
To: Mayor and City Council

From: Rebecca Markwick, Associate Planner

Subject: Approve revocable license for private improvements in the City street right-of-way in front of 1 Belvedere Way

Recommended Motion/Item Description

That the City Council approve the revocable license agreement for 1 Belvedere Way for improvements in the street right-of-way as part of the Consent Calendar.

Background and Findings

Proposed encroachment on City property – 1 Belvedere Way – APN 060-181-12

The attached license agreement requires the property owner to assume liability and maintenance responsibilities for:

Portion of a garage including roof overhang, trash enclosure, concrete retaining walls, fence, driveway and landscaping including the terracing in the Belvedere Way right-of-way. (Refer to attached draft Revocable License No 2019.08 and associated exhibit.)

Background of current application

A review of city records indicates that Revocable License No. A02-13 was issued in 2002 for portions of the carport, concrete retaining walls, driveway and landscaping in the Belvedere Way right-of-way. When Revocable License No. A02-13 was approved in 2002, the exhibit as well as the description was not as detailed as licenses are today. For example, the description and the exhibit call out retaining walls, when in fact the retaining wall is actually a trash enclosure. Staff notes that there is one new improvement proposed with this revocable license; it is the corner of the roof eave. All of the other improvements are existing.

Planning Commission

On March 19, 2019, the Planning Commission approved application requests for Design Review, Exception to Total Floor Area, a Variance and revocable license requests to convert the existing carport into a garage at 1 Belvedere Way. The approved conversion of the existing carport into a garage will maintain the same footprint as the carport. The current carport was rebuilt in 2004, in the same footprint as a pre-existing carport, which dates back to 1965 when the house was constructed. There is an existing low stone wall on the side/east elevation that will be converted into a new garage wall with two windows. The open front of the carport is proposed to have two wood framed roll up glass doors. The rear of the carport is also proposed to be enclosed, and a

glass door is proposed to access the rear yard. The existing roof will remain and the project proposes to add to the existing roof. The existing roof is a standing seam metal roof with trellis details at the side and rear. The project proposes to add to the flat roof portion in the rear and a flat roof eave at the front and a trellis extension at the side. The depth and width of the garage will not change from the dimensions of the carport.

Compliance with Administrative Policy 11.7, Revocable Licenses

In accordance with Policy 11.7 of the City's Administrative Policy Manual, a revocable license for private use of excess street right-of-way may be granted at the discretion of the City Council when there is some benefit to the public, and provided that any proposed encroachment into the right-of-way complies with the Design Review requirements of Title 20 of the Belvedere Municipal Code. The policy lists the following criteria to consider when determining whether to grant a revocable license for private use of excess right-of-way. Below please find the factors and staff's analysis.

- a. *Where necessary to provide pedestrian or vehicular access from private property to the adjacent public street;*

The existing and proposed improvements help to provide pedestrian and vehicle access from private property to public property. Such improvements in the right-of-way include existing vehicle driveway apron. Staff suggests that this factor is satisfied.

- b. *Where use of the public right-of-way will permit landscaping and/or related improvements to be installed that the City Council determines will enhance the aesthetic qualities of the streetscape. Any such landscaping and/or related improvements should not significantly impede public views or views from neighboring properties, or infringe on the privacy of neighboring properties;*

Existing extensive landscaping is located within the City right-of-way. The existing vegetation helps to soften and screen the property along the street and improves the aesthetic qualities of the streetscape. Said landscaping will not significantly impede public views from what currently exists or infringe on the privacy of neighboring properties. The existing terraced hillside does not impede or infringe on the privacy of neighbors and adds to the aesthetics along the property frontage as well as helps stabilize the hillside.

- c. *Where use of the public right-of-way will permit the creation of an off-street parking area, and will thereby relieve parking or traffic congestion on the adjacent City street;*

The proposed project does not change the existing onsite parking. A portion of the driveway and garage encroach into the right-of-way, which creates access to the garage and on-site parking, thereby relieving parking pressure on the adjacent street.

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- d. Where the public right-of-way will be used to construct retaining walls, drainage structures or other facilities that the City considers necessary to protect or maintain the public infrastructure;

There are no new retaining walls proposed with this project. There is an existing retaining wall that creates the trash enclosure and an existing low stone wall in the right of way. There is also an existing terraced, landscaped hillside in the right of way. The terraced hillside maintains the hillside and prevents erosion.

