

OAKLAND CITY COUNCIL

RESOLUTION No. 76275 C.M.S.

INTRODUCED BY COUNCILMEMBER _____



RESOLUTION DENYING THE APPEAL FILED BY MARC GREENDORFER AGAINST THE DECISION OF THE DIRECTOR OF THE OFFICE OF PARKS AND RECREATION AND APPROVING THE ISSUANCE OF TREE REMOVAL PERMIT DR00-104 (LOT 59, SWAINLAND ROAD)

WHEREAS, on November 21, 2000, Derek Chan ("Applicant") submitted an application for Tree Removal Permit (TRP) DROO-104 to remove five (5) protected trees from his property, known as Lot 59 on Swainland Road. and

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

WHEREAS, on December 22, 2000, the Office of Parks and Recreation (OPR) approved the issuance of TRP DR00-104 for the removal of five (5) 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 trees' proximity to a proposed structure; and

WHEREAS, in this case the all of the trees are located within the footprint of the proposed structures and three of the trees are located within the area in which the home is planned to be built; and

WHEREAS, the decision was further justified on the basis that Section 12.36.050(A) (2) of the Protected Trees Ordinance justifies removal of the protected trees to allow the applicant to build a home according to the approved plans rather than preserving some of the trees and being required to redesign the home at a cost which is greater than the value of the trees; and

WHEREAS, on December 29, 2000, Marc Greendorfer ("Appellant") filed an appeal with the Office of the City Clerk against the OPR decision approving TRP DR00-104; and

WHEREAS, the appeal came before the City Council on February 13, 2001, and the appellant, 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 February 13, 2001, after a public hearing of said appeal was conducted, and a motion to deny the appeal and approve the issuance of TRP DR00-104 subject to certain conditions noted below was passed; now, therefore, be it

RESOLVED: That the decision of the Office of Parks and Recreation is hereby affirmed; and be it

FURTHER RESOLVED: That the appeal tiled by Marc Greendorfer against the decision of the OPR approving the removal of trees in TRP DR00-104 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 Acacia bailevana (Silver Wattle), two Quercus agrifolia (**Coast Live Oak**) and one Prunus cerasifera (**Cherry Plum**) trees in TRP DR00-104 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 Conditions of Approval, (attached as Attachment A and hereby incorporated by reference as if filly 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, OPR, approving the 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 filly 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 relating 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 enactments 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: 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 as to form and legality, 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, (DATE), 19(YEAR) **FEB 13 2001**
PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, ~~MILEY~~, NADEL, REID, WAN, ~~SPEES~~, AND
PRESIDENT DE LA FUENTE —

NOES-

ABSENT-

ABSTENTION-

pres (Excused) - 1

ATTEST:



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

Attachment A

Additional Conditions of Approval Lot 59 Swainland Road DROO-104

1. Tree Planting Requirement

- The property owner shall plant two replacement trees within the property boundaries
- The tree species shall be the owner's choice of
 - Sequoia sempervirens (Coast Redwood)
 - Quercus agrifolia (Coast Live Oak)
 - Arbutus menziesi (Madrone)
 - Aesculus californica (California Buckeye)
 - Umbellularia californica (California Bay Laurel)
- The trees shall be 24-inch box size: eight to nine feet tall, one and a half-inch caliper and a crown spread of three to four feet.
- Tree Section staff must approve the trees before planting. The property owner and the department must mutually agree upon the location of the trees. The trees must remain on the property as a permanent part of the landscape.
- The trees must be watered once a week with ten to fifteen gallons of water, for three years, to establish them in the landscape. During the rainy season it may be possible to water less depending how much precipitation is received each week.
- The final inspection and certificate of occupancy for this project will be held until this condition is met.