



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

June 22, 2010

TO: Gina Natoli, AICP, Hearing Officer

FROM: Donald Kress, Regional Planning Assistant II *DKres*
Land Divisions Section

SUBJECT: **PROJECT NO. PM070971-(5)**
OAK TREE PERMIT CASE NO. 200900003
July 6, 2010; AGENDA ITEM NO. 2

PROJECT BACKGROUND

The applicant requests approval of Oak Tree Permit ("OTP") Case No. 200900003 for encroachment into the protected zone of three oak trees (one heritage oak). OTP 200900003 is associated with Plot Plan Case No. 200900478, a proposal to build a single-family residence with attached garage on the subject property.

The project was heard before the Hearing Officer on April 20, 2010 and continued to June 1, 2010 and July 6, 2010. The hearing was continued to July 6, 2010, in order to evaluate further information regarding the oak trees and for staff to add a condition regarding the temporary power pole and to prepare the necessary findings and conditions for approval.

This project was considered within the approved Negative Declaration for Tentative Parcel Map No. 070971 ("PM 070971"), Environmental Assessment Case No. 200900002.

JUNE 1, 2010 PUBLIC HEARING

On June 1, 2010, the Hearing Officer heard a presentation from the case planner summarizing the project and recommending a continuance due to the need to evaluate the updated oak tree permit conditions received from the Los Angeles County Forester and Fire Warden ("Forester") on June 1, 2010. The applicant asked the Hearing Officer whether a conditional approval would be possible for this case. The Hearing Officer said it would not be. The applicant requested that the continued hearing be scheduled at the earliest possible date.

The Hearing Officer asked staff to clarify the location of the temporary power pole, and directed staff to include a condition of approval that requires the temporary power pole to be removed once all construction, including construction on the west parcel, is completed. The applicant clarified that the pole would be used for construction on both parcels.

No other persons spoke. The Hearing Officer continued the public hearing to July 6, 2010, in order to evaluate the updated oak tree permit conditions received from the Forester and for staff to add a condition regarding the temporary power pole and to prepare the necessary findings and conditions.

PROJECT ISSUES

OTP 20090003 proposes three encroachments:

- Oak Tree No. 3: The proposed driveway, proposed sewer line trench from the street to the future residence, and temporary power pole encroach into the protected zone of this oak tree.
- Oak Tree No. 4: The proposed driveway, proposed utility trench from the street to the future residence, and proposed residence encroach into the protected zone of this oak tree.
- Oak Tree No. 6: The rear yard fence encroaches into the protected zone of this oak tree. This oak tree is a heritage oak.

Oak tree No. 5 is smaller than the minimum size to be protected by the Los Angeles County Oak Tree Ordinance. The arborist has recommended that this tree be removed. The Forester did not oppose this recommendation.

STAFF EVALUATION

The applicant has identified the minimum encroachments required to construct the proposed single-family residence. Any further encroachments or removals on the subject property will require a separate oak tree permit.

RECOMMENDATION

Staff recommends that the Hearing Officer close the public hearing and approve Oak Tree Permit Case No. 200900003.

SMT:dck
6/22/2010

**DRAFT FINDINGS OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. PM070971-(5)
OAK TREE PERMIT CASE NO. 200900003**