- e. Where appropriate to validate already existing private improvements in the public right-of-way for the purpose of shifting the City's potential liability for injuries and damages to the private property owners using the right-of-way for private purposes.

As noted above, a review of City records indicates that a revocable license currently exists for portions of the carport, concrete retaining wall, driveway, trash enclosure and landscaping within the Belvedere Way right-of-way. There is not a revocable license for the terraced landscaping in the right of way. Therefore, a revocable license is necessary to validate the existing improvements and shift potential liability for injury and damages to the private property owner. The majority of the improvements are existing improvements located in the right-of-way, which have existed for some time and will remain unchanged with the exception where the new roof eave will encroach into the right-of-way.

- f. Where necessary to protect or enhance public safety; and/or

There are no new improvements proposed that will protect or enhance public safety, however a revocable license would validate existing improvements on the hillside which prevent the hillside from erosion and help ensure soil stability for the property owner and neighbors.

- g. Where use of the public right-of-way will provide an area for street-level refuse and recycling containers on property that would otherwise not have an area for such improvements.

Revocable License A02-13 includes the retaining wall for the existing trash enclosure. The proposed project does not include the expansion of trash enclosure.

As noted above, a portion of the carport is in the right-of-way, and has been in this location since the construction of the home in 1965. The applicant has submitted a request for a revocable license to allow the garage, existing retaining walls, existing trellis roof, existing fence, and trash enclosure and existing landscaping and terracing within the Belvedere Way right-of-way. Because the carport is being converted to a garage, a new revocable license is required. The footprint of the carport structure is not changing and all other improvements remain the same. The only new encroachment into the right-of-way is the roof eave.

Public Benefit

The project benefits the public, as these existing & proposed improvements enhance the aesthetic appeal of the property frontage along Belvedere Way and provide access to the residence & carport.

Future improvements

The license covers any future improvements within the revocable license area which receive staff or Planning Commission design review approval and which meet one or more of the criteria for approval of revocable license listed in the City's Administrative Policy 11.7, as adopted by City Council resolution. Applications for substantial, potentially permanent and/or obstructive structures within the City right-of-way, which fall outside the criteria, will still be required to go to the City Council for consideration and approval/denial. Detailed records at City Hall, maintained in the Planning Department file for this address, will always be available to show exactly what structures have been approved within the license area. This will save considerable staff time that would be devoted to bringing a revised license and staff report to the City Council and in issuing, recording, and archiving a new license agreement.

Recommended Action

That the City Council approve the revocable license agreement for 1 Belvedere Way for existing and new improvements within the Belvedere Way right-of-way.

Attachments

- Draft license agreement with attached exhibit.
- Elevation.
- Photos of existing conditions.

RECORDING REQUESTED BY:
City Clerk, City of Belvedere
RECORD WITHOUT FEE PER G.C. 27383

AND WHEN RECORDED MAIL TO:

City Clerk
City of Belvedere
450 San Rafael Avenue
Belvedere, CA 94920-2336

CITY OF BELVEDERE

REVOCABLE LICENSE NO. 2019.08

ASSESSOR'S PARCEL NO.: **060-181-12**
ADDRESS: **1 Belvedere Way, Belvedere, California 94920**
OWNER: **Robert T. and Claire C. Slaymaker Family Trust**
DATE ISSUED: **April 8, 2019**

The City of Belvedere, California, a municipal corporation (hereinafter referred to as "City"), hereby authorizes and licenses the owner of the land described above and in Exhibit "A" (hereinafter referred to as "Licensee"), at its own cost and expense, to encroach upon the adjoining land owned by the City of Belvedere (hereinafter referred to as "Premises") for the following purpose: Portion of a garage including roof overhang, trash enclosure, concrete retaining walls, fence, driveway and landscaping including the terracing.

The above-described improvements received City design review approval. This license shall cover any future improvements within the revocable license area which receive design review approval and which meet one or more of the criteria adopted by City Council resolution for the granting of revocable licenses. Any future revocable license application which does not meet the criteria must be approved by the City Council.

