City of
SACRAMENTO
Parks and Recreation

SPECIAL MEETING
Parks and Recreation Commission

COMMISSION MEMBERS

Caliph Assagai, Chair	David Heitstuman	Shannon McKinley	Terri Shettle
Toni Colley-Perry	Lynn Lenzi	Julie Murphy	Shane Singh
Kelly Conroy	Fatima Malik	Dave O'Toole	

CITY STAFF:

Pamela Sloan, Interim Director of Parks and Recreation
Shannon Brown, Operations Manager

Historic City Hall Hearing Room
915 I Street
January 7, 2016 – 6:30 p.m.

The Parks and Recreation Commission is a commission of the City Council that provides recommendations and advise on policies, projects and other matters pertaining to parks, recreation, trees, and human services affecting the City of Sacramento.

NOTICE TO THE PUBLIC

You are welcomed and encouraged to participate in this meeting. Public comment is taken (3) minutes maximum) on items listed on the agenda when they are called. Public Comment on items not listed on the agenda will be heard at the beginning of the meeting. Comments on controversial items may be limited and any large groups are encouraged to select 3-5 speakers to represent the opinion of the group.

Notice to Lobbyists: When addressing the Commission you must identify yourself as a lobbyist and announce the client/business/organization you are representing (City Code 2.15.160). **Speaker slips are located in the entryway of the hearing room and should be completed and submitted to the Commission Secretary.**

Government Code 54950 (The Brown Act) requires that a brief description of each item to be transacted or discussed be posted at least 72 hours prior to a regular meeting. The City posts Agendas at City Hall. The order of agenda items is for reference only; agenda items may be taken in any order deemed appropriate by the Chair. The agenda provides a general description and staff recommendations; however, the Commission may take action other than what is recommended. The agenda is available for public review on the Monday prior to the meeting. Hard copies of the agenda, minutes, and staff reports are available from the Parks and Recreation Department at 915 I Street, New City Hall, 3rd Floor (25 cents per page). Meeting facilities are accessible to persons with disabilities. If you require special assistance to participate in the meeting, notify the Parks and Recreation Department at (916) 808-5172 at least 48 hours prior to the meeting.

PARKS AND RECREATION COMMISSION MEETING

Thursday, January 7, 2016 – 6:30 P.M.

Historic City Hall Meeting Room, 915 I Street, Sacramento, CA 95814

All items listed are heard and acted upon by the Parks and Recreation Commission unless otherwise noted.

Call to Order – 6:30 p.m.

Roll Call / Commissioner Introduction

Public Comments- Matters Not on the Agenda

1. **To be announced**

Public Hearings

2. **Appeal of a Decision of the Hearing Examiner to Deny a Tree Permit to Remove a Heritage Tree at 2323 K Street**
   Location: Council District 4
   Recommendation: Hear the appeal and deny a permit to remove a heritage Southern Magnolia tree at 2323 K Street
   Contact: Timothy Dailey, City Arborist, 808-6336 and Joe Benassini, Urban Forest Manager, 808-6258

Special Oral Presentation

3. **None**

Consent Calendar

All items listed under the Consent Calendar are considered and acted upon by one motion. Anyone may request that an item be removed for separate consideration.

4. **Parks and Recreation Commission Meeting Minutes**
   Location: Citywide
   Recommendation: Approve Commission minutes for November 5, 2015
   Contact: Shannon Brown, Operations Manager, 808-4070

5. **Adopt a Meeting Calendar for Calendar Year 2016**
   Location: Citywide
   Recommendation: Adopt a Meeting Calendar for 2016
   Contact: Shannon Brown, Operations Manager, 808-4070

Discussion/Action Reports

Discussion/Action reports include oral presentations including those recommending review and comment

6. **Parks and Recreation Commission Agenda Items for 2016**
   Location: Citywide
   Recommendation: Review and Comment
   Contacts: Pamela Sloan, Interim Director, 808-8526

7. **Parkland Dedication (Quimby) Code Changes**
   Location: Citywide/All Districts
   Recommendation: Review and comment
   Contact Person: Mary de Beauvieres, Principal Planner, (916) 808-8722

