

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

RESOLUTION No. 78799 = 2004 SEP 16 AM 10:03
C.M.S.

INTRODUCED BY COUNCILMEMBER _____ *M. Fujita*

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

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

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

WHEREAS, on April 15, 2004, the Office of Parks and Recreation (OPR) approved the issuance of TRP DR04-021 for the removal of three (3) trees from said property; and

WHEREAS, the decision was justified on the basis that Section 12.36.050 (A) (1) of the Protected Trees Ordinance justifies approval of the tree removals based on the tree's proximity to a proposed structure; and

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

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

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

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

WHEREAS, the appeal came before the City Council on September 21, 2004, and the appellants, and interested neutral parties were given ample opportunity to participate in the public hearing and were given a fair opportunity to submit relevant evidence to the City Council; and

WHEREAS, the public hearing on the appeal and application was closed by the City Council on September 21, 2004, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP DR04-021 subject to certain conditions noted below was passed; now, therefore, be it

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

FURTHER RESOLVED: That the appeal filed by Guy Moore and Shirley Leonard-Moore against the decision approving the removal of trees in TRP DR04-021 is hereby denied; and be it

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

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

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

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

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

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

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 21 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, ~~QUAN~~, REID, WAN AND
PRESIDENT DE LA FUENTE -7

NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused - Quan - 1

ATTEST: *Cecilia Simmons for*
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California