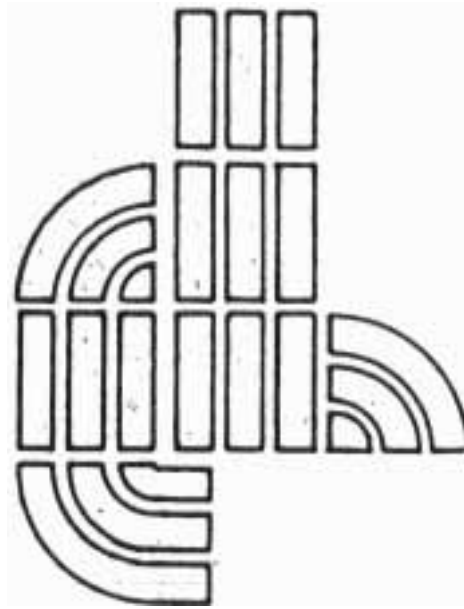
"Revised Footprint" Applicator

GFH ARCHITECTURE, PLANNING, AND GRA

Attachment 2  
Conceptual Site Plan  
(OTR 08-002)

JOB NUMBER  
0718





# ***Arborist Review and Narrative***

***For***

**Mont McDowell & AnnMarie Miller  
Custom Residence  
Corner of James and Cherry Street  
Paso Robles, California**

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**Attachment 3**  
Architect's Narrative  
(OTR 08-002)



### **Architecture:**

The style of home is not yet developed, but the majority of the home, due to the user's program, will be a single story home. There may be a small portion set back from the trees dripline which will be at a second level. I would anticipate stepping the structure back as we go up in those areas that would be sensitive to such driplines.

I would anticipate some type of decking between the residence and the main tree, but set above the natural grade. This does several things for the site and tree. But I'll let the arborist address these issues. By utilizing decking around the perimeter of the tree, it reduces any chance of landscape being placed near the tree and any possibility of over irrigating the area which could endanger the health of the tree.

We have one area in which we have extended the footprint to the allowed zoning setback which actually encroaches upon the CRZ line for the tree at the West property line. In this particular location, we have proposed to the arborist, for his consideration, that we would cantilever the structure to the setback, maintaining his required distance away from the tree for any structure or excavation. This provides an adequate space on this wing of the residence and still be sensitive as well as respecting the requirements of the Oak Tree Ordinance. It also attempts to provide a buffer between the exterior space around the main tree where we plan to have decks and the neighboring residence to the West, providing privacy for both parties.

We feel we have added greatly to the original proposal for a revised footprint, which allows for a residence that will compliment the homes already in the area. We have exhibited a true effort to work with the constraint placed upon this site of saving the tree in the middle of the parcel and at the same time, protecting other valuable oaks in the process and still coming up with a creative and complimentary project that will enhance and add to this neighborhood.

### **The Site:**

The site was created about a year and a half ago as a lot split. (Parcel Map PR05-0367) It was conditioned that the tree located at the center of the parcel remain, which is also recorded on the title. An exhibit (Exhibit A) of the Tentative Parcel Map submittal was developed with the expressed purpose of proving that a residence could be located around said tree (and others), thus affording the lot split. The footprint shown indicates a 1,240 sf area plus a two car garage. If one could develop a two story home there covering a portion of the footprint, it might come up to 2,200 sf. I say a portion of the footprint only because the driplines of the trees on each side of the footprint, lean towards the residence location and may in fact limit the upstairs development without jeopardizing the tree's health. Keep in mind also, that with the trees leaning as they do, they could in 10 or 20 years become a liability to the homeowner and a request to remove one or more trees may need to be addressed at sometime in the future.

In addition, there is a portion of land that has been abandoned at James Street for the street will never continue. This is shown at Exhibit B with the cross-hatched area.

The slope of the site slopes down to the West gradually. The differential between the high point off Cherry to the low point off James is approximately 16' in 150 feet (approx 10.6% slope)

The views are definitely to the West. Nearby hills beyond with sunsets will be spectacular with no obstruction now or in the future. There is a residence to the Northwest but at a much lower elevation. The residence across from James is also set low with the house to the North is not really visible due to landscape and a 6' high wood fence, but is the closest structure to said property.

