



CITY COUNCIL AGENDA REPORT

DATE: 5/31/2014

AGENDA OF: 6/10/2014
DEPARTMENT: Parks and Recreation
SUBJECT: Tree Appeal - 912 Broadway (PK)

RECOMMENDATION: Motion to deny the appeal submitted by Nick Drobac, upholding the Parks and Recreation Commission's denial of tree removal permit application #7962 submitted by Nick Drobac to remove one (1) Coast Redwood tree located at 912 Broadway and adopt a resolution documenting the City Council's decision for signature by the Mayor.

OR

Motion to uphold the appeal submitted by Nick Drobac, reversing the Parks and Recreation Commission's denial of tree removal permit application #7962 submitted by Nick Drobac to remove one (1) Coast Redwood tree located at 912 Broadway and adopt a resolution documenting the City Council's decision for signature by the Mayor.

BACKGROUND: In response to a heritage tree removal permit application submitted by Nick Drobac, staff evaluated one Coast Redwood tree located at 912 Broadway. The application was filed on January 24, 2012.

The reason stated on the request for tree removal was:
"The tree is destroying the sidewalk, paved parking area and plumbing."

Staff met with the applicant on site, reviewed the tree issues and property damage concerns and discussed three (3) potential options with the property owner.

1. Option one considered that staff could post the tree for removal. However, the approval of this option would be conditional and only granted upon a defensible root examination. With this option, the required public notice would state that the permit issued was tentatively approved and conditional upon the demolition of the parking area and a root examination. Once the area was demolished of existing paving and tree roots were exposed, a root inspection would be performed by the City Urban Forester. If the tree could be root pruned and the area repaired, then tree removal would be denied and the area would be repaired around the existing tree. If based upon the root exam, root pruning was determined to not be a viable option, then a permit for tree removal would be granted. The property owner did not want to demolish the area and make repairs to include the existing tree. The owner wants only to repair the area after the tree has been removed.

2. The second option was for the application to be denied by staff in 2012. The applicant could then appeal the staff decision to the Parks and Recreation Department Commission. The Commission would deliberate his tree removal request under the old set of tree removal criteria as required by the previous Heritage Tree Ordinance (HTO). A denial letter would be issued to the owner prior to the City Council's consideration of the revised HTO adopted by Council last September 2013 and the appeal would be considered by the Commission under the previous tree removal criteria. As the criteria for tree removal were proposed to be modified in the revised HTO discussions, Mr. Drobac opted to wait until City Council reviewed the proposed HTO revisions and the new criteria for tree removal were adopted.

3. Option three discussed pending the tree removal request until the City Council had reviewed the revised HTO and the new ordinance and associated resolutions were adopted, establishing new criteria for tree removal. Once the revised HTO was adopted by Council, the Commission would have a broader set of criteria to follow to consider his permit request for tree removal. During this time period, the applicant could obtain further documentation for his application including professional outside opinions from paving firms and Certified Arborists to supplement his application. This information would be considered by staff and if a removal permit could not be granted then the applicant could appeal the staff denial to the Parks & Recreation Commission under the new set of criteria listed for the revised HTO.

Option three was most agreeable for the applicant at that time; hence the delay between the application filing date and the city's issuance of the denial letter in December 2013.

On January 24, 2014, the Nick Drobac family filed an appeal to the Parks & Recreation Commission opposing the staff denial letter and citing the following provisions:

"The heritage tree has created an unreasonable and substantial hardship for the property owner, including it has caused excessive degradation and damage to the real property and has and is causing an unreasonable financial and economic burden to the property owner. A health hazard exists and necessary repair cannot be done without removing the tree."

On March 3, 2014, the Parks & Recreation Commission began the process of reviewing the tree appeal. Staff made a presentation and there was brief discussion between Commissioners, applicant and staff. Due to time constraints, the item was postponed to a special meeting of the Parks & Recreation Commission scheduled for April 7, 2014.

On April 7, 2014 the Commission heard the tree appeal item in its entirety. Staff presented and the Commissioners asked questions and deliberated the item. The Commission voted by majority to deny the appeal and uphold the staff denial of the application to remove one Coast Redwood.

