

CITY OF OAKLAND 2006 APR 20 AM 11:09
AGENDA REPORT

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: May 2, 2006

RE: Resolution Denying The Appeal Filed By Irving And Muriel Schnayer Against The Decision Of The Public Works Agency Approving The Issuance Of Tree Removal Permit DR05-123 For An Undeveloped Lot On Snake Road In Order To Build A Single-Family Home

SUMMARY

This report provides background information and a recommendation regarding a Tree Removal Permit for the proposed removal of two (2) protected trees for a development related project. In order to preserve the appellant's right to appeal the staff decision approving the permit application, staff requests the concurrence of the City Council in waiving the three (3) appeal related deadlines contained in the Protected Tree Ordinance (PTO): (a) the appeal shall be filed within five (5) working days after the date of a decision by the Public Works Agency (PWA); (b) the hearing date set by the City Clerk shall be not more than thirteen (13) working days from the date of the decision by the PWA; and (c) if the appeal is not finally disposed of by the City Council within eighteen (18) working days of the date of the decision by the PWA, said decision shall be deemed affirmed, and the permit appeal denied.

Staff approved the Tree Removal Permit on the basis that the trees proposed for removal are growing within the footprint of the proposed home on the site. There is no reasonable redesign of the site plan that would save the trees. Staff has prepared a resolution that will enable the City Council to implement a decision that denies the Schnayer's appeal and allows the issuance of the tree permit.

FISCAL IMPACTS

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

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BACKGROUND

On December 15, 2005, Tree Services approved a permit to remove (1) 24-inch diameter Coast Live Oak, one (1) 30-inch diameter Monterey Cypress and one (1) 6-inch unprotected tree from an undeveloped lot. The Protected Trees Ordinance requires a twenty-four inch box size replacement tree as mitigation for removal of the oak. The replacement tree is one of the conditions of approval attached to the tree permit.

Irving and Muriel Schnayer filed an appeal on January 17, 2006. They live next to the proposed development, on the south side of the lot. The basis for the appeal was stated as:

“The large native oak tree and the large Monterey Cypress are both protected trees by city law and neither of these trees would need to be removed if the proposed single family residence were of appropriate size. The huge size of the proposed building is also currently being appealed.”

KEY ISSUES AND IMPACTS

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

The second key issue is whether staff correctly followed the PTO guidelines in approving the tree removal application. Staff believes the PTO was properly applied and recommends that the City Council approve the resolution denying the appeal. The resolution allows the removal of three trees.

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

- First, the tree removals must be necessary in order to accomplish at least one of five possible objectives. In this case, removal of trees due to their proximity to a proposed structure complies with objective (A)(1).

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- Second, regardless of the first determination, a finding of any one of five possible situations listed in the PTO is grounds for permit denial. For this project, the criterion that must be considered is Section 12.36.050 (B)(1)(a): removal of a healthy tree could be avoided by reasonable redesign of the site plan, prior to construction.

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

- Reasonable re-design of the site plan, prior to construction, is not possible. The downhill lot is 50 feet wide and approximately 227 feet deep, limiting the options to locate the home on the site. With five-foot side setbacks, only forty feet of width is available to locate the home. If the trees were close to the front or back of the lot, the possibility of a reasonable re-design would have been much greater. Since the trees are growing within the footprint of the home, and there is no room to shift the design to the north or south, no reasonable changes can be made to the building that will provide enough space around the trees.
- It is unreasonable to ask for a complete redesign of the home, and to reduce its size considerably, to accommodate the two trees.
- If the two trees are preserved, it is questionable whether or not a viable project could be built.

SUSTAINABLE OPPORTUNITIES

The construction of a residential unit meets the Mayor and City Council’s Priority Objective to improve the housing opportunities of the city’s neighborhoods. Property tax revenues paid to the county will increase as a result of the construction of the new home.

RECOMMENDATION AND RATIONALE

Staff recommends that the City Council waive the appeal deadlines mandated by the PTO. Staff feels that it is important for the appellants to have the opportunity to present their case before the City Council. Staff also recommends that the City Council approve the resolution, denying the appeal of tree permit application DR05-123, and allowing the issuance of a tree removal permit for two protected trees on an undeveloped lot on Snake Road since staff processed the permit in compliance with the PTO.