8. **Parks and Recreation Report (Oral): Commissioner Roles and Responsibilities**
   Recommendation: Review and Comment
   Contact: Pamela Sloan, Interim Director, 808-8526

Questions, Ideas, and Announcements of Commission Members

Adjournment

City of
SACRAMENTO
Department of Public Works

Department of Public Works
Maintenance Services Division-Urban Forestry
urbanforestry@cityofsacramento.org

5730 24th Street Building 12A
Sacramento, CA 95822-3699
PH 916-808-5011

December 21, 2015

Parks and Recreation Commission
Sacramento, California

Honorable Members in Session

SUBJECT: Appeal of a decision of the hearing examiner to deny a tree permit to remove a Heritage Tree at 2323 K Street.

COUNCIL DISTRICT: Council District 4

RECOMMENDATION: Hear the appeal and deny a permit to remove a heritage Southern Magnolia tree at 2323 K Street.

CONTACT PERSON: Timothy Dailey, City Arborist
Joe Benassini, Urban Forester,
Department of Public Works (916) 808-6258

FOR COMMISSION MEETING: January 7, 2016

SUMMARY:

On August 5, 2015, Urban Forestry received a tree permit application to remove a large Southern Magnolia tree located at the front of the lot at 2323 K Street. Staff has determined that the tree qualifies as a Heritage Tree under the Sacramento City Code (SCC) Chapter 12.64 – Heritage Trees (Attachment 1). The basis for the tree removal permit request was that the tree limbs and the tree roots are causing or threatening to cause damage to the main structure on the property. The application was submitted by Stephen Layton on behalf of property owner Thomas Roth (Attachment 2).

In lieu of the Public Works Director deciding the matter, a public hearing was held by a hearing examiner on September 22, 2015. The hearing examiner did not find sufficient cause to allow for removal of the tree and his decision to deny the permit was issued on October 12, 2015. As allowed under SCC Section 12.64.060 – Appeal of the Decision of the Director, the applicant has appealed the hearing examiner's decision.

BACKGROUND:

The tree is a Southern Magnolia (Magnolia grandiflora) with a trunk diameter of 34 inches. The tree is approximately 60 feet tall with a canopy radius of 40 feet. The tree is located in the front yard approximately 6.5 feet from the front corner of residence and 6 feet from the neighbors building wall to the west.

The tree meets the criteria of a heritage tree as defined by the SCC 12.64.020 (1) Heritage Trees – Definitions:

> *Any tree of any species with a trunk circumference of one hundred (100) inches or more, which is of good quality in terms of health, vigor of growth and conformity to generally, accepted horticultural standards of shape and location for its species.*

The tree is in good health and good structural condition. There are no obvious signs or symptoms of damaging pests or diseases. The age of the tree is unknown, but the species is fully mature and known to live for 80 to 150 years. The house was built in 1890.

The application for a permit to remove the tree is based on the assertion that (1) the tree is causing damage to adjacent structures, (2) the tree limbs have caused damage to the stairs to the house, and (3) the tree roots are uplifting the patio area preventing the owner from providing ADA access to the side yard that is needed if the lower floor is to be converted for commercial use. The applicant has shown that the tree has sustained branch failures in the past causing damage to the stairs to the historic structure on the property, and claims that the tree has caused damage to the foundation, floor and ceiling of a neighboring structure on the adjoining property. Additionally, the applicant has stated that the tree roots restrict the property from complying with the Americans with Disabilities Act (ADA) and that the roots create an unsafe walking condition around the base of the tree in front of the house. The owner would need to comply with the ADA if the lower floor is converted to a commercial use.

