

FILED
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OAKLAND

2009 OCT 15 PM 6:24

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. 82355 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, OCT 20 2009

PASSED BY THE FOLLOWING VOTE:

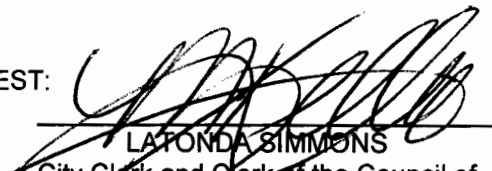
AYES - ~~BRUNNER~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT BRUNNER - 7

NOES - 0

ABSENT - 0

ABSTENTION - Brooks - 1

ATTEST:



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