

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK
2006 JUN 15 PM 4:04

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: June 27, 2006

RE: Resolution Denying The Appeal Filed By Friederike Droegemueller, On Behalf Of The Merritt Lakesiders And No Clearcuts@Yahoogroups.Com, Against The Decision Of The Public Works Agency Approving The Issuance Of Three Tree Removal Permits For The Lake Merritt Improvement Projects

SUMMARY

This report provides background information and a recommendation regarding three (3) tree removal permits for the proposed Lake Merritt improvement projects. On April 13, 2006, staff approved three tree permits for the Lake Merritt improvement projects funded by Measure DD. There is a total inventory of 2,906 trees in the project areas and 167 protected trees were approved for removal. Also, 57 non-protected trees were listed on the permit applications and may be removed without permit approval. The projects involve the creation of four acres of new park area, full renovation of 13 acres of existing planting and park areas, significant pedestrian and bicycle safety improvements and enhanced water quality in Lake Merritt including the construction of a tidal marshland along the channel. The permits were appealed to the Parks and Recreation Commission (PRAC) by Friederike Droegemueller, on behalf of The Merritt Lakesiders (a group of residents living near or along Lakeside Avenue) and NoClearcuts@yahoo.com (an online group of community members working to stop the clear cutting of trees around Lake Merritt). PRAC denied the appeal at its meeting on May 10, 2006. Subsequent motions were approved to incorporate into the plans tree protection measures that would prevent string trimmer damage to the planted trees and to train the Park Services staff so such damage does not occur. Additionally, as many of the Magnolia trees, growing in the Kaiser Convention Center parking lot, should be preserved as possible. The decision of the PRAC may be further appealed to the City Council. On May 17, 2006, Ms. Droegemueller filed an appeal to the City Council.

The tree permits are attached as Attachments A, B and C; the appeal is Attachment D; and the wildlife habitat study is Attachment E. Staff has prepared a resolution that will enable the City Council to implement a decision that denies the appeal and allows the issuance of the tree permits.

Item: _____
Special Council Meeting
June 27, 2006

FISCAL IMPACTS

There may be fiscal impact to the City's budget if the appeal is upheld. Requiring additional trees to be preserved would necessitate the plans be redesigned. Depending on the extent of the redesign, significant fiscal impacts could be incurred up to rendering the proposed projects infeasible.

BACKGROUND

The City of Oakland, Public Works Agency, applied for three tree removal permits on December 8, 2005:

CT05-004 is for the Lakeside Drive and Municipal Boathouse improvements. The applicant requested removal of forty (40) trees. After reviewing the plans and considering the public comments received, Tree Services approved the removal of 20 trees and required the preservation of 20 trees. The primary group being preserved is 12 out of 14 Australian Tea Trees along the lake edge on the north side of the Municipal Boathouse. It would be unreasonable to require preservation of more trees because it would adversely affect the proposed park improvements, including facility upgrades.

The trees proposed for removal are in close proximity to park and facility renovations, including: a new restroom; parking lot; conversion of the Municipal Boathouse from an office facility to a restaurant, café and meeting room; a grand stairway; pathways; drainage and seismic improvements; renovation of the existing planting and irrigation; and repair of a portion of the lake edge retaining wall. The PTO does not require any replacement trees for this permit; however, sixty-one (61) new trees will be planted.

CT05-005 is for the Lakeshore Avenue and El Embarcadero project. The applicant requested removal of thirty-six (36) trees. Four (4) trees failed in a storm over the New Year's weekend and were removed from the application. Of the remaining thirty-two (32) trees, after reviewing the plans and considering the public comments received, Tree Services approved the removal of eight (8) trees and required the preservation of eight (8) trees. Sixteen (16) trees are not protected by Chapter 12.36 of the Oakland Municipal Code due to the species (Eucalyptus) or trunk diameters less than nine (9) inches. The park renovation plans will have to be modified to accommodate the eight (8) trees that must be preserved. It would be unreasonable to require preservation of more trees because it would adversely affect the proposed park improvements.

The park renovations include a new curb on the park side of Lakeshore Avenue reconstructed 12 feet east of the existing curb; improved pathways and renovation of existing planting and irrigation. Two trees are in close proximity to the historic Pergola structure, five other trees approved for removal are dying, are hazardous or have poor structure, one tree is growing in a median of Lakeshore Avenue that is planned to be eliminated. The PTO does not require any replacement trees for this permit; however, one hundred nineteen (119) new trees will be planted.

CT05-006 is for the 12th Street project. Prior to application, the applicant revised the renovation plans and ninety-two (92) trees were withdrawn from the removal request. Regarding the current plans, Tree Services required the preservation of seventeen (17) trees, but feels it would be unreasonable to save more trees.

The trees proposed for removal are in close proximity to, or within the footprint of, proposed renovation plans, including: reconfiguring the existing twelve-lane expressway across the 12th Street dam into a six-lane, tree-lined boulevard; creating significant new parkland at the south end of Lake Merritt; removing existing culverts and creating an open channel connection to Lake Merritt; new pedestrian and vehicle bridges to span the channel; and creation of a tidal marsh in the channel. If any of the trees were unusually large or had high value due to species, etc., Tree Services would have requested re-design. It is reasonable to trade the existing trees, growing within the \$35 million reconstruction area, for significant new parkland. The PTO requires thirteen (13) replacement trees (native trees approved to be removed) for this permit. Seven Redwoods are to be removed to create the tidal marsh. Six Coast Live Oaks are located in the center median area of 12th Street. Three hundred forty-one (341) new trees will be planted.

KEY ISSUES AND IMPACTS

The key issue is whether the proposed tree removals conform to the applicable criteria listed in the PTO. Staff believes the PTO was properly applied and recommends that the City Council approve the resolution denying the appeal.

Section 12.36.050 of the Protected Tree Ordinance lists the criteria used to decide if trees should be removed or preserved. Decision making for tree removals is a two-step process:

- First, applications are reviewed to see if they accomplish at least one of five possible objectives. The Lake Merritt improvement projects meet criterion 12.36.050(A) 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." Landscape plans were submitted with each tree permit application. Adrienne Wong and Associates prepared the plans for Lakeside Drive/Municipal Boathouse and Lakeshore Avenue/El Embarcadero. Leslie Golden and Associates prepared the plans for the 12th Street Project.
- Certain trees on the permit applications also accomplish another ordinance objective. Whether they are growing too close to improvements or have defects that make them hazardous, they comply with criterion 12.36.050(A) 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."
- For the second decision-making step, even if trees qualify for a removal objective, preservation is required if at least one of four possible grounds for denial apply to the situation. Staff felt none of the denial criteria apply, and therefore, approved the permits. The Protected Tree Ordinance (PTO) denial criteria are listed below, with Ms. Droege Mueller's comments regarding staff's failure to adhere to the PTO criteria, followed by Tree Services' response:

Section 12.36.050(B)(1)(a) - Removal of a healthy tree of a protected species could be avoided by reasonable redesign of the site plan, prior to construction.

Appeal Form Comments – “It is significantly cheaper to reroute a path, move a bench or relocate a flower bed by moving a few pixels on a computerized diagram than it is to remove a tree. It is also significantly cheaper to redraw the diagram than it is to remove even a few trees (see item B4c below [of the appeal form]).”

Tree Services Reply – The site plans were redesigned. Prior to application, the Public Works Agency revised the renovation plans and 92 trees were voluntarily withdrawn from the tree removal request for the 12th Street project. In addition, after processing the applications, Tree Services denied removal of 45 protected trees for the three projects. Many of those changes were due to having considered comments from the public and elected officials. The Tree Services Division then negotiated with the project managers to change the design.

Of the 167 protected trees approved for removal by Tree Services, 139 trees are involved with the 12th Street project. Seventy-five (75) trees are currently growing in the median between the east and westbound lanes of 12th Street. The results of the \$35 million project will be dramatic, including (a) changing a twelve-lane expressway into a six-lane, tree-lined boulevard, (b) a new four-acre shoreline park where none exists now, (c) a free-flowing Lake Merritt Channel with pedestrian and vehicle bridges spanning the water with walkways built underneath along the channel bank and (d) a new tidal wetland, resulting in improved wildlife habitat and enhanced water quality. Many of the trees in question are currently growing in a parking lot and in the center median of the twelve-lane expressway, locations not considered high-value recreation areas. It is reasonable to trade trees growing in the reconstruction area for the dramatic improvements to the park. It is unreasonable to require more redesign than has already been done.

Section 12.36.050(B)(1)(b) – Removal of a healthy tree of a protected species could be avoided by trimming, thinning, tree surgery or other reasonable treatment.

Appeal Form Comments – “City staff indicated that they have not considered using accepted, approved arboricultural principals of tree hazard mitigation as cited in A4b (above [on appeal form]) including trimming, thinning, tree surgery or other reasonable treatment.