There is some degradation of the brick pad at the entry to the lower unit, although it is unclear as to whether the damage is the result of root intrusion or poor construction (Attachment 3). The hearing examiner reviewed this issue and determined that the tree roots do not block creating an accessible path as required under the ADA. Urban Forestry staff inspected the exterior of the adjacent structure and found no evidence of damage to the neighboring property. There is no recent evidence large branch failures on the subject tree and Urban Forestry records indicate that permits for regular pruning have been issued in the past as far back as 2009. The applicant submitted a letter from an arborist (Attachment 6) that stated that the tree roots were causing damage and the condition of the tree could lead to its failure in the future. The hearing examiner considered this additional information, but concluded that it was not sufficient to allow for the tree removal under the City Code.

Urban Forestry staff has met with the applicant on numerous occasions to discuss both the tree and future development of the property. The applicant has submitted an application, now under review, to construct a cantina-style venue facing the alley at the rear of the property. Additionally, the applicant included mention of possible conversion of the first story of the house from residential to commercial use in their initial application and ensuing public hearing. That change in use requires ADA compliance to provide an accessible path to the rear of the structure. However, the applicant does not wish to link this appeal to the pending development application and prefers to focus on the condition of the tree in relation to tree structure and root-related issues (Attachment 4). For this reason, the appeal is to be heard by the Park and Recreation Commission rather than by the Planning and Design Commission.

SCC 12.64.050(C) requires that the director shall grant a permit under certain conditions:

> "C. The permit shall be granted by the director if he or she finds:
> 1. In the case of removal, (a) that the heritage tree must be removed in order for the applicant to use the property for any use permitted as of right or by conditional use permit under the Planning and Development Code for the zoning district in which the property is located and that such use could not be made of the property unless the tree is removed; or (b) that the condition of the tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety or welfare require its removal; or (c) that the tree or tree roots are causing, or threatening to cause, damage to any main structure on the owner's property and there are no reasonable alternative means to mitigate the damage or threatened damage while minimizing the impact on the tree. Reasonable alternative means of mitigation include, but are not limited to, cutting tree roots, trimming the tree canopy, or installing a root barrier. Removing, relocating, or in any way altering any main structure on the owner's property shall not be considered a reasonable alternative means of mitigation; or (d) that the tree no longer meets the criteria for a heritage tree set forth in Section 12.64.020 of this chapter;"

PUBLIC HEARING:

A public hearing was held on September 22, 2015 (the staff report, excluding the same exhibits attached to this staff report, is provided as Attachment 5). After hearing the testimony and reviewing additional documents, including an independent arborist report submitted by the applicant (Attachment 6), the hearing examiner issued a decision on October 12, 2015 (Attachment 7), which denied the application based on the evidence that the criteria for removal of the tree as set forth above did not exist.

APPEAL:

The applicant submitted a timely appeal of the hearing examiner's decision on October 20, 2015 (Attachment 8). Because the applicant is not filing the appeal based on the claim that the tree prevents development of the property for a commercial use related to a development application, the appeal is heard by the Parks and Recreation Commission.

STAFF RECOMMENDATION:

Staff recommends that the Commission hear the appeal and deny the tree permit removal application for the heritage tree located 2323 K Street because the evidence does not support the claim that the tree's condition endangers public safety or that the roots are causing damage to the main structure or the adjacent structure that cannot be mitigated by cutting the tree roots, as has been done in the past. The applicant's claim that the tree prevents development of the property which requires ADA access was considered by the hearing examiner but is not the basis of this appeal. Without further evidence that the tree is causing or threatening to cause damage to the house on the property, it is staff's belief that there is no basis for approval of the tree removal application.

Respectfully submitted,

12-23-15

Timothy Dailey, City Arborist, Urban Forestry — Date

Approved By:

12/23/15

Joe Benassini, Urban Forester, Urban Forestry — Date

12/29/2015

Juan Montanez, Manager, Maintenance Division, Public Works — Date

Attachment 1	Sacramento City Code 12.64 – Heritage Trees
Attachment 2	Tree Permit Applications, Statement of Justification with Photos
Attachment 3	Photos from Urban Forestry Staff
Attachment 4	Letter of Intent to Limit Scope of Appeal
Attachment 5	Hearing Staff Report
Attachment 6	Props Arborist Report
Attachment 7	Findings and Decision
Attachment 8	Letter of Appeal

