

OFFICE OF THE CITY CLERK
OAKLAND
2009 OCT 15 PM 6:24

CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Public Works Agency
DATE: October 20, 2009

RE: **Resolution Denying The Appeal, Filed By Scott Harrison And Terry Hill, Of The Public Works Agency's Decision To Approve The Issuance Of Tree Removal Permit T09-00020 For 2935 Telegraph Avenue**

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. Staff approved the Tree Removal Permit on the basis that the trees proposed for removals are growing within the footprint of the proposed project. There is no reasonable redesign of the site plan that would save the two (2) trees in question. Twenty-three (23) replacement trees will be planted on the site. Staff has prepared a resolution that will enable the City Council to implement a decision that denies the appeal filed by the owners of a parcel adjoining the project 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.

BACKGROUND

Steven Hester of Trammell Crow Residential (TCR), applicant for Courthouse Associates, LLC, submitted an application for Tree Removal Permit T09-00020 on April 23, 2009. Two trees were approved for removal on May 26, 2009. There was no opposition to the permit and it was forwarded to the Community and Economic Development Agency for issuance. The two trees are coast redwoods, one with a trunk diameter of thirty-eight (38) inches and the other has a diameter of fifty-six (56) inches.

During the first week of August, the Tree Services Division received objections from the public that some neighbors with standing did not receive notice. The tree permit was re-started on August 4, 2009 with four (4) additional neighbors receiving a notification letter. Public objections to inadequate tree tagging resulted in a final permit re-start date of August 20, 2009. On September 23, 2009, the Tree Services Division approved two trees for removal (*Attachment A*). The permit was initially appealed by Susan Peters of 535 - 30th Street, on September 28,

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2009, and was subsequently withdrawn. Due to comments from the public and apparent confusion regarding how many property owners with standing could file an appeal, and the possibility that appellants were potentially denied an opportunity to file an appeal, a second appeal period was opened. A second appeal period is an infrequent but historical and customary business practice of the Tree Services Division used to resolve the concerns of appellants with standing. An appeal was filed on October 3, 2009 by Scott Harrison and Terry Hill of 543 – 30th Street (*Attachment B*).

KEY ISSUES AND IMPACTS

The key issue is whether staff followed the Protected Tree Ordinance (PTO) guidelines correctly by 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 two (2) 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).
- 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.

The \$42 million dollar project is a five-story development with 142+ residential units, commercial space, and parking. The parking is underground and requires excavating the site twelve (12) feet below grade. In order to provide enough growing space for the two trees in question, extensive redesign would be required and numerous units and underground parking would be eliminated. The Tree Services Division felt it was unreasonable to require such significant changes and approved the removal of two trees. Twenty-three, 24" boxed size, replacement trees will be planted in the public sidewalks that surround the development.

SUSTAINABLE OPPORTUNITIES

No sustainable opportunities have been identified.

RECOMMENDATION AND RATIONALE

Staff recommends City Council approve the resolution denying the appeal of tree permit application T09-00020 and allow the issuance of a tree removal permit for the removal of two (2) trees at 2935 Telegraph Avenue. The permit was processed in compliance with the PTO.

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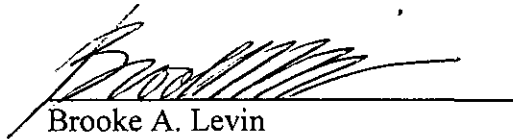
ALTERNATIVE RECOMMENDATION

The City Council can reverse staff's decision and require the preservation of one or more of the trees approved for removal. The City Council can require changes or impose additional conditions of approval that, in its 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 two (2) 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 T09-00020, and allowing the issuance of a tree removal permit for the removal of two (2) trees at 2935 Telegraph Avenue.

Respectfully submitted,



Brooke A. Levin
Acting Agency Director
Public Works Agency

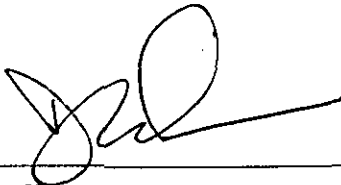
Reviewed by:
Bruce Saunders, Assistant Director

Prepared by:
John Alderson, Public Works Operations Manager
Infrastructure Maintenance Division

Attachments:

- A. PWA decision letter, with conditions of approval (two pages)
- B. Appeal filed by neighbors (three pages)
- C. OMC Section 12.36.050 Criteria for Tree Removal Permit (one page)

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

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TREE PERMIT

City of Oakland, Public Works Agency, Tree Services Division

Permit # T09-00020
 Address: 2935 Telegraph Ave.
 Applicant: Courthouse Associates, L.L.C.

