



City of Oakland

Office of the City Clerk
Oakland City Hall,
1 Frank H. Ogawa Plaza,
Room 201
Oakland, California 94612

Legislation Details (With Text)

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File created: 3/11/2002 **In control:** Meeting of the Oakland City Council

On agenda: 7/23/2002 **Final action:** 7/15/2003

Title: Subject: Removal of five trees at 6036 Contra Costa Road - Public Hearing
From: Office of Parks and Recreation
Recommendation: Conduct a Public Hearing and upon conclusion Adopt a Resolution denying the appeal filed by William and Jill Meyer and Michael and Kathy Bracco against the decision of the Director of the Office of Parks and Recreation approving the issuance of tree removal permit DR01-154 (6036 Contra Costa Road)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 77953 CMS.pdf

Date	Ver.	Action By	Action	Result
7/15/2003	2	Meeting of the Oakland City Council	Adopted as Amended	Pass
6/26/2003	2	*Rules & Legislation Committee	Scheduled	
7/30/2002	1	Meeting of the Oakland City Council		
7/23/2002	1	Meeting of the Oakland City Council		
5/28/2002	1	Meeting of the Oakland City Council		
4/30/2002	1	Meeting of the Oakland City Council		
3/26/2002	1	Meeting of the Oakland City Council		

Subject: Tree Removal of five trees at 6036 Contra Costa Road
From: Office of Parks and Recreation
Recommendation: Conduct a Public Hearing and upon conclusion Adopt a Resolution upholding the decision of the Office of Parks and Recreation approving a permit to remove five trees at 6036 Contra Costa Road
CITY OF OAKLAND @"17:)
OFFICE C 7 'HE CITY CLERK
AGENDA PIEPORT C !@ L ". :I ,

TO: Office of the City Manager 2003 JUL -2 PM 4: 57

ATTN: Robert C. Bobb
FROM: Life Enrichment Agency

DATE: July 15, 2003

RE: SUPPLEMENTAL REPORT AND RECOMMENDATION ON THE APPEAL FILED BY WILLIAM AND JILL MEYER AND MICHAEL AND KATHY BRACCO AGAINST THE DECISION OF THE OFFICE OF PARKS AND RECREATION APPROVING A PERMIT

TO REMOVE FIVE TREES AT 6036 CONTRA COSTA ROAD.

This report provides information and a recommendation regarding a Tree Removal Permit involving the proposed removal of five trees from a vacant lot at 6036 Contra Costa Road. This appeal was originally heard by the City Council on March 26, 2002. On that day, the property owners and all interested parties reached an agreement on all of the issues related to the construction of this property with the exception of the location of the storm drain. It was decided that the final decision on this appeal would be held in abeyance until the storm drain location was decided upon.

The only viable option for the location of the storm drain is along the left side of the property adjacent to vacant East Bay Regional Park District land. The City requires that public storm drain easements have a minimum clearance of ten feet for future maintenance access. The Park District has agreed to allow an easement abutting their property for the storm drain. The storm drain design has been approved and the City will assume responsibility for the maintenance of the storm drain system. The Tree Removal Permit's conditions of approval will be changed to allow for the construction of the storm drain and to include other items agreed to on March 26, 2002.

Staff recommends that the City Council approve the resolution denying the appeal of tree permit application DROI-154 and allowing the issuance of a tree removal permit on vacant property at 6036 Contra Costa Road.
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Prepared by:
Daniel Gallagher, Tree Supervisor 11

APPROVED AND FORWARDED TO THE
CITY COUNCIL:

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(OFFICE OF THE CITY MANAGER Item:
City Council

July 15, 2003

Concurrent Meeting of the Meeting Minutes March 26, 2002

Oakland Redevelopment

Agency/City Council

7 Subject: Removal of five trees at 6036 Contra Costa Road - Public Hearing

From: Office of Parks and Recreation

Recommendation: Conduct a Public Hearing and upon conclusion Adopt a Resolution upholding the decision of the Office of Parks and Recreation approving a permit to remove five trees at 6036 Contra Costa Road (002292ph)

Public Hearing

Upon the reading of Item 7 by the City Clerk the Public Hearing was opened at 17.- 4 7 P. in.

