

RESOLUTION NO. 06-1406

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, OVERTURNING THE PLANNING COMMISSION'S DENIAL AND APPROVING OAK TREE PERMIT CASE NO. 98-OTP-011

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by Riopharm USA, Inc. with respect to the real property located within Tract 48901 and 48312, on the south side of Agoura Road, east of Calle Montecillo (Assessor's Parcel Nos. 2061-014-(007-015)(018-020)(023-042) and 2061-015-008), requesting approval of an Oak Tree Permit to remove thirty-three (33) Oak trees and to encroach within the protected zone of fifteen (15) oak trees through contiguous grading for the construction of eleven (11) single-family homes within Tract 48901 and thirteen (13) single-family homes within Tract 48312. Public hearings were duly held by the Planning Commission on August 4, 2005, September 15, 2005, November 17, 2005, and December 1, 2005 at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearings. On December 1, 2005, the Planning Commission denied Oak Tree Permit Case No. 98-OTP-011 on a 5-0 vote, per Resolution Nos. 836 and 837.

Section 2. An appeal of the Planning Commission's denial of Oak Tree Permit Case No. 98-OTP-011 was filed by Riopharm USA, Inc., on December 15, 2005 with respect to property described in Section 1 hereof. Public hearings on the appeal were duly held and public testimony was given on February 22, 2006, September 13, 2006 and October 11, 2006, at 7:00 p.m., in the City Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid public hearings was duly given.

Section 3. Evidence, both written and oral, was duly presented to and considered by the City Council at the aforesaid public hearings.

Section 4. Pursuant to Section 9657 of the Agoura Hills Zoning Ordinance, the City Council finds that:

A. The continued existence of the impacted Oak trees prevents the development of the two recorded tract maps.

B. The proposed construction will be accomplished without endangering the health of the remaining trees on the subject property that are not approved for removal.

C. The removal of the Oak trees and the proposed encroachment will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated.

D. The proposed removal of the Oak trees and the proposed encroachment is necessary because the continued existence at their present locations prevents the planned improvement of the subject property to such an extent that alternative development plans cannot achieve the same permitted density. The existing location of the Oak trees also interferes with necessary street improvements to serve the project and no reasonable alternative to such interference exists other than removal of the trees and encroachment within the protected zone of the trees.

E. Measures have been implemented to mitigate the loss of oak trees through the requirement to provide for at least four (4) replacement Oak trees for each Oak tree removed from the property and that the trees include one (1) 36-inch box size Oak tree and at least two (2) 24-inch box size Oak trees. The total diameter of the mitigation trees planted will be at least equal to the total diameter of the trees removed.

Section 5. Based on the aforementioned findings, the City Council hereby overturns the Planning Commission's denial and approves Oak Tree Permit Case No. 98-OTP-011 as shown in the revised plans submitted to the City Council on October 11, 2006, subject to the attached conditions, with respect to the property described in Section I hereof.

PASSED, APPROVED, and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2006, by the following vote to wit:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

\_\_\_\_\_  
Denis Weber, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Rodrigues, City Clerk

**CONDITIONS OF APPROVAL**  
**(Case No. 98-CUP-011)**

STANDARD CONDITIONS

1. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all Conditions of Approval of this Permit with the Department of Planning and Community Development. Any conditions on such acceptance or challenges, including the filing of legal action, relating to the permit or the conditions, shall be treated as a failure to meet this Condition and shall nullify and void this permit.
2. Except as modified herein, the approval of this action is limited to and requires complete conformation to the labeled exhibits approved by the Planning Commission: Site Plan, Grading Plans, and Landscape Plans.
3. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
4. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
5. All requirements of the Zoning Ordinance and of the specific Zoning of the property must be complied with unless set forth in the Conditional Use Permit.
6. No occupancy shall be granted for any new building until all Conditions of Approval have been complied with as determined by the Director of Planning and Community Development.
7. Unless Oak Tree Permit Case No. 98-CUP-011 is used within two (2) years from the date of City approval, the permit will expire. A written request for a one-year extension may be considered prior to the expiration date.
8. This permit is valid upon issuance of an approved Grading Plan for both Tracts 48901 and 48312.
9. The applicant is permitted to remove up to thirty-three (33) oak trees to construct the project as approved, as shown on the approved plans. At least four (4) replacement oak trees shall be planted to mitigate the loss each tree removed. The replacement trees planted for each tree removed shall include at least one (1) thirty-six inch (36") box size oak tree and at least two (2) twenty-four inch (24") box size oak trees for each tree removed. The total diameter of mitigation trees planted shall be at least equal to that of the trees removed. The estimated

- requirement is six hundred ninety-three (693) inches. The final mitigation program shall be approved by the City Oak Tree Consultant.
10. If all of the required oak trees cannot be planted within the subject site, the applicant shall develop an alternative mitigation program that is consistent with the Development Code, to be approved by the Director.
  11. The applicant is permitted to encroach within the protected zone of up to fifteen (15) oak trees, as shown on the approved plans, to complete the project as proposed.
  12. During final project design, the applicant shall work with the City Oak Tree Consultant to complete minor design modifications to reduce oak tree impacts to the extent feasible.
  13. The applicant shall provide a forty-eight (48) hour notice to the City and the applicant's oak tree consultant prior to the start of any approved work within the protected zone of any oak tree.
  14. Prior to the start of any work or mobilization at the site, each oak tree to be preserved shall be fenced at the edge of the protected zone or at the approved work limits, in accordance with Article IX, Appendix A, Section V.C.1.1. The City Oak Tree Consultant shall approve the fencing locations.
  15. No vehicles, equipment, materials, soil or other items shall be used or placed within the protected zone of any oak tree at any time, except as specifically required to complete the approved work. No pruning of live branches is authorized by this permit.
  16. All approved excavation performed within the protected zone of any oak tree shall be performed with hand tools under the direction of the applicant's oak tree consultant.
  17. No irrigation or planting shall be installed within the drip line of any oak tree unless specifically approved by the City Oak Tree Consultant and the Director of Planning and Community Development.
  18. At the completion of construction, the applicant shall place three inches (3") of an approved mulch throughout the dripline of each oak tree to remain.

19. Within ten (10) days of the completion of work, the applicant's oak tree consultant shall submit written certification to the City. The certification shall describe all work performed and whether such work was performed in accordance with the above permit conditions.
20. The applicant shall provide each original homeowner within both tracts with an "Oak Tree Information Package." The package, to be approved by the Director of Planning and Community Development, shall address the importance of the Oak trees, their protected status, and care and maintenance practices.

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