Contemporary principals of Urban Forestry (that have been developed largely within a 100 mile radius of Oakland, that are advocated by Oakland’s Tree Preservation Ordinance, and that emphasize preservation of mature tree canopies in urban areas) have not considered.”

Tree Services Reply – Section 12.36.050(B)(1)(b) is an appropriate denial criterion for the Lakeside Drive/Municipal Boathouse and the Lakeshore Drive/El Embarcadero permits. A number of trees were preserved by the Tree Services Division using this criterion, such as the Poplar, Eucalyptus and Pine trees along Lakeshore Drive. Staff evaluated the dying and hazardous trees approved for removal and treatments other than removal were not effective for solving the problems that exist.

Trimming and thinning cannot create the physical space needed to move a 12-lane expressway. It is inappropriate to try and apply this criterion to the 12th Street project.

Section 12.36.050(B)(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.

Appeal Form Comments – “Staff has not adequately addressed the effects that removing the root structure of (a) over 200 trees, (b) with an @ average trunk diameter of 21” DBH will have on the, (a) surrounding soil stability, (b) nearby wetland ecology (the lake, creeks and the Oakland/Alameda Estuary), (c) the environment of the oldest wildlife preserve in the western hemisphere.”

Tree Services Reply – In 2002, an Initial Study for Measure DD (Oakland Clean Water, Safe Waterfront Parks and Recreation Trust Fund Ballot Measure) was completed, with the finding that the identified potential environmental impacts as a result of the project were within the range and scope of the impacts previously studied in the environmental documentation completed for the General Plan Land Use and Transportation Element EIR, the Estuary Policy Plan EIR, the Open Space, Conservation and Recreation Element Mitigated Negative Declaration and the Coliseum Area Redevelopment Plan EIR. On April 11, 2006, the Planning Director determined that none of the circumstances necessitating preparation of a subsequent or supplemental EIR are present. With regard to the potential biological impacts, a survey confirmed that none of the trees proposed to be removed constituted significant habitat value (roosting or nesting). No significant biological impacts will result from removal of the trees.

Section 12.36.050(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.

Appeal Form Comments – “Recent research in arboricultural nutrition determined that most woody plants (i.e. trees) depend on mycorrhizal mutuality: That mycorrhizal growths that fuse with tree roots and fuse between the roots of different trees – are critical to tree health. By destroying one tree, it is possible to negatively impact the health of all surrounding trees. This dependency is also present in establishing the health of new trees: Removing mature trees from an area can prevent new trees from becoming well established. Put more simply, mature trees help nurture new trees. It is possible, if not likely, that new trees are compromised by the loss of larger protective specimens.”

Tree Services Reply – The appellant implies that removing certain trees in the project areas may affect the health of other trees in the park and that new trees may not grow well due to a beneficial fungus found in the soil and on roots. A walk through the park and observation of existing conditions should dispel this comment. Trees are growing in the park and they are growing well. The trees are growing well even though every year trees are removed due to old age, disease, etc. The trees are growing well even though they were planted.

Mycorrhizae are important for trees growing in harsh conditions. At stressful growing sites, where there is little water or the soil is infertile, mycorrhizae help absorb water and nutrients for the tree and in exchange, the tree provides the fungus with carbohydrates. The Lake Merritt area is fertile, water is available, and plants do not struggle to survive; therefore, mycorrhizae are not a factor to consider when deciding whether or not to remove and replace trees.

For anyone wanting more information on mycorrhizae, staff recommends the following publication: Arboriculture: Integrated Management of Landscape Trees, Shrubs, and Vines, Richard Harris, James Clark, Nelda Matheny, Pearson Education, Inc., Upper Saddle River, New Jersey, 2004. Dr. Harris is Professor Emeritus, Department of Environmental Horticulture, University of California at Davis. The authors summarize mycorrhizae in landscape situations with the following:

- Most plants form mycorrhizal associations without any human intervention.
- In maintained landscapes that are fertilized and irrigated, mycorrhizae may have a less important role than in natural environments where water and nutrients, especially phosphorus, are limited.
- Soils usually contain mycorrhizal fungi unless they have been highly disturbed and the topsoil removed. Where soils are disturbed, mycorrhizal fungi are likely to be introduced naturally over a period of time as wind and animals carry fungal spores into the area.
- For most landscape plantings and established landscapes, no significant increase in growth has been demonstrated by applying mycorrhizal preparations. Significant increases in plant survival and growth have been demonstrated in seedlings planted in highly disturbed soils, and where mycorrhizal fungi species associated with the desired host plant has been isolated, grown in the laboratory, and introduced into new plantings.

Section 12.36.050(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.

Appeal Form Comments – “(a) Replacement costs of the trees slated for removal cannot be established because staff has not prepared evaluations of the economic value of the trees, using the criteria established by the International Society of Arboriculture (cf. Items A4 a, b & c above – on appeal form), (b) Staff has not provided estimates of the amount of time or costs associated with redesign or construction, (c) Removal costs of Lake Merritt’s trees can be conservatively estimated between \$600,000 and \$900,000 (based on 3 estimates given to an appellant for removal of a large mature tree, 18”DBH with prices ranging from \$2700 to \$400). In short, we’re looking at approximately one million dollars to remove trees, instead of spending a few thousand dollars to redesign some paths on paper and electrons.”

Tree Services Reply – The Lake Merritt projects are city permit applications and follow the procedure in Section 12.36.090 of the PTO. The criterion above does not apply to city permits. Per Section 12.36.050(4) of the PTO, the criterion only applies to development related permit applications following the procedure in Section 12.36.070.

The appeal filed also contained five “additional considerations,” including:

1. *Staff has failed to address how the loss of mature tree canopy will affect arboreal & terrestrial wildlife in the park*
2. *Staff has failed to address the effects that loss of a mature tree canopy will have on the birds in the nature preserve and those which are using the Pacific Flyway.*

Tree Services Reply – A wildlife habitat assessment was made of the three project areas. The report states that “none of the trees proposed for removal along Lakeshore Avenue contained signs of nesting or major roosting aggregations. Many of the trees are decrepit and provide little habitat value beyond serving as short-term perch sites for common birds.”

The report further concludes that “None of the trees proposed for removal on the 12th Street Project provide unique habitat values beyond those that are present in the surrounding Lake Merritt landscape. Birds that occasionally use these trees would adapt to their absence by finding nearby trees and shrubs in which to forage and roost.”

“In summary, LSA does not believe...that the loss of these trees would have a substantial adverse effect on the local bird community.”

Section 12.36.110(C) of the PTO states, “In considering the appeal, the Parks and Recreation Advisory Commission shall determine whether the proposed tree removals conform to the applicable criteria. It may sustain the decision of Tree Services or require such changes or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria.” Staff feels the tree permit decisions conform to the PTO criteria.

SUSTAINABLE OPPORTUNITIES

Economic:

Measure DD projects will provide an opportunity for staff to work with the California Conservation Corps, the Youth Employment Partnership and other employment programs to incorporate a scope of work within construction contracts primarily along the waterfront.

Environmental:

In general, Measure DD projects will be implemented in a manner to reduce the impact of development on certain ecosystems, and promote water and energy conservation, reduction in air pollution, and environmental goals with the public.

Social Equity:

The renovation of existing park land and the creation of a new park meets the City Council’s overall city goals to build community and foster livable neighborhoods by providing for clean, well-maintained and accessible streets and sidewalks, facilities, amenities, parks, recreational facilities and trees.

DISABILITY AND SENIOR CITIZEN ACCESS

The renovation of existing park land will provide improved access to affected parks and trails.

RECOMMENDATION AND RATIONALE

Staff recommends that the City Council approve the resolution, denying the appeals of tree permit applications CT05-004, CT05-005, and CT05-006, allowing the issuance of the three tree removal permits for the Lake Merritt improvement projects, since staff processed the permits in compliance with the PTO.

ALTERNATIVE RECOMMENDATION

The City Council can reverse staff's decision and require the preservation of trees approved for removal. The City Council can require changes or impose such reasonable conditions of approval that, in its judgment, are necessary to ensure the tree permit decision conforms to the PTO criteria for tree removal in section 12.36.060. This action would be taken if the City Council found that staff made an error, abused their discretion or where such decision was not supported by the evidence in the record when they approved the removal of trees. Section 12.36.060 (E) of the PTO allows any conditions of approval that are reasonably necessary to implement the provisions of the chapter be issued in conjunction with the tree permits. This alternative may require the Public Works Agency to redesign one or more of the projects.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution denying the appeal of tree permit applications CT05-004, CT05-005, and CT05-006, allowing the issuance of three tree removal permits for the Lake Merritt improvement projects.