Agency\Councilmember Brunner made a motion seconded by Agency\Councilmember Nadel to continue the Public Hearing to the April 30, 2002 City Council meeting with the following agreement by the parties for additional conditions of approval to be included in the tree permit:

1. Protective fence around Tree "A" will be kept at a minimum of 12 feet from tree,
2. Heavy machinery will be kept 15 feet away from Tree "A"
3. The driveway will be 12 feet at street entrance, and remain at 12 feet per site plan I-B, and expanding to 16 feet at garage, but with the fill section utilizing a structural soil mix of aggregate and topsoil to allow infiltration of water and gaseous exchanges as suggested by Dan Gallagher,
4. The architects agree to put skylights on the roof instead of a light well, and the skylight will be no higher than 6 inches above the rooftop and no wider than 10% of the aggregate horizontal building area,
5. This hearing will be continued to the April 30, 2002. City Council meeting to allow the City and the undersigned parties to come to an agreement on the relocation of the storm drain; however, issues 1-4 will stand and will not be revisited when the decision is made, and
6. The effective date of approval for this project under Design Review is the date by which the tree permit is approved

and hearing no objections, all members present were recorded as voting.-Ayes.- Agency\Councilmember.- Brunner, Mayne, Nadel, Reid, Spees, and President of the Council De La Fuente -6; Excused Chang and Wan -2

Cit) of Oakland Printed on 7/12/03

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CITY OF OAKLAND
AGENDA REPORT

TO: Office of the City Manager
ATTN: Robert C. Bobb
FROM: Life Enrichment Agency
DATE: March 26, 2002

R.E: REPORT AND RECONLMENDATION ON THE APPEAL FILED BY WILLIAM AND JILL MEYER AND MICHAEL AND KATHY BRACCO AGAINST THE DECISION OF THE OFFICE OF PARKS AND RECREATION APPROVING A PERMIT TO REMOVE FIVE TREES AT 6036 CONTRA COSTA ROAD.

SUMMARY

This report provides background information and a recommendation regarding a Tree Removal Permit involving the proposed removal of five trees from a vacant lot at 6036 Contra Costa Road. In order to preserve the appellants' right to appeal the staff decision approving the permit application, staff requests the concurrence of the City Council in waiving the 8-day appeal deadline contained in the Protected Tree Ordinance (PTO).

Staff approved the Tree Removal Permit on the basis that the trees proposed for removal are growing within or in close proximity to the foundation footprint of the home to be built. Secondly, adequate provisions have been required for the protection of the three trees not proposed for removal. Fencing requirements, branch and root pruning restrictions and the soil excavation limits will reduce the impact of the construction activity on the three remaining trees.

The cost of additional design and construction expenses would exceed the value of the trees that would be preserved. Staff has prepared a resolution that will enable the City Council to implement a decision that denies Mr. and Mrs. Meyer's and Mr. and Mrs. Bracco's appeal, thereby allowing the issuance of the permit.

FISCAL IMPACTS

There is no fiscal impact to the City's budget if the appeal is denied or upheld.

BACKGROUND

The Office of Parks and Recreation (OPR) approved a permit to remove four *Quercus agrifolia* (Coast Live Oak) trees and one *Salix laevigata* (Red Willow) on private property at 6036 Contra Costa Road. The applicants, Guita Boostani, Steven Glaudcmans Architects, have applied to remove the trees in order to build a new single-family home. The trees are growing within or in close proximity to the footprint of the proposed structure.

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Robert C. Bobb
March 26, 2002 Page No. 2

On February 11, 2002, William Meyer representing his family and the family of Michael and Kathleen Bracco, filed an appeal because they felt that "1) Fencing Requirements will not adequately protect "Tree A." 2) Fencing Requirements prohibit access for tractors and building storage. 3) Proposed soil excavation for driveway compromise health of "Tree A." Prior to the appeal being filed, both appellants and another neighbor submitted letters, and a petition signed by 45 residents of Contra Costa Road, that outlined their opposition to the construction of this lot. Their concerns were considered; the applicants made reasonable design changes and conditions which stipulated specific protection measures for the trees were attached to the permit.

