

Ferrel, Mimi

From: Peter Sunukjian <peter@briggsalexander.com>
Sent: Monday, May 8, 2023 3:46 PM
To: Public Comment at Culver City
Cc: Jeffrey Weber
Subject: PH-1 23-898 CC - PUBLIC HEARING:

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you confirm the content is safe.

I am Peter Sunukjian, an attorney with Briggs Alexander, APLC, representing resident Cynthia Mabus, whose original Request for Parkway Tree Removal is at issue.

Ms. Mabus objects to the proposed Resolution on the following grounds:

1. The Resolution does not comply with the terms of the Court's order of March 15, 2023, because it is not a reconsideration of the Council's October 11, 2021, decision based on the same evidence and argument. Instead, in violation of the Court's order, it is a new consideration that includes new evidence and new arguments not present or available at the October 11, 2021 hearing. As such, approval of this Resolution would place Culver City in contempt of the Court order, needlessly subjecting it to legal fees and liability.
2. The documents made available to the public in support of this Resolution are incomplete and thus the City Council lacks authority. The Resolution cites to documents, including, but not limited to, an alleged inspection of the site by the City's Arborist on April 13, 2023, alleged determinations by the Public Works Director that the criteria required for removal under Culver City Municipal Code § 9.08.210(C)(2)(b)-(c) do not exist, and the alleged "Galvin Street Parkway Expansion" in the Fiscal Year 2022/2023 budget, that have not been made available for public consumption and review prior to this hearing.
3. The City Council's reliance upon the alleged inspection by the City's Arborist on April 13, 2023, is improper because it is a violation of Culver City Municipal Code § 9.08.210(F) and because it does not demonstrate an error in fact or disputed finding in the Public Works Director's original decision.
4. The City Council's reliance upon alleged determinations by the Public Works Director that the criteria required for removal under Culver City Municipal Code § 9.08.210(C)(2)(b)-(c) do not exist is improper because it is a violation of Culver City Municipal Code § 9.08.210(F) and because it does not demonstrate an error in fact or disputed finding in the Public Works Director's original decision.
5. The City Council's reliance upon the alleged "Galvin Street Parkway Expansion" in the Fiscal Year 2022/2023 budget is improper because it is a violation of Culver City Municipal Code § 9.08.210(F) and because it does not demonstrate an error in fact or disputed finding in the Public Works Director's original decision.
6. The alleged inspection by the City's Arborist on April 13, 2023, does not comply with Culver City Municipal Code § 9.08.210(C), which states that the Public Works Director, not the City's Arborist, is the proper person to determine "whether the removal or replacement is in the best interest of the City and the public health, safety and welfare."

