

Staff Summary Report



Board of Adjustment Hearing Date: March 24, 2010

Agenda Item Number: 4

SUBJECT: This is a public hearing for an appeal of the January 19, 2010 Hearing Officer's decision to approve the request by the **RESIDENCE AT 16 EAST 15TH STREET (PL090003)** located at 16 East 15th Street for one (1) variance.

DOCUMENT NAME: 20100324dssl02

PLANNED DEVELOPMENT (0406)

COMMENTS: Appeal of the January 19, 2010 Hearing Officer's decision to approve the request by the **RESIDENCE AT 16 EAST 15TH STREET (PL090003)** (Charles Huellmantel, applicant) located at 16 East 15th Street in the R1-6, Single Family Residential District for:

VAR09016 Variance to reduce the north rear yard setback from nine (9) feet to five (5) feet.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

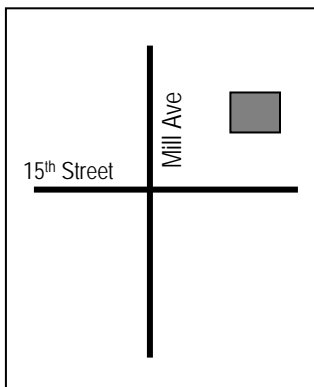
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: N/A

ADDITIONAL INFO:



The property owners to the north are appealing a Hearing Officer Decision to approve a variance to reduce the north rear yard setback from nine (9) feet to five (5) feet for a detached accessory. Mr. Williams (Hearing Officer) approved PL090003/VAR09016 stating that the request met the Zoning and Development Code criteria for approval of a variance.

The appellants contend that the proposed structure will downgrade their property values and invade the privacy of their property. They have provided a letter of appeal explaining their objections to the variance and are appealing the Hearing Officer's decision to approve the variance.

PAGES:

1. List of Attachments
2. Comments;
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Appeal
5. Site plan
6. Elevation
7. Floor Plan
8. Staff Photograph

COMMENTS:

The appellants are before the Board of Adjustment to appeal the decision by the Hearing Officer to approve a variance to reduce the north rear yard setback from nine (9) feet to five (5) feet for a detached accessory building. The subject property is located on the north side of the street, at 16 East 15th Street in the R1-6, single-family residential district.

The Hearing Officer approved the variance on January 19, 2010. Mr. Williams' (Hearing Officer) approved the variance with the finding that the request met the Zoning and Development Code criteria for approval of a variance.

Public Input

Staff has not received any new public input for the appeal.

Variance

The Zoning and Development Code requires accessory buildings that exceed nine (9) feet in height to be located nine (9) feet from a rear or side property line. A variance was granted to allow the accessory building for the Residence at 15th Street to be located five (5) feet from the north property line.

**SHOULD THE DEVELOPMENT REVIEW COMMISSION ELECT TO TAKE AFFIRMATIVE ACTION THE
USE PERMIT WOULD BE DENIED.**

HISTORY & FACTS:

February 3, 2009. The Hearing Officer approved a Use Permit for a second story addition for 16 East 15th Street, subject to conditions.

