



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*



Richard J. Bruckner  
Director

May 3, 2011

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

John and Cheryl Azoulay  
24798 Brown Latigo Road  
Malibu, CA 90265

**REGARDING: PROJECT NUMBER 02-281-(3)  
OAK TREE PERMIT NUMBER 200900050  
26247 Fairside Road, Malibu, CA 90265**

Dear Applicant:

Hearing Officer Mr. Alex Garcia, by his action of May 3<sup>rd</sup>, 2011 **APPROVED** the above described project and entitlements. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 3 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant or any other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at the 5:00 p.m. on May 17<sup>th</sup>, 2011.** Any appeal must be delivered in person to the commission secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner, Travis Seawards, to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Travis Seawards of the Zoning Permits West Section at (213) 974-6462 or e-mail at [TSeawards@planning.lacounty.gov](mailto:TSeawards@planning.lacounty.gov). Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

Richard J. Bruckner  
Director

Mi Kim, Acting Section Head  
Zoning Permits West Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: DPW (Building and Safety), Applicant

MKK:TS

**HEARING OFFICER'S FINDINGS AND ORDER:**

**FACTUAL SUMMARY:**

The applicants request an oak tree permit to authorize the removal of three (3) oak trees and the encroachment into the protected zone of nine (9) oak trees due the construction of a 3,000 square foot single-family residence. The subject property is located at 26247 Fairside Road, Malibu, in the Malibu Zoned District of Los Angeles County.

**PROCEEDINGS BEFORE THE HEARING OFFICER:**

A duly noticed public hearing was held on May 3<sup>rd</sup>, 2011 before the Regional Planning Hearing Officer. The applicant, Joseph Azoulay, testified in favor of the proposed project.

There being no further testimony, the Hearing Officer closed the public hearing and approved project 02-281-(3) with conditions.

Findings:

1. The applicant, Joseph Azoulay, requests an oak tree permit to authorize the removal of three (3) oak trees and the encroachment into the protected zone of nine (9) oak trees due to the construction of a single-family residence.
2. The oak tree permit is a reissuance of a previous oak tree permit (OTP 02-281-(3)), as authorized by resolution of the Los Angeles County Board of Supervisors on September 22, 2009 (attached).
3. The Oak Tree Report, dated October 10, 2002, was prepared by a certified arborist and identified thirteen (13) oak trees on the subject property. The oak trees are all Coast Live Oaks. None of the oaks qualify as heritage oaks. Three (3) oak trees are proposed for removal; nine (9) trees will be encroached upon and are to be protected in place.
4. The project is located at 26247 Fairside Rd., Malibu, in the Malibu Zoned District.
5. The subject property is 5,998 sq. ft. (approximately 0.14 acre) in size and located on steeply sloping topography.
6. Zoning on the subject property is R-1-7,500 (Single-Family Residential, 7,500 sq. ft. lot minimum required).
7. Surrounding properties are all zoned R-1-7,500.
8. The subject property is currently undeveloped and vacant.
9. Surrounding land uses consist of single-family residences to the north, south, and to the east, and single-family residences and vacant property to the west.

10. Previous zoning history on the subject property includes:
  - Plot Plan 49104: Approved a single-family residence on July 17, 2003.
  - OT 02-281: Approved an Oak Tree Permit on October 15, 2002.
  - IS 02-281: Initial Study for the Oak Tree Permit, approved October 15, 2002.
11. The project site is designated 6 (Residential I) in the Malibu Land Use Plan of the Los Angeles County General Plan. Residential areas are generally characterized by a grouping of housing units on gently sloping or flat terrain often within established rural communities. The Residential I land use category permits a maximum average residential density of one dwelling unit per acre. As proposed, the subject property will have a residential density of 7.1 units per acre, which is beyond the residential density allowed by the land use designation. However, the lot was legally created for a residential use and is surrounded by other single-family residences.
12. A previous oak tree permit (OT 02-281) approved identical removal of the same three (3) oak trees and encroachments into the protected zones of the same nine (9) oak trees for construction of the same project project. The permit was approved on July 2, 2001 and expired without use on July 1, 2009 due to delays at the Coastal Commission.
13. The site plan depicts the subject property with the proposed 3,000 square-foot single-family residence in the middle of the property. The attached garage is located on the south of the residence and faces Fairside Road. The proposed septic tank to service the house is located on the southeast corner of the property. The proposed oaks to be removed are identified as oaks #3, #6, and #7. Oaks #6 and #7 are located where the single-family residence is proposed, and oak #3 is located where the garage is proposed to be built. The nine (9) oaks that are proposed to be encroached upon are located on the northern, western, and southern parts of the subject property.
14. The Oak Tree Report was prepared by a certified arborist and dated October 10, 2002. The subject Oak Tree Permit will allow the removal of three (3) oak trees identified as Oak Trees Number 3, 6, and 7 on the applicant's site plan and Oak Tree Report. The permit will also allow encroachment within the protected zone of nine (9) oak trees identified as Oak Trees Number 1, 2, 4, 5, 9, 10, 11, 12, and 13. Oak Tree Number 8 will not be impacted by the project.
15. As conditions on the site has not changed, it has been determined that a Negative Declaration, as adopted in 2003, is the appropriate environmental documentation pursuant to California Environmental Quality Act (CEQA) reporting requirements.
16. The County Forester recommended approval of the removal of three (3) oak trees and the encroachment into the protected zone of nine (9) oak trees. The County Forester is of the opinion that the Oak Tree Report, prepared by a certified arborist on October 10, 2002 accurately addresses the impacts to the oak resources on the site.

