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April 19, 2010

Hearing Officer and Donald Kress
County of Los Angeles
320 W. Temple Street
Los Angeles, CA 90012

Re: 2748 Frances Ave.
Oak Tree Permit #2009-00003
Hearing: April 20, 2010 Agenda Item 5

To whom it may concern;

After reviewing the contents of the application and documents provided in support of the above-application, the following are still concerns and objections to the proposed oak tree permit.

As part of the application process the following information is required pursuant to 22.56.2090 Application--Information and documents required:

An application for an oak tree permit shall include the following information and documents:

- A. The name and address of the applicant and of all persons owning any or all of the property proposed to be used;
- B. Evidence that the applicant:
 1. Is the owner of the premises involved, or
 2. Has written permission of the owner or owners to make such application;
- C. Location of subject property (address or vicinity);
- D. Legal description of the property involved;
- E.1. A site plan drawn to a scale satisfactory to, and in the number of copies prescribed by the director, indicating the location and dimension of all of the following existing and proposed features on the subject property:
 - a. Lot lines,
 - b. Streets, highways, access and other major public or private easements,
 - c. Buildings and/or structures, delineating roof and other projections,
 - d. Yards,
 - e. Walls and fences,
 - f. Parking and other paved areas,
 - g. Proposed areas to be landscaped and/or irrigated,
 - h. Proposed construction, excavation, grading and/or landfill. Where a change in grade is proposed, the change in grade within the protected zone of each plotted tree shall be specified,
 - i. The location of all oak trees subject to this Part 16 proposed to be removed and/or relocated, or within 200 feet of proposed construction, grading, landfill or other activity. Each tree shall be assigned an identification number on the plan, and a corresponding permanent identifying tag shall be affixed to the north side of each tree in the manner prescribed by Section 22.56.2180. These identifications shall be utilized in the oak tree report and for physical identification on the property where required. The protected zone shall be shown for each plotted tree,
 - j. Location and size of all proposed replacement trees,
 - k. Proposed and existing land uses,
 - l. Location of all surface drainage systems,
 - m. Other development features which the director deems necessary to process the application,

2. Where a concurrent application for a permit, variance, zone change, tentative map for a subdivision, including a minor land division or other approval, is filed providing the information required by this subsection E, the director may waive such site plan where he deems it unnecessary to process the application;

F.1. An oak tree report, prepared by an individual with expertise acceptable to the director and county forester and fire warden, and certified to be true and correct, which is acceptable to the director and county forester and fire warden, of each tree shown on the site plan required by subsection E of this section, which shall contain the following information:

a. The name, address and telephone number during business hours of the preparer,

b. Evaluation of the physical structure of each tree as follows:

i. The circumference and diameter of the trunk, measured four and one-half feet above natural grade,

ii. The diameter of the tree's canopy, plus five feet, establishing the protected zone,

iii. Aesthetic assessment of the tree, considering factors such as but not limited to symmetry, broken branches, unbalanced crown, excessive horizontal branching,

iv. Recommendations to remedy structural problems where required,

c. Evaluation of the health of each tree as follows:

i. Evidence of disease, such as slime flux, heart rot, crown rot, armillaria root fungus, exfoliation, leaf scorch and exudations,

ii. Identification of insect pests, such as galls, twig girdler, borers, termites, pit scale and plant parasites,

iii. Evaluation of vigor, such as new tip growth, leaf color, abnormal bark, deadwood and thinning of crown,

iv. Health rating based on the archetype tree of the same species,

v. Recommendations to improve tree health, such as insect or disease control, pruning and fertilization,

d. Evaluation of the applicant's proposal as it impacts each tree shown on the site plan, including suggested mitigating and/ or future maintenance measures where required and the anticipated effectiveness thereof,

e. Identification of those trees shown on the site plan which may be classified as heritage oak trees.

Heritage oak trees are either of the following: any oak tree measuring 36 inches or more in diameter, measured four and one-half feet above the natural grade; any oak tree having significant historical or cultural importance to the community, notwithstanding that the tree diameter is less than 36 inches,

f. Identification of any oak tree officially identified by a county resource conservation district.