This revocable license is granted subject to the following terms and conditions:

1. Licensee shall save and hold harmless the City of Belvedere from any loss, damage, or injury of any kind or character whatsoever that may arise from anything done, or omitted to be done, by Licensee, its agents, employees or contractors in connection with or in any way related to the matters authorized by this License. Licensee agrees to hold City harmless and indemnify City (including, but not limited to, attorney fees, expert witness costs and court costs), without limitation, from and against any and all claims, injuries, damage, liability and/or cause of action which may ever arise as a result of injury and/or damage to property claimed to be the result of construction and/or failure to maintain said property or improvements by Licensee in, on, under, or above City property which is the subject of the revocable license granted Licensee by City.
2. To the extent this License authorizes the erection or installation of any building, fence, wall, or other structure or facility in or upon land owned by City, Licensee agrees to erect and install the same in accordance with plans and specifications approved by the Planning Commission of the City of Belvedere and further agrees to maintain the same at all times in good condition and repair, all at Licensee's sole cost and expense.
3. To the extent this License authorizes the erection or installation of any infrastructure improvements which are subject to the Americans With Disabilities Act ("the Act"), Licensee agrees to construct and maintain those improvements in full compliance with the requirements of the Act.

4. If Licensee shall fail to comply with the terms and conditions of this License, the City, at its option may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated. Licensee shall not restrict access by the public and/or by adjacent property owners to the licensed area.
5. Licensee shall execute this License by: signing the License; making an acknowledgement of the License before a notary public or an officer specified by the State to take the acknowledgement of instruments of writing; and delivering the signed License and certificate of acknowledgement to the City. If Licensee shall fail to execute this License within thirty days of the date issued, the City may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated.
6. Anything herein to the contrary notwithstanding, this License shall be revocable at the pleasure of the City Council of the City of Belvedere. The election to revoke this License may be exercised at any time by mailing or delivering to Licensee at the address hereinabove stated a notice of revocation and termination. Within the time specified in said notice, Licensee shall, at its own cost and expense, remove from the Premises the encroachment and all structures and facilities placed thereon or therein by Licensee.
7. That upon the failure of Licensee to comply with any of the agreements contained herein, City may declare said improvements to be a public nuisance, and may take such action as may be authorized by law to abate said nuisance. The City shall be entitled to recover from Licensee costs of suit and reasonable attorney's fees, to be determined by the court. The remedy of City as contained in this paragraph shall not be exclusive.
8. The Licensee acknowledges that the property interest created hereunder by issuance of this license may be subject to possessory interest taxation and said Licensee in whom such possessory interest is vested recognizes and agrees that it/they shall be solely responsible for payment of all such taxes levied upon said possessory interest.
9. The Licensee shall deliver this license to any successor in interest to the above-described land.
10. The agreements contained herein are covenants and servitudes running with the land and shall be binding upon Licensee and its successors, assignors, executors, administrators, and personal representatives.
11. The Licensee shall obtain an encroachment permit from the City prior to the commencement of any work on City property.
12. Any previous revocable licenses issued to this property (including Revocable License No. A02-13) are now null and void.

Issued by direction of the City Council of the City of Belvedere pursuant to action taken at its meeting of April 8, 2019.

Craig Middleton, City Manager

The foregoing License is accepted and its terms and conditions are agreed to:

Robert T. and Claire C. Slaymaker Family Trust, Licensee

By: _____
Robert T. Slaymaker, Trustee

By: _____
Claire C. Slaymaker, Trustee

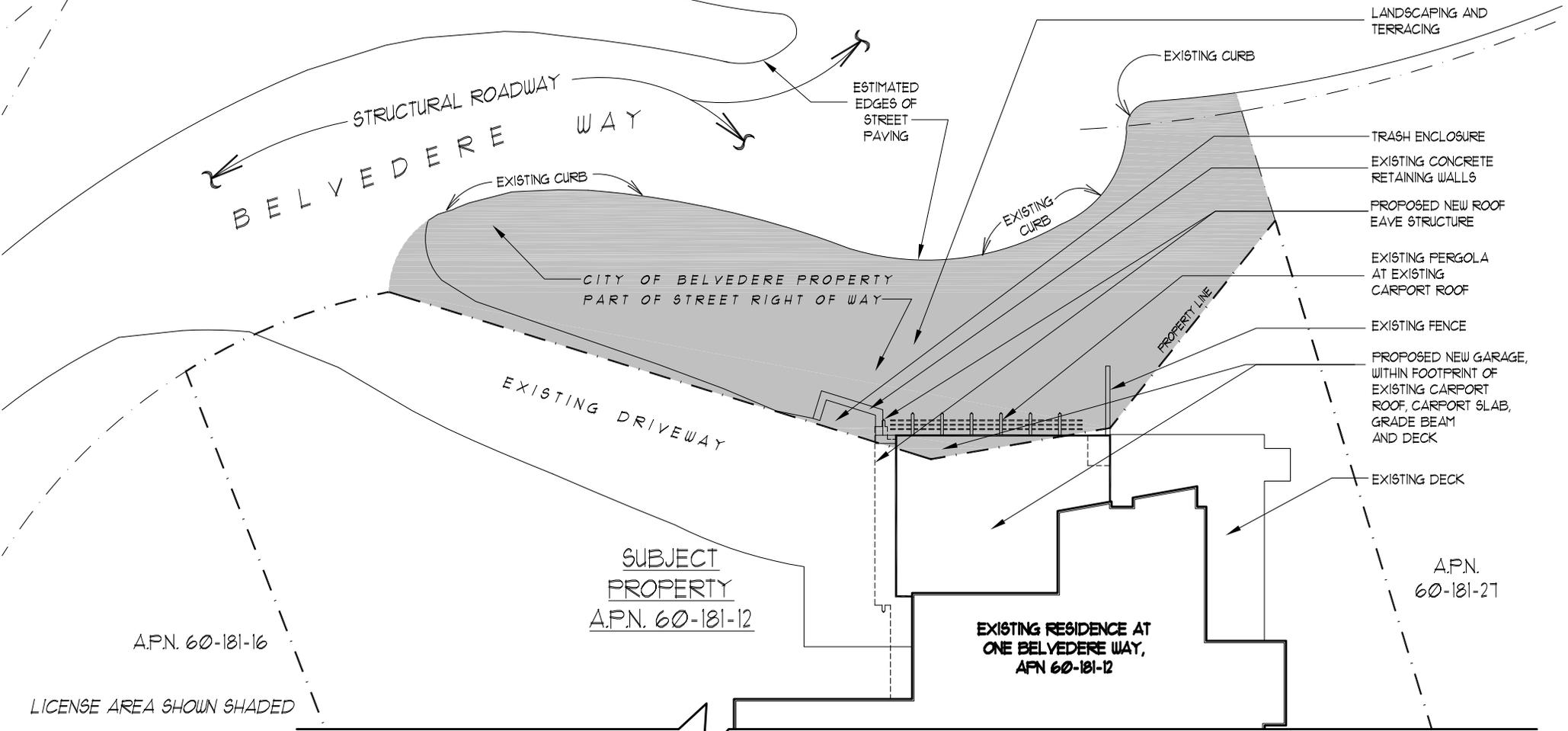
EXHIBIT A

LICENSE AREA SHOWN SHADED

BELVEDERE AVENUE

BELVEDERE AVENUE

NOTE: THE MAINTENANCE OF THE EXISTING ROADWAY CURB (AND ASSOCIATED RETAINING STEM WALL) ALONG THE BELVEDERE WAY FRONTAGE AND THE STRUCTURAL ROADWAY OF BELVEDERE WAY IS THE RESPONSIBILITY OF THE CITY OF BELVEDERE



