

OFFICE OF THE CITY CLERK  
MERRITT LAKESIDES

2006 JUN 15 PM 4:05

Approved as to Form and Legality:

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION No. 80000 C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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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,

**JUN 27 2006**

**PASSED BY THE FOLLOWING VOTE:**

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



LATONDA SIMMONS

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