Respectfully submitted,



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

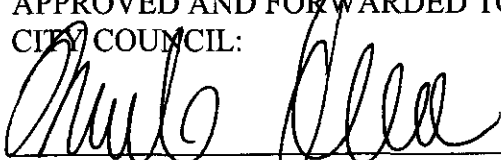
Reviewed by:
Bruce Saunders, Assistant Director

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

Attachments:

- A. Tree Permit CT05-004
- B. Tree Permit CT05-005
- C. Tree Permit CT05-006
- D. Appeal, Friederike Droegemueller
- E. LSA Associates Wildlife Habitat Study

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



OFFICE OF THE CITY ADMINISTRATOR

Item: _____
Special City Council
June 27, 2006

TREE PERMIT
City of Oakland, Public Works Agency

Permit #CTO5-004
 Lakeside Drive

Approved: April 13, 2006
 Expires: One year from date of issuance

Applicant: City of Oakland, Public Works Agency

Removal Approved

20 trees – see attached spreadsheet

Preservation Required

20 trees – see attached spreadsheet

As per Chapter 12.36 of the Oakland Municipal Code, this City-related permit approves the removal of twenty (20) 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 City-related permit because the trees are growing within a city park. The project location is Lakeside Park, east of Lakeside Drive, between the Cameron-Stanford House and Madison Street.

Any concerned resident of the city may appeal this decision of the Public Works Agency, Tree Services Section, to the Parks and Recreation Advisory Commission within five (5) working days after the date of this decision and by 3:30 p.m. 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 the evidence in the record does not support such decision. The fee to file an appeal is fifty dollars. 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) and Section 12.36.050(A)(4) of the Oakland Municipal Code. The trees proposed for removal are in close proximity to park renovations, including: a new restroom; 52-space parking lot; conversion of the Municipal Boathouse from an office facility to a restaurant, café and meeting room; a grand stairway; pathways; drainage improvements; renovation of the existing planting and irrigation; repair of a portion of the lake edge retaining wall.

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).

The applicant requested removal of forty (40) trees. After reviewing the plans, Tree Services approved the removal of 20 trees and required the preservation of 20 trees. The primary group being preserved is 12 out of 14 Australian Tea Trees along the lake edge on the north side of the Municipal Boathouse. It would be unreasonable to require preservation of more trees because it would adversely affect the proposed park improvements.

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

The majority of the twenty (20) trees approved for removals are too close to construction activities and pruning them, and requiring preservation, would interfere with construction. Four (4) Brush Cherries could be pruned but to allow them to remain near the entrance of a proposed restaurant would result in foot traffic crushing the trees' fleshy fruit and tracking it into the restaurant. One (1) Hollywood Juniper could be pruned but it is growing too close to the proposed restaurant. Pruning would still allow the tree to block patron's views of the lake and surrounding park.

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.

OAKLAND MUNICIPAL CODE SECTION 12.36.070(E) CEQA REVIEW

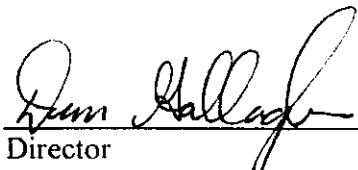
The full CEQA Review is attached as Attachment A. The Planning Director determined that none of the circumstances necessitating preparation of a subsequent or supplemental EIR are present. Moreover, the three tree permits for the Lake Merritt area are exempt from further CEQA review based on the findings set forth in OMC 12.36.070 E pertaining to total extent of requested removals and the size of the trees proposed to be removed:

- 1) The loss of up to 224 total trees (168 protected, 60 unprotected) represents approximately 44 percent of the total trees within the defined project areas for the three tree permits, and approximately 9 percent of the total trees in Lake Merritt Park. Through changes to the plans and the institution of tree protection measures, the number of trees to be removed was reduced by approximately 27 percent or 83 trees.
- 2) Sufficient preservation efforts have been taken to preserve large trees.
- 3) Of the 224 total trees proposed for removal, 31 were dead, severely damaged or represented a significant hazard. The remaining 195 trees were identified for removal in order to achieve better drainage and to accommodate foundation work and construction of new stairways and other access features according to federal, state and local standards. In addition, tree removal was also required for retaining wall repair and the realignment of 12th Street.

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. **Protected Trees.** The contractor shall not remove, damage or endanger any protected tree within the city unless the tree is approved for removal by this permit.
3. **Tree Damage.** If any damage to a tree requiring preservation should occur during or as a result of work on the site, the contractor shall promptly notify the Office of Public Works, Tree Services, of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Office of Public Works shall require replacement of any tree damaged or removed with another tree or trees on the same site deemed adequate to compensate for the loss of the tree that is damaged or removed.
4. **Prohibited Activities.** No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within ten (10) feet of the base of any trees requiring preservation, or any other location on the site from which such substances may endanger trees. No heavy construction equipment or construction materials shall be operated or stored within ten (10) feet of trees being preserved. 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.
5. **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.
6. **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 one inch in 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 in diameter may be cut only if inspected and approved by Tree Services staff.
7. **Irrigation.** Water from irrigation systems shall not hit the trunk of any preserved tree, or wet the soil within 10 feet of any preserved Coast Live Oak. Irrigation lines routed under the dripline of a preserved tree shall be dug by hand and roots protected as noted above in condition #6.
8. **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.
9. **Tree Planting.** Sixty-one (61) trees shall be planted per the project plans. The minimum size tree shall be a 24-inch box.
10. **Plan Revision.** The park renovation plans shall be modified to accommodate the trees whose preservation is required by this permit.


Arboricultural Inspector 4-13-06
Date


for Director 4-13-06
Date

Tree Permit CT05-004
Lakeside Drive

City of Oakland
Tree Services

April 13, 2006

Tree #	Preservation Required	Species	dih (inches)	Reason for Removal / Tree Condition Comments
7	x	Willow	14	
8	x	Willow	18	
9	x	Willow	>9	Grading
11	x	Australian Tea Tree	>9	Foundation work on building / Trunk decay
11A	x	Australian Tea Tree	>9	Foundation work on building
12		Willow	18	Not a tree. It's a stump.
14	x	Willow	18	Stairway construction
15	x	Willow	20	Stairway construction
16	x	Malus spp.	>9	Stairway construction / Conk on one stem
17	x	Malus spp.	>9	Stairway construction / Cavity, decayed stems
18	x	Victorian Box	48	Fruit drop, inappropriate for restaurant entrance
19	x	Brush Cherry	48	Fruit drop, inappropriate for restaurant entrance
20	x	Brush Cherry	44	Fruit drop, inappropriate for restaurant entrance
21	x	Brush Cherry	20	Fruit drop, inappropriate for restaurant entrance
21A	x	Brush Cherry	>9	Fruit drop, inappropriate for restaurant entrance
22	x	Hollywood Juniper	26	Too close to building, blocks views
23	x	Hollywood Juniper	26	
24	x	Willow	26	Grading / Trunk cavity, decay
25	x	Willow	18	Driveway construction
26	x	Australian Tea Tree	24	Lake edge retaining wall repair
27	x	Australian Tea Tree	26	
28	x	Australian Tea Tree	26	Lake edge retaining wall repair
29	x	Victorian Box	24	Bioswale and grading
30	x	Victorian Box	32	Bioswale and grading / Co-dominate stem and included bark
31	x	Australian Tea Tree	30	
32	x	Australian Tea Tree	36	
33	x	Australian Tea Tree	36	
34	x	Australian Tea Tree	36	
35	x	Australian Tea Tree	36	
36	x	Australian Tea Tree	30	
37	x	Australian Tea Tree	20	
38	x	Australian Tea Tree	24	
39	x	Australian Tea Tree	20	
40	x	Australian Tea Tree	>9	
41	x	Australian Tea Tree	20	
42A	x	Monterey Pine	50	New parking lot and driveway

**Tree Permit CT05-004
Lakeside Drive**

**City of Oakland
Tree Services**

April 13, 2006

42B	x	Monterey Pine	18
43	x	Poplar	75
44	x	Poplar	55
45	x	Poplar	50
46	x	Poplar	40

20 trees - removal approved

20 trees - preservation required

TREE PERMIT
City of Oakland, Public Works Agency

Permit # C105-005

Approved: April 13, 2006

Lakeshore Avenue and El Embarcadero

Expires: One year from date of issuance

Applicant: City of Oakland, Public Works Agency

Removal Approved

8 trees – see attached spreadsheet

Preservation Required

8 trees – see attached spreadsheet

Not Protected – Removal Allowed

16 trees – see attached spreadsheet

As per Chapter 12.36 of the Oakland Municipal Code, this City-related permit approves the removal of eight (8) 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 City-related permit because the trees are growing within a city park. The project location is Lakeside Park, west of Lakeshore Avenue, from East 18th Street to El Embarcadero and parkland adjacent to El Embarcadero, between the Lakeview Library and the Pergola.

Any concerned resident of the city may appeal this decision of the Public Works Agency, Tree Services Section, to the Parks and Recreation Advisory Commission within five (5) working days after the date of this decision and by 3:30 p.m. 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 the evidence in the record does not support such decision. The fee to file an appeal is fifty dollars. 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) and Section 12.36.050(A)(4) of the Oakland Municipal Code. The trees proposed for removal are in close proximity to park renovations, including: a new curb on the park side of Lakeshore Avenue reconstructed 12 feet east of the existing curb; improved pathways; renovation of existing planting and irrigation.