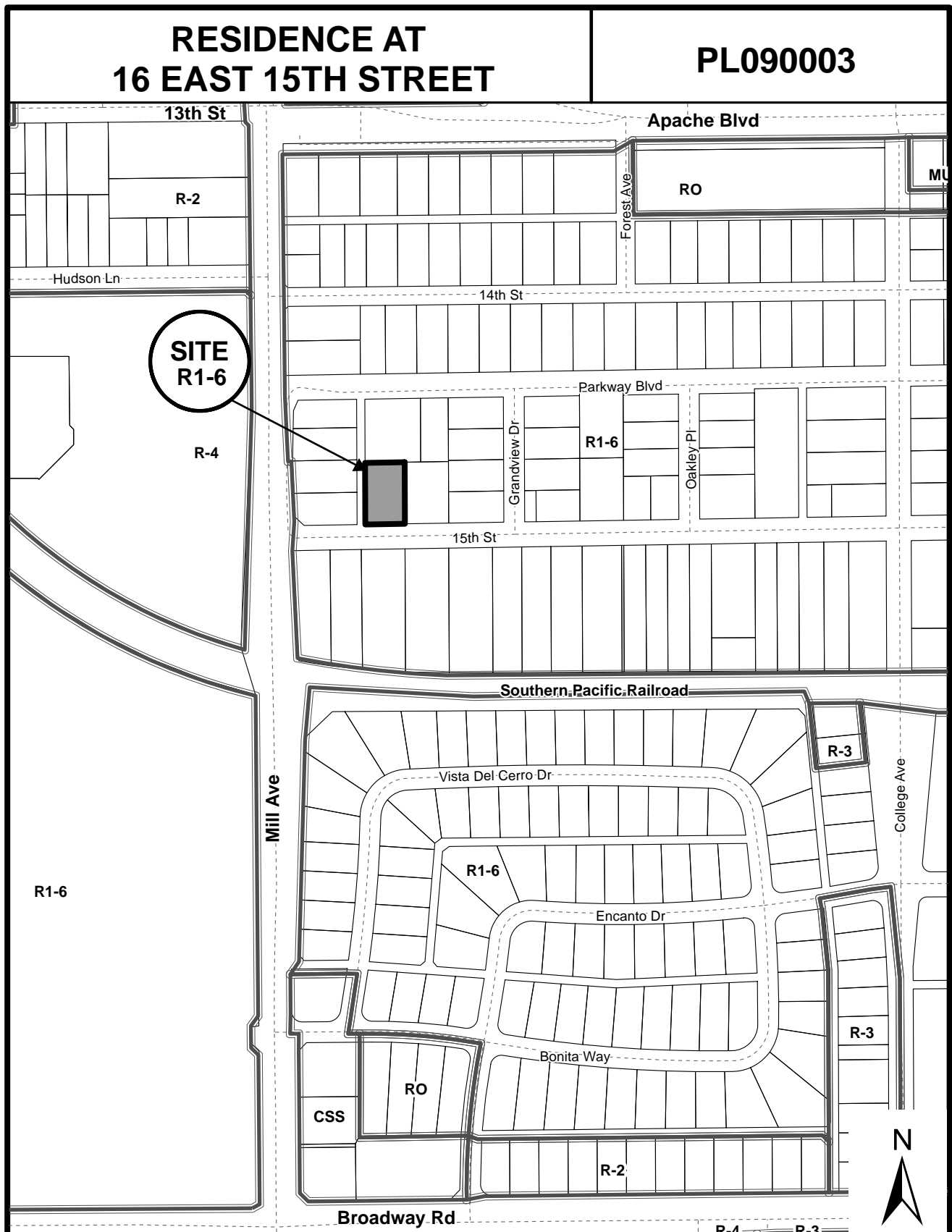
January 4, 2010. The applicant held a neighborhood meeting.

DESCRIPTION:

Owner – Charles Huellmantel
Applicant – Charles Huellmantel
Existing Zoning – R1-6, Single Family Residential District
Gross Site Area- 15487 s.f. (as measured to midpoint of alley)
Net Site Area- 14015 s.f.
Total Building Area- 3393 s.f.
Accessory Building Height – 19'-9"
Required rear yard setback – 9'
Provided rear yard setback- 5'

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 3, Chapter Part 4, Section 3-402 and 3-411
Part 4, Chapter 2, Section 4-202.
Part 6, Chapter 3, Section 6-309



Location Map



RESIDENCE AT 16 EAST 15TH STREET (PL090003)

Dear Ms. Lesser,

February 1, 2010

We opposed the **variance** (VAR09016), "Variance to reduce the north rear yard setback from nine (9) feet to five (5) feet CORRECTED BY DEVELOPMENT SERVICES IN ACCORDANCE WITH THE OCTOBER 2009 ZONING DEVELOPMENT CODE CHANGES" FROM 15 TO 9 FEET that Mr. Charles Huellmantel at 16 East 15th Street requested to build a proposed two-story guest house-garage next to our property line. We are the neighbors directly north of Mr. Huellmantel's property. The Zoning Administrator granted the variance that the building could be constructed and is not-to-exceed 20 feet in height with the specific conditions that

"The windows on the north elevation and northern most east elevation of the structure to be opaque material on the first and second story. "

"Applicant is to submit to the Development Services staff for review either a revised floor plan to move the outdoor entertainment area to the south side of the building or retain the existing floor plan and add a six (6) ft wall along the north elevation extending a minimum of twenty (20) feet east of the structure."