On January, 25, 2002, the applicants, in response to staff concerns, reduced the size of the living room by two feet and shifted the placement of the room above the garage five feet. These design changes will eliminate 30 square feet of floor space from the building and will minimize the amount of pruning of tree 'A' that would be necessary to construct the house.

KEY ISSUES AND IMPACTS

The (PTO), Section 12.36.050 (A)(2) of the Oakland Municipal Code, allows the removal of trees in order to avoid an unconstitutional regulatory taking of property. However, preservation of trees is required if removal could be avoided by reasonable redesign of the site plan. OPR feels it is unreasonable to further redesign the home or to require additional conditions for the protection of the trees not proposed for removal for the following reasons:

The lot size is 60 feet wide by 100 feet long. The property slopes upward from the street, where a berm exists, levels briefly, and then drops off in a downhill fashion toward the rear. The front of the proposed house has been sited far enough back from tree 'A' that root and branch pruning will be minimal and should not negatively impact the health and safety of the tree.

The driveway, located on the right side of tree 'A', is narrower than the standard 16-foot width and has been designed to minimize soil cut and fill while also allowing for water infiltration and gas exchange to continue after construction. The driveway will be constructed at a 10% grade, the maximum allowable. The driveway's foundation depth is to be the minimal allowable to meet the City's code regulations, The driveway will be constructed of permeable material that will allow for water penetration and gas exchange. This will allow for the roots to continue to grow under the driveway.

The issue is whether staff has applied the PTO guidelines in approving Guita Boostani and Stephen Glaudemans' tree removal application. Staff believes the PTO was properly applied and recommends that the City Council approve the resolution denying the appeal. This resolution allows the removal of five trees and requires the preservation and protection of three other Oak trees.

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Robert C. Bobb
March 26, 2002 Page No. 3

SUSTAINABLE OPPORTUNITIES

The construction of this home meets the Mayor and City Council's Priority Objective to improve the housing opportunities of the city's neighborhoods. Property tax revenues paid to the county will increase as a result of a home being built on this vacant lot.

The PTO states that replacement plantings shall be required for the removal of native species in order to prevent excessive loss of shade, erosion control, groundwater replenishment, and visual screening and wildlife habitat. If this permit were approved, a conditional approval would require the applicant to plant four 24-inch box size Coast Live Oak trees within the property boundaries. If site constraints prevent the replacement trees from being planted, an in lieu fee of \$300.00 per tree shall be paid with the revenue applied toward tree planting in city parks, streets and medians.

KEY ISSUES AND IMPACTS

Section 12.36.050 of the PTO lists the criteria used to determine if a tree should be removed or preserved (see Attachment A). This criteria review is a two step process:

- First, the tree removals must be necessary in order to accomplish at least one of five possible objectives. In this case, the trees are within the footprint or in close proximity to a proposed structure and requiring their preservation would be considered an unconstitutional regulatory taking of property. The property owners would be restricted from a reasonable use of their land.
- Second, regardless of the first determination, the tree removal permit application may be denied if any one of four possible criteria applies. In this case, it is not reasonable to require the property owners to further redesign the home to preserve any additional trees or to increase the protected perimeter around the trees to be preserved.

The key issue is whether the fencing requirements, branch and root pruning restrictions and the soil excavation limits are adequate for the protection of Tree "A". Staff considers the provisions outlined in the Additional Conditions of Approval to be sufficient for this purpose.

RECOMMENDATION AND RATIONALE

Staff recommends that the City Council waive the 18-day appeal deadline mandated by the PTO. This deadline has lapsed due to no fault of the appellant. Staff feels that it is important for the appellants to have the opportunity to present their case before the City Council.

Staff recommends that the City Council approve the resolution denying the appeal of tree permit application DROI-154 and allowing the issuance of a tree removal permit for four *Quercus agrifolia* (Coast Live Oak) trees and one *Salix laevigata* (Red Willow) tree on private property at 6036 Contra Costa Road.