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).

The applicant requested removal of thirty-six (36) trees. Four (4) trees failed in a storm over the New Year's weekend and were removed from the application. Of the remaining thirty-two (32) trees, after reviewing the plans, Tree Services approved the removal of eight (8) trees and required the preservation of eight (8) trees. Sixteen (16) trees are not protected by Chapter 12.36 of the Oakland Municipal Code due to the species (Eucalyptus) or trunk diameters less than nine (9) inches. The park renovation plans will have to be modified to accommodate the eight (8) trees that must be preserved. It would be unreasonable to require preservation of more trees because it would adversely affect the proposed park improvements.

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

Of the eight (8) trees approved for removal, three (3) trees are dying, one (1) is in poor health, two (2) crowd and screen the Pergola, one (1) is hazardous and one (1) is within the Lakeshore Avenue reconfiguration. Trimming, thinning or tree surgery will not preserve the trees in question and also allow the renovations to be implemented.

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.

OAKLAND MUNICIPAL CODE SECTION 12.36.070(E) CEQA REVIEW

The full CEQA Review is attached as Attachment A. The Planning Director determined that none of the circumstances necessitating preparation of a subsequent or supplemental EIR are present. Moreover, the three tree permits are exempt from further CEQA review based on the findings set forth in OMC 12.36.070 E pertaining to total extent of requested removals and the size of the trees proposed to be removed:

- 1) The loss of up to 224 total trees (168 protected, 60 unprotected) represents approximately 44 percent of the total trees within the defined project areas for the three tree permits, and approximately 9 percent of the total trees in Lake Merritt Park. Through changes to the plans and the institution of tree protection measures, the number of trees to be removed was reduced by approximately 27 percent or 83 trees.
- 2) Sufficient preservation efforts have been taken to preserve large trees.
- 3) Of the 224 total trees proposed for removal, 31 were dead, severely damaged or represented a significant hazard. The remaining 195 trees were identified for removal in order to achieve better drainage and to accommodate foundation work and construction of new stairways and other access features according to federal, state and local standards. In addition, tree removal was also required for retaining wall repair and the realignment of 12th Street.

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. **Protected Trees.** The contractor shall not remove, damage or endanger any protected tree within the city unless the tree is approved for removal by this permit.
3. **Tree Damage.** If any damage to a tree requiring preservation should occur during or as a result of work on the site, the contractor shall promptly notify the Office of Public Works, Tree Services, of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Office of Public Works shall require replacement of any tree damaged or removed with another tree or trees on the same site deemed adequate to compensate for the loss of the tree that is damaged or removed.
4. **Prohibited Activities.** No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within ten (10) feet of the base of any trees requiring preservation, or any other location on the site from which such substances may endanger trees. No heavy construction equipment or construction materials shall be operated or stored within ten (10) feet of trees being preserved. 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.
5. **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.
6. **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 one inch in 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 in diameter may be cut only if inspected and approved by Tree Services staff.
7. **Irrigation.** Water from irrigation systems shall not hit the trunk of any preserved tree, or wet the soil within 10 feet of any preserved Coast Live Oak. Irrigation lines routed under the dripline of a preserved tree shall be dug by hand and roots protected as noted above in condition #6.
8. **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.
9. **Tree Planting.** One hundred nineteen (119) trees shall be planted per the project plans. The minimum size tree shall be a 24-inch box.
10. **Plan Revision.** The park renovation plans shall be modified to accommodate the trees whose preservation is required by this permit.

M. [Signature] 4-13-06
 Arbicultural Inspector Date

for [Signature] 4-13-06
 Director Date

Tree Permit CT05-005
Lakeshore Avenue

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree No. Provided	Removal Allowed	Preservation Required	Species	DBH (inches)	Reason for Removal / Tree Condition	Comments
35a		x		Cherry	2	Dying / Cracked trunk, extensive canopy dieback	
35b		x		Cherry	2	Poor health / Canopy dieback	
35c		x		Cherry	2	Dying / Trunk loose in soil, extensive canopy dieback	
35d		x		Cherry	2	Dead	
35e		x		Cherry	2	Dead	
35f		x		Cherry	2	Dead	
35g		x		Cherry	2	Poor health / Canopy dieback, dead cambium near turf	
47	x			Incense Cedar	30	Crowding and screening Pergola	
58			x	Pine spp.	18		
62	x			Chinese Elm	24	Crowding and screening Pergola	
65			x	Monterey Pine	36		
66		x		Red Horsechestnut	4	Damaged / Trunk 75% girdled near turf	
67			x	Red Gum	30	Applicant agreed to preserve tree	
68				Bronze Loquat	12	Tree failed in New Year's storm	
69	x			Cherry	10	Hazardous / Trunk cavity at grade with yellowjacket next	
71				Blackwood Acacia	36	Tree failed in New Year's storm	
72			x	Swamp Mahogany	30		
74		x		Big Leaf Maple	2	Damaged / Trunk 50% girdled at base	
78				Blackwood Acacia	30	Tree failed in New Year's storm	
79				Blackwood Acacia	36	Tree failed in New Year's storm	
84		x		Big Leaf Maple	2	Damaged / Trunk 40% girdled at base	
86			x	Poplar	42		
89			x	Monterey Pine	36		
91	x			Monterey Pine	36	Dying / 4"+ deadwood, canopy flagging	
92	x			Bottle Bush	6+4+2	Poor condition / One stem is dead, second stem is decayed	
95			x	Poplar	42		
99	x			Monterey Pine	44	Dying / 6" deadwood, sparse canopy, 12" girdling root at base	
100		x		Bottle Bush	3+2+2		
101			x	Monterey Pine	20		
102	x			Monterey Pine	30	Dying / 2-3" deadwood, declining canopy	
105		x		Oak spp.	2.5	Damaged / 50%+ girdled at base of trunk	
106		x		Idaho Locust	5	Poor structure	
107		x		Idaho Locust	6	Dead	
108		x		Blue Gum	32	Hazardous / Tree Services recommends removal	
110		x		Swamp Mahogany	30	Hazardous / Tree Services recommends removal	
111	x			Fern Pine	9	Lakeshore Avenue reconfiguration	

TREE PERMIT
City of Oakland, Public Works Agency

Permit # CTO5-006
12th Street Reconstruction

Approved: April 13, 2006
Expires: One year from date of issuance

Applicant: City of Oakland, Public Works Agency

Removal Approved

139 trees – see attached spreadsheet

Preservation Required

17 trees – see attached spreadsheet

Not Protected – Removal Allowed

41 trees – see attached spreadsheet

As per Chapter 12.36 of the Oakland Municipal Code, this City-related permit approves the removal of one hundred thirty-nine (139) 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 City-related permit because the trees are growing on city owned property, including the Kaiser Convention Center, Lake Merritt Channel Park, and public streets. The 12th Street project limits extend from Oak Street to the intersection of E. 18th Street, and include the south end of Lakeshore Avenue.

Any concerned resident of the city may appeal this decision of the Public Works Agency, Tree Services Section, to the Parks and Recreation Advisory Commission within five (5) working days after the date of this decision and by 3:30 p.m. 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 the evidence in the record does not support such decision. *The fee to file an appeal is fifty dollars. 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) and Section 12.36.050(A)(4) of the Oakland Municipal Code. The trees proposed for removal are in close proximity to proposed renovation plans, including: reconfiguring the existing twelve-lane expressway across the 12th Street dam into a six-lane, tree-lined boulevard; creating significant new parkland at the south end of Lake Merritt; removing existing culverts and creating an

open channel connection to Lake Merritt; new pedestrian and vehicle bridges to span the channel; creation of a tidal marsh in the channel.

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)).

Prior to application, the applicant revised the renovation plans and ninety-two (92) trees were withdrawn from the removal request. Regarding the current plans, Tree Services required the preservation of seventeen (17) trees, but feels it would be unreasonable to save more trees.

Creating new parkland at the south end of Lake Merritt requires shifting 12th Street toward the Kaiser Convention Center and reducing the width of the roadway. Trees must be removed in order to do this. If any of the trees were unusually large or had high value due to species, etc., Tree Services would have requested re-design. Within the parkland will be a multi-use open space area of turf with three hundred forty-one (341) new trees, an event plaza, an arc pier and a waterfront overlook extending into the lake, a restroom and multi-use paths. It is reasonable to trade the existing trees growing within the reconstruction area for significant new parkland.

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

Trimming, thinning or tree surgery will not allow the creation of new parkland along Lake Merritt or the relocation of 12th Street.

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.