### Site situating the structure:

Between the slope (10%), setbacks (15' front, 10' side, and 20' rear) , and the trees with their driplines and CRZ's (seen on Exhibit B) the footprint is very limited for this site, especially when trying to design a home that will take advantage of not only the amenities of the site, but also fit into the neighborhood nicely. We have met with the Client for this project and it all hinges on the orientation as seen in Exhibit B. We have laid the plan out to represent three main areas; (1) garage (off Cherry), (2) entry (again, off Cherry) with the public spaces behind and, (3) the private areas of the residence nestle back in the Northwest corner of the lot where it is set apart from any vehicular noise or lights, but still maintaining the great views to the West.

The orientation of the residence is best situated at a bias to the property lines to take advantage of the views from as many rooms as possible. The shape of the footprint reflects what can be done to take advantage of those views and still respect the setback distance to the 19" diameter oak tree in the center of the lot. The tree will now become an additional node or focal point in which the architecture and residence itself will surround. The orientation also affords "jogging", so-to-speak, around driplines and CRZ lines of other trees on and off the site, based upon their locations on and over the site. It also provides for a natural separation from any exterior areas enjoyed by the residence by utilizing the structure itself as a buffer for privacy as well as from any street noise.

To adequately safeguard this oak tree and yet take advantage of the amenities this lot has to offer, we have looked at all the trees on the site, and have need of removing one tree. This tree is the least healthy and aesthetically pleasing of the 7 oak trees that are on or adjacent to this parcel. It is paired with a better looking tree that is in better health. (Refer to arborist narrative) We'd like to take the additional measure of maintaining the health of this one tree by the removal of the smaller and more crooked and leaning tree which currently has severely exposed trunks and leans towards the buildable area dramatically. Please see attached arborist report as it relates to this tree.

By removing this tree we can gain the setbacks needed for the large 19" diameter tree in the center of the parcel and still get a substantial width dimension within in a footprint for a building that will respect both trees.

*(Tree No. 7)*

39

PARCEL MAP PR 05-0367

ADDITIONAL INFORMATION SHEET

THE APPLICANT REPRESENTS BY THIS SHEET IN THE INFORMATION PROVIDED THAT THE INFORMATION IS TRUE AND CORRECT AS OF THE DATE OF FILING AND IS NOT INTENDED TO AFFECT NEIGHBORHOOD INTERESTS.