Attachment 2

SACRAMENTO
Department of Public Works

TREE PERMIT APPLICATION

PLEASE SEND APPLICATION TO

Email: urbanforestry@cityofsacramento.org
Postal Mail: 5730 24th Street Building 12-A Sacramento, California 95822
For questions please call 311

ALL APPLICATIONS WILL BE CHARGED A FEE OF $50 TO COVER ARBORIST COSTS
INVOICE WILL BE MAILED TO APPLICANT AFTER PROCESSING

Applicant Information

Name: Stephen Layton Company: Name to be determined

Address: 3930 K Street, Sacramento, CA 95816 Phone ( ) 707-601-7292

Email: layton.stephen@gmail.com State Contractor License #

Property Owner Information (if different):

Name: Thomas Roth Phone ( ) (916) 444-5000

Address: 2318 K Street, Suite B, Sacramento CA 95816

Owner/Agent Statement

Property Owner Consent— I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.

Signature: Date: 8/3/2015

Project Information:

☐Residential Development ☒Commercial Development ☐Owner-Occupant

Address: 2323 K Street, Sacramento CA 95816 Other permits applied for? ☐Yes ☒No

List other permits that you have applied for: Permits will be submitted to convert the residential units on the first floor to commercial use.

APN: 007-0095-016-0000 Related Project Number:

Type of permit requested: ☐Prune or ☒Removal of a ☐Street Tree ☒Heritage Tree or ☐Parking Lot Tree

Number of Trees: 1 Tree Species and Diameter: Magnolia Tree ~110 DBH

Reason for permit: See attached

Applicant Signature: Date: 08/03/15

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Attachment 2 (cont.)

Proposed Heritage Tree Removal at 2323 K Street, Sacramento CA 95816

The landlord and tenants of 2323 K Street are requesting the removal of a heritage tree located along the western property line at the aforementioned location. The property is currently in residential use, but is zoned for commercial use. The tenants are excited about opportunities for adaptive reuse of a historic structure in a walkable location of midtown.

The tree is currently growing along the concrete wall of the adjoining property and is showing signs of impacting that structure. The tree, with its large span, has also dropped branches in the past that have necessitated the repair of the historic structure at 2323 K Street. There is a real chance that this tree could drop large branches and further damage the historic home.

The tree in question is a large magnolia tree that in its current location has caused quite a bit of damage to the properties adjacent to the tree. The tree has done damage to the foundation, floor, and ceiling of the adjoining property. The tree has caused damage to the stairs and other areas of the historic structure at 2323 K Street in the recent past. At one point the stairs had to be reconstructed as a result of a large branch that fell from the tree. The root system of the tree has also created an unsafe walking condition around the base of the tree in the front portion of the property.

Additionally the tree restricts the property from complying with the Americans with Disabilities Act (ADA). The applicants acknowledge the importance of trees in Sacramento and particularly Heritage trees, however his particular tree poses several hazards in its current location. A proposed site map showing the location of the tree and ADA access ramp is include with the application package.

The root system is currently growing in such a way as to impede foot traffic to the front door and poses a trip hazard. The roots are continuing to grow closer to the historic structure and it is just a matter of time until they begin to impact the foundation. They have already started to damage the brick patio in the front yard. Any attempt to build an ADA ramp over the structure would necessitate removing or impacting a portion of the root system which would reduce the stability of the tree and jeopardize the historic structure. Any ADA ramp that is built over the roots runs the risk of being pushed up and therefore coming out of compliance with ADA standards.

The tree also impacts public safety by preventing the only secondary egress option for the Cantina restaurant being developed on the alley behind 2323 K Street. With the proposal for two commercial business on this parcel the need for safe, easy, and efficient egress is a public safety concern.

Attachment 2 (cont.)

Proposed Heritage Tree Removal at 2323 K Street, Sacramento CA 95816

The City of Sacramento recently planted an oak tree along the public right-of-way. This tree is extremely healthy but its canopy is already being shaded by the existing magnolia tree. The removal of the magnolia tree would remove this shade and allow the tree to grow more quickly and replace the existing tree cover.