OAKLAND MUNICIPAL CODE SECTION 12.36.070(E) CEQA REVIEW

The full CEQA Review is attached as Attachment A. The Planning Director determined that none of the circumstances necessitating preparation of a subsequent or supplemental EIR are present. Moreover, the three tree permits are exempt from further CEQA review based on the findings set forth in OMC 12.36.070 E pertaining to total extent of requested removals and the size of the trees proposed to be removed:

- 1) The loss of up to 224 total trees (168 protected, 60 unprotected) represents approximately 44 percent of the total trees within the defined project areas for the three tree permits, and approximately 9 percent of the total trees in Lake Merritt Park. Through changes to the plans and the institution of tree protection measures, the number of trees to be removed was reduced by approximately 27 percent or 83 trees.

- 2) Sufficient preservation efforts have been taken to preserve large trees.
- 3) Of the 224 total trees proposed for removal, 31 were dead, severely damaged or represented a significant hazard. The remaining 195 trees were identified for removal in order to achieve better drainage and to accommodate foundation work and construction of new stairways and other access features according to federal, state and local standards. In addition, tree removal was also required for retaining wall repair and the realignment of 12th Street.

OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL

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2. **Protected Trees.** The contractor shall not remove, damage or endanger any protected tree within the city unless the tree is approved for removal by this permit.
3. **Tree Damage.** If any damage to a tree requiring preservation should occur during or as a result of work on the site, the contractor shall promptly notify the Office of Public Works, Tree Services, of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Office of Public Works shall require replacement of any tree damaged or removed with another tree or trees on the same site deemed adequate to compensate for the loss of the tree that is damaged or removed.
4. **Prohibited Activities.** No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within ten (10) feet of the base of any trees requiring preservation, or any other location on the site from which such substances may endanger trees. No heavy construction equipment or construction materials shall be operated or stored within ten (10) feet of trees being preserved. 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.
5. **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.
6. **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 one inch in 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 in diameter may be cut only if inspected and approved by Tree Services staff.
7. **Irrigation.** Water from irrigation systems shall not hit the trunk of any preserved tree, or wet the soil within 10 feet of any preserved Coast Live Oak. Irrigation lines routed under the dripline of a preserved tree shall be dug by hand and roots protected as noted above in condition #6.

- 8. **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.
- 9. **Tree Planting.** Three hundred forty-one (341) trees shall be planted per the project plans. The minimum size tree shall be a 24-inch box.

J.M. Flynn 4-13-06 Don Halladay 4-13-06
Arboricultural Inspector Date for Director Date

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree No. Proposed Removal	Removal Requested	Withdrawn and Preservation Application Required	Species	DBH (inches)	Reason for Removal / Tree Condition Comments
1		x		Hawthorn	7	12th Street realignment
2	x			Monterey Pine	24	12th Street realignment
3	x			Coast Live Oak	13+13	12th Street realignment
4	x			Coast Live Oak	7@2-3	12th Street realignment
5	x			Privet	6+9	12th Street realignment
6	x			Monterey Pine	26	12th Street realignment / Large wound on base of trunk
7	x			Prunus spp.	12	12th Street realignment
8	x			Silver Wattle	12	12th Street realignment
9		x		Monterey Pine	7	12th Street realignment
10	x			Malus spp.	10+8+5	12th Street realignment
11	x			Malus spp.	18	12th Street realignment
12	x			Malus spp.	14	12th Street realignment / Dead tree
13	x			Malus spp.	6+4+6	12th Street realignment
14	x			Monterey Pine	32	12th Street realignment
14A	x			Canary Island Date Palm	36	12th Street realignment
15		x		Malus spp.	8	12th Street realignment
16	x			Malus spp.	12	12th Street realignment
17	x			Coast Live Oak	16	12th Street realignment
18	x			Incense Cedar	8+7	12th Street realignment
19	x			Incense Cedar	12+9+10	12th Street realignment
20	x			Blackwood Acacia	36	12th Street realignment
21		x		Cherry	6	12th Street realignment and grade change
22		x		Cherry	7	12th Street realignment and grade change
23	x			Cherry	10	12th Street realignment and grade change
24			x			
25		x		Cherry	6	12th Street realignment and grade change
26		x		Cherry	4	12th Street realignment and grade change
27	x			Cherry	9	12th Street realignment and grade change
28		x		Cherry	4	12th Street realignment and grade change
29	x			Cherry	10	12th Street realignment and grade change
30	x			Cherry	9	12th Street realignment and grade change
31	x			Cherry	9	12th Street realignment and grade change
32		x		Cherry	4	12th Street realignment and grade change
33	x			Cherry	9	12th Street realignment and grade change
34		x		Cherry	5	12th Street realignment and grade change
35	x			Cherry	9	12th Street realignment and grade change

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree No. Requested	Removal Request Allowed	Removal Request Withdrawn Prior to Application	Preservation Request	Species	DBH (Inches)	Reason for Removal / Tree Condition Comments
36	x				Cherry	11	12th Street realignment and grade change
37	x				Cherry	9	12th Street realignment and grade change
38	x				Cherry	9	12th Street realignment and grade change
39	x				Cherry	9	12th Street realignment and grade change
40	x				Cherry	10	12th Street realignment and grade change
41	x				Magnolia	14	12th Street realignment and grade change
42	x				Magnolia	20	12th Street realignment and grade change
43	x				Magnolia	20	12th Street realignment and grade change
44	x				Magnolia	18	12th Street realignment and grade change
45	x				Magnolia	16	12th Street realignment and grade change
46	x				Magnolia	22	12th Street realignment and grade change
47	x				Magnolia	14	12th Street realignment and grade change
48	x				Magnolia	16	12th Street realignment and grade change
49		x			Cherry	5	12th Street realignment and grade change
50		x			Cherry	5	12th Street realignment and grade change
51		x			Cherry	5	12th Street realignment and grade change
52		x			Cherry	4	12th Street realignment and grade change
53		x			Cherry	1	12th Street realignment and grade change
54		x			Cherry	3	12th Street realignment and grade change
55	x				Cherry	9	12th Street realignment and grade change
56		x			Cherry	5	12th Street realignment and grade change
57		x			Cherry	4	12th Street realignment and grade change
58		x			Cherry	7	12th Street realignment and grade change
59		x			Cherry	5	12th Street realignment and grade change
60		x			Cherry	5	12th Street realignment and grade change
61		x			Cherry	5	12th Street realignment and grade change
62	x				Cherry	10	12th Street realignment and grade change
63		x			Cherry	5	12th Street realignment and grade change
64		x			Cherry	5	12th Street realignment and grade change
65		x			Cherry	5	12th Street realignment and grade change
66		x			Cherry	5	12th Street realignment and grade change
67		x			Cherry	6	12th Street realignment and grade change
68	x				Flaxleaf Paperbark	28	12th Street realignment and grade change
69	x				Flaxleaf Paperbark	22	12th Street realignment and grade change
70		x			Magnolia	6	12th Street realignment and grade change
71			x				

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree Not Removal Allowed	Removal Required	When Application to Preservation Required	Species	DBH (Inches)	Reason for Removal/ Tree Condition Comments
72	x			Incense Cedar	12	New vehicle bridge, open Lake Merritt channel
73	x			Incense Cedar	14	New vehicle bridge, open Lake Merritt channel
74	x			Incense Cedar	9+6	New vehicle bridge, open Lake Merritt channel
75	x			Karo	24	New vehicle bridge, open Lake Merritt channel / Multi. Stem
76	x			Karo	24	New vehicle bridge, open Lake Merritt channel / Multi. Stem
77	x			Karo	22	New vehicle bridge, open Lake Merritt channel / Multi. Stem
78	x			Karo	24	New vehicle bridge, open Lake Merritt channel / Multi. Stem
79	x			Karo	24	New vehicle bridge, open Lake Merritt channel / Multi. Stem
80	x			Coast Live Oak	34	New vehicle bridge, open Lake Merritt channel
81		x		Magnolia	3+3	New vehicle bridge, open Lake Merritt channel
82		x		Red Ironbark	16+20+14	New vehicle bridge, open Lake Merritt channel
83	x			Deodar Cedar	20	New vehicle bridge, open Lake Merritt channel / Dead Tree
84	x			Monterey Pine	16	New vehicle bridge, open Lake Merritt channel
85	x			Incense Cedar	3 @ 7-10	New vehicle bridge, open Lake Merritt channel
86	x			Incense Cedar	12	New vehicle bridge, open Lake Merritt channel / Dead Tree
87	x			Incense Cedar	16+18	New vehicle bridge, open Lake Merritt channel
88	x			Coast Live Oak	3 @ 5-10	New vehicle bridge, open Lake Merritt channel
89	x			Blackwood Acacia	22	New vehicle bridge, open Lake Merritt channel
90	x			Crabapple	6+7	Lakeshore Avenue cul-de-sac
91			x			
92	x			Crabapple	6+5	Lakeshore Avenue cul-de-sac / Heart rot, cavities
93		x		Monterey Pine	8	New vehicle bridge
94	x			Monterey Pine	53	New vehicle bridge / Poor condition+H129
95		x		Crabapple	8	New vehicle bridge / Heart rot
96	x			Karo	8+8+8	New vehicle bridge
97	x			Karo	8+10	New vehicle bridge
98	x			Karo	5+6+8	New vehicle bridge
99		x		Karo	8	New vehicle bridge
100	x			Karo	13+5	New vehicle bridge
101	x			Incense Cedar	24	New vehicle bridge
102		x		Incense Cedar	8	New vehicle bridge
103	x			Incense Cedar	10+11+12	New vehicle bridge
104	x			Monterey Pine	30	New vehicle bridge
105	x			Monterey Pine	20	New vehicle bridge
106	x			Monterey Pine	15+15+17	New vehicle bridge
107	x			Monterey Pine	4 @ 13	New vehicle bridge