ALTERNATIVE RECOMMENDATION

The City Council can reverse staff’s decision and require the preservation of the two trees. The City Council can require changes or impose additional conditions of approval that, in its

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judgment, are necessary to ensure the tree permit decision conforms to the PTO conditions of approval in section 12.36.060. This action would be taken if the City Council found that staff made an error or abused their discretion when they approved the removal of the three trees. Section 12.36.060 (E) of the PTO allows any other conditions that are reasonably necessary to implement the provisions of the chapter. This alternative would require the property owner to redesign the project.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution denying the appeal of tree permit application DR05-123 and allowing the issuance of a tree removal permit for two protected trees on an undeveloped lot on Snake Road.

Respectfully submitted,



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

Reviewed by:
Bruce Saunders, Assistant Director

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

Attachments:

- A. Appeal filed by the Schnayers
- B. PWA decision letter, with conditions of approval
- C. OMC Section 12.36.050 Criteria for Tree Removal Permit

APPROVED AND FORWARDED TO THE
CITY COUNCIL:


OFFICE OF THE CITY ADMINISTRATOR

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*Ann
Clevenger*

CITY OF OAKLAND
OFFICE OF PARKS & RECREATION

OFFICE OF THE CITY CLERK
OAKLAND
06 JAN 17 2:27

TREE REMOVAL PERMIT APPEAL FORM

- Date: JANUARY 17, 2006
- Appellant's Name: IRVING SCHNAYER + MURIEL SCHNAYER
- Appellant's Address: 6515 SNAKE ROAD
City, State & Zip: OAKLAND CA 94610
Telephone #: (510) 339-9579
- Tree Removal Permit Number: NO: DR05-123
- Address of Tree Removal: SNAKE ROAD (PARCEL # 048F 7371 017)
- Basis for Appeal: THE LARGE NATIVE OAK TREE + THE LARGE MONTEREY CYPRESS ARE BOTH PROTECTED TREES BY CITY LAW AND NEITHER OF THESE TREES WOULD NEED TO BE REMOVED IF THE PROPOSED SINGLE FAMILY RESIDENCE WERE OF APPROPRIATE SIZE. THE HOBE SIZE OF THE PROPOSED BUILDING IS ALSO CURRENTLY BEING APPEALED

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

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

Signature: *Muriel Schnayer*

Date: JANUARY 17, 2006

FOR OFFICE USE ONLY

Appeal Hearing Date: MARCH 7, 2006

Received By: *[Signature]*

Appeal Fee Paid: CASH # 4011 *\$50 fee for Tree Appeal

Receipt #: 1040

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



Lot #581 Snake Road
 Approved
 Expires One year from date of issuance
 Applicant Jackson Mosher

#1	Coast Live Oak	#3	Holly leaf Cherry
#2	Monterey Cypress		
A	Coast Live Oak		
B	Trees behind house 7" diameter or larger	▶	All other protected trees

As per Chapter 12.36 of the Oakland Municipal Code, this Development-related permit approves the removal of three (3) protected trees subject to conditions of approval. This permit is effective five (5) working days after the date of this decision unless appealed as explained below. This permit is defined as a Development-related permit due to the single-family residence proposed for development on the site.

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

OAKLAND MUNICIPAL CODE SECTION 12.36.050(A) FINDINGS

The application complies with Section 12.36.050(A)(1) of the Oakland Municipal Code. Three (3) protected trees need to be removed to construct the home. The trees are located within the footprint of the project and must be removed to allow space for construction.

OAKLAND MUNICIPAL CODE SECTION 12.36.050(B) FINDINGS

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

A re-design of the site plan, prior to construction, is not reasonable. Saving the trees would render the lot un-buildable. The trees sit in the middle of the proposed home. Only 40 feet of lot width is available for the building and prevents designing around the trees and having a viable home.

Tree removal cannot be avoided by trimming, thinning, tree surgery or other reasonable treatment (OMC Section 12.36.050 (B)(1)(b)).

Trimming or thinning will not create the space needed to build the proposed project.

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

As a result of the tree removals, Tree Services does not anticipate any problems with drainage, erosion control and land stability or windscreen.

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

The cost of preservation, including any additional design and construction expenses, would exceed the monetary value of the trees. Therefore, there are no grounds for permit denial.

OAKLAND MUNICIPAL CODE SECTION 12.36.070(E) CEQA REVIEW

No environmental review is required.

OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL

1. Limitations on Tree Removals

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

2. Defense, Indemnification & Hold Harmless


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

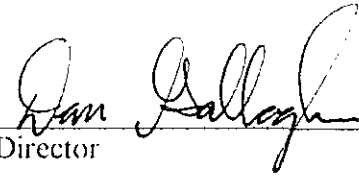
The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or

employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

3. **Debris.** All debris from the tree removal work shall be removed from the property within two weeks of it being cut. It shall be properly disposed of in a legal manner.
4. **Tree Damage.** If any damage to a protected tree should occur during or as a result of work on the site, the contractor, builder or owner shall promptly notify the Office of Parks and Recreation of such damage. If such tree cannot be preserved in a healthy state, the Office of Parks and Recreation shall require replacement of any tree removed with another tree or trees on the same site deemed adequate to compensate for the loss of the tree that is removed.
5. **Site Posting.** The applicant shall post a copy of the tree removal permit in plain view on site while tree removal work is underway.
6. **Construction Protection – Existing Tree.** One (1) chain link tree protection fence and one (1) orange plastic fence must be installed before this permit, or any other city permits, are issued. Contact Tree Services for a field inspection in order to release your permits. Chain link must be installed to protect Oak tree ‘A’, in front of the home. The fence shall encircle the tree and shall be placed a minimum of three feet from the tree trunk. The fence shall be chain-link, minimum five feet tall, with 1-7/8” diameter metal pipe driven two feet into the ground for posts. The orange plastic fence shall span the width of the lot, at the rear of the house, at least eight feet uphill from the tree closest to the rear of the home. The fences shall be installed before the start of any clearing, excavation, construction or other work on the site. The attached sign, “Warning – Tree Protection Zone”, shall be attached to each fence and maintained during the project. Fencing shall remain in place for the duration of the project and may only be moved or removed with the consent of Tree Services.
7. **Tree Protection Zones.** Tractor work, storage of material, depositing soil, removing soil, trenching, cutting roots, parking of equipment or any other work activities are prohibited within fenced tree protection zones for the duration of the project. If any work must occur within protection zones, it shall be approved in advance by the Tree Services Section. Failure to comply with this requirement may result in fines and/or replacement trees and suspension of permits, for working illegally around protected trees.
8. **Root Preservation.** Roots shall be preserved and no activities shall affect the health and safety of existing trees. If roots are encountered during construction, they may be cut only if they are less than two inches in diameter. Hand tools must be used to cut the roots; the use of excavators, backhoes, or similar equipment is prohibited. Roots larger than two inches diameter may be cut only if inspected and approved by Tree Services staff.

9. **Tree Pruning.** Construction personnel shall not prune trees on the site. Tree pruning shall be performed by a licensed, insured tree work contractor that has an arborist on staff certified by the International Society of Arboriculture.
10. **Landscaping.** Underneath the drip line of oak trees on the property, plants shall be selected that will tolerate the dry soils and shade typically found beneath native oaks during the summer. No planting shall occur, and irrigation water shall not wet the soil, within 10 feet of the base of oak trees. Landscaping and irrigation shall comply with the latest edition of Compatible Plants Under and Around Oaks, by the California Oak Foundation.
11. **Tree Planting.** One (1) replacement tree shall be planted within the property boundaries prior to the final inspection. The tree species shall be Sequoia sempervirens (Coast Redwood), Quercus agrifolia (Coast Live Oak), Arbutus menziesii (Madrone), Aesculus californica (California Buckeye) or Umbellularia californica (California Bay Laurel).
12. **Tree Specifications.** The replacement trees shall be in a 24-inch box: eight to nine feet tall, one and a half inch caliper, with a crown spread of three to four feet. Tree Services staff must approve the trees before planting, and inspect again after planting, to insure correct installation. The applicant and the department must mutually agree upon the location of the trees.
13. **Tree Watering.** An appropriate amount of water must be applied each week, for three years, to establish the replacement tree in the landscape. The tree shall be watered by an irrigation system and timer. Any replacement tree not alive and healthy within one year of planting shall be replaced at the applicant's expense.
14. **Recordation of Conditions.** The applicant/owner(s) shall record the conditions of approval attached to this permit with the Alameda County Recorder's Office in a form prescribed by the Director of Public Works.