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Robert C. Bobb
March 26, 2002 Page No. 4

ALTERNATIVE RECOMMENDATION

The City Council can reverse staff's decision and require the preservation of trees, require changes or impose additional conditions of approval that, in its judgment, are necessary to ensure the tree permit decision conforms to the PTO removal criteria in section 12.36.050. This type of action would be taken if the City Council found that staff made an error, abused their discretion when they approved the removal of the five trees or where the evidence in the record does not support such decision.

This alternative would require the property owners to further redesign the single family home. The redesigned home would still require the removal of some of the protected trees to allow construction. A redesigned home may also increase the impact on the other two trees, '13 and C', that are to be preserved. Any additional conditions of approval to increase the protected perimeter of tree 'A' would not significantly alter the impact of the construction activity and could be considered unreasonable if the owner is not permitted to provide adequate off street parking.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution denying the appeal of tree removal permit DROI - 154 and issuing the tree removal permit for the removal of five trees on private property at 6036 Contra Costa Road. Conditions of approval for the tree removal permit require a protected perimeter be established by fencing to limit construction activities under the trees to be preserved. Soil excavation, branch and root pruning will be restricted outside the protected perimeter and replacement trees or an off-site planting fee will be paid for every native tree removed.

Respectfully submitted,

DR. AEOR6E d. MUSGRO@rE
Assistant City Manager
for the Life Enrichment Agency

Prepared by:
Dr. Harry Edwards, Director
Office of Parks and Recreation

APPROVED AND FORWARDED TO THE
CITY COUNCIL:

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OFFICE OF THE CITY MANAGER

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OAKLAND CITY COUNCIL

2003 JUL - 2 PM 5: 18

RESOLUTION No. C. M. S.

INTRODUCED BY COUNCILMEMBER

RESOLUTION DENYING THE APPEAL FILED BY WILLIAM AND JILL MEYER AND MICHAEL AND KATHY BRACCO AGAINST THE DECISION OF THE DIRECTOR OF THE OFFICE OF PARKS AND RECREATION APPROVING THE ISSUANCE OF TREE REMOVAL PERMIT DRO I-154 (6036 CONTRA COSTA ROAD)

WHEREAS, on December-24,2001, Guita Boostani, Steven Glaudemans Architects("Applicants") submitted an application for Tree Removal Permit (TRP) DRO I - 1 54 to remove five (5) protected trees from the property located at 6036 Contra Costa Road; and

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

WHEREAS, on January 4, 2002, the Office of Parks and Recreation (OPR) approved the issuance of TRP DRO I - 1 54 for the removal of five (5) trees from said property; and

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

WHEREAS, on February 10, 2001, William and Jill Meyer and Michael and Kathy Bracco ("Appellants") filed an appeal with the Office of the City Clerk against the OPR decision approving TRP DR01-154; and

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

WHEREAS, the appeal came before the City Council on March 26, 2002, and the applicants and appellants jointly agreed to hold the final decision on this appeal pending the decision of the storm drain location; and

WHEREAS, the adjoining property owner, East Bay Regional Park District, has granted an access easement to the City of Oakland for the purpose of maintaining storm drain facilities on the applicant's

property; and

WHEREAS, the storm drain design has been approved by the Community and Economic Development Agency to adequately handle the storm drain flow in accordance with City design requirements; and 115

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WHEREAS, the appeal came before the City Council on July 15, 2003, 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 July 15, 2003, after a public hearing of said appeal was conducted, and a motion to deny the appeal and to approve issuance of TRP DROI-I 54 subject to certain conditions noted below was passed; now, therefore, be it

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

FURTHER RESOLVED: That the appeal filed by William and Jill Meyer and Michael and Kathy Bracco against the decision of the OPR approving the removal of trees in TRP DR01 -1 54 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 four *Quercus agrifoli* (Coast Live Oaks) and one *Salix laevigata* (Red Willow) in TRP DR01-1 54 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, OPR, 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:

I . The application, including all accompanying maps and papers;

I All plans submitted by the applicant and his representatives;

I 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 1531.1 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,

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND

PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

CEDA FLOYD

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

Attachment A

OFFICE OF PARKS AND RECREATION

Additional Conditions of Approval

Tree Permit DROI-154

6036 Contra Costa Road: APN 048A-7101-003-13

1. Fencing Requirement

The fencing must be inspected by an OPR Arboricultural Inspector prior to construction, grading or any other work on the site. Telephone the Tree Section at (510) 615-5850 to schedule a field check of this requirement.