The tenants of 2323 K Street plan to use the wood from the tree for art projects around the property. Some ideas for the wood include local artist sculptures, games to increase community in the area, as well as furniture accents and signage. Plans for the commercial property would include a water-wise native garden, with drip irrigation.

Attachment 2 (cont.)

Proposed Heritage Tree Removal at 2323 K Street, Sacramento CA 95816

Photos:

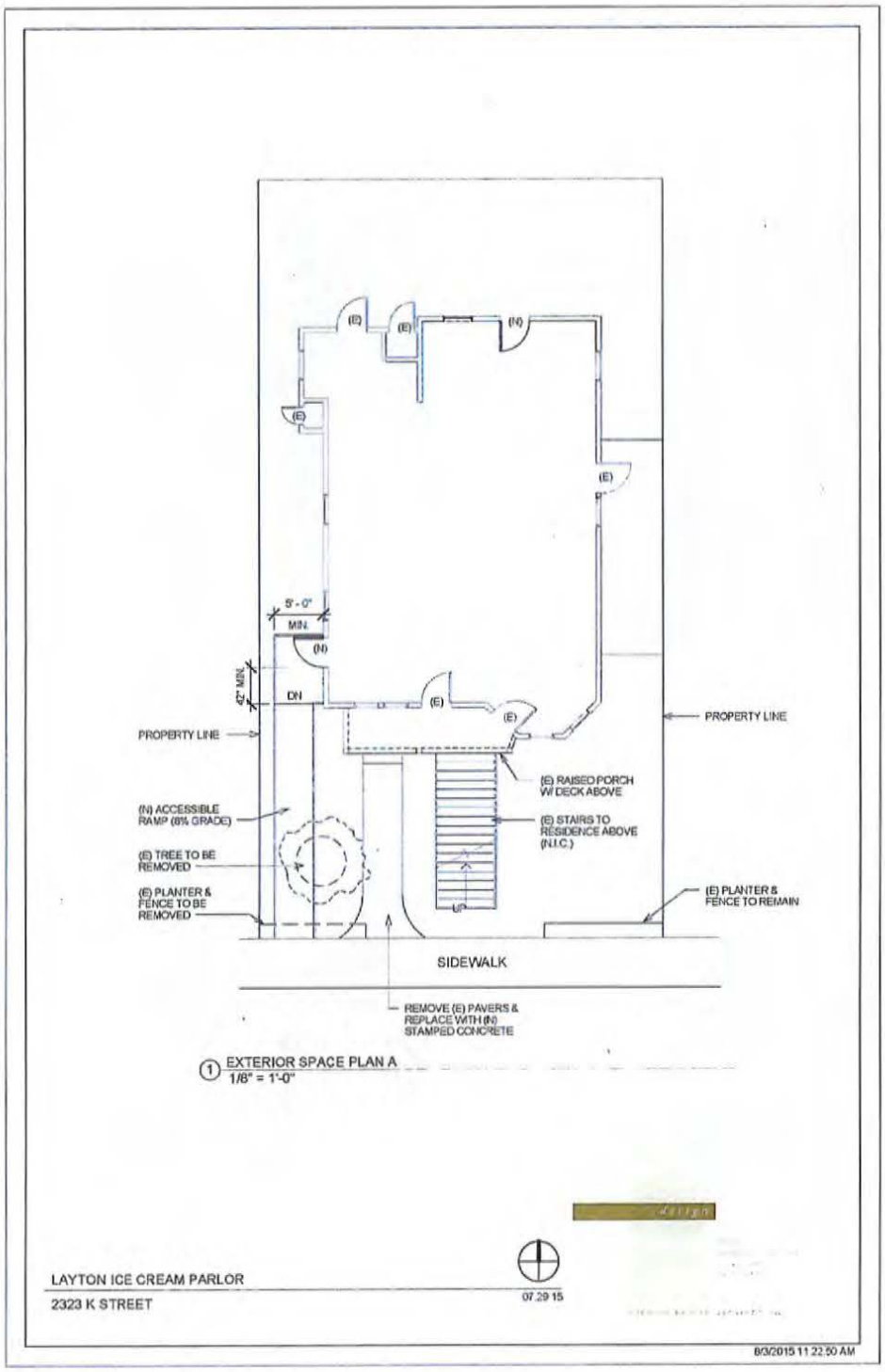
View from the street looking north at 2323 K Street. Magnolia tree along the western edge of the property and newly planted oak in the right-of-way.