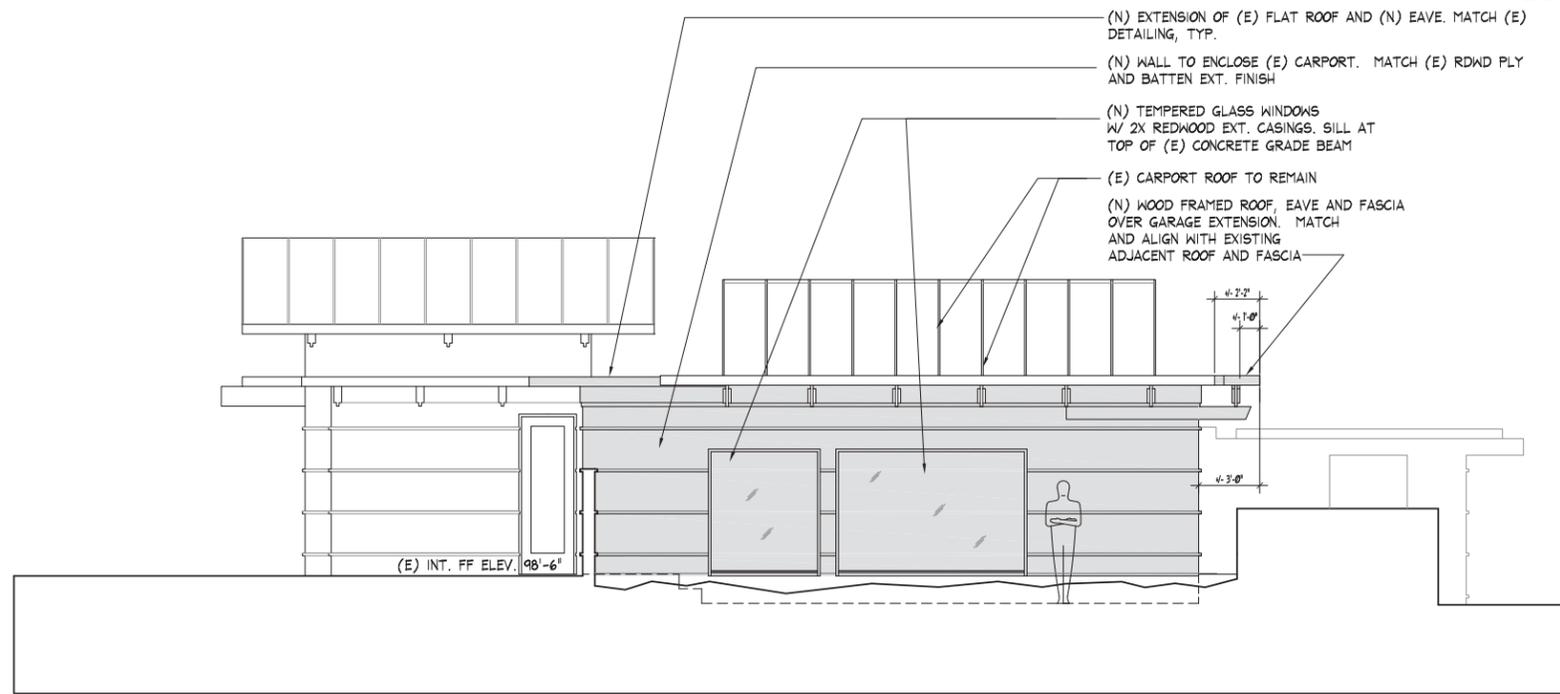
LICENSE AREA SHOWN SHADED

PARTIAL SITE PLAN FOR REVOCABLE LICENSE APPLICATION
ONE BELVEDERE WAY

A.P.N. 060-181-12
BELVEDERE CALIFORNIA

1"=20'-0"

