Staff Report Details (With Text)

File #:	20-795	**Version:** 2	**Name:**	Tree Removal Appeal at 4359 Elenda Street
Type:	Minute Order		**Status:**	Public Hearing
File created:	2/25/2020		**In control:**	City Council Meeting Agenda
On agenda:	8/10/2020		**Final action:**	
Title:	CC - PUBLIC HEARING: Appeal of the Public Works Director's Decision for Denial of Request for Removal of City-Owned Parkway Tree Located at 4359 Elenda Street.			
Sponsors:				
Indexes:				
Code sections:				
Attachments:	1. 2020-08-10_ATT_Applicant's Appeal Request_Elenda.pdf, 2. 2020-08-10_ATT_Tree Removal Application_Elenda.pdf			

Date	Ver.	Action By	Action	Result
8/10/2020	2	City Council Meeting Agenda		
8/10/2020	2	City Council Meeting Agenda		
8/10/2020	2	City Council Meeting Agenda		

CC - PUBLIC HEARING: Appeal of the Public Works Director's Decision for Denial of Request for Removal of City-Owned Parkway Tree Located at 4359 Elenda Street.

Meeting Date: August 10, 2020

Contact Person/Dept: Eric Mirzaian/Public Works

Phone Number: (310) 253-6444

Fiscal Impact: Yes [X] No [] **General Fund:** Yes [X] No []

Public Hearing: [X] **Action Item:** [] **Attachments:** []

Commission Action Required: Yes [] No [X] **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (08/05/2020); (Mail) All property owners within a 100-foot radius of 4359 Elenda Street (08/03/2020)

Department Approval: Charles D. Herbertson (07/20/2020)

RECOMMENDATION

Staff recommends the City Council conduct a public hearing to consider the appeal of the Public

Works Director's decision for denial of a request for removal of City-owned parkway tree located at 4359 Elenda Street.

PROCEDURE

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 open the 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) Sections 9.08.200, et seq., pertain to the removal of trees in parkways. In accordance with 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 and paying the applicable filing fee. Subsequent to the filing of the request for tree removal, a thorough assessment is conducted by the City's Urban Forester.

In accordance with the procedures set forth in CCMC Section 9.08.210.C, the Public Works Director then reviews the application and supporting documentation, as well as the Urban Forester'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 Public Works 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 criterion 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 requires that a formal appeal of the Public Works Director's decision can be filed within 10 City Hall business days after the date set forth in the notice of decision.

DISCUSSION

On October 17, 2019, the property owner at 4359 Elenda Street filed an application for removal of the parkway tree (*Ficus microcarpa Nitida*) directly adjacent to the property (Attachment 1). The request was made on the justification that the subject tree's root structure is causing extensive and repeated damage to public and private infrastructure including the sidewalk and the private property.

The Urban Forester's assessment recommended preserving the tree based on the fact that the subject tree is very healthy and root invasion to the private property can be mitigated by proper root pruning due to the fact the tree is planted in a very large and suitable parkway (23-foot width). The tree's root system has caused damage to the City sidewalk; however Public Works crews have made temporary repairs in the past via asphalt patching that at the time of the Urban Forester's assessment, were still holding up. Considering the Urban Forester's assessment, the Public Works Department will be scheduling permanent repairs of the sidewalk and root pruning at a higher priority.

Based on the applicant's justification and the Urban Forester's assessment, the Public Works Director denied the applicant's request for tree removal based on insufficient criteria required for consideration of removal. In this case, it was determined that only the criterion set forth in CCMC Section 9.08.210.C.2.b was met; whereas Section C.2 requires that at least two of the three listed criteria be met (See Attachment 1).

On January 8, 2020, the Director's decision was mailed to the applicant and all interested persons. Subsequently, on January 23, 2020, the Public Works Department received a phone call from applicant timely requesting an appeal of this decision, which was confirmed by email on January 27, 2020 (Attachment 2). The appeal is primarily based on the appellant's statements that the tree's root system is damaging their property and injuries to the appellant's spouse resulting from the root system.

Pursuant to CCMC Section 9.08.210.F, the City Council shall affirm the decision of the Public Works Director, unless the appellant demonstrates by substantial evidence, that the decision is based on an error in fact or disputed findings. The decision of the City Council on this appeal shall be final.

FISCAL ANALYSIS

There is no fiscal impact in conducting this public hearing. If the appeal is granted and the Public Works Director's decision is overturned, then there are costs associated with the removal of the tree, which costs are already budgeted in the Public Works Department-Tree Maintenance adopted budget for Fiscal Year 2020/2021.

ATTACHMENTS

powered by Legistar™

1. 2020-08-10_ATT_Tree Removal Application_Elenda
2. 2020-08-10_ATT_Applicant's Appeal Request_Elenda

MOTION

That the City Council:

1. Affirm the decision of the Public Works Director to deny the applicant's request for tree removal located at 4359 Elenda Street; or

2. Overturn the decision of the Public Works Director, finding that the decision to deny the request to remove the tree located at 4359 Elenda Street was based on an error in fact or disputed finding; thereby, granting Applicant's request to remove the tree.