



# City of Culver City

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## Staff Report Details (With Text)

**File #:** 21-73      **Version:** 2      **Name:** Tree Removal Appeal on Northgate  
**Type:** Public Hearing      **Status:** Public Hearing  
**File created:** 7/20/2020      **In control:** City Council Meeting Agenda  
**On agenda:** 10/11/2021      **Final action:**  
**Title:** CC - PUBLIC HEARING: 1) Reopening of Public Hearing from August 10, 2020 Regarding an Appeal of the Public Works Director's Prior Decision to Approve the Request for Removal of Two City-Owned Parkway Trees Located at 10729-31 Northgate Street; 2) Consideration of a Revised Decision by the Public Works Director to Preserve One of the Two Trees Provided a Capital Improvement Project is Approved to Substantially Widen and Lengthen the Galvin Street Parkway; and (3) Direction to the City Manager as Deemed Appropriate.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 21-10-11 ATT1 Tree Removal Application Northgate.pdf, 2. 21-10-11 ATT2 Public Works Director's Decision Letter Northgate.pdf, 3. 21-10-11 ATT3 Appeal Request\_Northgate.pdf, 4. 21\_10\_11 ATT4 Revised Decision and Proposed Plan to Widen Galvin Parkway.pdf

| Date       | Ver. | Action By                   | Action | Result |
|------------|------|-----------------------------|--------|--------|
| 10/11/2021 | 2    | City Council Meeting Agenda |        |        |
| 10/11/2021 | 2    | City Council Meeting Agenda |        |        |
| 10/11/2021 | 2    | City Council Meeting Agenda |        |        |
| 10/11/2021 | 2    | City Council Meeting Agenda |        |        |
| 8/10/2020  | 2    | City Council Meeting Agenda |        |        |
| 8/10/2020  | 2    | City Council Meeting Agenda |        |        |
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**Meeting Date:** October 11, 2021

**Contact Person/Dept:** Joe Susca/Public Works

**Phone Number:** 310-253-5636

**Fiscal Impact:** Yes ☒ No ☐

**General Fund:** Yes ☒ No ☐

**Public Hearing:** ☒

**Action Item:** ☐

**Attachments:** ☒

**Commission Action Required:** Yes ☐ No ☒ **Date:**

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (10/07/2021); Jeffrey Weber, Esq. of Briggs Alexander (09/28/2021); (by hand delivery) all property owners within a 100-foot radius of 10729-31 Northgate Street (09/28/2021); (E-Mail) All individuals who provided their e-mail addresses via petition and via requests to speak when the appeal was discussed on August 10, 2020 (09/28/2021)

**Department Approval:** Charles D. Herbertson (9/29/2021)

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## **RECOMMENDATION**

Staff recommends the City Council (1) reopen the August 10, 2020 public hearing; (2) consider the revised decision by the Public Works Director to preserve one of the two trees provided a capital improvement project is approved to substantially widen and lengthen the Galvin Street parkway; and (3) provide direction to the City Manager as deemed appropriate.

## **PROCEDURE**

On August 10, 2020 the City Council held a Public Hearing to consider an appeal of the Public Works Director's decision approving removal of two City-owned Ficus trees located at 10729-31 Northgate Street, on the corner of Northgate and Galvin Street. The City Council discussed, but did not decide whether the appeal would be granted or denied; instead, the Council directed staff to investigate alternatives to removing the two trees. The Public Hearing was subsequently closed/continued to a date to be determined.

1. Mayor calls on staff for a brief staff report and City Council poses questions to staff as desired.
2. Mayor seeks a motion to reopen the August 10, 2020 public hearing, providing the Appellant the first opportunity to speak, followed by the general public.
3. Mayor seeks a motion to close the public hearing after all testimony has been presented.
4. City Council discusses the matter and arrives at its decision.

## **BACKGROUND**

Culver City Municipal Code (CCMC) Section 9.08.200, *et seq.*, pertains to the removal of trees in parkways. In accordance with CCMC Section 9.08.210.B, applicants have the option to request the discretionary removal of a City-owned parkway tree by submitting a written application to the Public Works Director/City Engineer (Director) and paying the applicable filing fee. After the filing of the request for tree removal, a thorough assessment is conducted by the City's Arborist.

In accordance with the procedures set forth in CCMC Section 9.08.210.C, the Director then reviews the application and supporting documentation, as well as the Arborist's assessment, to determine whether to approve the requested removal of the particular tree. In determining whether any tree in or on the parkway shall be removed or replaced, the Director shall determine whether the removal or replacement is in the best interest of the City and the public health, safety, and welfare. Such

determination shall be based on the criteria set forth in either Subsection C.1 or Subsection C.2 as follows:

1. If any one of the following criteria is met:
  - a. The tree is dead, dying, or weakened by disease, age, storm, fire, or other injuries so as to pose an existing or potential danger to persons, properties, improvements, or other trees; or
  - b. The removal is necessary for construction of a street improvement project or other public improvement/repair work; or
  - c. The removal is necessary for a private improvement or development project, see Section 9.08.215.
2. If two or more other criteria are met:
  - a. The tree is a known species or is otherwise found to be an undesirable species for its location based on tree size relative to available area for tree growth.
  - b. The tree roots are creating extensive and repeated damage to public and/or private infrastructure, including sidewalks, sewer lines, or other utility lines. A history of sewer line blockages from tree roots does not alone provide sufficient reason for tree removal, but rather suggests the need for sewer repair to stop leaks and the accompanying root intrusion that occurs.
  - c. The tree is creating a public or private nuisance.

