



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: G. Harold Duffey
Director, Public Works

SUBJECT: Tree Ordinance Appeal for 9
Homeglen Lane

DATE: June 23, 2023

City Administrator Approval

Date:

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt One of the Following Three Options: (1) A Resolution Denying The Appeal Of Manuel Joseph Scanlan, Jr. And Upholding Staff's Granting of A Development-Related Tree Removal Permit for 9 Homeglen Lane; Or, Provided The City Council Can Make The Appropriate Findings, Either: (2) A Motion Directing Staff To Prepare A Resolution For Future City Council Consideration To Deny The Appeal With Additional Conditions; Or (3) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Uphold The Appeal.

EXECUTIVE SUMMARY

This report provides background information and a recommendation regarding a Tree Removal Permit for the proposed removal of four protected trees for a development-related project. Staff approved the Tree Removal Permit on the basis that the trees proposed for removal are growing within the footprint of the proposed single-family home on the site. There is no reasonable redesign of the site plan that would save the trees. Staff has prepared a resolution that will enable the City Council to implement a decision that denies the appeal and allows the issuance of the tree permit.

REASON FOR URGENCY

This appeal was submitted to the City Clerk on June 16, 2023 (**Attachment A**).

Per Oakland Municipal Code (OMC) 12.36.100(C), (**Attachment B**) the City Clerk shall set the appeal hearing at the next available City Council meeting. The hearing date set by the City Clerk shall not be more than thirteen working days from the date of the permit decision. If the appeal is not finally disposed of by the City Council within eighteen working days of the date of the permit decision, said decision shall be deemed affirmed, and the permit appeal denied.

City Council (or Committee)
Meeting Date

BACKGROUND / LEGISLATIVE HISTORY

On June 9, 2023, the City of Oakland Public Works, Parks and Tree Division approved a Development-Related Tree Removal Permit application to remove four trees located on vacant lot adjacent to 9 Homeglen Lane (**Attachment C**). The proposed development is for a single-family house. This permit application included the removal of one 7" diameter at breast height (DBH) coast live oak tree, one three-stem redwood tree with 36" DBH, 36" DBH and 28" DBH trunks, one 41" DBH redwood tree, and one 11" DBH California bay laurel tree. The Protected Tree Ordinance (PTO) requires replanting four native replacement trees for the mitigation of these four tree removals.

On June 16, 2023, a neighbor of an adjoining property, Manuel Joseph Scanlon Jr., submitted a permit appeal to contest the permit decision (**Attachment A**). He cited the following reasons as basis for the appeal:

"The Tree Review failed to address (and so presumably did not consider) the grounds for denial set forth in OMC sec. 12.36.050(B)(1)(a) which provides in pertinent part as follows:

B. A finding of any one of the following situations is grounds for permit denial, regardless of the findings in subsection A [the Tree Reviewer's findings] of this section.

1) Removal of a healthy tree of a protected species could be avoided by:

a. Reasonable redesign of the site plan, prior to construction"

And

"The fact that, as the Tree Reviewer was aware, there was no Site Design conference conducted as required by 12.36.070(J), which provides as:

(J) Site Design Conference. The City Planning Department shall meet and confer with the applicant, the Tree Review, and concerned parties in an effort to achieve a design which will accommodate the jeopardized tree(s)."

ANALYSIS AND POLICY ALTERNATIVES

Section 12.36.050 of the PTO lists the criteria used to determine if trees should be removed or preserved. This criteria review is a two-step process:

- First, the tree removals must be necessary in order to accomplish at least one of five possible objectives. In this case, the removal of trees due to their proximity to a proposed structure complies with objective (A)(1).
- Second, regardless of the first determination, a finding of any one of five possible situations listed in the PTO is grounds for permit denial. For this project, the criterion that must be considered is Section 12.36.050 (B)(1)(a): removal of a healthy tree could be avoided by reasonable redesign of the site plan, prior to construction.

Oakland Public Works was unable to support findings for denial based on the following:

- Reasonable re-design of the site plan, prior to construction, is not possible. This is a downhill lot approximately 60 feet wide and 86 feet long, with an elevation change of approximately 30 vertical feet downhill. Neighboring single-family homes have a garage at street level on Homeglen Lane with multiple tiered sections of the buildings spreading down the slope towards Saroni Drive. The site design is comparable in size and layout to the next door neighbors. The trees in question are growing within the footprint of the home and there is no room to shift the design in one direction or another without making significant impacts to the size and design of the house.
- It is unreasonable to ask for a complete redesign of the home, and to reduce its size considerably, to accommodate the four trees.
- If the four trees are preserved, it is questionable whether a viable project could be built.

FISCAL IMPACT

There is no fiscal impact associated with this report and resolution.

PUBLIC OUTREACH / INTEREST

Per OMC 12.36.070 (F), trees proposed for removal are posted and numbered for public visibility within two days of making a tree removal permit application. Per OMC 12.36.070 (F) The City of Oakland shall notify adjacent property owners within ten days of application the fact that a tree removal permit application has been submitted by the applicant, and the closing date for public input. The public comment period shall be no less than twenty working days following the verification of the posting.

COORDINATION

Development-related tree removal permit applications are coordinated between the Building and Planning Department and Public Works.

SUSTAINABLE OPPORTUNITIES

Economic: The construction of a new residential unit aligns with the Housing Element component of Oakland's General Plan and Oakland's commitment to build 26,251 new housing units between 2023 to 2031.

Environmental: The applicant is required to plant four native trees as mitigation for the removal of the four trees in question.

Race & Equity: No race and equity opportunities identified in relation to the proposed action.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This action is exempt per the State CEQA Guidelines Section 15303 – New Construction or Conversion of Small Structures and 15183 – Projects Consistent with a Community Plan, General Plan, or Zoning.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the Resolution denying the appeal of tree removal permit application T22-154 and allowing the issuance of a tree removal permit for four protected trees on this undeveloped lot on Homeglen Lane.

For questions regarding this report, please contact David Moore, Acting Manager, Parks and Tree Division, at (510) 615-5852.

Respectfully submitted,



G. HAROLD DUFFEY
Director, Oakland Public Works

Reviewed by:
Kristin Hathaway
Assistant Director, Oakland Public Works

Prepared by:
David Moore, Acting Manager
Parks and Tree Division

Attachments:

- A. Appeal filed by Manuel Joseph Scanlon Jr.
- B. OMC Section 12.36
- C. Tree Removal Permit Approval