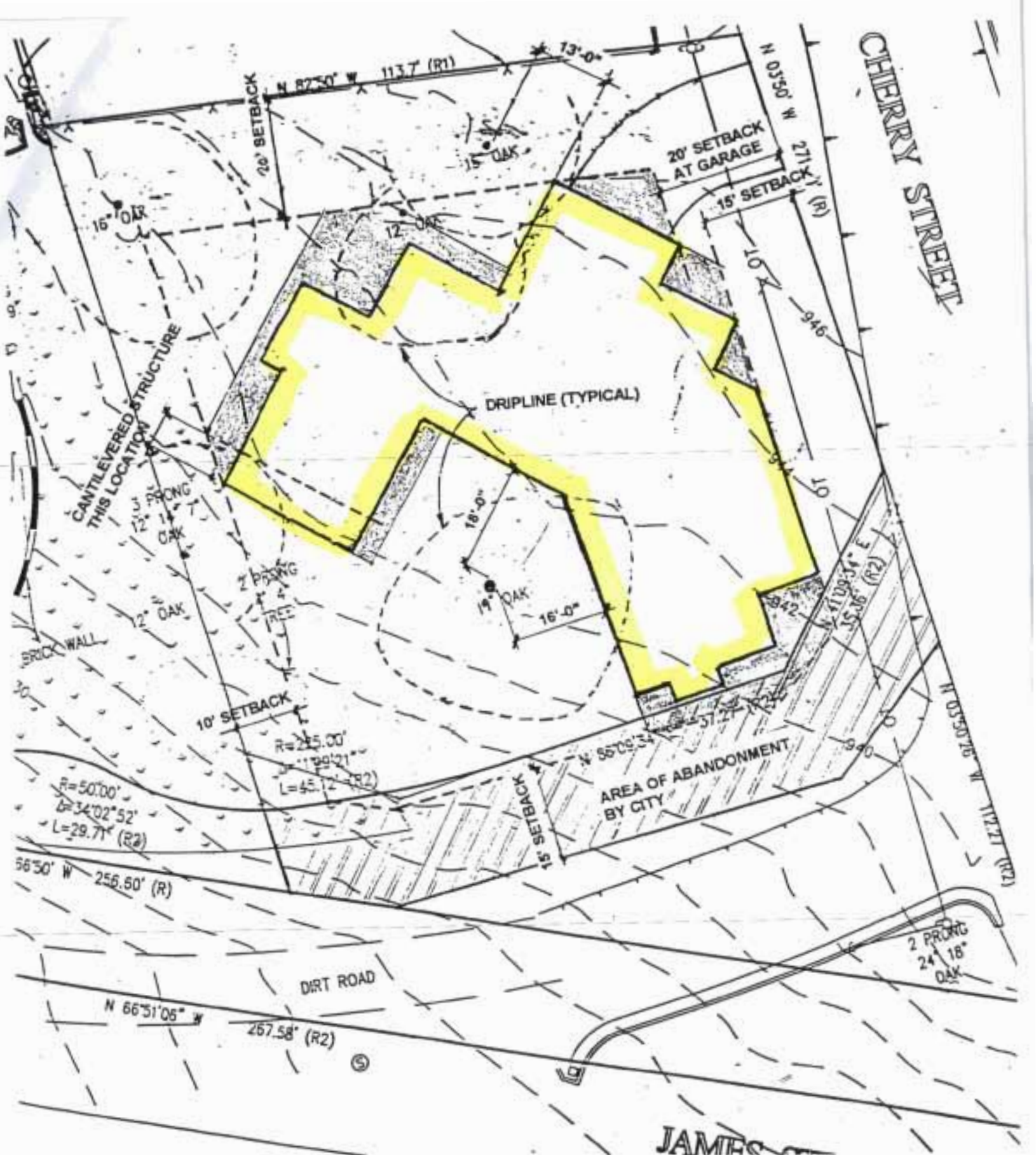
PM 04



SCALE 1"=50 FT

TWIN CITIES SURVEYING, INC.  
1115 N. WINDYBROOK, RFD #2, ST. PAUL, MINN. 55110  
PH: 612-781-1111 FAX: 612-781-1112  
WWW.TC-SURVEYING.COM





<b>DATE</b> 01.08.08	<b>Custom Residence For Mont &amp; AnnMarie McDowel</b>  <i>"Revised Footprint" Application</i>	<b>JOB NUMBER</b> 0718
		<b>SHEET</b>
<b>GFH ARCHITECTURE, PLANNING &amp; DESIGN</b> 1500 N 1370 CASCADE RD, CA 93423-1370 (562) 466-7674		<b>EXHIBIT B</b>



# A & T ARBORISTS

P.O. BOX 1311 TEMPLETON, CA 93465 (805) 434-0131



1-11-08

Gary F. Harcourt

Re: Boyd Property, Cherry Street

This letter is in regard to the proposed home footprint for the Boyd Property on Cherry Street. An original arborist report has been produced for this lot and all standard mitigations listed therein still apply. This letter will address the proposed changes, and how they will impact the native oaks on site.

The main focus had always been limiting the disturbance around tree #7. This tree has excellent aesthetics and is in relatively good health. Its central location on the lot has proved quite difficult to build around. Generally, vertical trenching that reaches over 24 inches deep effectively removes all roots past that point. With regard to blue oaks (*Quercus douglasii*), we prefer to limit root removal to 20% of the critical root zone area. We feel this limit gives the trees the best chance for survival. There may be exceptions in certain situations, however, for this project, 20% would be the maximum allowed. Through careful design, the current footprint calls for a 5% critical root zone encroachment which should insure long term survivability. The project architect has assured us that over-excavation will not occur past the edge of the proposed walls of the home. "L" footings facing inward will be utilized for all walls fronting any of the oaks. Tree's #1 and #6 are also healthy blue oaks that will require approximately a 5% critical root zone encroachment. As stated in the original tree protection plan, an arborist shall be present for all grading/trenching within the critical root zone for potential root pruning.

There has historically been a lawn in 90% of the drip line areas of all the trees. While the excess water is not good, the trees may have become somewhat accustomed to it. Any root disturbance in areas with excess moisture has the potential to disturb oak root fungus (*Armalaria sp.*) in the soil. Therefore, we are requiring an application of Arbor Fos anti fungal injection for each of these three trees 30 days prior to grading. If the grading occurs during period of June through October, we may require some soaker hose watering periodically.