Approved: 9-23-09
 Expires: One year from date of issuance.
 Permit Type: Development Non-development

Removal Approved		Preservation Required		
Tree Quantity	Identified As	Tree Quantity	Identified As	Protective Fencing Required
<u>Two</u>	<u>#11 #2</u>			

This decision of the Public Works Agency, Tree Services Division, may be appealed by the applicant, or the owner of any "adjoining" or "confronting" property, to the Parks and Recreation Advisory Commission within five (5) working days after the date of this decision and by 3:30 p.m., otherwise the permit is effective. 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 Tree Services, at 7101 Edgewater Drive, Building #4. 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. There is a \$500.00 fee to file an appeal. Failure to timely appeal this decision and raise any and all issues in your appeal may preclude you from challenging this determination in court.

OMC SECTION 12.36.050(A) FINDINGS

Yes No - Tree removal is necessary:

OBJECTIVE BEING ACCOMPLISHED BY THE REMOVAL:

- Insure the public health and safety:
- As it relates to the health of the tree.
 - Potential hazard to life or property.
 - Proximity to existing or proposed structures.
 - Interference with utilities or sewers.
- Avoid unconstitutional regulatory taking of property.
- Take reasonable advantage of views.
- Resolve a view claim.
- Pursue forestry or landscape design.
- Implement S-11 site development review zone prescriptions.

OMC SECTION 12.36.050(B) FINDINGS

Yes No - There are grounds for permit denial.

ANY OF THE FOLLOWING IS GROUNDS FOR DENIAL:

- Removal of a healthy, protected tree can be avoided by:
- Reasonable redesign of the site plan, prior to construction.
 - Trim, thin, tree surgery, or other reasonable treatment.
- Problems with drainage, erosion, land stability or windscreen.
- Tree is dependent on a group of trees for survival.
- The value of the tree is greater than the cost of preservation.

SECTION 12.36.080(E) CEQA REVIEW - Completed

Yes No - Environmental review is required

OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL

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.

1. Tree removal, 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 received this permit from Tree Services.

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

3. Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work, identified above in Preservation Required, shall be securely fenced off 10 feet from the base of the tree. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris that will avoid injury to any protected tree.

4. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within 10 feet from the base of any protected tree at any time. No burning or use of equipment with

5. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within _____ feet from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within _____ feet from the base of any protected trees. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.

6. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.

7. If any damage to a protected tree should occur during or as a result of work on the site, the applicant shall immediately notify the Tree Services Division of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.

8. All debris created as a result of any tree removal work shall be removed from the property by the applicant within two weeks of debris creation, and such debris shall be properly disposed of by the applicant in accordance with all applicable laws, ordinances, and regulations.

9. Workers compensation, public liability, and property damage insurance shall be provided by any person(s) performing tree removal work authorized by a tree removal permit.

10. The removal of extremely hazardous, diseased, and/or dead trees shall be required where such trees have been identified by the Tree Reviewer.

11. The damaged sidewalk shall be repaired in compliance with the rules and regulations of the City of Oakland, including a sidewalk repair permit if more than 25 square feet of sidewalk is being repaired. Contact the Sidewalk Division at 238-3499 for more information.

12. 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 one-inch diameter. Hand tools must be used to cut the roots; the use of excavators, backhoes, or similar equipment is prohibited. Roots larger than one-inch diameter may be cut only if inspected and approved by a Consulting Arborist certified by the American Society of Consulting Arborists.

13. Pier locations shall be dug by hand to a depth of three feet to explore for roots. If roots larger than one-inch diameter are encountered there are two options: (a) root cutting must be inspected and approved, prior to the work being done, by a Consulting Arborist certified by the American Society of Consulting Arborists, or (b) move pier locations so that roots are not cut.

an open flame shall occur near or within the protected perimeter of any protected tree.

14. Water from rain gutter downspouts shall not be directed toward existing oak trees, or wet the soil within 10 feet of existing oak trees.

15. 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.

16. Underneath the drip line of oak trees on the property, if landscaping is installed, the selected plants shall tolerate the dry soils and shade typically found beneath native oaks during the summer. No planting shall occur within 10 feet of the base of oak trees. Landscaping shall comply with the latest edition of Compatible Plants Under and Around Oaks, by the California Oak Foundation.

17. 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.

18. Any other conditions that are reasonably necessary to implement the provisions of the Protected Trees Ordinance, Chapter 12.36 of the Oakland Municipal Code. See Attached.