 12-15-05
Arboricultural Inspector Date

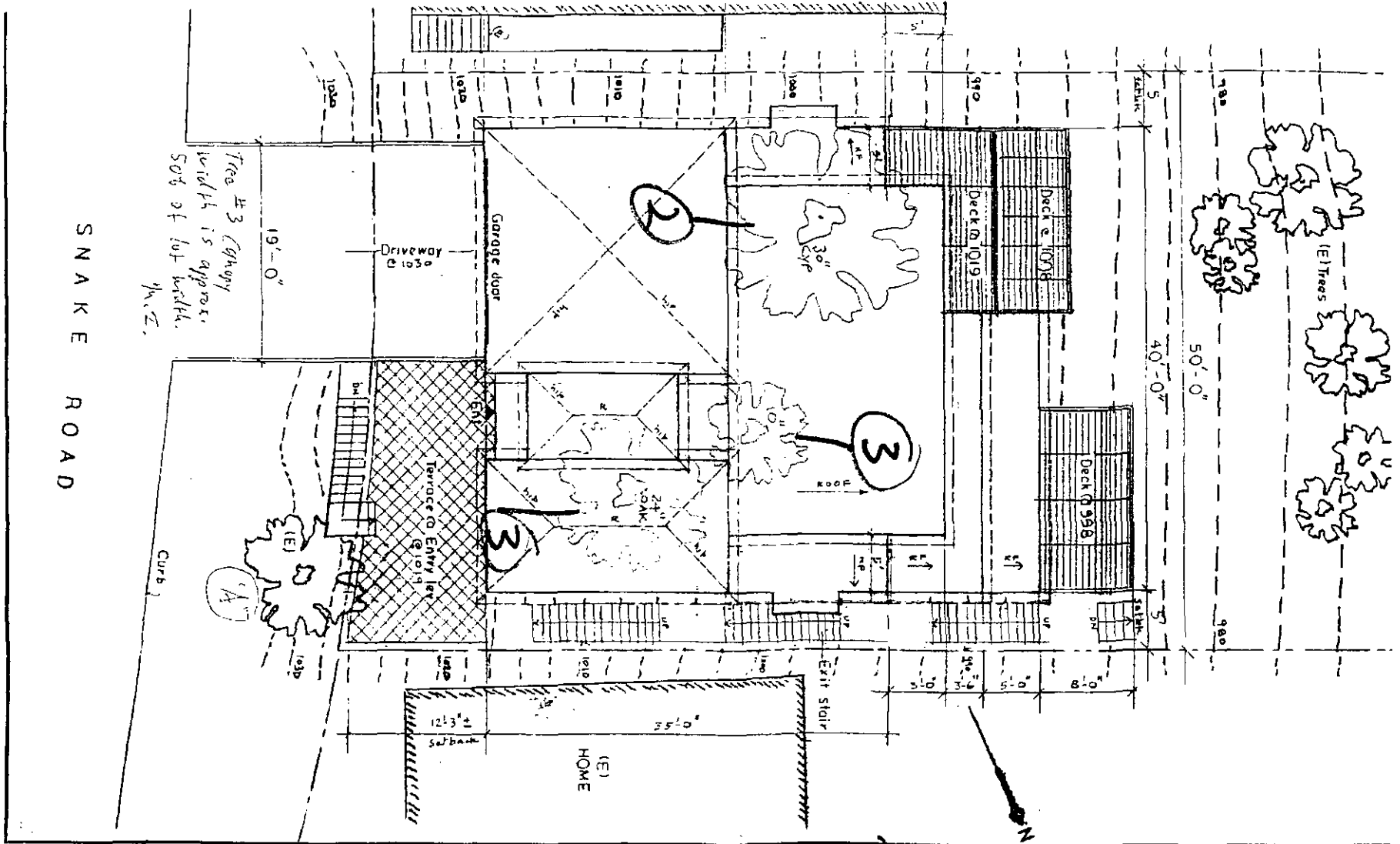
For  12-15-05
Director Date

ARUN RANADE - ARCHITECT
 1869 CAMINO ESTRADA
 CONCORD, CA 94521
 (925) 672 - 4364

Arun Ranade
 (925) 771

NEW RESIDENCE
 LOT # 581, SNAKE ROAD
 OAKLAND, CALIFORNIA
 OWNER : JACKSON MOSHER

Date	
Scale	
Drawn	
Job	
Sheet	1
Of	Sheets





OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL

1. Limitations on Tree Removals

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

2. Defense, Indemnification & Hold Harmless

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

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

3. Debris. All debris from the tree removal work shall be removed from the property within two weeks of it being cut. It shall be properly disposed of in a legal manner.

4. Tree Planting. Insufficient planting area exists for two native replacement trees to grow to maturity. An in lieu fee of \$300.00 per native tree removed, in accordance with the City of Oakland Master Fee Schedule, shall be paid to be applied toward tree planting in city parks, streets and medians.

Trees and plants shown on the landscape plan (L-1) dated February 7, 2005, shall be installed prior to the issuance of a certificate of occupancy. All trees planted in the public right-of-way shall require prior approval by the Public Works Agency's Tree Services Section in accordance with the City of Oakland's Street Tree Plan dated January 27, 1998.