- Two separate tree protection fences must be installed as noted on the attached Tree Removal and Fencing Plan. Cyclone fences shall be installed to protect: Tree 'A', to be kept at a minimum of 12 feet from tree. Tree 'C', three feet from the trunk in a half circle along the edge of the drainage cut. The chain-link fences shall be a minimum of five feet tall. The fence posts shall be metal pipes, 1-7/8" diameter minimum for line posts, 2-3/8" diameter for corner posts, eight feet tall, driven two feet into the ground.
- Tractor work, storage of material, depositing soil, removing soil, cutting roots, parking of equipment or any other work activities are prohibited within the fenced area for the duration of the project.
- The fencing shall remain until all construction activities are completed. Fence removal must be pre-approved by the Tree Section.
- Failure to comply with this requirement will result in fines and/or replacement trees for working illegally around protected trees.

2. Additional Requirements

Pruning of tree 'A' shall be limited to the minimum amount that will allow construction to occur. The pruning must be done by a Certified Arborist and follow the International Society of Arboriculture's Tree Pruning Guidelines.

Heavy machinery will be kept 15 feet away from tree W.

The driveway will be 12 feet at the street entrance, and remain at 12 feet per site plan I -13, and expanding to 16 at garage with fill section utilizing a structural soil mix of aggregate and topsoil.

- The soil excavation for driveway construction shall be limited to the excavation necessary for the minimum cut that permits installation of the driveway with a 10% grade from the street to the garage. Interlocking pavers or an equivalent material shall be installed as the driveway so that water infiltration and gas exchange can occur in the soil for the root system's benefit.
- Tree roots within the construction area must be cut cleanly with hand tools. Roots may not be severed by bulldozer blade, backhoe, or other motorized equipment that will fracture and damage tree roots. All exposed roots shall be cut clean and the root ends are not to be left exposed to the air.
- The dry stone retaining wall construction shall be limited to the excavation necessary for the minimum wall foundation and step up from the street level to the existing grade. No other grade changes shall occur under the canopy of tree 'A' within the entire root protection perimeter.
- A four to six inch layer of mulch shall be applied to the soil surface under the canopy of tree 'A' in order to mitigate the effects of any root loss. The mulch material shall be shredded bark, woodchips or an equivalent. The mulch shall be kept at least one foot away from the tree trunk.

- No other trenching or excavation will be permitted within the protected perimeter of tree "A". This includes installation of any drainage, utility or irrigation lines.
- All landscape plants within the drip-line area of tree 'A' shall be listed in the California Oak Foundation's guide, "Compatible Plants Under and Around Oaks". No plants or irrigation shall be installed within 10' of the trunk.
- There shall be no change in grade under the canopy of any protected size tree on the property. Excavated soil must be hauled offsite, or placed in an open space area on the property outside the drip-line of protected trees.

3. Tree Planting Requirement

The applicant shall plant (4) 24" box size or (12) 15-gallon size replacement tree(s) within the property boundaries.

I. The tree species shall be your choice of:

F1 Sequoi sempervirens (Coast Redwood)

11 Quercus agrifoli (Coast Live Oak)

F1 Arbutus menziesi (Madrone)

[J Aesculus californica (California Buckeye)

E1 Umbellularia californica (California Bay Laurel)

2. If the Tree Reviewer determines that the replacement trees cannot be planted due to site constraints, an off-site planting fee shall be paid to the City of Oakland. This fee shall be \$300 per tree for each 24 inch box size tree required.