REPLACEMENT PLANTINGS

1. ²³ replacement trees shall be required, installed prior to the issuance of a certificate of occupancy, subject to seasonal constraints, and shall be maintained by the applicant until established. Any replacement planting which fails to become established within one year of planting shall be replanted at the applicant's expense. **PER PLAN 2012**

Landscape plan required, showing the replacement planting and the method of irrigation.

2. Replacement trees shall consist of *Sequoia sempervirens* (coast redwood), *Quercus agrifolia* (coast live oak), *Arbutus menziesii* (madrone), *Aesculus californica* (California buckeye), or *Umbellularia californica* (California bay laurel).

3. Replacement trees shall be of twenty-four (24) inch box size, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.

4. Minimum planting areas are available on site as follows:
For coast redwood, 315 sq. ft. per tree.
For the four other species listed in #2 above, 700 sq. ft. per tree.

5. In the event that replacement trees are required but cannot be planted due to site constraints, an in-lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians. The fee is due prior to the issuance of a certificate of occupancy.

Fee: \$475 per tree x _____ trees = \$ _____

Harriet Adams 9/23/09
Arboricultural Inspector Date

M. J. [Signature] 9-23-09
FOR Director Date

CITY OF OAKLAND
OFFICE OF PARKS & RECREATION

FILED
OFFICE OF THE CITY CLERK
OAKLAND

09 OCT -7 PM 1:19

TREE REMOVAL PERMIT APPEAL FORM

- 1. Date: 10-3-09 Terry Hill
- 2. Appellant's Name: Scott Harrison - Terry Hill
- 3. Appellant's Address: 543 30th St
City, State & Zip: Oakland CA -
Telephone #: (510) 435-2105 -
- 4. Tree Removal Permit Number: T09-020
- 5. Address of Tree Removal: 2935 Telegraph Ave.
- 6. Basis for Appeal: To not take them out (2) large trees

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: Scott Harrison Date: 10-13-09

FOR OFFICE USE ONLY

Appeal Hearing Date: December 08, 2009

Received By: [Signature]

Appeal Fee Paid: 500.00 *\$50 fee for Tree Appeal

Receipt #: 3158

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

We (Scott Harrison on behalf of concerned neighbors and citizens) oppose removal of the two stands of mature redwoods at 2935 Telegraph Ave. (Courthouse Athletic Club site).

The Redwoods are valuable natural resources and urban amenities:

These are "protected trees" under the City's ordinance. They are an amenity for any new developer that acquires the site.

We believe the reason given for the removal of the trees--"proximity to the new building"--is specious. As protected trees, any new construction at the site should have seriously considered alternatives that incorporated these protected trees.

We were told an arborist's report would be included with the decision. According to Gay Luster in the tree division, there were not even any notes from an arborist in the final decision, much less a report.

Simply deciding protected trees are in the way of a new structure, hence allowing their removal, is a violation of the letter and spirit of the tree protection ordinance, designed to encourage and foster retention of important natural resources. The trees provide habitat for endangered species such as hawks and owls, and mature trees store abundant amounts of carbon that will be released when they're cut down.

The developer, Trammell Crow Residential, demolished the Courthouse Building and is applying for tree removal in order to put the cleared site on the market for top dollar. Apparently, they have decided the site will be worth more for a buyer with the historic building removed and the redwoods cut down. This determination is based upon communication with Bank of the West, TCR's lender since 2005, as well as the fact that even though TCR had gained approval of the project in August, 2007, before the housing market crashed, they never bothered to secure tree removal permits, nor complete their designs in order to take out a building permit. Nor did they pay the requisite fees to the City. They simply put the site and the entitled project on the market. We have seen nothing to indicate TCR will build what they say they want to--a 142-unit market rate condo project.

Allowing the developer to clear the site of the historic building and protected trees violates the letter and spirit of local ordinances that protect the historic built environment and mature urban trees. Whoever acquires the property down the road may well find use for the trees as part of a new design for the project/site.

Because of the possibility that the redwoods could be incorporated into a new design, we encourage you to deny the tree removal permit.

Glaring process issue problems:

The tree removal process was flawed from the beginning. Gay Luster in the Tree Division acknowledged that many immediate neighbors had not been noticed, and the process was restarted, with new notices posted and a comment period ending Sept. 22.