1. A Hearing Officer of Los Angeles County, Ms. Gina Natoli, conducted a duly noticed public hearing in the matter of Oak Tree Permit Case No. 200900003 ("OTP 200900003") on April 20, 2010, June 1, 2010, and July 6, 2010.
2. The subject site is located at 2748 Frances Avenue, La Crescenta, within the La Crescenta-Montrose Community Standards District ("CSD"), in the La Crescenta Zoned District.
3. The rectangular property is 0.38 gross acres (0.38 net acres) in size with topography sloping slightly to the south. The site is vacant.
4. OTP 200900003 is a request to authorize encroachment into the protected zone of three trees of the Oak genus (*Quercus agrifolia*) identified as tree numbers 3, 4, and 6 on the applicant's Oak Tree Report prepared by Randy Smith, dated April 6, 2009, revised January 15, 2010, and amended May 12, 2010 ("Oak Tree Report"). Oak tree nos. 1, 2, 7, 8, and 9 will not be affected by the proposed construction. Oak tree number 5 is below the size protected by the Los Angeles County Oak Tree Ordinance and may be removed.
5. OTP 200900003 is associated with Plot Plan Case No. 200900478, a proposal to construct a single-family residence on the subject property.
6. The applicant has submitted an Oak Tree Report that identifies and evaluates nine oak trees on the subject property.
7. The applicant has submitted an oak tree permit burden of proof to support his request for the oak tree permit.
8. The Los Angeles County Forester and Fire Warden ("Forester") has reviewed the Oak Tree Report and determined that the document is accurate and complete as to the location, size, condition and species of the oak trees on the site. The Forester has recommended approval of the requested oak tree encroachments, subject to recommended conditions of approval.
9. The locations of the encroached oak trees are identified on the oak tree exhibit, dated May 13, 2010.
10. One item of correspondence from a neighbor has been received opposing the project. This neighbor is concerned that any encroachment may jeopardize the life of an existing oak tree, and notes that all existing oak trees in the neighborhood should be retained, including those on the subject property.

April 20, 2010 Public Hearing

11. During the April 20, 2010, Hearing Officer public hearing, the Hearing Officer heard a presentation from the case planner summarizing the project. The applicant was available to answer questions from the Hearing Officer. In response to the Hearing Officer's questions about work on the subject property which may encroach into the protected zones of oak trees, the applicant stated that he had replaced the fence along the rear property line of the subject property. No other persons spoke. The Hearing Officer continued the public hearing to June 1, 2010, and directed to case planner to contact the Forester and determine whether the new fence was within the protected zone of any oak trees.

June 1, 2010 Public Hearing

12. During the June 1, 2010, Hearing Officer public hearing, the Hearing Officer heard a presentation from the case planner summarizing the project and recommending a continuance. The applicant asked the Hearing Officer whether a conditional approval would be possible for this case. The Hearing Officer said it would not be. The applicant requested that the continued hearing be scheduled at the earliest possible date.
13. During the June 1, 2010 Hearing Officer public hearing, the Hearing Officer asked staff to clarify the location of the temporary power pole, and directed staff to include a condition of approval that requires the temporary power pole to be removed once all construction, including construction on the west parcel, is completed. The applicant clarified that the pole would be used for construction on both parcels. No other persons spoke.
14. After hearing all the testimony, the Hearing Officer continued the public hearing to July 6, 2010, in order to evaluate further information regarding the oak trees and to add a condition regarding the temporary power pole and to prepared the necessary findings and conditions.

July 6, 2010 Public Hearing

15. SUMMARIZE EVENTS AT THE PUBLIC HEARING
16. This project was considered under the approved Negative Declaration for Tentative Parcel Map No. 070971, Environmental Assessment Case No. 200900002.
17. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is the Department of Regional Planning, 13th Floor, Hall of Records, 320 West

Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Land Divisions Section, Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. That construction of the proposed land use will be accomplished without endangering the health of any remaining trees on the property that are subject to Chapter 22.56, Part 16, of the Los Angeles County Code;
- B. That the encroachment within the protected zone of four oak trees is necessary for development reasons as continued existence of the trees at the present location frustrates the planned improvements or proposed use of the subject property to such an extent that alternative development plans cannot achieve the same permitted density or the cost of such alternative would be prohibitive;
- C. That the encroachment into the protected zones of the oak trees proposed will not be contrary to or in substantial conflict with the intent and purpose of the oak tree permit procedure;

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for an oak tree permit as set forth in Section 22.56.2100 of the Los Angeles County Code (Zoning Ordinance).

THEREFORE, in view of the findings of fact and conclusions presented above, Oak Tree Permit Case No. 200900003 is approved subject to the attached conditions.

**DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. PM070971-(5)
OAK TREE PERMIT CASE NO. 200900003**

DRAFT CONDITIONS:

(Questions relating to these conditions should be addressed to the Forestry Division, Prevention Bureau of the Los Angeles County Forester and Fire Warden ("Forester") at either 818-890-5719 or 323-881-2481).

1. This grant allows encroachments within the protected zone of three trees of the Oak genus (*Quercus agrifolia*) identified as trees numbered 3, 4, and 6 on the applicant's site plan and Oak Tree Report prepared by Randy Smith, consulting arborist, dated April 6, 2009, revised January 15, 2010, and amended May 12, 2010 ("Oak Tree Report").
2. The existing temporary power pole shall be removed following the completion of construction on Parcels No. 1 and 2 of Parcel Map No. 070971.
3. The arborist recommends removing oak tree number 5, which is undersized and not protected by the Los Angeles County Oak Tree Ordinance.
4. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
5. This grant shall not be effective until the permittee and the owner of the property if other than the permittee, have filed at the office of the Los Angeles County Department of Regional Planning ("Regional Planning") an affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions have been recorded as required by Condition No. 5 and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this condition No. 5 and Condition Nos. 33, 34, and 35 shall be effective immediately upon final approval of this grant by the County.
6. Prior to the use of this grant, the terms and conditions of the grant shall be recorded in the office of the Los Angeles County Recorder. In addition, upon any transfer or lease of the subject property during the term of this grant, the permittee shall promptly provide a copy of the grant and its terms and conditions to the transferee or lessee, as applicable, of the subject property.
7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the

permittee to cease any development or activity not in such full compliance shall be a violation of these conditions.

9. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
10. No oak tree shall be encroached upon until the permittee has obtained all permits and approvals required for the work which necessitates such encroachment.
11. The permittee shall, prior to commencement of the use authorized by this grant, deposit with the County of Los Angeles Fire Department the sum of \$200. Fees shall be used to compensate the Forester to cover expenses incurred while inspecting the project to determine the permittee's compliance with the conditions of approval. The above fees provide for one initial inspection prior to the commencement of construction and five subsequent inspections until the conditions of approval have been met. The Director of Regional Planning ("Director of Planning") and the Forester shall retain the right to make regular and unannounced site inspections.
12. Before commencing work authorized or required by this grant, the consulting arborist shall submit a letter to the Director of Planning and the Forester stating that he or she has been retained by the permittee to perform or supervise the work, and that he or she agrees to report to the Director of Planning and the Forester any failure to fully comply with the conditions of this grant. The arborist shall also submit a written report on permit compliance upon completion of the work required by this grant.
13. The permittee shall arrange for the consulting arborist or similarly qualified person to maintain all remaining Oak trees on the subject property that are within the zone of impact as determined by the Forester for the life of the Oak Tree Permit or Plot Plan Case No. 200900478.
14. The permittee shall install temporary chain link fencing, not less than four feet in height to secure the protected zone of all remaining Oak trees on site as necessary. The fencing shall be removed prior to grading, and shall not be approved without the approval of the Forester. The term "protected zone" refers to the area extending five feet beyond the dripline of the oak tree (before pruning) or fifteen feet from the trunk, whichever is greater.
15. The permittee shall keep copies of the Oak Tree Report, Oak Tree Map, and Conditions of Approval on the project site and available for review. All Individuals

associated with the project as it relates to the Oak resource shall be familiar with the Oak Tree Report, Oak Tree Map, and Conditions of Approval.