3. If you choose to plant the 24 inch box size, the tree(s) shall be:

- Eight to nine feet tall
- One and a half inch caliper
- Crown spread of three to four feet

4. Tree Section staff must approve the tree(s) quality before planting, and inspect again after planting to insure correct installation. The property owner and the department must mutually agree upon the location of the tree(s). The tree(s) must remain on the property as a permanent part of the landscape.

5. The trees must be watered appropriately to establish them in the landscape by watering once a week with ten to fifteen gallons of water, for three years. An irrigation system with a timer must be installed to water the trees. During the rainy season it may be possible to water less depending how much precipitation is received each week. Any tree not alive and healthy one year after the final inspection shall be replaced.

6. The trees must be planted or an off-site planting fee paid prior to the final inspection and certificate of occupancy, or the Department will consider the tree(s) that were removed as illegal tree work. The penalty for illegal tree work is a fee; not to exceed the value of the tree(s) illegally removed as evaluated by the formula developed by the International Society of Arboriculture. The fee could be attached as a lien against the property if the fee is not paid.

4. Building Requirement (agreed to 3/26/02 as item from permit appeal discussions)

0 The architects agree to put skylights on the roof instead of a light well, and the skylight will be no higher than 6 inches above the rooftop and no wider than 10% of the aggregate horizontal building area.

Attn: Councilmember Jane Brunner / Justin Homer 2 July 2003
Councilmember
City Hall, I Frank H. Ogawa Plaza, Oakland, Ca.

Re: Agenda Item: Tree Permit Appeal DRO I- 1 54:
Final Issue: Storm Drain Relocation (Eng. Case File PX0200030)

Dear Council member,

This agenda item involves a tree permit where the Oak tree in question is not only being saved but is being incorporated and revered as a central feature in the project. The Oak tree was the reason for our lot purchase and we carefully designed our home around it. We have employed arborists, consulted design professionals, have accepted protective measures specified by city staff and city council, and have provided additional mitigating measures to further protect the tree during construction. (see conditions of approval)

The storm drain relocation is the only remaining issue from the tree permit appeal now before the council. The tree appeal was originally filed in March of last year, and on March 26, 2002, the parties to the appeal negotiated specific terms for resolving the outstanding issues (see 3/26/02 council resolution / additional conditions of approval). The only issue remaining under this agreement concerns the relocation of the storm drain to the northwest side of the property adjacent to East Bay Regional Park District property. After extensive coordination efforts over the past 16 months between Councilmember Brunner and Chief of Staff Justin Homer, the appellants / neighbors, EBPPD, and the City Engineering and Public Works Division, we have received easements and approvals from all parties to relocate the existing storm drain. (see city approval letters and approved easements). These easements and approvals also specifically reference acceptance of the storm drain for City maintenance.

One of the appellants, Mr. Meyer, has previously expressed his support for placing the storm drain at the proposed location as currently approved by EBRPD, and the City Engineering and Public Works Division. (see neighbor letter). Although we have worked in good faith to resolve this issue to the satisfaction of all parties, Mr. Meyer has been unresponsive to requests that he withdraw his appeal. Most recently, Mr. Meyer has indicated to Councilmember Brunner's staff, that he feels very close to concluding the appeal and that his 'only remaining concern' is "how the site will be handled during construction." This concern is covered explicitly in the conditions of approval, the council resolution, and the additional conditions of approval as already determined.

Based on the current consensus and approvals, we ask Council to deny the Appeal and finalize the 3/26/02 Council Resolution by adding the following two items:

Item 6 - The existing storm drain shall be rerouted per permit application PX0200030 as shown on the attached approved site plan

Item 7 - The storm drain system is adequate to handle the flow per city design requirements, and shall be maintained by the City as noted in the City of Oakland Maintenance letter. (04-10-03)

We appreciate the efforts of all parties involved and trust that the Appeal will be resolved promptly so that we can begin the relocation process for the storm drain and the construction of our home.

Sincerely, Stephen Glaudemans and Guita. Boostani
1 10 Linden Street Oakland, Ca. 94607 510-520-1988

Attachments Approved Site Plan

For all other referenced info, see Councilmember Brunner's Chief of Staff, Justin Homer

C: Jeff Koppelmaa, Esq w=cilup&te070203

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