

City of Culver City, California
Agenda Item Report

Meeting Date: 05/28/2013		Item Number: <u>A-1</u>	
CITY COUNCIL AGENDA ITEM: (1) Introduction of an Ordinance Amending Chapter 9.08, Streets and Sidewalks, and Chapter 9.10, Parks, Public Buildings, and Property, of the Culver City Municipal Code, by Repealing and Replacing Section 9.08.005, Amending Section 9.08.010, Adding a New Subchapter 9.08.200 et seq., and Repealing and Reserving Sections 9.10.025 Through 9.10.040, Relating to Parkway Planting Standards and Tree Removal Regulations; and (2) Adoption of a Resolution Establishing Residential Parkway Standards.			
Contact Person/Dept.: Helen Kerstein/PW		Phone Number: (310) 253-5618	
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 (05/21/13); (Published) Culver City News (05/16/13; 05/23/13); (E-Mail) Environmental Listserv (05/14/13); (E-mail) Audubon Society (05/14/13); (E-mail) Ballona Creek Renaissance (05/14/13).			
Department Approval: Charles D. Herbertson 05/16/2013		City Attorney Approval: Carol Schwab (by H. Baker) (05/21/13)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (05/21/13)		City Manager Approval: John M. Nachbar (05/21/13)	
<u>RECOMMENDATION:</u> Staff recommends the City Council: 1. Introduce an Ordinance amending Chapter 9.08, Streets and Sidewalks, and Chapter 9.10, Parks, Public Buildings, and Property, of the Culver City Municipal Code, by repealing and replacing Section 9.08.005, amending Section 9.08.010, adding a new Subchapter 9.08.200, et seq., and repealing and reserving Sections 9.10.025 through 9.10.040, relating to parkway planting standards and tree removal regulations (Attachment 1); and 2. Adopt a resolution establishing Residential Parkway Standards (Attachment 2). <u>BACKGROUND:</u> <u>Tree Removals</u> There are approximately 15,500 trees in the City of Culver City, which contribute significantly to the quality of life of the community. These trees raise property			

City of Culver City, California
Agenda Item Report

values, encourage economic development, reduce the heat island effect, contribute to storm water infiltration, and reduce the particulates and greenhouse gases in the air. However, there are times when the City's trees pose hazards or create hardships and thus their removal is in the best interest of the City and the public health, safety and welfare.

The Public Works Director is charged with overseeing the City's trees and determining whether a tree should be removed. The Director's decision is based on the criteria outlined in the Culver City Municipal Code (CCMC). The existing provisions of the CCMC specify that the applicant for a tree removal bears the burden of proof to demonstrate the reasons for removal by a preponderance of evidence. It also requires that the following factors shall be considered, amongst other things, when evaluating tree removal requests:

1. Whether the tree or trees pose a potential for safety problems despite a sound maintenance program;
2. Whether the roots from adjacent parkway trees are interfering with sewers or utility lines servicing the abutting property to the extent that the property owner requires frequent repairs of sewers or utility lines (Damage to sewers alone, however, does not constitute major damage);
3. Whether the tree is dead, dying or incurably diseased;
4. Whether the tree is diseased and weakened by age, storm, fire or other injuries so as to pose a danger to persons, properties, improvements and other trees;
5. Whether the tree(s) is of an undesirable species;
6. Whether the tree poses a hardship to the adjacent property owner such as, but not limited to, damage to the foundation of house or garage, or in the case of a handicapped person, special circumstances which cause the location of the tree, or evenness of pavement to become a hindrance for vehicle or handicapped access;
7. Whether removal is necessary for construction of a street improvement project or other public improvement/repair work.

Furthermore, the CCMC also states that the applicant must show by demonstrable evidence that the alleged damage to private property caused by the tree in question is at least \$5,000. The \$5,000 requirement is especially burdensome as it often precludes the Public Works Director from recommending removal of a tree that may otherwise merit removal.