As the conditions on the site are the same, the County Forester has no additional recommendations or conditions beyond their 2003 letter (enclosed).

17. The applicant shall mitigate or pay the ISA value for each oak tree removal into the Oak Tree Special Fund, as described in the conditions for approval.
18. The construction of a single-family residence and associated structures are permitted uses in the R-1 Zone where the subject property is located. Due to the construction of the single-family residence, an oak tree permit is required by the Los Angeles County Code, Title 22, Section 22.56.2060, to allow the removal of three (3) oak trees and encroachment into the protected zone of nine (9) oak trees.
19. The three (3) trees proposed for removal fall within the footprint of the project. According to the Arborist's report, dated October 10, 2002, all oak trees on the property are in generally fair to average condition. The applicant, in a letter dated February 1, 2011, confirms that the oak trees on the subject property are in the same condition as the Arborists 2002 report.
20. For two years, the County Forester will monitor the subject property for compliance with the conditions of approval.
21. The proposed use as conditioned is consistent with zoning, the General Plan, and surrounding land uses.
22. In its letter dated June 23, 2005, the Department of Public Works indicated that review of the drainage, Standard Urban Stormwater Mitigation Plan, and grading shall be conducted during the project's grading or building plan check stage by its Building and Safety Division.
23. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.

**BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:**

- A. The proposed construction of the proposed use will be accomplished without endangering the health of the trees on the subject property; and
- B. The encroachments proposed will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated; and
- C. Absent the encroachment permitted by the attached conditions, the placement of the subject oak tree precludes the reasonable and efficient use of the property for a purpose otherwise authorized. The work approved is not contrary to or in substantial conflict with the intent and purpose of the oak tree permit procedure.

- D. That the encroachment upon the oak trees proposed will not be contrary to or be 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 conditional use permits as set forth in Section 22.56.2100, Title 22 (Zoning Ordinance), of the Los Angeles County Code.

**HEARING OFFICER ACTION:**

1. The Hearing Officer finds that a Negative Declaration is the appropriate environmental documentation pursuant to California Environmental Quality Act (CEQA) reporting requirements.
2. In view of the findings of fact presented above, Oak Tree Permit No. 200900050 is **APPROVED** subject to the filing of the attached conditions.

Encl.: Conditions

CC: Zoning Enforcement; County Forester

MKK:TS  
04/12/2011

1. This grant authorizes the removal of three (3) oak trees and encroachment into the protected zone of nine (9) oak trees in order to construct a single-family residence and associated structures, subject to the following conditions:
  - a. This permit **SHALL NOT** be effective until the permittee has filed at the office of the Department of Regional Planning their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and until all required monies have been paid pursuant to Condition No. 7.
  - b. This permit **SHALL NOT** be effective until a coastal development permit is approved by the California Coastal Commission for the proposed construction and demolition.
  - c. The permittee shall strictly comply with all conditions and requirements contained in the County of Los Angeles Forester and Fire Warden, Forestry Division letter dated February 7, 2003 (attached hereto), to the satisfaction of said Division, except as otherwise required by said Division, with the exception of planting mitigation trees for the oak tree removals. In addition, should any oak tree die as a result of an approved encroachment, requiring the planting of mitigation trees, an acorn from a locally indigenous species shall also be planted at the same time as and within the watering zone of each mitigation tree.
  - d. The permittee shall agree to suspend construction in the vicinity of a cultural resource encountered during ground-disturbing activities at the site, and leave the resource in place until a qualified archaeologist can examine them and determine appropriate mitigation measures.
  - e. The permittee shall obtain detailed seismic analyses for evaluation and mitigation of potential earthquake-induced landslide hazards, conforming to the requirements of the State of California Division of Mines and Geology Special Publication 117, at the grading/building plan stages.
  - f. Prior to the issuance of any building construction permit, feasibility of installing a private sewage disposal system shall be demonstrated in accordance with the guidelines established by the Department of Health Services and other applicable laws.
  - g. At the time of construction when a public sewer, intended to serve any property or premises, is available within 200 feet of any structure or drainage located on the property, all plumbing and waste water system, on such property or premises shall be connected to such public sewer.
  - h. Prior to issuance of any building construction permit, availability of an adequate sustainable supply of potable water from an approved source shall be demonstrated in conformance with standards established by the Department of Health Services and other pertinent regulatory agencies.