View from the sidewalk looking at the front yard of 2323 K Street.

View from the street of 2323 K Street.

View of the root system of the magnolia tree.

Attachment 2 (cont.)



Attachment 3

Attachment 3 (cont.)

Attachment 3 (cont.)

Attachment 4

From: Stephen Layton <layton.stephen@gmail.com>
Sent: Tuesday, November 17, 2015 7:04 PM
To: Timothy Dailey
Cc: Joe Benassini; Thomas Roth; Art Aguliar
Subject: Re: 2323 K St.

Tim,

Thank you for the email and for letting me know your concerns. After discussing the details again with the project team we feel that the current approach still makes the most sense. The argument that we posed at the last hearing and the information we provided focused on the damage this tree has caused to both adjacent properties. There are structural issues that have been caused by the tree, these have been documented and discussed.

Being a tree in an urban area on a commercially zoned parcel there are a variety of factors in play, the ADA issue although real is not the main reason we are proposing to take down this tree. It does fit into the overall picture and is worth mentioning because we feel it helps to support the argument in terms of the cumulative impacts that this tree is having on two property owners in the City of Sacramento. We feel that the information we have provided in response to the last hearing more than addresses the concerns expressed by the hearing officer and we did not agree with the decision, thus we filed an appeal. We do not feel that the Planning Commission is the correct venue for this and look forward to the hearing on December 10th.

Sincerely,

Stephen Layton

On Thu, Nov 12, 2015 at 2:55 PM, Timothy Dailey <TDailey@cityofsacramento.org> wrote:

Hello Stephen,

As we discussed on the phone, there was only a minor reference to the cantina in the tree permit application. The project number was not referenced for the cantina and it was our understanding that this ADA issue was for the building in the front. Now it seems this is being appealed based solely on the cantina and the ADA accessibility. The difference in this request would require the issue be appealed to the planning and design commission. There is a 4000 dollar appeal fee that must accompany the appeal to the clerk's office. If you would like to proceed, please let us know as soon as possible for the matter to be heard on the 10th of December.

Sincerely,

Tim Dailey

Attachment 5

SACRAMENTO
Department of Public Works

Department of Public Works
Maintenance Services Division-Urban Forestry
urbanforestry@cityofsacramento.org

5730 24th Street Building 12A
Sacramento, CA 95822-3699
PH 916-808-5011

PUBLIC HEARING
Heritage Tree Permit Request

September 17, 2015

Subject: Tree Permit Application to Remove a Heritage Tree

Project Location: 2323 K St.

Property Owner: Thomas Roth

Applicant: Stephen Layton

Hearing Date: September 22, 2015, 9:00 AM

Hearing Examiner: Art Gee

Contact: Tim Dailey, Arborist

Background:

On August 5, 2015, Urban Forestry received a tree permit application to remove a southern magnolia, considered a heritage tree, located at 2323 K St. The application was submitted by Stephen Layton on behalf of Thomas Roth, owner of the property. Per the application, the justification is that the tree is damaging adjacent structures and is interfering with improvements to meet requirements of the Americans with Disabilities Act (ADA). Urban Forestry staff has met with the owner of this property or his representatives on several occasions since March of 2014. Discussions have centered around providing ADA access to the front entry of a lower unit, where a small brick and mortared pad met the stoop. At that time, staff suggested removing the hardscape over and near the roots of the tree to expose them for further assessment to evaluate what options there might be for alternatives to construct ADA access. No application was received at that time. Subsequent to receipt of this permit application the tree was inspected again on August 5th, 2015 and August 24, 2015.