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree No. Protected Removal Allowed	Removal Requested	Wildlife or Preservation Required	Species	DBH (inches)	Reason for Removal / Tree Condition Comments
108	x			Cherry	18	New vehicle bridge
109						Unable to locate in the field
110			x			
111			x			
112	x			Sweet Gum	14	1st Avenue reconfiguration / lightly topped
113	x			Sweet Gum	10	1st Avenue reconfiguration / lightly topped
114	x			Sweet Gum	12	1st Avenue reconfiguration / lightly topped
115	x			Sweet Gum	10	1st Avenue reconfiguration / lightly topped
116	x			Sweet Gum	14	1st Avenue reconfiguration / lightly topped
117			x			
118		x		Fern Pine	6	Lakeshore Avenue reconfiguration
119		x		Fern Pine	6	Lakeshore Avenue reconfiguration
120	x			Magnolia	12	Parking lot redesign, Convention Center
121	x			Magnolia	16	Parking lot redesign, Convention Center
122	x			Magnolia	14	Parking lot redesign, Convention Center
123	x			Magnolia	10	Parking lot redesign, Convention Center
124			x			
125				Magnolia	26	Preserve tree, provide planter area around base of trunk
126				Magnolia	12	Preserve tree, provide planter area around base of trunk
127	x			Magnolia	14	Parking lot redesign, Convention Center
128	x			Cherry	9	Parking lot redesign, Convention Center
129		x		Magnolia	3	Parking lot redesign, Convention Center
130	x			Magnolia	14	Parking lot redesign, Convention Center
131	x			Cherry	9	Parking lot redesign, Convention Center
132			x			
133			x			
134			x			
135			x			
136			x			
137			x			
138			x			
139	x			Yew	10	Create tidal marsh
140			x			
141			x			
142			x			
143			x			

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree Not Proposed for Removal	Removal Allowed	Removal Request	Removal Prior to Installation Required	Species	Diameter (inches)	Reason for Removal / Tree Condition Comments
144			X				
145	X				Canary Island Pine	18	Create tidal marsh
146	X				Canary Island Pine	22	Create tidal marsh
147	X				Blackwood Acacia	8+10+12	Grading for water quality basin
147A	X				Blackwood Acacia	12+6	Grading for water quality basin
147B	X				Blackwood Acacia	16	Grading for water quality basin
148	X				Blackwood Acacia	4@7-18	Grading for water quality basin
149	X				Incense Cedar	5+13	Grading for water quality basin
150			X				
151			X				
152			X				
153	X				Privet	12	Multi-use open space
154	X				Privet	12	Multi-use open space
155	X				Incense Cedar	24	Multi-use open space
156+							
157	X				Incense Cedar	30+26	Multi-use open space / Actually one tree, listed as two
158							Unable to locate in the field
159	X				Coast Live Oak	10	Multi-use open space
160	X				Incense Cedar	36	Multi-use open space
161	X				Incense Cedar	16	Multi-use open space
162	X				Incense Cedar	20	Multi-use open space
163	X				Holly Oak	?	Multi-use open space / Multi-stem tree
164	X				Incense Cedar	18	Multi-use open space
164A	X				Incense Cedar	24+11	Multi-use open space
164B	X				Incense Cedar	10	Multi-use open space
165	X				Incense Cedar	24	Multi-use open space
165A	X				Incense Cedar	23	Multi-use open space / Tri-dominate at 6 feet above grade
166	X				Incense Cedar	16	Multi-use open space
166A	X				Incense Cedar	6+8	Multi-use open space
167	X				Incense Cedar	20	Multi-use open space
167A	X				Incense Cedar	4@5-15	Multi-use open space
168	X				Monterey Pine	36	Build path on east side of channel/ Leans 35 deg.-toward lawn
169	X				Incense Cedar	8+11	Open Lake Merritt channel
170	X				Incense Cedar	16	Open Lake Merritt channel
171		X			Incense Cedar	7	Open Lake Merritt channel
172	X				Incense Cedar	12	Open Lake Merritt channel

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree No. Removal Allowed	Removal Request Withdrawn Prior to Application	Removal Requested	Species	Age (months)	Reason for Removal / Tree Condition Comments
173	x			Incense Cedar	10	Open Lake Merritt channel
174	x			Incense Cedar	14	Open Lake Merritt channel
175			x	Blackwood Acacia	8	Build path on east side of channel
176	x			Blackwood Acacia	8	Build path on east side of channel
177				Blackwood Acacia	48	Build path on east side of channel / It's a stump, not a tree
178			x			
179			x			
180				Monterey Pine	30	Failed during New Year's storm
181			x	Monterey Pine	30	
182			x	Monterey Pine	20	
183			x	Monterey Pine	9	
184			x			
185			x			
186			x			
187			x			
188			x	Monterey Pine	40	
189			x	Monterey Pine	18	
190			x	Monterey Pine	18	
191			x	Monterey Pine	24	
192			x			
193			x			
194			x			
195			x	Monterey Pine	20	
196			x			
197			x			
198			x			
199			x			
200	x			Incense Cedar	10	Create tidal marsh
201	x			Coast Redwood	18	Create tidal marsh
202	x			Incense Cedar	16	Create tidal marsh
203	x			Coast Redwood	14	Create tidal marsh
204	x			Coast Redwood	8 @ 3-9	Create tidal marsh
205	x			Coast Redwood	5 @ 3-14	Create tidal marsh
206	x			Blackwood Acacia	4 @ 3-8	Create tidal marsh
207	x			Coast Redwood	4+8	Create tidal marsh
208			x			

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree to be Removed	Removal Request	Removal or Preservation Application Required	Species	dbh (inches)	Reason for Removal / Tree Condition Comments
209		X				
210		X				
211	X			Ginko	8	Create tidal marsh
212		X				
213	X			Plum	9+6	Create tidal marsh
214	X			Malus spp.	14	Create tidal marsh
215	X			Yew	18	Create tidal marsh
216		X				
217		X				
218		X				
219		X				
220		X				
221		X				
222			X	Monterey Pine	18	
223		X				
224		X				
225		X				
226		X				
227		X				
228		X				
229		X				
230			X	Monterey Pine	24	
230A			X	Monterey Pine	>9	
230B			X	Monterey Pine	>9	
230C			X	Monterey Pine	>9	
231			X	Monterey Pine	18	Remove, leans 45 degrees over water
232		X		Monterey Pine	24	leans 15-20 degrees over water
233		X				
234		X				
235		X				
236		X				
237		X				
238		X				
239				Acacia	12	Unable to locate in the field
240		X				
241		X				

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree No. Proposed Removal Allowed	Removal Requested	Without Prior Preservation Application Required	Species	dbh (Inches)	Reason for Removal / Tree Condition Comments
242			X			
243			X			
244			X			
245			X			
246			X			
247			X			
248			X			
249			X			
250			X			
251	X			Coast Redwood	16	Create tidal marsh
252	X			Monterey Pine	30	Create tidal marsh
253	X			Coast Redwood	18	Create tidal marsh
254			X			
255			X			
256	X			Dragon Tree	14	Create tidal marsh
257	X			Canary Island Pine	15	Create tidal marsh
258			X			
259			X			
260			X			
261			X			
262			X			
263			X			
264			X			
265			X			
266			X			
267			X			
268			X			
269			X			
270			X			
271			X			
272			X			
273			X			
274			X			
275			X			
276			X			
277			X			

Tree Permit CT05-006
12th Street Project

City of Oakland
Tree Services

April 13, 2006

Tree #	Tree Not Protected (Removal Allowed)	Removal Request Withdrawn Prior to Application	Preservation Required	Species	dbh (inches)	Reason for Removal / Tree Condition Comments
278	x			Cherry	9	Parking lot redesign, Convention Center
279				Fern Pine	6	Deleted from plans, tree identified on Lakeshore project
280	x			Monterey Cypress	12	Lakeshore Avenue redesign
281		x		Blackwood Acacia	6	Build path on east side of channel
282	x			Monterey Pine	9	E. 12th Street reconfiguration
283	x			Canary Island Date Palm	48	Parking lot redesign, Convention Center
284	x			Cherry	10	Lakeshore Avenue redesign

