

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 SEP 16 AM 9:53

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: September 21, 2004


RE: SUPPLEMENTAL REPORT AND RECOMMENDATION ON THE APPEAL FILED BY GUY MOORE AND SHIRLEY LEONARD-MOORE AGAINST THE DECISION OF THE OFFICE OF PARKS AND RECREATION APPROVING A PERMIT TO REMOVE THREE TREES AT 4455 MOUNTAIN VIEW AVENUE.

This report provides information and a recommendation regarding a Tree Removal Permit involving the proposed removal of three trees from a vacant lot at 4455 Mountain View Avenue. This appeal was originally heard by the City Council on July 20, 2004. During that meeting, the appellant stated that she was only opposed to the removal of one tree (#3) and that if this tree could be preserved by redesigning the driveway's location, she would not be opposed to the other two trees that have been approved for removal. It was decided that the final decision on this appeal would be held in abeyance until the applicant redesigned the driveway.

The applicant submitted a revised plan dated August 13, 2004 that moves the driveway 9½ feet from the corner of the house, thereby preserving the tree in question. The Tree Removal Permit and its conditions of approval will be changed to require preservation of tree # 3 and to require its protection during construction.

Staff recommends that the City Council approve the resolution denying the appeal of tree permit application DR04-021 and allowing the issuance of a tree removal permit on private property at 4455 Mountain View Avenue.

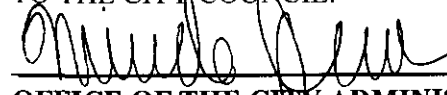
Respectfully submitted,


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

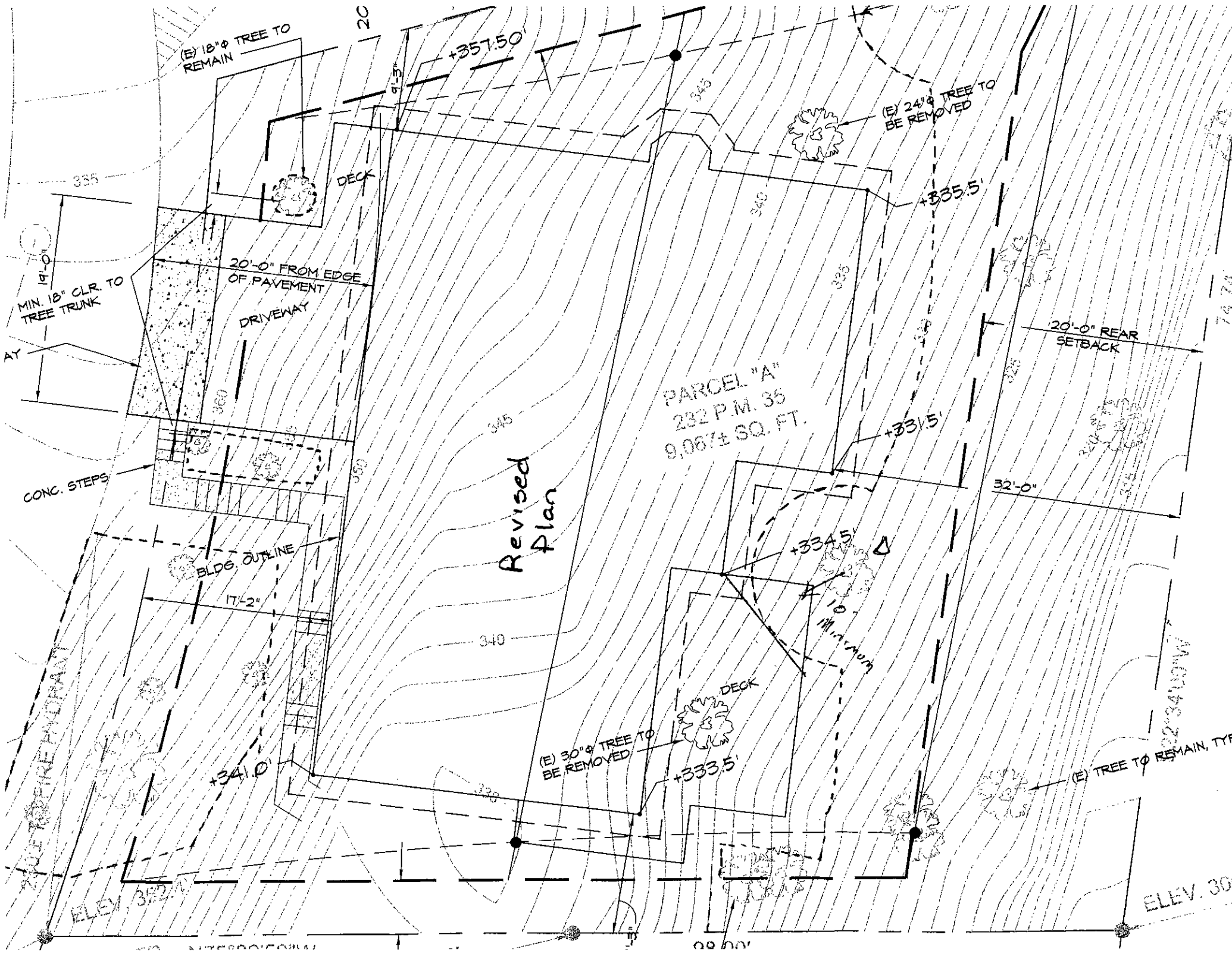
Reviewed by:
Bruce Saunders
Interim Assistant Director, Public Works Agency
Department of Infrastructure & Operations