General Observations:

The tree is a southern magnolia (Magnolia grandiflora) with a trunk diameter of 34 inches. The tree is approximately 60 feet tall with a canopy radius of 40 feet. The tree is located in the front yard approximately 6.5 feet from the front corner of residence and 6 feet from the neighbors building wall to the west.

The tree meets the criteria of a heritage tree as defined by the Sacramento City Code, Section 12.64.020 (1) Heritage Trees – Definitions:

> Any tree of any species with a trunk circumference of one hundred (100) inches or more, which is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape and location for its species.

The tree is in good health and good structural condition and may have been planted when the house was built circa 1890 or soon thereafter. There is some degradation of the brick pad at the entry to the lower unit, although it is unclear as to whether the damage is the result of root intrusion or construction (Photo 1). Urban Forestry staff found no evidence of damage to the neighboring concrete wall. There is no indication of a history of large branch failures on the subject tree, and Urban Forestry records indicate that permits for regular pruning have been issued in the past as far back as 2009. There are no obvious signs or symptoms of damaging pests or diseases.

There have been a number of discussions with Community Development staff regarding potential uses of the property, including a cantina-type venue facing the alley and an ice cream shop in the lower unit of the structure. However, the applicants have not formally submitted an application for construction or a use permit.

Policy

The intent and purpose of the Heritage Trees ordinance is to promote the health, safety and welfare of present and future residents of the city by providing for the protection of significant specimen trees existing in the city. The protection of heritage trees promotes scenic beauty, enhances property values, reduces soil erosion, improves air quality, abates noise and provides shade to reduce energy consumption (SCC12.64.010)

Staff Recommendation:

Sacramento City Code section 12.64.050(C)(1), Maintenance Responsibility-Permits affecting Heritage Trees, requires that the director grant a permit under certain specified conditions:

> C. The permit shall be granted by the director if he or she finds:
>
> 1. In the case of removal, (a) that the heritage tree must be removed in order for the applicant to use the property for any use permitted as of right or by special permit under the city zoning ordinance for the zoning district in which the property is located and that such use could not be made of the property unless the tree is removed; or (b) that the condition of the tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety or welfare require its removal; or (c) that the tree or tree roots are causing, or threatening to cause, damage to any main structure on the owner's property and there are no reasonable alternative means to mitigate the damage or threatened damage while minimizing the impact on the tree. Reasonable alternative means of mitigation include, but are not limited to, cutting tree roots, trimming the tree canopy, or installing a root barrier. Removing, relocating, or in any way altering any main structure on the owner's property shall not be considered a reasonable alternative means of mitigation; or (d) that the tree no longer meets the criteria for a heritage tree set forth in Section 12.64.020 of this chapter;

Attachment 5 (Cont.)

The applicant has not demonstrated that any of the conditions in SCC 12.64.050(C)(1) have been satisfied.

Staff recommends that the application for this permit be denied.

_____ _____

Tim Dailey, City Arborist Date

Attachment 1	Sacramento City Code 12.64 Heritage Trees	Pages 4-8
Attachment 2	Tree Permit Application and Attachments	Pages 9-13
Attachment 3	Staff Photos of Existing Conditions	Pages 14-16
Attachment 4	Public Notice	Page 17

Attachment 1

Chapter 12.64 HERITAGE TREES
12.64.010 Intent and purpose.

It is the intent and purpose of this chapter to promote the health, safety, and welfare of present and future residents of the city by providing for the protection of significant specimen trees existing in the city. The protection of heritage trees will promote scenic beauty, enhance property values, reduce soil erosion, improve air quality, abate noise and provide shade to reduce energy consumption. (Prior code § 45.04.210)

12.64.020 Definitions.

"Circumference" means circumference measured four and one-half feet above ground level.

"Director" means the director of the department of public works or designee.

"Drip line area" means the area measured from the trunk of the tree outward to a point at the perimeter of the outermost branch structure of the tree.

"Heritage tree" means:

1. Any tree of any species with a trunk circumference of one hundred (100) inches or more, which is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape and location for its species.