139 trees - removal approved
41 trees - not protected, removal allowed
92 trees - removal request withdrawn prior to application
17 trees - preservation required
3 trees - unable to locate in the field
1 tree - it's a stump, not counted as a tree
1 tree - failed in New Year's weekend storm, already removed
1 tree - deleted from these plans, it's listed on the Lakeshore Project

CITY OF OAKLAND
OFFICE OF PARKS & RECREATION

TREE REMOVAL PERMIT APPEAL FORM

- 1. Date: April 21 2006
- 2. Appellant's Name: Frederike Dammeyer for the Merritt Lakes Assn.
- 3. Appellant's Address: 9 NW-CLEMMONS DR HOOD - OR
268 JAYNE AVE
City, State & Zip: OAKLAND CA 94610
Telephone #: (510) 834 7598
- 4. Tree Removal Permit Number: CT05006
- 5. Address of Tree Removal: LAKE MERRITT - 12th St Project
- 6. Basis for Appeal: Staff's failure to adhere to
Tree Removal processes as defined in OMC 12.36 &
Staff's failure to clearly communicate & document
tree ^{removal} appeal processes

See Attached Appendix

Signature: [Handwritten Signature] Date: 4-21-06

FOR OFFICE USE ONLY

Appeal Hearing Date: 5-10-06
Received By: GAY LUSTER
Appeal Fee Paid: 50.⁰⁰
Receipt #: _____

TREE REMOVAL APPEAL APPENDIX

CT05004 LAKESHORE AVE; APPROVED APRIL 13 2006

CT05005 Lakeshore & El Embarcadero APPROVED April 13 2006

CT5006 12th Street Reconstruction APPROVED April 13 2006

Text of Ordinance	Reasons for Appeal
<p>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:</p>	
<p>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;</p>	<p>1. Most of the trees proposed for removal</p> <ul style="list-style-type: none"> a. are not morbidly injured or ill b. do not pose an imminent hazard to life or limb that could not be mitigated by other methods acceptable by standard arboricultural, forestry or landscape design standards. To wit: Many trees could be spared by judicious, professional pruning or redesign of the plan; For example, the Muller & Caulfield engineering report on the Pergola indicated no imminent hazard from the trees c. do not encroach on existing structures d. do not encroach on sewers or utility lines.
<p>2. To avoid an unconstitutional regulatory taking of property;</p>	<p>N/A</p>
<p>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);</p>	<p>3. Removing existing mature trees will negatively impact the existing view at Lake Merritt. In fact, trees are PART of the view Proposed 'replacement' trees are</p> <ul style="list-style-type: none"> a. Very significantly smaller than the existing specimens, and <ul style="list-style-type: none"> a. will not provide the degree of shelter, canopy and aesthetic appeal. b. therefore of drastically lower economic value. As such, they cannot be considered replacement trees unless the replacement trees are planted in such volume as to equal the volume of trees being removed. b. Selected from climates incongruent with the landscape rigors of the California Coastal environment (summer-dry/winter wet), and as such will require watering inconsistent with the watering guidelines recommended for this area.
<p>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;</p>	<p>4. Accepted professional arboricultural practices are being ignored</p> <ul style="list-style-type: none"> c. Staff has not provided the appellants with ISA approved Tree Hazard Evaluation Forms, and as are required by the Oakland Protected Tree Ordinance 12/36 d. Staff has not provided the appellants with ISA Trunk Formula Method Evaluations¹ or Replacement Cost Method Evaluations¹ or any other ISA approved appraisal tools used assess the financial value of the trees being removed, as requested by the appellants and as are required by the Oakland Protected Tree Ordinance 12/36

¹ 9th Edition Guide for Plant Appraisal, 2000

TREE REMOVAL APPEAL APPENDIX

CT05004 LAKESHORE AVE; APPROVED APRIL 13 2006

CT05005 Lakeshore & El Embarcadero APPROVED April 13 2006

CT5006 12th Street Reconstruction APPROVED April 13 2006

Text of Ordinance	Reasons for Appeal
	<p>e. Although staff claims many of these trees to be hazardous, there is no evidence that staff have considered arboriculturally accepted alternative methods of tree hazard abatement. The approved alternatives that have not been considered are</p> <ul style="list-style-type: none"> a. Moving the target (i.e. redesign or reconfiguration of proposed paths & structures) or b. mitigating the (tree) hazard (i.e., pruning, altering destructive maintenance practices such as lawn mower or weed whip damage, reducing herbicide use, etc.)
<p>5. To implement the vegetation management prescriptions in the S-11 site development review zone.</p>	<p>N/A</p>
<p>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:</p>	
<p>1. Removal of a healthy tree of a protected species could be avoided by:</p>	
<p>a. Reasonable redesign of the site plan, prior to construction;</p>	<p>It is significantly cheaper to reroute a path, move a bench or relocate a flower bed by moving a few pixels on a computerized diagram than it is to remove a tree. It is also significantly cheaper to redraw the diagram than it is to remove even a few trees (see Item B4c below)</p>
<p>b. Trimming, thinning, tree surgery or other reasonable treatment.</p>	<p>City staff indicated that they have not considered using accepted, approved arboricultural principals of tree hazard mitigation as cited in A4b (above) including trimming, thinning, tree surgery or other reasonable treatment.</p> <p>Contemporary principals of Urban Forestry (that have been developed largely within a 100 mile radius of Oakland, that are advocated by Oakland's Tree Preservation Ordinance, and that emphasize preservation of mature tree canopies in urban areas²) have not considered.</p>
<p>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.</p>	<p>Staff has not adequately addressed the effects that removing the root structure of</p> <ul style="list-style-type: none"> a. over 200 trees b. with an @ average trunk diameter of 21" DBH will have on the <ul style="list-style-type: none"> a. surrounding soil stability b. nearby wetland ecology (the lake, creeks and the Oakland/Alameda Estuary c. the environment of the oldest wildlife preserve in the western hemisphere
<p>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.</p>	<p>Recent research in arboricultural nutrition determined that most woody plants (i.e. trees) depend on mycorrhizal mutuality: That mycorrhizal growths that fuse with tree roots and fuse between the roots of different trees—are critical to tree health. By</p>

TREE REMOVAL APPEAL APPENDIX

CT05004 LAKESHORE AVE; APPROVED APRIL 13 2006
 CT05005 Lakeshore & El Embarcadero APPROVED April 13 2006
 CT5006 12th Street Reconstruction APPROVED April 13 2006

Text of Ordinance	Reasons for Appeal
	<p>destroying one tree, it is possible to negatively impact the health of all surrounding trees.</p> <p>This dependency is also present in establishing the health of new trees: Removing mature trees from an area can prevent new trees from becoming well established. Put more simply, mature trees help nurture new trees. It is possible, if not likely, that new trees are compromised by the loss of larger protective specimens.</p>
<p>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.</p>	<p>a. Replacement costs of the trees slated for removal cannot be established because staff has not prepared evaluations of the economic value of the trees, using the criteria established by the International Society of Arboriculture (cf. Items A4 a, b & c above.)</p> <p>b. Staff has not provided estimates of the amount of time or costs associated with redesign or construction.</p> <p>c. Removal costs of Lake Merritt's trees can be conservatively estimated between \$600,000 and \$900,000 (based on 3 estimates given to an appellant for removal of a large mature tree, 18" DBH with prices ranging from \$2700 to \$400) In short, we're looking at approximately one million dollars to remove trees, instead of spending a few thousand dollars to redesign some paths on paper and electrons.</p>
<p>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)</p>	<p>N/A</p>

ADDITIONAL CONSIDERATIONS:

- 1) Staff has failed to address how the loss of mature tree canopy will affect arboreal & terrestrial wildlife in the park
- 2) Staff has failed to address the effects that loss of a mature tree canopy will have on the birds in the nature preserve and those which are using the Pacific Flyway.
- 3) Staff has made no estimation of the reduced photosynthetic processing and decreased air quality that will result from a decreased tree canopy.
- 4) Staff has instructed the appellants to obtain information regarding the permits and the trees from the Measure DD web site which is incomplete and inaccessible to citizens without specialized equipment, and inaccessible to citizens without computers.
 - a) Tree maps are microscopic: They cannot be read on standard computer monitors, and cannot be legibly printed on standard office paper using standard printers.
 - b) Basic information about the permit process and the appeal process were not posted on the Measure DD web site prior to the appeal deadline (e.g. permit numbers, permit images)
 - c) Permit numbers on the trees could not be cross referenced to the maps because permits had been removed from the trees by rain, wind or vandalism, and the permits were not replaced in accordance with the Oakland Tree Ordinance. (12.36.080)
- 5) Staff has been unable or unwilling to provide appropriate tree removal appeal forms and has not communicated the tree removal appeal in a clear, unambiguous and timely manner.