It has become clear in recent years that these provisions are in need of updating in order to ensure that the CCMC provides clear guidance to the Public Works Director, but also provides some flexibility so that the Director can exercise his judgment and expertise.

Parkways

A parkway is defined as the land area between the street curb and the sidewalk. In non-residential parts of the City, the parkway has generally been filled in with

City of Culver City, California
Agenda Item Report

concrete. In residential parts of the City, the parkway has historically been planted with grass.

With the increasing need for water conservation, there has been growing interest in replacing water-hungry grass in the City's residential parkways with more water-efficient turf or other drought-tolerant alternatives. Along with this interest have come requests from property owners for clear guidance on what plantings and other improvements can be made to the parkway.

Existing provisions of the CCMC:

- Require a permit from the Department of Public Works prior to planting any flowers, grass, vines, vegetables, or other vegetation or removing and planting trees or shrubs in the parkway (§ 9.10.035). However, neither the CCMC nor formal Department policies provide direction on what types of plantings or other types of improvements are acceptable for a permit to be issued.
- Prohibit any obstacle that will interfere with the free passage of pedestrians or vehicles in the sidewalk or street (which is defined to include the parkway for the purposes of the referenced section) (§9.08.010). This could be interpreted to preclude the installation of many types of plants and other improvements.
- Do not specifically set forth maintenance responsibilities for the parkway. While it has been the City's policy that, except for Landscape Assessment Districts and City-installed rain gardens for which the City has explicitly taken maintenance responsibility, maintenance is the responsibility of the adjoining property owner (a policy which is supported by Streets and Highways Code §5610). This policy has not been expressly stated in the CCMC, but is proposed to be included in the proposed amendments to the existing provisions.

DISCUSSION:

Tree Removals

Staff recommends updating the CCMC to provide additional clarity and flexibility regarding tree removals. The proposed updates have been recommended with the recognition that the Public Works Director should have exclusive authority to remove trees and that these removals may be either initiated by an applicant or by the Director, articulating the process for each scenario. The changes to the criteria for tree removal include eliminating the following requirements: 1) that the applicant bear the burden of proof by preponderance of evidence, 2) that the Public Works Director makes a declaration on the costs of alternatives, and 3) that \$5,000 in

City of Culver City, California
Agenda Item Report

damage to private property be documented. The updates also add a procedure for removals that are necessary for the construction of a private improvement project, which was not included in the existing CCMC provisions, but is an important addition. Finally, the alterations consolidate and simplify criteria, remove redundant language, reorganize and relocate the relevant sections to improve clarity, and specify which criteria are sufficient to merit removal individually and which should be considered in combination. Together, these changes should provide the Public Works Director the flexibility to determine holistically whether or not it is in the best interest of the City to remove a tree, while simultaneously providing a sufficiently well-defined framework for making these decisions.

Parkways

In order to provide clearer guidance on acceptable alterations to parkways, staff recommends codifying broad requirements for parkways (through the Proposed Ordinance – Attachment 1), which are not expected to change significantly over time. These requirements include that permits only be issued if proposed changes do not:

- Preclude the free passage of pedestrians along the sidewalk or from parking spaces or ramps to the sidewalk
- Obstruct traffic signs or signals from view
- Reduce or obstruct traffic visibility
- Pose harm to the health or safety of persons or property

Staff also recommends that more detailed parkway standards be adopted by resolution of the City Council (through the Proposed Resolution – Attachment 2) in order to facilitate adjustments to them at a later date should conditions change. Staff suggests that the standards include specific requirements aimed at promoting water conservation, access, and visibility, as well as eliminating potential hazards and nuisances. These requirements are summarized below and detailed in the attached Residential Parkway Standards (Standards) (see Attachment 2):

In order to promote water conservation, the Standards:

- Require new plants and turf to be water-efficient, climate appropriate, or native/indigenous, as well as non-invasive. Encourage low volume, non-overhead irrigation systems or hand-watering when irrigation is necessary; prohibit runoff outside the parkway area; and require compliance with the Water Efficient Landscape Ordinance and other local, state, and federal laws. Require that a minimum of 75 percent of the parkway area be permeable and 50 percent be planted.