- i. Prior to construction of any structures in the public right-of-way, the permittee shall obtain an encroachment permit from the Department of Public Works.
    - j. The permittee shall pay the ISA value of removed trees into the Oak Forest Fund.
    - k. If any construction activities of the project take place between March 1 and August 31, a project biologist acceptable to the County shall assess on-site vegetation to be removed and vegetation within 300 feet of project activities to determine the presence of active passerine bird nests. The surveys shall begin thirty (3) days and continue on a weekly basis with the last survey conducted no more than three days prior to project commencement. Active nests shall be provided with a minimum buffer of 300 feet from construction activities until nests become inactive.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity using this grant.
3. This grant shall not be effective for any purpose until the permittee and the owner of the property involved (if other than the permittee) have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant, and until all required fees have been paid pursuant to the attached County Forester's letter.
4. The permittee shall defend, indemnify and hold harmless 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. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
5. 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 the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to 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 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 the permittee according to Los Angeles County Code Section 2.170.010.
6. This grant shall expire unless used within two (2) years from the date of approval. A one-year time extension may be requested in writing and with payment of the applicable fee prior to the expiration date.
7. The Permittee shall deposit with the County of Los Angeles Fire Department a sum of \$300 to compensate the County Forester \$100 per inspection to cover expenses incurred while inspecting the project to determine the permittee's compliance with the conditions of approval. This fund provides for one initial inspection of temporary protective fencing and two (2) subsequent inspections.

If any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning and/or the County of Los Angeles Fire Department for all additional enforcement efforts to bring the subject property into compliance.

8. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a 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's health or safety or so as to be a nuisance.
9. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.

Attachment:

County Forester Letter, dated 02/7/2003

MKK:TS  
02/17/2011

(323) 890-4330

February 7, 2003

Kevin Johnson, Regional Planning Assistant II  
Department of Regional Planning  
Zoning Permits Section  
320 West Temple Street  
Los Angeles, CA 90012

Dear Mr. Johnson:

**OAK TREE PERMIT #02-281 -- (SINGLE-FAMILY RESIDENCE)**

We have reviewed "Request for Oak Tree Permit #02-281." This project is located at 26247 Fairside Road in an unincorporated area of Malibu. The report is complete as to the location, size, condition and species of the Oak tree on the site. The term "Oak Tree Report" refers to the document on file by Kay Greeley, the consulting arborist, dated October 10, 2002.

**We recommend the following as conditions of approval:**

**OAK TREE PERMIT REQUIREMENTS:**

1. This grant shall not be effective until the permittee and the owner of the property involved (if other than the permittee), have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of and agree to accept all conditions of this grant.

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.

2. The permittee shall, prior to commencement of the use authorized by this grant, deposit with the County of Los Angeles Fire Department a sum of \$300. Such fees shall be used to compensate the County Forester \$100 per inspection 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 (1) initial inspection and two (2) bi-annual inspections until the conditions of approval have been met.

The Director of Regional Planning and the County Forester shall retain the right to make regular and unannounced site inspections.

3. Before commencing work authorized or required by this grant, the consulting arborist shall submit a letter to the Director of Regional Planning and the Forestry Division of the County of Los Angeles Fire Department, 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 Regional Planning and the County Forester any failure to fully comply with the conditions of the grant. The arborist shall also submit a written report on permit compliance upon completion of the work required by this grant. The report shall include a diagram showing the exact number and location of all mitigation trees planted as well as planting dates.
4. The permittee shall arrange for the consulting arborist or a similarly qualified person to maintain all remaining Oak trees on the subject property that are within the zone of impact as determined by the County Forester for the life of the Oak Tree Permit or the Conditional Use Permit.
5. The permittee shall install temporary fencing, not less than four feet in height to protect all remaining Oak trees on site as necessary. The fencing shall be installed prior to grading or tree removal, and shall not be removed without approval of the County Forester.