5. Tree Watering. An appropriate amount of water must be applied each week, for three years, to establish the replacement trees in the landscape. The trees shall be watered by an irrigation system and timer. Any replacement tree(s) not alive and healthy within one year of planting shall be replaced at the applicant's expense.

6. Site Posting. The applicant shall post a copy of the tree removal permit in plain view on site while tree removal work is underway.

Attachment C

Re: PWA/Infrastructure and Operations – Tree Removal Permit Appeal, Snake Road

7. **Recordation of Conditions.** The applicant/owner(s) shall record the conditions of approval attached to this permit with the Alameda County Recorder's Office in a form prescribed by the Director of Public Works.

Jan H

OFFICE OF THE CITY CLERK
ALABAMA

2006 APR 20 AM 11:08
OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION DENYING THE APPEAL FILED BY IRVING AND MURIEL SCHNAYER AGAINST THE DECISION OF THE PUBLIC WORKS AGENCY APPROVING THE ISSUANCE OF TREE REMOVAL PERMIT DR05-123 FOR AN UNDEVELOPED LOT ON SNAKE ROAD

WHEREAS, on November 3, 2005, East Bay Property Holdings, LLC ("Applicant") submitted an application for Tree Removal Permit (TRP) DR05-123 to remove three trees from an undeveloped lot on Snake Road in order to build a single-family home; and

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

WHEREAS, on December 15, 2005, the Public Works Agency (PWA) approved the issuance of TRP DR05-123 for the removal of two protected trees and one unprotected tree from said property; and

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

WHEREAS, on January 17, 2006, Irving and Muriel Schnayer ("Appellants"), filed an appeal with the Office of the City Clerk against the PWA decision approving TP DR05-123; and

WHEREAS, the appeal came before the City Council on May 2, 2006, and the appellants, and interested neutral parties were given ample opportunity to participate in the public hearing and were given a fair opportunity to submit relevant evidence to the City Council; and

WHEREAS, the public hearing on the appeal and application was closed by the City Council on May 2, 2006, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP DR05-123 subject to certain conditions noted below was passed; now, therefore, be it

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

FURTHER RESOLVED: That the appeal filed by Irving and Muriel Schnayer against the decision of the PWA approving the removal of trees in TRP DR05-123 is hereby denied; and be it

FURTHER RESOLVED: That in accordance with the criteria established in Sections 12.36.050 (A) (1) of the Oakland Municipal Code, the removal of two protected trees in TRP DR05-123 is hereby approved by the Office of Planning and Building; and be it

FURTHER RESOLVED: That in accordance with Section 12.36.060 (A) and (B) of the Oakland Municipal Code, the conditions of approval in the tree permit (attached as Attachment A and hereby incorporated by reference as if fully set forth herein) shall be provided during the construction period; and be it

FURTHER RESOLVED: That the City Council, having heard, considered and weighed all the evidence presented on behalf of all parties and being fully informed of the application, finds, for all the reasons stated in this resolution that the appeal should be denied. Therefore, the decision of the Director, PWA, approving tree removals is affirmed, the appeal is denied, and the application for tree removals is approved subject to the conditions of approval (attached as Attachment A and hereby incorporated by reference as if fully set forth herein); and be it

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

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

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

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

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

IN COUNCIL, OAKLAND, CALIFORNIA,
PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL**1. Limitations on Tree Removals**

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

2. Defense, Indemnification & Hold Harmless

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

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

- 3. Debris.** All debris from the tree removal work shall be removed from the property within two weeks of it being cut. It shall be properly disposed of in a legal manner.
- 4. Tree Planting.** Insufficient planting area exists for two native replacement trees to grow to maturity. An in lieu fee of \$300.00 per native tree removed, in accordance with the City of Oakland Master Fee Schedule, shall be paid to be applied toward tree planting in city parks, streets and medians.

Trees and plants shown on the landscape plan (L-1) dated February 7, 2005, shall be installed prior to the issuance of a certificate of occupancy. All trees planted in the public right-of-way shall require prior approval by the Public Works Agency's Tree Services Section in accordance with the City of Oakland's Street Tree Plan dated January 27, 1998.

- 5. Tree Watering.** An appropriate amount of water must be applied each week, for three years, to establish the replacement trees in the landscape. The trees shall be watered by an irrigation system and timer. Any replacement tree(s) not alive and healthy within one year of planting shall be replaced at the applicant's expense.
- 6. Site Posting.** The applicant shall post a copy of the tree removal permit in plain view on site while tree removal work is underway.

7. **Recordation of Conditions.** The applicant/owner(s) shall record the conditions of approval attached to this permit with the Alameda County Recorder's Office in a form prescribed by the Director of Public Works.