Unfortunately, this process wasn't much better. No letters or emails were sent to those of us who commented, after the decision was made on Sept. 23. **Even more egregiously, immediate neighbors who received initial letters from the tree division because their properties abut the Courthouse property did not receive letters with the determination. These neighbors include Karen Peters at 535 30th St. and Scott**

Harrison at 543 30th St. The City Clerk's office said that the determination letter must be included with the appeal—hard to do if the letter wasn't received (or sent)!

No arborist's report was included with the determination, as we were told. Even more problematic, we asked Gay Luster to see a copy of the determination. She said that wasn't necessary because it was so short she could read it to us, which she did. What she did NOT reveal was a letter from tree division employee Mitch Thompson, who was assigned this case but never responded to any phone calls from the public about it. Thompson emailed the demolition of the Courthouse Building would not affect the trees, and could proceed.

This letter was not revealed in a timely way to interested parties, and seems in clear violation of Conditions #22 and #23 from the project approval by the Planning Commission Aug. 1, 2007.

Condition #22 reads:

"Tree Removal Permit. Prior to issuance of a demolition, grading, or building permit...

Condition #23:

Tree Protection During Construction. Prior to issuance of a demolition, grading, or building permit...

A) Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off...

b) Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and other nutrients..."

Therefore, the demolition of the Courthouse proceeded illegally because inadequate steps have been taken to protect the trees, nor has the tree removal permit process run its course. The public has been purposely excluded from the process, and neighbors who were required to be noticed in writing were not.

ATTACHMENT C – Protected Tree Ordinance, Section 12.36.050

12.36.050 Criteria for tree removal permit review.

A. In order to grant a tree removal permit, the city must determine that removal is necessary in order to accomplish any one of the following objectives:

1. To insure the public health and safety as it relates to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers;
2. To avoid an unconstitutional regulatory taking of property;
3. To take reasonable advantage of views, including such measures as are mandated by the resolution of a view claim in accordance with the view preservation ordinance (Chapter 15.52 of this code);
4. To pursue accepted, professional practices of forestry or landscape design. Submission of a landscape plan acceptable to the Director of Parks and Recreation shall constitute compliance with this criterion;
5. To implement the vegetation management prescriptions in the S-11 site development review zone.

B. A finding of any one of the following situations is grounds for permit denial, regardless of the findings in subsection A of this section:

1. Removal of a healthy tree of a protected species could be avoided by:
 - a. Reasonable redesign of the site plan, prior to construction;
 - b. *Trimming, thinning, tree surgery or other reasonable treatment.*
2. Adequate provisions for drainage, erosion control, land stability or windscreen have not been made in situations where such problems are anticipated as a result of the removal.
3. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.
4. The value of the tree is greater than the cost of its preservation to the property owner. The value of the tree shall be measured by the Tree Reviewer using the criteria established by the International Society of Arboriculture, and the cost of preservation shall include any additional design and construction expenses required thereby. This criterion shall apply only to development-related permit applications.

C. In each instance, whether granting or denying a tree removal permit, findings supporting the determination made pursuant to subsection A or B of this section, whichever is applicable, shall be set forth in writing.

(Prior code § 7-6.05)

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 OCT 15 PM 6:24

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION DENYING THE APPEAL, FILED BY SCOTT HARRISON AND TERRY HILL, OF THE PUBLIC WORKS AGENCY'S DECISION TO APPROVE THE ISSUANCE OF TREE REMOVAL PERMIT T09-00020 FOR 2935 TELEGRAPH AVENUE

WHEREAS, on April 23, 2009, Steven Hester of Trammell Crow Residential ("Applicant") submitted an application for Tree Removal Permit (TRP) T09-00020 to remove two trees for a development project; and

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

WHEREAS, on September 23, 2009, the City of Oakland's, Tree Services Division, approved the issuance of TRP T09-00020 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 to insure the public health and safety as it relates to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers; and

WHEREAS, on October 3, 2009, Scott Harrison and Terry Hill ("Appellants"), filed an appeal with the City Council against the Public Works Agency (PWA) decision approving TRP T09-00020; and

WHEREAS, the appeal came before the City Council on October 20, 2009, 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 October 20, 2009, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP T09-00020 subject to certain conditions noted below was passed; now, therefore, be it

RESOLVED: That the appeal filed by the appellants against the decision of the PWA approving the removal of trees in TRP T09-00020 is hereby denied; and be it

FURTHER RESOLVED: That in accordance with the criteria established in Section 12.36.050 (A) (1) of the Oakland Municipal Code, the removal of protected trees in TRP T09-00020 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 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 City staff, and the 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, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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