Specifically, the fencing shall be installed approximately five (5) feet outside of the drip line of the proposed construction as necessary to protect the remaining trees.

6. Copies of the Oak Tree Report, Oak tree map and conditions of approval shall be kept 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.

**PERMITTED OAK TREE REMOVAL AND ENCROACHMENT:**

7. This grant allows the removal of three (3) trees of the Oak genus Quercus agrifolia identified as Tree Numbers 3, 6, and 7 on the applicant's site plan and Oak Tree Report.
8. This grant allows encroachment within the protected zones of nine (9) trees of the Oak genus identified as Tree Numbers 1, 2, 4, 5, 9, 10, 11, 12 and 13 on the applicant's site plan map and Oak Tree Report. 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.
9. In addition to the 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 the 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 Forestry Division of the County of Los Angeles Fire Department. In no case shall more than 20% of the tree canopy of any one tree be removed.
10. Except as otherwise expressly authorized by this grant, the remaining Oak trees shall be maintained in accordance with the principles set forth in the publication, Oak Trees: Care and Maintenance, prepared by the Forestry Division of the County of Los Angeles Fire Department, a copy of which is enclosed with these conditions.

**MITIGATION TREES:**

11. The permittee shall provide mitigation trees of the Oak genus Quercus agrifolia at a rate of two 2:1 trees for each tree removal for a total of six (6) mitigation trees.  
  
The permittee shall also provide mitigation trees of the Oak genus at a rate of two (2) trees for any tree that dies as a result the approved encroachments.
12. Each mitigation tree shall be at least a 15-gallon specimen in size and measure one inch or more in diameter one foot above the base. Free form trees with multiple stems are permissible; the combined diameter of the two largest stems of such trees shall measure a minimum of one inch in diameter one foot above the base.

13. Mitigation trees shall consist of indigenous varieties of *Quercus agrifolia* grown from a local seed source.
14. Mitigation trees shall be planted within one year of the permitted Oak tree removals. Additional mitigation trees shall be planted within one year of the death of any tree, which results from its permitted encroachment. Mitigation trees shall be planted either on site or at an off-site location approved by the County 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 County Forester according to the most current edition of the International Society of Arboriculture's "Guide for Plant Appraisal."
15. The permittee shall properly maintain each mitigation tree and shall replace any tree failing to survive due to a lack of proper care and maintenance with a tree meeting the specifications set forth above. The two-year maintenance period will begin upon receipt of a letter from the permittee or consulting arborist to the Director of Regional Planning and the County Forester indicating that the mitigation trees have been planted. The maintenance period of the trees failing to survive two years will start anew with the new replacement trees. Subsequently, additional monitoring fees shall be required.
16. 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.

**NON-PERMITTED ACTIONS AND VIOLATIONS:**

17. Encroachment within the protected zone of any additional tree of the Oak genus on the project site is prohibited. If there are any deviations in the trees to be removed or encroached upon, the applicant will be required to file a new Oak Tree Report and pay all associated fees. All physical work being performed around the Oak trees will not be permitted until the new review and conditions of approval are complete. Additionally, these requirements will also be implemented if it is found that the information provided by the applicant is inaccurate (i.e., maps, missing trees, etc.).
18. Should encroachment within the protected zone of any additional tree of the Oak genus on the project site not permitted by this grant result in its injury or death within two 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 County Forester according to the most current edition of the International Society of Arboriculture's "Guide for Plant Appraisal."

Kevin Johnson, Regional Planning Assistant II

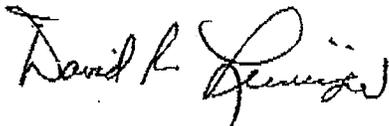
February 7, 2003

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19. No planting or irrigation system shall be installed within the dripline of any Oak tree that will be retained.
20. Utility trenches shall not be routed within the protected zone of an Oak tree unless the serving utility requires such locations.
21. 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 tree.
22. Violations 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.
23. 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 Forestry Division of the County of Los Angeles Fire Department for all enforcement efforts necessary to bring the subject property into compliance.

If you have any additional questions this office at (323) 890-4330.

Very truly yours,



DAVID R. LEININGER, CHIEF, FORESTRY DIVISION  
PREVENTION BUREAU

DRL:lc

Enclosure

bc: Yocum-E/R  
Takeshita/Malibu  
Oak Notebook  
Oak #104  
Chron  
(OTF #02-281.B52)