On April 15, 2014, Nick Drobac filed an appeal opposing the decision by the Parks & Recreation Commission and cited the following provisions:

"This appeal is based on the fact that this redwood tree, by its roots, in the words of the applicable municipal ordinance, Chapter 9.56 of the City of Santa Cruz Municipal Code, "has and continues to create an unreasonable and substantial hardship for a property owner consisting of excessive degradation and damage to real property, imposing thereby an unreasonable financial and economic burden "on the property owner. Cost to repair existing damage is \$75,000 to \$85,000.

In addition the hazardous conditions in the asphalt driveway and garage floor created by the redwood tree's destruction of those surfaces, subjects the residents of the apartments to daily risk of bodily injury, particularly at night, from tripping and falling, and leaves Nick Drobac and the City of Santa Cruz exposed to legal liability for bodily injury suffered on the property as a result of the City of Santa Cruz Parks and Recreation Commission denying Nick Drobac the legal right to make needed repairs to the property and to prevent injury to residents of the property”

The Coast Redwood tree at 912 Broadway qualifies for protection as a Heritage Tree per section 9.56.040, paragraph (a) of the City of Santa Cruz Municipal Code.

City Council Resolution No. NS-28,706 Exhibit A 1.(c) requires that one or more of the following findings must be established by the applicant and confirmed by the designee for the Director of Parks and Recreation for the alteration or removal of a Heritage Tree:

(c) The heritage tree has created or is likely to create an unreasonable and substantial hardship for a public or private property owner, such as excessive degradation or damage to real property, an unreasonable financial or economic burden, or an adverse effect on personal health such as allergies or physical mobility;

To prepare for the Parks & Recreation Commission meeting, the applicant demolished a portion of the asphalt surrounding the tree. The buttress roots adjacent to the trunk were revealed and were reviewed by the City Urban Forester. Based upon the information provided to the City on the tree's root system, it is still staff's opinion that the tree could be retained and the area repaired.

Although damage to the asphalt paving, garage floor and other infrastructure were observed at the site visits, it is staff's opinion that options exist for repair other than tree removal and that the tree can be root pruned under arborist direction and the area repaired. Design recommendations for repair could include increasing the tree well size and using decomposed granite to maintain surrounding grade between the tree well and the parking area. Asphalt with adequate base rock, reinforced cement or pavers could be used for the parking area.

DISCUSSION: The roots from the Coast Redwood tree at 912 Broadway have caused damage to the asphalt paving that surrounds the tree in the parking area. As asphalt degrades over time and its integrity fails, tree roots can further exploit the cracked paving worsening conditions. In many cases expanding below grade tree roots displace soils and cause the mounding and cracks caused to the asphalt, the actual tree roots are growing well below grade and are not the direct cause of the damage and lifting. Based upon staff observations, this appears to be the case.

A crack exists in the cement flooring of the garage. However, root pruning is a viable option here due to the relative distance between the garage and tree. Repairs to drains have been made in the past and are most likely due to tree roots. The sewer line has had root intrusion in the past; these issues can be addressed while retaining the tree.

There is minor lifting of the sidewalk and pathways in the vicinity of the tree and these concerns can also be addressed through judicious root pruning and thoughtful repair of the area.

The redwood is healthy and vigorous; it has an approximate height of 80 feet and an approximate trunk diameter slightly less than 48 inches. The tree has a co-dominant stem configuration that appears to be well attached. The root system appears to be well established and supportive and can tolerate root pruning as needed for the repair to occur.

It is likely that the tree could damage the area in the future, as the tree continues to expand in size. However, depending on how the area is repaired and what materials are used would dictate the longevity of the tree and future repairs to the parking area. There seems to be ample space to include the tree in the parking and driveway area, having adequate driveway width around the tree for parking and access to the garages.

Staff recommends that this application should be denied and that options other than tree removal should be implemented at the site to retain the tree. Staff recommends the City Council sustain the denial of this application for a permit to remove one Coast Redwood tree located at 912 Broadway.

FISCAL IMPACT: None.

Prepared by:
Leslie Keedy
Urban Forester

Submitted by:
Dannetee Shoemaker
Director of Parks and
Recreation

ATTACHMENTS:

Resolution
Notice of Appeal
Tree Service Letter & Proposal
Tree Application Form #7962