Prepared by:
Daniel Gallagher, Tree Supervisor II

APPROVED AND FORWARDED
TO THE CITY COUNCIL:


OFFICE OF THE CITY ADMINISTRATOR

Item: 14.6
City Council
September 21, 2004



(E) 18" Ø TREE TO REMAIN

(E) 24" Ø TREE TO BE REMOVED

MIN. 18" CLR. TO TREE TRUNK

20'-0" FROM EDGE OF PAVEMENT

DRIVEWAY

DECK

PARCEL "A"
232 P.M. 36
9,067± SQ. FT.

Revised
Plan

20'-0" REAR SETBACK

BLDG. OUTLINE

17'-2"

34'-0"

+335.5'

+334.5'

(E) 30" Ø TREE TO BE REMOVED

+333.5'

(E) TREE Ø REMAIN, TYP

ELEV. 332.4'

ELEV. 309'

2 1/2" FIRE HYDRANT

22' 34" W

74.74'

REVISED

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2004 SEP 16 AM 10: 03

RESOLUTION No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____



RESOLUTION DENYING THE APPEAL FILED BY GUY MOORE AND SHIRLEY LEONARD-MOORE AGAINST THE DECISION OF THE DIRECTOR OF THE OFFICE OF PARKS AND RECREATION APPROVING THE ISSUANCE OF TREE REMOVAL PERMIT DR04-021 (4455 MOUNTAIN VIEW AVENUE)

WHEREAS, on March 4, 2004, William Brown, acting as an agent for the owner, Mike Boskovic, ("Applicants") submitted an application for Tree Removal Permit (TRP) DR04-021 to remove three (3) protected trees from the property located at 4455 Mountain View Avenue; and

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

WHEREAS, on April 15, 2004, the Office of Parks and Recreation (OPR) approved the issuance of TRP DR04-021 for the removal of three (3) trees 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 tree's proximity to a proposed structure; and

WHEREAS, on April 9, 2004, Guy Moore and Shirley Leonard-Moore ("Appellants") filed an appeal with the Office of the City Clerk against the OPR decision approving TRP DR04-021; and

WHEREAS, in this case all of the trees to be removed were located within or in close proximity to the footprint of the proposed structure; and

WHEREAS, the appeal came before the City Council on July 20, 2004, and the final decision on this appeal was to be held in abeyance, pending the applicant redesigning the driveway location to preserve the one tree in contention (#3); and

WHEREAS, the applicant submitted a revised plan dated August 19, 2004, that will preserve the Oak tree adjacent to the appellant's property (#3) and has relocated the driveway and front walkway of the proposed single family home; and

WHEREAS, the appeal came before the City Council on September 21, 2004, 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 September 21, 2004, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP DR04-021 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 Guy Moore and Shirley Leonard-Moore against the decision approving the removal of trees in TRP DR04-021 is hereby denied; and be it