2. The requirement for an oak tree report may be waived by the director where a single tree is proposed for removal in conjunction with the use of a single-family residence listed as a permitted use in the zone, and/or such information is deemed unnecessary for processing the applications;

G. The applicant shall provide an oak tree information manual prepared by and available from the forester and fire warden to the purchasers and any homeowners' association. (Ord. 88-0157 § 4, 1988; Ord. 82-0168 § 2 (part), 1982.)

The proposal as presented has insufficient information to determine the conditions of the proposed project and to meet the burden of proof for approval of the oak tree permit. The application and contents therein fail to provide a plot plan which includes landscaping, excavation, irrigation, yards, fences walls and other paved areas and other items as required by subsection E.

Additionally the revised arborist report dated January 15, 2010 at page 5 indicates that tree 2, 3, and 4 will be affected by the proposed project; however, the applicant only identifies encroachment of two trees. The tree survey provided in the arborist report have the same dimensions and size of the tree survey submitted over approximately more than three years ago by the previous property owner.

In response to the burden of proof requirements the applicant submits one page stating:

"The encroachment is necessary because almost the whole frontage of the lot is under oak tree drip lines, so in order to gain access to the lot the driveway must be placed under the drip lines."

The pertinent sections states:

22.56.2100 Application--Burden of proof.

A. In addition to the information required in the application by Section 22.56.2090, the application shall substantiate to the satisfaction of the director the following facts:

1. That the proposed construction of proposed use will be accomplished without endangering the health of the remaining trees subject to this Part 16, if any, on the subject property; and
2. That the removal or relocation of the oak tree(s) proposed will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated; and
3. That in addition to the above facts, at least one of the following findings apply:
 - a. That the removal or relocation of the oak tree(s) proposed is necessary as continued existence at present location(s) frustrates the planned improvement or proposed use of the subject property to such an extent that:
 - i. Alternative development plans cannot achieve the same permitted density or that the cost of such alternative would be prohibitive, or
 - ii. Placement of such tree(s) precludes the reasonable and efficient use of such property for a use otherwise authorized, or
 - b. That the oak tree(s) proposed for removal or relocation interferes with utility services or streets and highways, either within or outside of the subject property, and no reasonable alternative to such interference exists other than removal of the tree(s), or
 - c. That the condition of the oak tree(s) proposed for removal with reference to seriously debilitating disease or danger or falling is such that it cannot be remedied through reasonable preservation procedures and practices;
4. That the removal of the oak tree(s) proposed will not be contrary to or be in substantial conflict with the intent and purpose of the oak tree permit procedure;

B. For purposes of interpreting this section, it shall be specified that while relocation is not prohibited by this Part 16, it is a voluntary alternative offering sufficient potential danger to the health of a tree as to require the same findings as removal. (Ord. 88-0157 § 5, 1988; Ord. 82-0168 § 2 (part), 1982.)

The applicant must establish no possible alternative development without the necessary encroachment. However, the applicant has failed to do so. The property has an existing driveway. The applicant proposes to move the existing driveway and relocate the driveway between the encroaching trees. The applicant has failed to meet his burden to establish that there are no alternative development plans that can be achieved, especially since a non-encroaching and/or minimal encroaching driveway already exists. Not only is there a failure to present a sufficiently detailed plot plan for the proposed project, but there is no presentation of alternative studies for development of the property without affecting any oak tree or encroaching in the drip line. In fact, the applicant by his own statements states "because almost the whole frontage of the lot is under oak tree drip lines." The term "almost" insinuates the potential for alternative routes of a driveway that will not encroach in the drip lines. Thus, the applicant has failed to meet his burden.

Also, great concern is hereby stated as to the replacement oak trees. The replacement oak trees pursuant to the previously approved oak tree permit have yet to be planted. I would request that the replacement oaks shall be placed on the property and not at a different location or in lieu of a fee. (Page 3 item 13 of the forestry report.) The forestry division has failed to address the issue as to the location of the proposed replacement trees.

The forestry report further states at page 4 that encroachment within the protected zone of any additional tree of the Oak genus on the project site is prohibited. I would request that the approval of any encroachment is conditional on no further application for encroachment or removal for purposes of further development on the parcel.

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The forestry report also requires that the oak trees be fenced. Although some of the oak trees on the property have been fenced, the dimensions of the fencing pursuant to the foresters report should be reviewed.

Finally as stated previously, we request that any interested parties on this project or any future projects on this parcel be provided with notice of future activities.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Odalis Suarez', written in a cursive style.

Odalis Suarez