The main point of this letter is in regard to tree #2, a 12 inch diameter blue oak. This tree is of generally poor quality. It has a 30 degree lean towards the buildble area of the lot. The entire canopy is located south of the trunk. The main roots coming off of the trunk are exposed and show signs of damage and decay. The lean appears to be caused by severe suppression from the larger, upright and healthier tree #1. This tree (#2) is taking resources from tree #1 and is interfering with the canopy of tree #1. Tree #2 has a much shorter life expectancy due to the lean and exposed roots. The tree would still be leaning and would present a hazard of falling into the home. The Oak Tree Ordinance (section

**Attachment 4**

**Arbotist Report**

**(OTR 08-002)**

10.01.050 B.) allows for the removal of trees that are under the canopy and are interfering with the growth and health of other trees, however, this is allowed for developed properties. If the property was developed this tree would surely fall into this category in the near future as the tree will become a hazard once there is use under the tree (that being a home). In addition, section 10.01.050 E 1 allows for the director to bring to the City Council a report regarding the removal of a tree if the condition of the oak tree with respect to its general health, status as a public nuisance, danger of falling or in proximity to existing or proposed structures is apparent.

Section E 2 also applies in that the “necessity of the requested action to allow construction of improvements or otherwise allow reasonable use of the property for the purpose for which it has been zoned. In this context, it shall be the burden of the person seeking the permit to demonstrate to the satisfaction of the director that there are no reasonable alternatives to the proposed design and use of the property. Every reasonable effort shall be made to avoid impacting oak trees, including but not limited to use of custom building design and incurring extraordinary costs to save oak trees.”

In conclusion, the following points should be noted:

- The tree is not structurally sound. It is leaning and has many exposed roots leading to potential failure.
- The above leads us to believe the tree will have a very short life expectancy compared to an upright tree
- The tree is utilizing below ground resources that could benefit the healthier and upright tree behind it
- The owners have incurred extraordinary costs in designing a custom home that clearly limits intrusion to a maximum of 5% into the critical root zones of the remaining trees.
- The custom home will fit the neighborhood which is a reasonable use
- If left, the tree will become a hazard to the home and could later be removed per the Oak tree Ordinance anyway
- The owners are more than willing to provide replacement trees on site that will be here for future generations where this tree will not

With these points in mind, it is only practical to allow for the removal of this tree. The include pictures illustrate the lean, exposed roots and damage and general orientation of the tree.

Please let us know if we can provide further clarification regarding this tree.

Chip Tamagni  
Certified Arborist #WE 6436-A



Steven G. Alvarez  
Certified Arborist #WE 0511-A



TREE PROTECTION SPREAD SHEET

1	2	3	4	5	6	7	8	9	10	11	12	13	14
TREE #	TREE SPECIES	SCIENTIFIC NAME	TRUNK DBH	TREE CONDITION	CONST STATUS	CRZ % IMPACT	CONST IMPACT	MITIGATION PROPOSAL	MONT REQUIRED	PRUNING CLASS	AESTH. VALUE	FIELD NOTES	NS EW
1	BO	<i>Q. doug.</i>	15	5	I	5%	GR	F,RP,M	YES		good		21 s
2	BO	<i>Q. doug.</i>	12	2	R	100%	GR	NONE	NO		poor	leaning	29s
3	BO	<i>Q. doug.</i>	16	5	I	5%	GR	fencing	NO		good	leaning	24e
4	BO	<i>Q. doug.</i>	18	5	A	0%		fencing	NO		good	3 stem	22 e
5	BO	<i>Q. doug.</i>	13	5	I	5%	GR	fencing	NO	IV	good		18 e
6	BO	<i>Q. doug.</i>	16	5	A	0%		fencing	NO		good	3 stem	15 ne
7	BO	<i>Q. doug.</i>	19	5	I	5%	GR	fencing	NO		excel.		20 n
8													
9													
10													
11													
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18													
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1 = TREE #: MOSTLY CLOCKWISE FROM DUE NORTH  
 2 = TREE TYPE: COMMON NAME IE.W.O.= WHITE OAK  
 3= SCIENTIFIC NAME  
 4 = TRUNK DIAMETER @ 4'6"  
 5 = TREE CONDITION: 1 = POOR, 10 = EXCELLENT  
 6 = CONSTRUCTION STATUS: AVOIDED, IMPACTED, REMOVAL  
 7 = CRZ: PERCENT OF IMPACTED CRITICAL ROOT ZONE

8 = CONSTRUCTION IMPACT TYPE: GRADING, COMPACTION, TRENCHING  
 9 = MITIGATION REQUIREMENTS: FENCING, MONITORING, ROOTPRUNING,  
 10 = ARBORIST MONITORING REQUIRED: YES/NO  
 11 = PERSCRIBED PRUNING: CLASS 1-4  
 12= AESTHETIC VALUE  
 12 = FIELD NOTES  
 13= NORTH SOUTH/ EAST WEST CANOPY SPREAD