TREE REMOVAL APPEAL APPENDIX

CT05004 LAKESHORE AVE; APPROVED APRIL 13 2006

CT05005 Lakeshore & El Embarcadero APPROVED April 13 2006

CT5006 12th Street Reconstruction APPROVED April 13 2006

Respectfully submitted:



Friederike Droege Mueller

On behalf of

The Merritt Lakesiders ,

an active Oakland community group of residents living near or along Lakeside Avenue

And

No Clearcuts@yahoo.com,

an online group is comprised of community members who are working to stop the clear cutting of trees around Lake Merritt as proposed by the City of Oakland

ATTACHMENT E

January 27, 2006

Lyle Oehler
City of Oakland, Public Works Agency
250 Frank H. Ogawa Plaza, Suite 4314
Oakland, CA 94612

Subject: Wildlife Habitat Value of Trees Proposed for Removal at Lake Merritt

Dear Lyle:

LSA Associates, Inc. (LSA) presents this letter summarizing observations made by LSA wildlife biologist Matt Ricketts during a site visit with you to the three areas of the 12th Street Project at Lake Merritt on January 19, 2006. The main purpose of the site visit was to assess the existing wildlife habitat values of the trees proposed for removal. In particular, Mr. Ricketts attempted to determine whether any of the trees have served as nest sites or major roost sites for birds (based on the presence of old nests or a significant amount of whitewash on branches, around the trunk, or under the tree). In addition, Mr. Ricketts assessed whether the proposed tree removal would have any substantial long-term impacts on the local bird community.

OBSERVATIONS

None of the trees proposed for removal along Lakeshore Avenue contained signs of nesting or major roosting aggregations. Many of the trees are decrepit and provide little habitat value beyond serving as short-term perch sites for common birds. The tree with the most potential as nesting or roosting habitat is the large eucalyptus (Tree #109) towards the southern end of the project area. As this tree is not proposed for removal, it would continue to serve as potential habitat during and after the tree removal project. Few birds were seen using the trees along the lake shore during the January 19 site visit, although a few black-crowned night herons have previously been observed roosting in some of the trees in the northern portion of the project area (M. Ricketts, pers. obs.). Most bird activity was concentrated on the park lawns (e.g., ring-billed gulls foraging for worms) or in the lake (various egrets, grebes, and ducks).

The 12th Street Reconstruction portion of the project area has a few areas that are of marginal habitat value to birds. The magnolias in the parking lot north of the Kaiser Convention Center, due to their relatively dense foliage, provide potential nesting habitat for common urban songbirds, such as American robin and Brewer's blackbird. Indeed, two old, unidentified nests were found in a magnolia (Tree C4) at the southwestern corner of the Kaiser parking lot. Although this tree is not proposed for removal, birds may nest in any of the other magnolias in this area, which should be checked during the pre-removal survey (see below). Another area with some habitat value is the Lake Merritt Channel, where the patches of dense vegetation (especially along the western bank) provide potential foraging habitat for species such as California towhee and white-crowned sparrow. A small flock of

foraging white-crowned sparrows was seen, along with two California towhees and a lesser goldfinch, among some pyracantha and blackberry shrubs at the eastern end of the median between 12th and 11th Streets, in the vicinity of Trees 72 to 80 (Tree Removal Sheet TR-5). This area is nearly contiguous with the vegetation along the Channel.

At the Municipal Boathouse, a single black-crowned night heron was seen roosting in Tree #25, which is to be removed. In addition, Tree #19, immediately adjacent to the Boat House, has some whitewash (indicating bird use); and the adjacent trees (#18, 20, and 21) were full of berries, which represent a potential food source for various bird species. None of the other trees to be removed in this area appeared to be of substantial habitat value (and none contained nest structures or signs of long-term roosting).

DISCUSSION AND CONCLUSIONS

Urban bird populations, including those around Lake Merritt, have adapted well to the frequent presence of human pedestrian and vehicular traffic, and are opportunistic in their choice of foraging and roosting habitat. Urban birds are quite adept at moving through the urban landscape while foraging, and *except for nest sites and/or long-term colonial roost sites, are not "tied down" to individual trees.* None of the trees proposed for removal on the 12th Street Project provide unique habitat values beyond those that are present in the surrounding Lake Merritt landscape. Birds that occasionally use these trees would adapt to their absence by finding nearby trees and shrubs in which to forage and roost. For example, Tree #25 currently appears to support a single roosting black-crowned night heron. Although removing this tree might disturb this individual (if present at the time), the loss of the tree would not adversely affect either the individual heron or the local black-crowned night heron population. This species roosts in a wide variety of trees and large shrubs in the vicinity of the lake (M. Ricketts, pers. obs.). If Tree #25 is removed, the individual currently roosting there would very likely move to another tree in the same general area, perhaps even remaining on the Boat House grounds. It would continue to roost and forage by the lake, and possibly nest in the known colony (i.e., rookery) adjacent to the Rotary Nature Center.

In summary, LSA does not believe that any of the trees proposed for removal have unique or important wildlife habitat values, nor that the loss of these trees would have a substantial adverse effect on the local bird community. In addition, the planting of 521 new trees would offset any short-term, localized habitat loss by increasing the amount of tree habitat around Lake Merritt over the long term, resulting in a net benefit to the local bird community. The main wildlife objectives when removing trees should be to avoid: ~~(1) destruction of active native bird nests, and (2) removing~~ colonial roost sites or nesting colonies. Neither of these habitat features was found in any of the trees to be removed, although smaller nests within some of the more densely foliated trees may have gone undetected. Also, it should be noted that few bird species are nesting at this time of year, and birds could nest in these trees in the future.

During the January 19 site visit, you indicated that a biologist would be present during all tree removal activities to ensure that no active nests are destroyed. We also recommend that the biologist conduct a survey for bird nests *prior to* the scheduled tree removal (less than two weeks before removal), to give the biologist sufficient time to conduct a thorough nest survey. Follow-up monitoring should be conducted at any trees with suspected nests. If no nests are found during the pre-removal survey, a biologist would not have to be present during tree removal activities. These

precautions would help ensure that the tree removal activities do not violate the federal Migratory Bird Treaty Act.

Please call us at (510) 236-6810 if you have any questions or require further assistance with this project.

Sincerely,

LSA ASSOCIATES, INC.



Steve Granholm, Ph.D.
Principal



Matt Ricketts
Wildlife Biologist

OFFICE OF THE CITY CLERK

2005 JUN 15 PM 4:05

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 FRIEDERIKE DROEGEMUELLER, ON BEHALF OF THE MERRITT LAKESIDERS AND NO CLEARCUTS@YAHOOGROUPS.COM, AGAINST THE DECISION OF THE PUBLIC WORKS AGENCY APPROVING THE ISSUANCE OF THREE TREE REMOVAL PERMITS FOR THE LAKE MERRITT IMPROVEMENT PROJECTS

WHEREAS, on December 9, 2005, the City of Oakland, Public Works Agency (“Applicant”) submitted an application for Tree Removal Permits (TRP) CT05-004, CT05-005, CT05-006 to remove trees for the Lake Merritt improvement projects; and

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

WHEREAS, on April 13, 2006, the City of Oakland, Tree Services Division, approved the issuance of TRP CT05-004, CT05-005, and CT05-006 from said property; and

WHEREAS, the decision was justified on the basis that Section 12.36.050 (A) (1) of the Protected Trees Ordinance allows 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, the decision was also justified on the basis that Section 12.36.050 (A) (4) of the Protected Trees Ordinance allows the tree removals to pursue accepted, professional practices of forestry or landscape design; and

WHEREAS, on April 21, 2006, Friederike Droegemueller (“Appellant”), filed an appeal with the Parks and Recreation Commission (PRAC) against the PWA decision approving TRP CT05-004, CT05-005, and CT05-006; and

WHEREAS, the appeal came before the PRAC on May 10, 2006, 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 PRAC; and

WHEREAS, the public hearing on the appeal and application was closed by the PRAC on May 10, 2006, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP CT05-004, CT05-005, and CT05-006 was passed; and

WHEREAS, on May 17, 2006, the appellant filed an appeal with the City Council against the PRAC decision approving TRP CT05-004, CT05-005, and CT05-006; and

WHEREAS, the appeal came before the City Council on June 27, 2006, 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 June 27, 2006, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP CT05-004, CT05-005, and CT05-006 subject to certain conditions noted below was passed; now, therefore, be it

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

FURTHER RESOLVED: That the appeal filed by Friederike Droegemueller against the decision of the PRAC approving the removal of trees in TRP CT05-004, CT05-005 is hereby denied; and be it

FURTHER RESOLVED: That in accordance with the criteria established in Sections 12.36.050 (A) (1) and 12.36.050 (A) (4) of the Oakland Municipal Code, the removal of protected trees listed in Tree Removal Permits CT05-004, CT05-005, and CT05-006 are 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 permits (attached as Attachments A, B, and C 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 PRAC 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 Attachments A, B, and C 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 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: 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 15162 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