This letter is to **appeal the decision to issue this variance** for the following reasons:

- (1) The proposed variance to allow a 20-foot tall building only 5 feet from our property line will reduce our property value. Granting this variance will be materially detrimental to our adjacent property and downgrade the value of our adjacent property.
- (2) A five-foot thick oleander hedge is not sufficiently thick to provide privacy. To provide reasonable privacy, an oleander hedge needs to be 8 to 10 feet thick, the width of the setback available without a variance.
- (3) We disagree that the pecan tree just south of the proposed building limits the building site. The main two trunks of this pecan tree go upward and only one much smaller, very low branch, as seen across the majority of the photo in Attachment 13 of the staff report, goes towards the proposed building. This smaller branch could be easily cut off without impacting the health or stability of the tree to allow the building site to be moved south so that the normal setback of 9 ft. along our property line could be followed.
- (4) In addition, the proposed building has a 4-foot extension for a work bench on the south side of the structure (see attachment 9 of the staff report). If the work bench was moved and this extension eliminated, then the footprint of the proposed building could be moved 4 feet south so that there would be a 9-foot setback along our property line. Removing this work bench extension and cutting the low branch would leave the footprint of the building the same distance from the pecan tree as proposed (it would not impact the tree more than the original proposal) but

would allow a more reasonable 9-foot setback for the proposed 20-foot tall building.

- (5) A 5-foot setback is not sufficient space to have a 20-foot high oleander hedge and to have space on the north side of this hedge on his property for Mr. Huellmantel's gardeners to maintain and trim it.
- (6) Mr. Huellmantel held a neighborhood meeting in accordance with the ZDC requirements. In his 3-page letter announcing this meeting, he said that he had "requested two variances and a use permit so that I can construct and accessory building in the rear of my lot along the alley." He only referred to this structure as an "accessory building" or as a "garage" throughout the letter. Nowhere in the letter did he state that he was planning a two-story building with "guest quarters" on the second floor.

From this letter, we assumed that this proposed building was going to be a single-story garage, something that we are not opposed to, and, as a result, did not plan to attend the meeting. Only when we received the public notice by mail two days before his meeting, too late for us to make arrangements to attend the meeting, did we realize that he had requested a use permit to "allow an accessory bldg above 15 ft in height, not-to-exceed 30 ft. and that he had requested a variance "to reduce the north rear yard setback from 15 ft. to 5 ft" from our property line. Likewise, neighbors that we subsequently talked to about his proposal also did not realize from his letter that he was planning a two-story building 5 feet from our property line.

In other words, we do not think that Mr. Huellmantel held an appropriate meeting with his neighbors because in his 3-page letter announcing the meeting he did not provide any information about the use permit to the neighbors or tell the neighbors that he wanted to place the building 5 ft from our property line. As a result, we do not feel that Mr. Huellmantel has met the ZDC requirements for a meeting about his use permit and variances with his neighbors.

We are not opposed to Mr. Huellmantel building one-story garage or a one-story guest house along our property line. We are also not opposed to a 5 ft. setback from our property line for a one-story garage or a one-story guest house. However, in that case we request that Mr. Huellmantel build a six-foot high block wall between our properties attaching to, and as similar as possible as, the block wall along our west property boundary to provide privacy to our property.