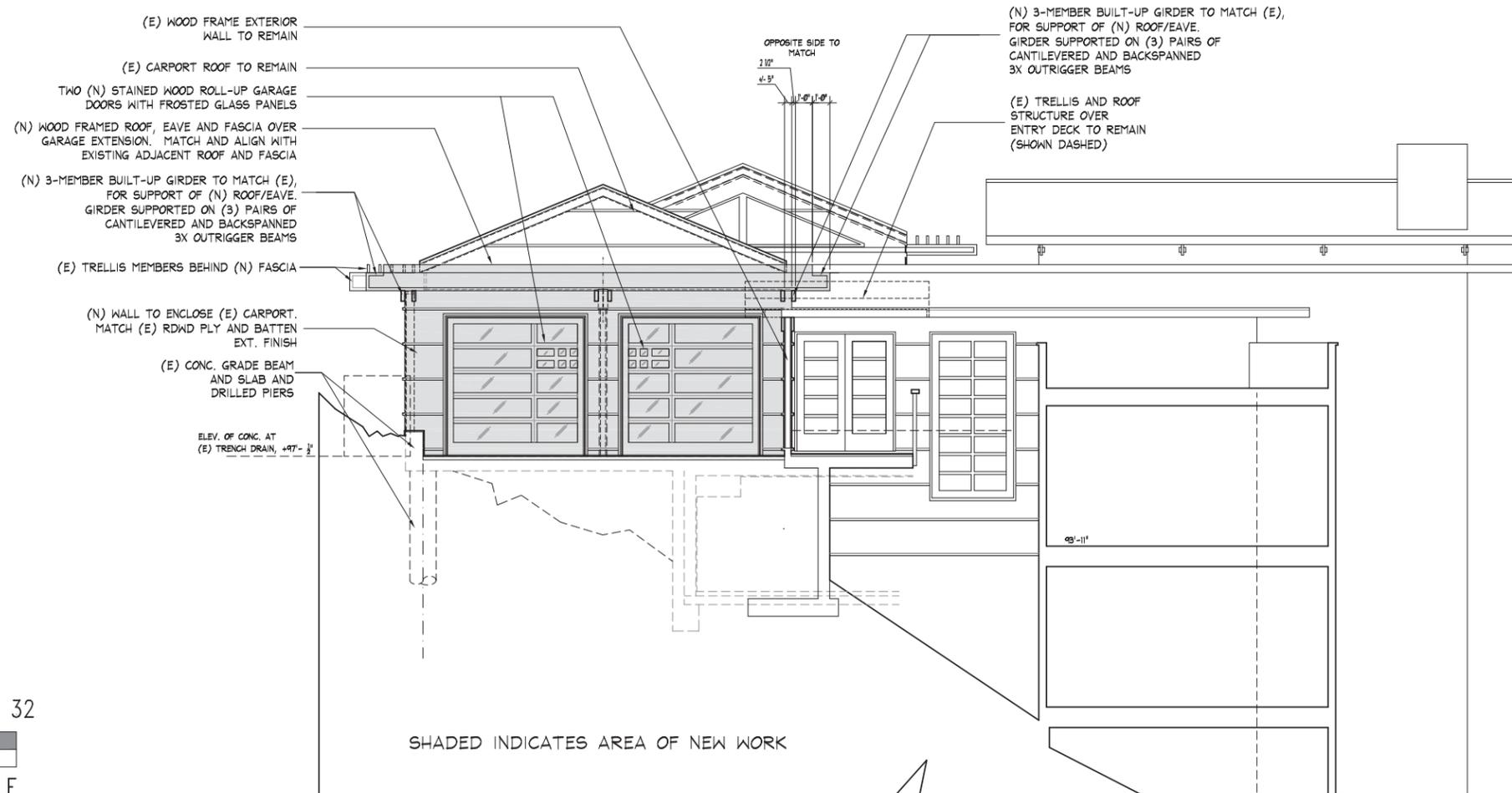




- (N) EXTENSION OF (E) FLAT ROOF AND (N) EAVE. MATCH (E) DETAILING, TYP.
- (N) WALL TO ENCLOSE (E) CARPORT. MATCH (E) RDWD PLY AND BATTEN EXT. FINISH
- (N) TEMPERED GLASS WINDOWS W/ 2X REDWOOD EXT. CASINGS. SILL AT TOP OF (E) CONCRETE GRADE BEAM
- (E) CARPORT ROOF TO REMAIN
- (N) WOOD FRAMED ROOF, EAVE AND FASCIA OVER GARAGE EXTENSION. MATCH AND ALIGN WITH EXISTING ADJACENT ROOF AND FASCIA

SHADED INDICATES AREA OF NEW WORK

B SIDE/EAST ELEVATION
DR3.1 SCALE: 1/4" = 1'-0"



- (E) WOOD FRAME EXTERIOR WALL TO REMAIN
- (E) CARPORT ROOF TO REMAIN
- TWO (N) STAINED WOOD ROLL-UP GARAGE DOORS WITH FROSTED GLASS PANELS
- (N) WOOD FRAMED ROOF, EAVE AND FASCIA OVER GARAGE EXTENSION. MATCH AND ALIGN WITH EXISTING ADJACENT ROOF AND FASCIA
- (N) 3-MEMBER BUILT-UP GIRDER TO MATCH (E), FOR SUPPORT OF (N) ROOF/EAVE. GIRDER SUPPORTED ON (3) PAIRS OF CANTILEVERED AND BACKSPANNED 3X OUTRIGGER BEAMS
- (E) TRELLIS MEMBERS BEHIND (N) FASCIA
- (N) WALL TO ENCLOSE (E) CARPORT. MATCH (E) RDWD PLY AND BATTEN EXT. FINISH
- (E) CONC. GRADE BEAM AND SLAB AND DRILLED PIERS
- ELEV. OF CONC. AT (E) TRENCH DRAIN, +47'-3"

- (N) 3-MEMBER BUILT-UP GIRDER TO MATCH (E), FOR SUPPORT OF (N) ROOF/EAVE. GIRDER SUPPORTED ON (3) PAIRS OF CANTILEVERED AND BACKSPANNED 3X OUTRIGGER BEAMS
- (E) TRELLIS AND ROOF STRUCTURE OVER ENTRY DECK TO REMAIN (SHOWN DASHED)

SHADED INDICATES AREA OF NEW WORK

A FRONT/NORTH ELEVATION
DR3.1 SCALE: 1/4" = 1'-0"