In order to promote access, the Standards:

- Require a step-out strip (a uniform, firm walking surface such as turf, grass, other walkable ground cover, pavers, brick, or decomposed granite) along the

City of Culver City, California
Agenda Item Report

length of the curb to allow passengers to enter and exit vehicles parked at the curb. Prohibit overhang and encroachment on to the sidewalk or step-out strip, and require at least one unimpeded path from the curb to the sidewalk (accessway) per standard parcel.

In order to promote visibility of traffic signs, signals, and traffic, the Standards:

- Prohibit additions to the parkway (except trees) that exceed 30 inches in height at maturity.

In order to eliminate potential hazards and nuisances, the Standards:

- Prohibit ivy or other dense ground covers that harbor or attract rodents; plants with thorns, stickers, or edible fruit; objects such as statues, raised planters and pots, benches, fences, other similar decorative items; artificial turf; and pea gravel or other loose small rock that can easily be kicked out or otherwise displaced onto the sidewalk. The Standards also ensure adequate access to fire hydrants, compatibility with street trees and that materials such as bricks, flagstone and pavers are maintained flush with the ground, so as not to pose a tripping hazard.

The proposed Standards also allow for no-fee permits for the planting of walkable planting material selected from the pre-approved list and establish a more involved process for the installation of storm water capture systems (such as rain gardens or bioswales) or other complex changes to the parkway. The proposed ordinance and Standards will formally articulate the requirements for parkways for the first time, thus enhancing consistency and clarity in the permitting process.

Finally, staff proposes clarifying that the prohibition on obstructions in CCMC §9.08.010 does not apply when parkways are permitted pursuant to these Standards, and also adding language to identify explicitly that, except in the case of a Landscape Assessment District or City-installed rain garden for which the City has explicitly taken maintenance responsibility, it is the owner of the adjoining property (not the City) who is responsible for maintaining the parkway area and keeping it free from anything that might pose a hazard to the public. This addition to the CCMC should help make it clear that the adjoining property owner is responsible for maintenance and provide stronger authority for code enforcement to cite those who fail to maintain their parkways and thus create aesthetic and public safety concerns.

Violations/Penalties

The Proposed Ordinance also includes provisions making it unlawful to violate the provisions of Subchapter 9.08.200 et seq., relating to parkway plantings and tree removal, and imposing certain fines and penalties. (See §9.08.230 of the Proposed Ordinance)

City of Culver City, California
Agenda Item Report

City Council Sustainability Subcommittee

Staff discussed these proposed changes with the City Council Sustainability Subcommittee (Sahli-Wells and Cooper) on September 19, 2012. The Subcommittee was generally supportive, but raised concerns and/or questions about the following aspects of the Standards:

Benches

The proposed Standards prohibit benches, among other items. Vice Mayor Sahli-Wells articulated the value of benches in public spaces such as parkways in promoting place-making and community building. Staff raised concerns about benches potentially creating hazards or nuisances, facilitating loitering, and contributing to visual blight if not appropriately selected and maintained. For these reasons, staff is not recommending allowing them in the parkways. If the City Council wishes to allow them, staff recommends permitting them under a revocable permit and requiring that the City be indemnified. If this is the direction of Council, staff would also investigate the possibility and practicality of requiring the property owner to cover the City under their homeowner's liability policy.