Thank you,

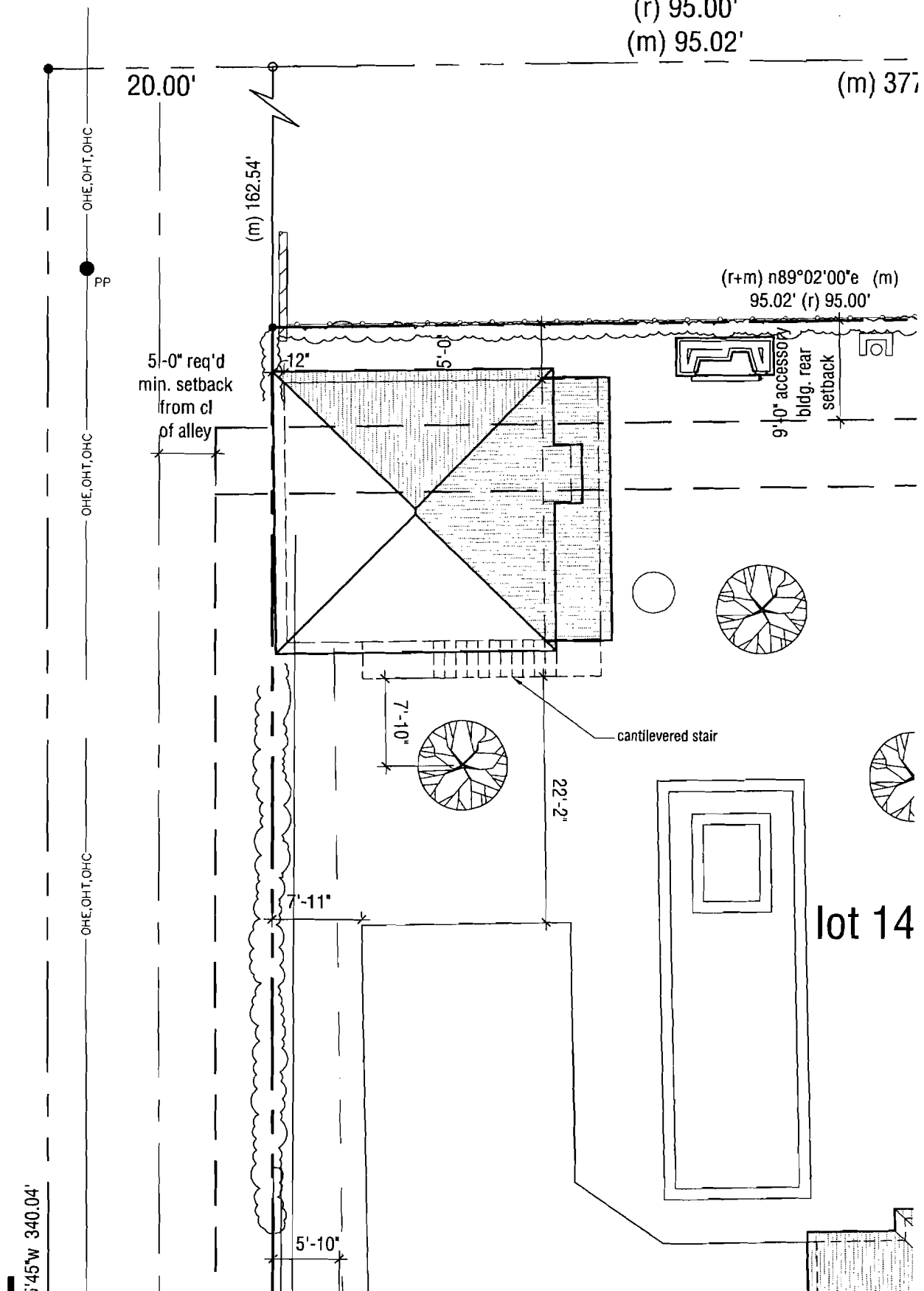
Catherine Gorman and Phil Hedrick, 23 East Parkway Blvd.

1615 garage / guest

02.08.10

(r) 95.00'
(m) 95.02'

(m) 37'



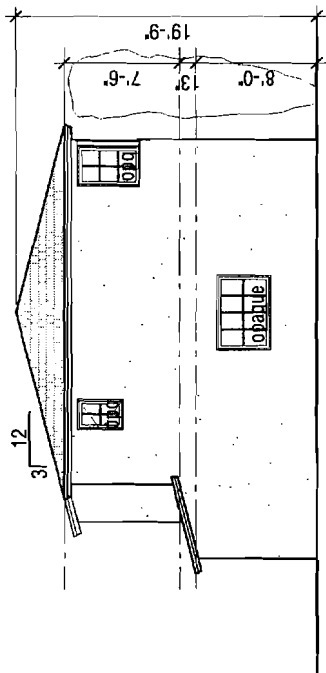
hayes inc.

architect (a) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)

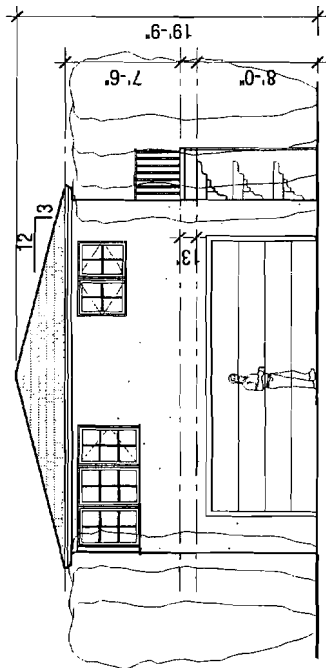
floor plan

scale

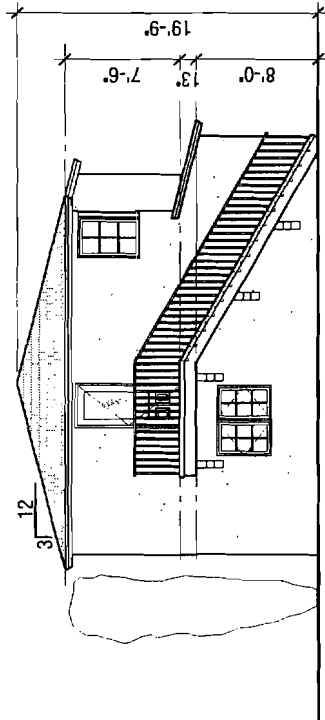
1/8" = 1'-0"