7. The alleged inspection by the City's Arborist on April 13, 2023, does not comply with Culver City Municipal Code § 9.08.210(C)(2)(a), which states that the Public Works Director, not the City's Arborist, is the proper person to determine whether "[t]he tree is a known problem species or is otherwise found to be an undesirable species for its location based on tree size relative to available area for tree growth."
8. The alleged inspection by the City's Arborist on April 13, 2023, does not comply with Culver City Municipal Code § 9.08.210(C)(2)(b), which states that the Public Works Director, not the City's Arborist, is the proper person to determine whether "[t]he tree roots are creating extensive and repeated damage to public and/or private infrastructure, including sidewalks, sewer lines, or other utility lines."
9. The alleged inspection by the City's Arborist on April 13, 2023, does not comply with Culver City Municipal Code § 9.08.210(C)(2)(c), which states that the Public Works Director, not the City's Arborist, is the proper person to determine whether "[t]he tree is creating a public or private nuisance."
10. The alleged conclusions of the City's Arborist on April 13, 2023, are erroneous and not supported by the facts, which are that (1) there is evidence of new damage at the site; (2) the previous asphalt repairs were not successful and there is evidence that the prior damage has recurred; (3) the cracks in the concrete wall that were repaired have reappeared and visible damage to the wall is apparent; and (4) there has been additional sidewalk damage and lifting over the past two years.
11. Appellant has not satisfied Culver City Municipal Code § 9.08.210(F) by demonstrating by substantial evidence that the original decision by the Public Works Director was based on an error in fact or disputed findings.
12. Appellant has not satisfied Culver City Municipal Code § 9.08.210(C)(2)(a) and § 9.08.210(F) by demonstrating by substantial evidence that trees at issue are not "a known problem species or [] otherwise found to be an undesirable species for [their] location based on tree size relative to available area for tree growth."
13. Appellant has not satisfied Culver City Municipal Code § 9.08.210(C)(2)(b) and § 9.08.210(F) by demonstrating by substantial evidence that trees at issue are not "creating extensive and repeated damage to public and/or private infrastructure, including sidewalks, sewer lines, or other utility lines."
14. Appellant has not satisfied Culver City Municipal Code § 9.08.210(C)(2)(c) and § 9.08.210(F) by demonstrating by substantial evidence that trees at issue are not "creating a public or private nuisance."
15. The City Council's definition of "extensive" provided in the Resolution is improper because it is inconsistent with, and contradicts, previous definitions of the term used by the City Council in other decisions.
16. The findings in Section 1 are improper, in violation of Culver City Municipal Code § 9.08.210, and not substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
17. The City Council's reliance upon the findings in Section 1 is improper, in violation of Culver City Municipal Code § 9.08.210, and does not provide a basis for determining that there was substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.

18. The findings in Section 3 are improper, in violation of Culver City Municipal Code § 9.08.210, and not substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
19. The City Council's reliance upon the findings in Section 3 is improper, in violation of Culver City Municipal Code § 9.08.210, and does not provide a basis for determining that there was substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
20. The findings in Section 3(A) are improper, in violation of Culver City Municipal Code § 9.08.210, and not substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
21. The City Council's reliance upon the findings in Section 3(A) is improper, in violation of Culver City Municipal Code § 9.08.210, and does not provide a basis for determining that there was substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
22. The findings in Section 3(B) are improper, in violation of Culver City Municipal Code § 9.08.210, not substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination, and not relevant because the Public Works Director's original determination did not rely on the criteria set forth in Culver City Municipal Code § 9.08.210(C)(2)(c).
23. The City Council's reliance upon the determinations in Section 3(B) is improper, in violation of Culver City Municipal Code § 9.08.210, does not provide a basis for determining that there was substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination, and based on irrelevant matters because the Public Works Director's original determination did not rely on the criteria set forth in Culver City Municipal Code § 9.08.210(C)(2)(c).
24. The findings in Section 3(C) are improper, in violation of Culver City Municipal Code § 9.08.210, and not substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
25. The City Council's reliance upon the findings in Section 3(C) is improper, in violation of Culver City Municipal Code § 9.08.210, and does not provide a basis for determining that there was substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
26. The findings in Section 3(D) are improper, in violation of Culver City Municipal Code § 9.08.210, and not substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
27. The City Council's reliance upon the findings in Section 3(D) is improper, in violation of Culver City Municipal Code § 9.08.210, and does not provide a basis for determining that there was substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
28. The findings in Section 4 are improper, in violation of Culver City Municipal Code § 9.08.210, and not substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.
29. The City Council's reliance upon the findings in Section 4 is improper, in violation of Culver City Municipal Code § 9.08.210, and does not provide a basis for determining that there was substantial evidence of an error in fact or disputed findings in the Public Works Director's original determination.

30. The findings in Section 5 are improper and in violation of Culver City Municipal Code §§ 9.08.200 *et seq.*
31. The City Council's reliance upon the findings in Section 5 is improper and in violation of Culver City Municipal Code §§ 9.08.200 *et seq.*

Peter Sunukjian

PLEASE NOTE OUR NEW ADDRESS:

Briggs & Alexander, APLC
4300 Campus Dr., Ste. 210
Newport Beach, CA 92660
peter@briggsalexander.com
Tel. 714-520-9250
Fax 714-520-9248