1/11/2008

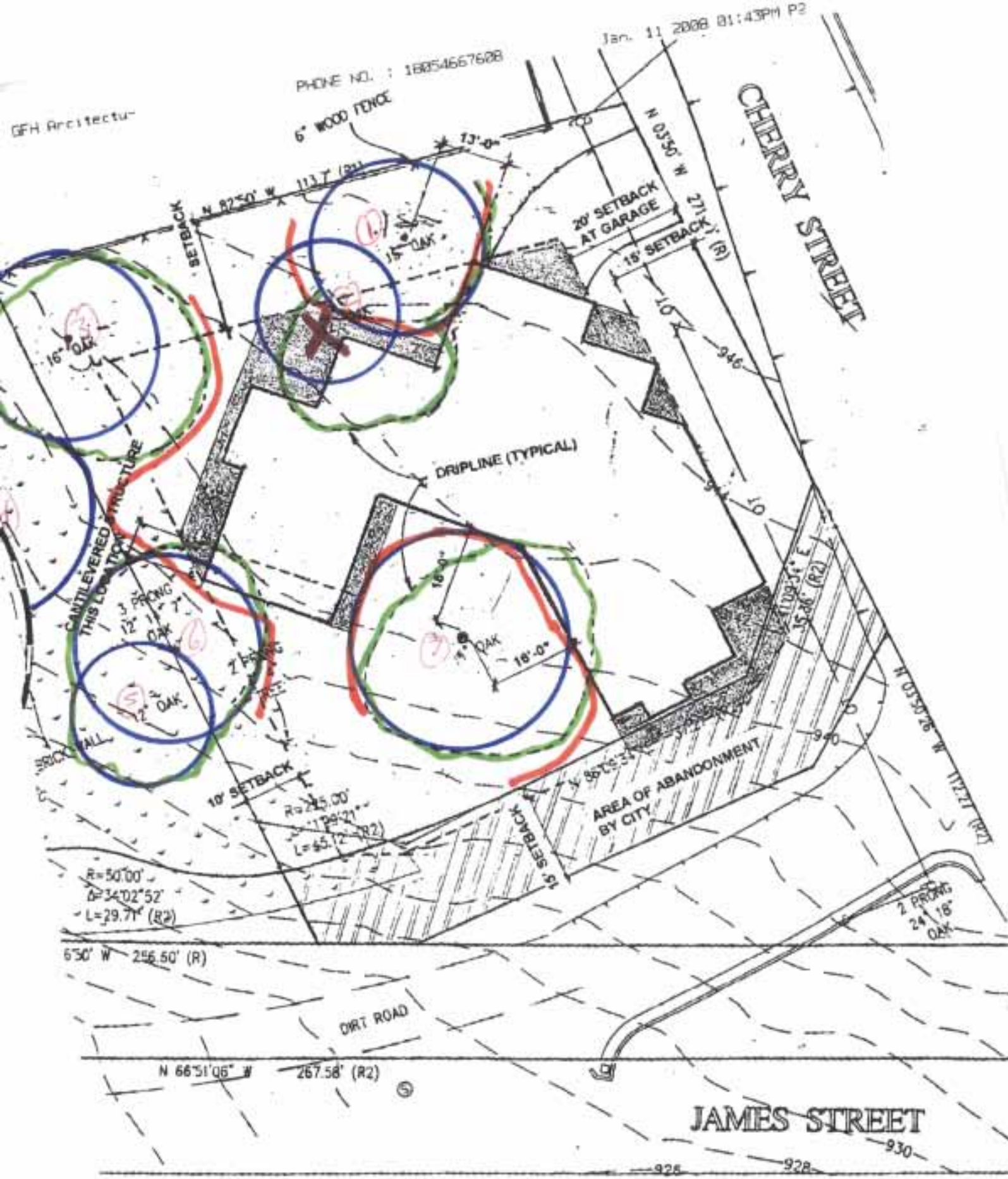
Jan. 11 2008 01:43PM P2

PHONE NO. : 18854667628

GFH Architectu-

6" WOOD FENCE

CHERRY STREET



$R=50.00'$   
 $\Delta=34^{\circ}02'52''$   
 $L=29.71'$  (R2)

$N 66^{\circ}51'06'' W$  267.58' (R2)

JAMES STREET

① = Tree #