Fruit Trees

The proposed Standards also prohibit plants that produce edible fruit. Although the Standards do not specifically mention trees, this prohibition would include fruit trees. Vice Mayor Sahli-Wells expressed a desire to allow fruit trees in parkways. There has been a movement in some places around the country to allow fruit trees in public places. Guerrilla Grafters have been grafting unauthorized fruit branches onto street trees in the San Francisco Bay Area. Los Angeles County has incorporated fruit trees as part of its renovation of Del Aire Park. However, cities have generally resisted this movement, especially for street trees, for a variety of reasons, including: these trees are typically not an appropriate size for the parkway, often drop fruit or attract pests, and are not consistent with the trees that are already planted in the parkways. In Culver City, the species of trees in the parkways are identified in the adopted Street Tree Master Plan and are chosen based on a wide range of criteria such as size, root invasiveness, hardiness, messiness, environmental sustainability, and location appropriateness. Because the City maintains these trees and faces complaints and claims that arise from them, it is important that they be appropriate for the site and be controlled by the Master Plan rather than allowed through an alternate process. Staff does not recommend that fruit trees be permitted.

Existing Non-Conforming Parkway

Another issue that was raised in the Sustainability Subcommittee meeting is the treatment of existing non-conforming parkways. There are currently a significant number of unpermitted alterations to parkways that will be out of compliance with these proposed Residential Parkway Standards (and with the existing CCMC and the Proposed Ordinance, if adopted, which require a permit). Code Enforcement has not been aggressively pursuing these violations due to the lack of clear Standards and a designated permit process. With the adoption of the proposed

City of Culver City, California
Agenda Item Report

Residential Parkway Standards, the Code Enforcement Division has indicated that it intends to prioritize enforcement based on complaints received and the severity of the violations, consistent with the current Council-approved approach.

FISCAL ANALYSIS:

Staff does not believe that the proposed changes will result in a significant increased burden on staff. The proposed changes to the criteria for tree removals will provide the Public Works Director with more discretion to approve some tree removals, but will not be likely to significantly change the number of requests that are received.

Additionally, while staff anticipates that the clarification of Residential Parkway Standards may spur some additional property owners to seek permits, this increase is anticipated to be relatively small and will be absorbable within existing resources. The parkways that are out of compliance with the new Residential Parkway Standards were not in compliance with the existing CCMC provisions. However, the adoption of the new Residential Parkway Standards may spur some additional enforcement actions. As described above, the Code Enforcement Division plans to prioritize out of compliance parkways based on complaints and severity of violations to make enforcement manageable given current staffing levels.

For a number of years, there have been fees in the City's fee schedule for tree removals applications and appeals (currently \$75 each). Prior to the 2013/2014 fee schedule, there were no established fees for parkway permits. However, the following fees were added to the 2013/2014 fee schedule that the Council adopted on May 13, 2013 (pending the passage of the proposed ordinance and Standards):

Parkway Permit Fees:

Processing Application - Walkable Plantings:	\$ 0
Processing Application and Inspection - Basic Permit:	\$ 151.50
Rain Gardens or Other Complex Parkway Changes:	
Permit Review	\$175 per hour (1 hour min.)
Inspection, if required	\$128 per hour (1 hour min.)

These parkway fees were set to enable the City to cover the expected staff costs associated with parkway permits. At the May 13, 2013 Council meeting, Vice Mayor Sahli-Wells proposed reducing or eliminating the portion of the parkway fees associated with the installation of rain gardens in recognition of their environmental benefits. If the Council would like to direct staff to pursue this change to the 2013/2014 fee schedule, staff will bring the relevant resolution to the Council for consideration when the proposed ordinance is adopted.

City of Culver City, California
Agenda Item Report

ATTACHMENTS:

1. Proposed Ordinance
2. Proposed Resolution (including Exhibit A - Residential Parkway Standards)

MOTION:

That the City Council:

1. Introduce an ordinance amending Chapter 9.08, Streets and Sidewalks, and Chapter 9.10, Parks, Public Buildings, and Property, of the Culver City Municipal Code, by repealing and replacing Section 9.08.005, amending Section 9.08.010, adding a new Subchapter 9.08.200, et seq., and repealing and reserving Sections 9.10.025 through 9.10.040, relating to parkway planting standards and tree removal regulations; and,
2. Adopt a resolution establishing Residential Parkway Standards.