CCMC Section 9.08.210.E provides that an appeal of the Director's decision can be filed within 10 City Hall business days after the date set forth in the notice of decision.

On October 1, 2019, the property owner at 10729-31 Northgate Street filed an application for removal of two parkway trees (*Ficus macrocarpa Nitida*) on the Galvin Street side of the property (the "Applicant"; See Attachment 1). The request was made on the justification that the subject trees are known problem species and have outgrown their planting area, the tree roots are causing extensive damage to the public street/sidewalk, and due to the tree roots growing near a high-pressure natural gas line located on Galvin Street.

The Arborist's assessment recommended the removal of both trees based on the justification provided by the Applicant, in addition to the fact that one of the trees had been damaged by vehicular traffic in the past which could potentially compromise the stability and health of the tree.

Based on the Applicant's justification and the Arborist's assessment, the Director approved the Applicant's request to remove both trees, based on the criteria of CCMC Sections 9.08.210.C.1, C.2.a and C.2.b being satisfied (See Attachment 1).

On February 25, 2020, the Director's decision was mailed to the Applicant and all interested persons (See Attachment 2). On March 2, 2020 the City received a timely letter from the property owner of 10740 Northgate Street, requesting an appeal of the decision to remove the trees (the "Appellant"; See Attachment 3). The appeal is primarily based on the aesthetic value the trees provide to the neighborhood.

Subsequent to the first Public Hearing, City crews repaired the damage to the street and sidewalk caused by the tree roots, and a Southern California Gas inspection revealed that the proximity of the tree roots to their high-pressure natural gas line did not place it in jeopardy of being damaged by the tree roots.

Pursuant to CCMC Section 9.08.210.E, an appeal shall include a general statement specifying the basis for the appeal, shall be based on an error in fact or dispute of the findings (of the Director's decision), and "must be accompanied by supporting evidence substantiating the basis for the appeal."

Under CCMC Section 9.08.210.F, the City Council shall affirm the decision of the Director, "unless the Appellant demonstrates, by substantial evidence, that the decision is based on an error in fact or disputed findings."

At the City Council meeting of August 10, 2020, the Council conducted a public hearing to consider the appeal, and in lieu of making a decision, the City Council instructed staff to explore measures that might allow the trees to remain.

## **DISCUSSION**

### **Alternatives to Removing Both Trees:**

#### **1. Long-Term - Stormwater Infiltration in Conjunction with Galvin Parkway Widening:**

Staff studied the intersection of Northgate and Galvin and determined that a stormwater infiltration project could be constructed in the vicinity of the intersection of Northgate/Galvin in conjunction with reducing the roadway width to expand the parkway. This is a viable option however, as described, the project is not a high priority in terms of achieving stormwater quality improvements. In addition, stormwater funding is unavailable as it has been allocated to other projects and, as a result, implementation of this option would be delayed.

#### **2. (Staff Recommendation): Short-Term Solution - Galvin Parkway Widening and Preservation of the Corner Tree:**

The Public Works Director's revised decision recommends the width and length of the Galvin parkway be substantially increased by including its adjacent curbside parking area and removing the Galvin sidewalk to allow the tree roots to grow in an unimpeded fashion for the corner tree. However, as a result of the Arborist's assessment, the Public Works Director's revised decision continues to recommend removal of the Galvin-side tree due to its close proximity to the Applicant's structures and the past history of damage to the Applicant's garden wall, which has now been repaired. The revised Director decision also recommends replacing the Galvin-side Ficus tree with two 36" box *Lophostemon Confertus* (Brisbane Box) trees, which is the species recommended to replace Ficus trees in the City's Urban Forest Master Plan (See Attachment No. 4).

Staff worked with the Applicant to develop this solution; if the Capital Improvement Project (CIP) discussed in the revised Director's decision is approved by the City Council, the Applicant has agreed to withdraw their request to remove the corner tree and has also agreed to pay the cost to purchase and plant the two replacement trees on Galvin (valued at approximately \$1,698). The CIP to complete the parkway widening construction will have a cost of approximately \$80,000.

On September 22, 2021, staff presented the revised Director's decision to the Appellant and a few of their neighbors. Since the revised decision removes one of the two trees, the Appellant indicated they would continue to appeal the Director's decision.

## FISCAL ANALYSIS

If the parkway expansion project is implemented, its estimated cost is \$80,000. If the Director's recommendation is approved by the City Council, staff will include this project in next year's CIP budget request.

## ATTACHMENTS

1. 21\_10\_11 ATT1 Tree Removal Application Northgate
2. 21\_10\_11 ATT2 Public Works Director's Decision Letter Northgate
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## MOTION

That the City Council:

1. Grant the appeal, finding substantial evidence that the Director's decision is based on an error in fact or disputed findings, and determine that both trees are to remain; or
2. (Staff Recommendation): Deny the appeal and approve the Public Works Director's revised decision, which includes an \$80,000 Capital Improvement Project in next year's budget request to substantially expand the Galvin Street parkway, allowing the corner tree to remain, and removing the Galvin Street tree and replacing it with two 36" box *Lophostemon Confertus* trees, with the Applicant agreeing to cover the cost to purchase and plant the two replacement trees; or
3. Provide other direction to the City Manager as deemed appropriate.