FURTHER RESOLVED: That in accordance with the criteria established in Sections 12.36.050 (A) (1) and (2) of the Oakland Municipal Code, the removal of two Quercus agrifolia (Coast Live Oaks) in TRP DR04-021 is hereby approved by the Office of Planning and Building; and be it

FURTHER RESOLVED: That in accordance with 12.36.060 (A) and (B) of the Oakland Municipal Code, the Additional Conditions of Approval, (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 and any additional reasons brought before the Council, that the appeal should be denied. Therefore, the decision of the Director, PWA, approving the trees removal 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 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, NADEL, QUAN, REID, WAN AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California



OFFICE OF PARKS AND RECREATION
Additional Conditions of Approval
Tree Permit DR04-021
4455 Mountain View Avenue: APN 037-2686-033-00

1. Fencing Requirement

The fencing must be inspected by an Arboricultural Inspector **prior to construction, grading or any other work on the site**. Telephone the Tree Section at (510) 615-5850 to schedule a field check of this requirement.

- Separate tree protection fences must be installed as noted on the attached Fencing Plan. The chain-link fences shall be a minimum of five feet tall. The fence posts shall be metal pipes, 1-7/8" diameter minimum for line posts, 2-3/8" diameter for corner posts, eight feet tall, driven two feet into the ground.
- Tractor work, storage of material, depositing soil, removing soil, cutting roots, parking of equipment or any other work activities are prohibited within the fenced area for the duration of the project.
- The fencing shall remain until all construction activities are completed. Fence removal must be pre-approved by the Tree Section.
- **Failure to comply with this requirement will result in fines and/or replacement trees for working illegally around protected trees.**

2. Additional Requirements

- Pruning of all protected trees shall be limited to the minimum amount that will allow construction to occur. The pruning must be done by a Certified Arborist and follow the International Society of Arboriculture's Tree Pruning Guidelines.
- Trenching or excavation will be permitted within the tree protection zone only to the extent needed to install drainage or utility lines. The lines are to be designed and installed in a manner that keeps their location at a maximum distance away from all protected trees and so that the excavation necessary is minimized.
- All landscape plants within the drip-line area of tree 'A' shall be listed in the California Oak Foundation's guide, "Compatible Plants Under and Around Oaks". No plants or irrigation shall be installed within 10' of any protected tree's trunk.
- There shall be no change in grade under the canopy of any protected size tree on the property. Excavated soil must be hauled offsite, or placed in an open space area on the property outside the drip-line of all protected trees.

3. Tree Planting Requirement

The applicant shall plant (2) 24" box size replacement tree(s) within the property boundaries.

1. The tree species shall be your choice of:
 - Sequoia sempervirens (Coast Redwood)
 - Quercus agrifolia (Coast Live Oak)
 - Arbutus menziesi (Madrone)
 - Aesculus californica (California Buckeye)
 - Umbellularia californica (California Bay Laurel)

2. If the Tree Reviewer determines that the replacement trees cannot be planted due to site constraints, an off-site planting fee shall be paid to the City of Oakland. This fee shall be \$300 per tree for each 24 inch box size tree required.
3. If you choose to plant the 24 inch box size, the tree(s) shall be:
 - Eight to nine feet tall
 - One and a half inch caliper
 - *Crown spread of three to four feet*
4. Tree Section staff must approve the tree(s) quality before planting, and inspect again after planting to insure correct installation. The property owner and the department must mutually agree upon the location of the tree(s). The tree(s) must remain on the property as a permanent part of the landscape.
5. The trees must be watered appropriately to establish them in the landscape by watering once a week with ten to fifteen gallons of water, for three years. An irrigation system with a timer must be installed to water the trees. During the rainy season it may be possible to water less depending how much precipitation is received each week. Any tree not alive and healthy one year after the final inspection shall be replaced.
6. The trees must be planted or an off-site planting fee paid prior to the final inspection and certificate of occupancy, or the Department will consider the tree(s) that were removed as illegal tree work. The penalty for illegal tree work is a fee; not to exceed the value of the tree(s) illegally removed as evaluated by the formula developed by the International Society of Arboriculture. The fee could be attached as a lien against the property if the fee is not paid.

14.6
ORA/COUNCIL
SEP 21 2004