



City of Culver City

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Staff Report

File #: 21-344, **Version:** 2

Item #: PH-1.

CC - PUBLIC HEARING: Appeal of the Public Works Director's Decision for Denial of Request for Removal of Two City-Owned Parkway Trees Located at 10820 Fairbanks Way.

Meeting Date: October 26, 2020

Contact Person/Dept: Eric Mirzaian/Public Works

Phone Number: (310) 253-6444

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 (10/21/2020); (Mail) All property owners within a 100-foot radius of 10820 Fairbanks Way (10/19/2020)

Department Approval: Charles D. Herbertson, Director of Public Works/City Engineer (10/12/2020).

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 two City-owned parkway trees located at 10820 Fairbanks Way.

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 the 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.

CCM Section 9.08.210.E requires that a formal appeal of the Public Works Director's decision be filed within 10 City Hall business days after the date set forth in the notice of decision.

DISCUSSION

On May 20, 2020, the property owner at 10820 Fairbanks Way filed an application for the removal of two parkway trees (*Ficus microcarpa Nitida*) on the Studio Drive side of the property (Attachment 1). The request was made on the justifications that the trees' root structure are causing extensive and repeated damage to public and private infrastructure including the sidewalk and private property; and the tree is creating a public/private nuisance due to excessive berry production/droppings and this particular species being undesirable for this location.

The Urban Forester's assessment recommended preserving both trees based on the fact that the

subject trees are healthy, have not caused any major damage to public or private infrastructure, and berry production/droppings can be minimized with the application of a growth inhibitor as well as regular trimming of the tree. Based on the Urban Forester's recommendation, the subject trees were trimmed in September along with the rest of the street block. Growth inhibitor was also applied earlier this month. A new sidewalk was constructed by Public Works crews back in 2015.

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, as well as other viable options that were identified as mentioned. In this case, it was determined that only the criterion set forth in CCMC Section 9.08.210.C.2.c was met; whereas, Section C.2 requires that at least two of the three listed criteria be met.

The Director's decision was mailed to the applicant on or around September 4, 2020. On September 15, 2020, the applicant timely requested an appeal of the decision. The appeal is primarily based on the applicant's justification of repeated damage to the property's driveway and nuisance from the berry production/droppings.

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 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

1. Tree Removal Application

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 10820 Fairbanks Way; or
2. Overturn the decision of the Public Works Director, finding that the decision to deny the request to remove the tree located at 10820 Fairbanks Way was based on an error in fact or disputed finding; thereby, granting Applicant's request to remove the tree.