16. Trenching, excavation, or clearance of vegetation within the protected zone of an Oak tree shall be accomplished by the use of hand tools or small hand-held power tools. Any major roots encountered shall be conserved to the extent possible and treated as recommended by the consulting arborist.
17. In addition to work expressly allowed by this permit, remedial pruning intended to ensure the continued health of a protected Oak tree or to improve its appearance or structure may be performed. Such pruning shall include removal of deadwood and stubs and medium pruning of branches two inches in diameter or less in accordance with the guidelines published by the National Arborist Association. Copies of these guidelines are available from the Forester. In no case shall more than 20 percent of the tree canopy of any one tree be removed.
18. Except as otherwise expressly authorized by this grant, the Oak trees shall be maintained in accordance with the principles set forth in the publication "Oak Trees: Care and Maintenance," prepared by the County of Los Angeles Fire Department, Forestry Division. A copy of the publication is enclosed with these conditions.
19. The permittee shall provide mitigation trees of the Oak genus at a rate of two to one (2:1) for any tree specified above that dies as a result of approved encroachments.
20. Each mitigation tree shall be at least a 15-gallon specimen in size and measure one inch or more in diameter at one foot above the base. Free form trees with multiple stems are permissible provided that the combined diameter of the two largest stems of such trees measures a minimum of one inch in diameter one foot above the base.
21. Mitigation trees shall consist of indigenous varieties of *Quercus agrifolia* grown from a local seed source.
22. Mitigation trees shall be planted either on site or at an off-site location approved by the Forester. Alternatively, a contribution to the County of Los Angeles Oak Forest Special Fund may be made in the amount equivalent to the Oak resource loss. The contribution shall be calculated by the consulting arborist and approved by the Forester according to the most current edition of the International Society for Arboriculture's "Guide for Plant Appraisal."
23. The permittee shall properly maintain each mitigation tree and shall replace any tree failing to survive due to lack of proper care and maintenance with a tree

meeting the specifications set forth above. The five-year maintenance period will begin upon receipt of a letter from the permittee or consulting arborist to the Director of Planning and the Forester indicating that the mitigation trees have been planted. The maintenance period of the trees failing to survive five years will start anew with new replacement trees. Subsequently, additional monitoring fees shall be required.

24. All mitigation Oak trees planted as a condition of this permit shall be protected in perpetuity by the Los Angeles County Oak Tree Ordinance once they have survived the required maintenance period.
25. Encroachment within the protected zone of any additional trees of the Oak genus on the project site is prohibited.
26. Should encroachment within the protected zone of any additional trees of the Oak genus on the project site not permitted by this grant result in its injury or death within five years, the permittee shall be required to make a contribution to the Los Angeles County Oak Forest Special Fund in the amount equivalent to the Oak resource damage/loss. Said contribution shall be calculated by the consulting arborist and approved by the Forester according to the most current edition of the International Society of Arboriculture's "Guide for Plant Appraisal".
27. No planting or irrigation system shall be installed within the drip line of any Oak tree that will be retained.
28. Utility trenches shall not be routed within the protected zone of an Oak tree unless the serving utility requires such locations
29. Equipment, materials and vehicles shall not be stored, parked, or operated within the protected zone of any Oak tree. No temporary structures shall be placed within the protected zone of any oak.
30. Any violation of the conditions of this grant shall result in immediate work stoppage or in a Notice of Correction depending on the nature of the violation. A time frame within which deficiencies must be corrected will be indicated on the Notice of Correction.
31. Should any future inspection disclose that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be held financially responsible and shall reimburse the Forester for all enforcement efforts necessary to bring the subject property into compliance.
32. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Los Angeles County Regional

Planning Commission ("Commission") or Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or as to be a nuisance.

33. The permittee shall defend, indemnify and hold harmless Los Angeles County (the "County"), its agents, officers, and employees from any claim, action or proceeding against the County, or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitation period. The County shall notify the permittee of any such claim, action, or proceeding and the County shall fully cooperate in the defense.
34. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall, within ten days of the filing, pay Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expense involved in the department's cooperation in the defense, including, but not limited to, depositions, testimony, and other assistance to the permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred by the department reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by permittee in accordance with Section 2.170.010 of the Los Angeles County Code.

35. This grant shall expire unless used within two years from the date of final approval by the county. A single one-year time extension may be requested in writing and with payment of the applicable fee. For purposes of this grant, the issuance of a building permit associated with Plot Plan Case No. 200900478 shall constitute the use of this grant.

36. This grant shall terminate upon the completion of the authorized Oak tree encroachment and the completion of all required mitigation and monitoring to the satisfaction of the Forester and Regional Planning