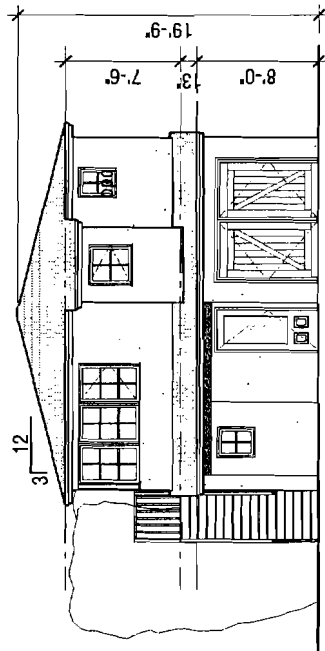
north



west



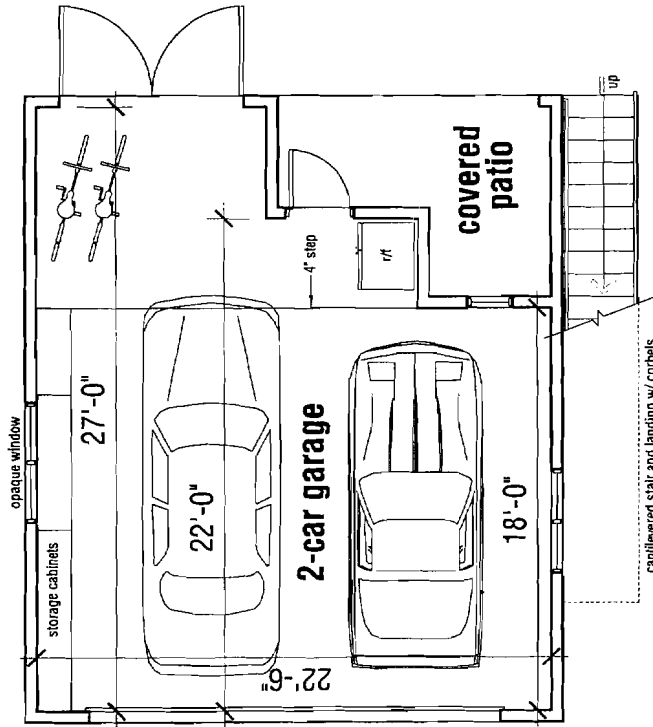
south



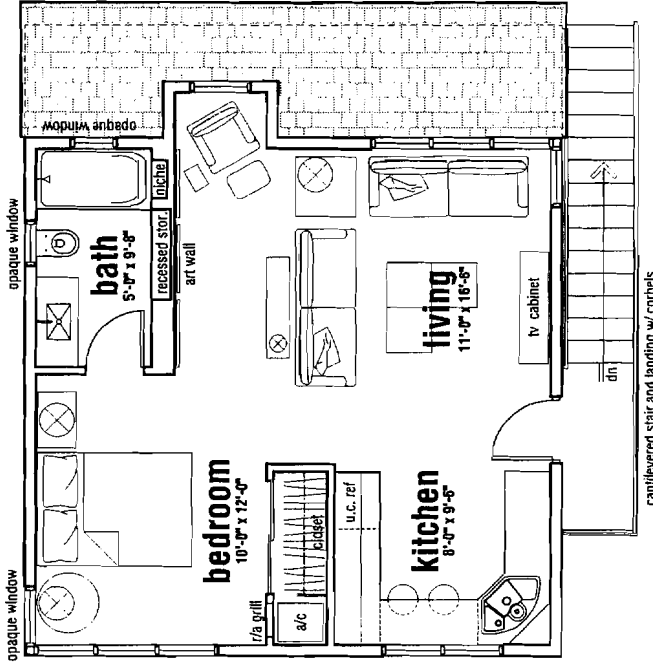
east

1615 garage / guest

2.08.10



first floor



second floor

hayes inc.
architects • interior designers

floor plan

scale
1/8"=1'-0"



RESIDENCE AT 16 EAST 15TH STREET

16 EAST 15TH STREET

PL090003

**REAR OF RESIDENCE – VIEW TO NORTH
EAST**

