

OAKLAND CITY COUNCIL

RESOLUTION No. 79469 C.M.S.

05 SEP -7 PM 5:32

INTRODUCED BY COUNCILMEMBER _____

Margaret Fajtko

RESOLUTION DENYING THE APPEAL FILED BY CAROL WOLMAN-CLAPSADLE AGAINST THE DECISION OF THE PUBLIC WORKS AGENCY APPROVING THE ISSUANCE OF TREE REMOVAL PERMIT DR05-083 FOR 400 - 40TH STREET

WHEREAS, on June 10, 2005, Miles Hobbs of Branagh, Inc., ("Applicant") submitted an application for Tree Removal Permit (TRP) DR05-083 to remove ten trees from 400 - 40th Street in order to build twenty-eight residential units, three commercial spaces and parking; and

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

WHEREAS, on July 19, 2005, the Public Works Agency (PWA) approved the issuance of TRP DR05-083 for the removal of ten protected 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, on July 20, 2005, Carol Wolman-Clapsadle ("Appellant"), filed an appeal with the Office of the City Clerk against the PWA decision approving TP DR05-083; and

WHEREAS, the appeal came before the City Council on September 20, 2005, 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 September 20, 2005, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP DR05-083 subject to certain conditions noted below was passed; now, therefore, be it

RESOLVED: That the decision of the Public Works Agency is hereby affirmed; and be it

FURTHER RESOLVED: That the appeal filed by Carol Wolman-Clapsadle against the decision of the PWA approving the removal of trees in TRP DR05-083 is hereby denied; and be it

FURTHER RESOLVED: That in accordance with the criteria established in Sections 12.36.050 (A) (1) of the Oakland Municipal Code, the removal of ten trees in TRP DR05-083 is hereby approved by the Public Works Agency; and be it

FURTHER RESOLVED: That in accordance with Section 12.36.060 (A) and (B) of the Oakland Municipal Code, the conditions of approval in the tree permit (attached as Attachment A and hereby incorporated by reference as if fully set forth herein) shall be provided during the construction period; and be it

FURTHER RESOLVED: That the City Council, having heard, considered and weighed all the evidence presented on behalf of all parties and being fully informed of the application, finds, for all the reasons stated in this resolution that the appeal should be denied. Therefore, the decision of the Director, PWA, approving tree removals is affirmed, the appeal is denied, and the application for tree removals is approved subject to the conditions of approval (attached as Attachment A and hereby incorporated by reference as if fully set forth herein); and be it

FURTHER RESOLVED: That the record relating to this application and appeal includes, without limitation the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the applicant and his representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, and all notices in relation to the application and attendant hearings;
4. all oral and written evidence received by the City staff, and City Council before and during the public hearings on the application and appeals;
5. all matters of common knowledge and all official enactment's and acts of the City, such as (a) Oakland Municipal Code, (b) other applicable City policies and regulations; and (c) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That the City Council hereby adopts the CEQA findings of the City's Environmental Review Officer and finds that the Project is exempt from CEQA under CEQA Guidelines Section 15311 and directs that the Review Officer prepare a Notice of Exemption for filing at the County Recorder; and be it

FURTHER RESOLVED: That the 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.

SEP 20 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE -8

NOES- ϕ
ABSENT- ϕ
ABSTENTION- ϕ

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California