2. Any native Quercus species, Aesculus California or Platanus Racemosa, having a circumference of thirty-six (36) inches or greater when a single trunk, or a cumulative circumference of thirty-six (36) inches or greater when a multi-trunk, which is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape and location for its species.

3. Any tree thirty-six (36) inches in circumference or greater in a riparian zone. The riparian zone is measured from the centerline of the water course to thirty (30) feet beyond the high water line.

4. Any tree, grove of trees or woodland trees designated by resolution of the city council to be of special historical or environmental value or of significant community benefit. (Ord. 2015-0015 § 8; Ord. 2008-018 § 3; prior code § 45.04.211)

12.64.030 Identification and inventory of heritage trees.

The director is authorized to identify and prepare an inventory of heritage trees within the city. (Prior code § 45.04.212)

Attachment 1 (cont.)

12.64.040 Protection of heritage trees during construction activity.

During construction activity on any property upon which is located a heritage tree, the following rules shall apply. Unless the express written permission of the director is first obtained, no person shall:

A. Change the amount of irrigation provided to any heritage tree from that which was provided prior to the commencement of construction activity;

B. Trench, grade or pave into the drip line area of a heritage tree;

C. Change, by more than two feet, grade elevations within thirty (30) feet of the drip line area of a heritage tree;

D. Park or operate any motor vehicle within the drip line area of any heritage tree;

E. Place or store any equipment or construction materials within the drip line area of any heritage tree;

F. Attach any signs, ropes, cables or any other items to any heritage tree;

G. Cut or trim any branch of a heritage tree for temporary construction purposes;

H. Place or allow to flow into or over the drip line area of any heritage tree any oil, fuel, concrete mix or other deleterious substance.

Where written permission of the director is sought under this section, the director may grant such permission with such reasonable conditions as may be necessary to effectuate the intent and purpose of this chapter. (Prior code § 45.04.216)

12.64.050 Maintenance responsibility—Permits for activities affecting heritage trees.

A. A property owner shall be responsible for maintaining all heritage trees on the property owner's property.

B. None of the following activities shall be performed by any person unless a permit therefor is first applied for

by the property owner and granted by the director, subject to appeal provisions in Section 12.64.060 of this chapter.

1. The removal of any heritage tree;

Attachment 1 (cont.)

2. Pruning of any heritage tree segment greater than twelve (12) inches in circumference or the placement of any chemical or other deleterious substance by spray or otherwise on any heritage tree;

3. Disturbing the soil or placing any chemical or other deleterious substance or material on the soil within the drip line area of any heritage tree.

C. The permit shall be granted by the director if he or she finds:

1. In the case of removal, (a) that the heritage tree must be removed in order for the applicant to use the property for any use permitted as of right or by conditional use permit under the Planning and Development Code for the zoning district in which the property is located and that such use could not be made of the property unless the tree is removed; or (b) that the condition of the tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety or welfare require its removal; or (c) that the tree or tree roots are causing, or threatening to cause, damage to any main structure on the owner's property and there are no reasonable alternative means to mitigate the damage or threatened damage while minimizing the impact on the tree. Reasonable alternative means of mitigation include, but are not limited to, cutting tree roots, trimming the tree canopy, or installing a root barrier. Removing, relocating, or in any way altering any main structure on the owner's property shall not be considered a reasonable alternative means of mitigation; or (d) that the tree no longer meets the criteria for a heritage tree set forth in Section 12.64.020 of this chapter;

2. In the case of any other activity for which a permit is required, that such activity is necessary either to preserve the heritage tree or to engage in construction activity on the property.

D. In the case of removal of any heritage tree under subsection (C)(1) of this section, the director shall not act on such an application until a hearing is held thereon. Notice of the time and place of the hearing shall be posted in a conspicuous place on the real property upon which the heritage tree is located and shall be mailed to the applicant and to all owners of real property located within a five hundred (500) foot radius of the real property upon which the heritage tree is located. Notices shall be posted and mailed at least ten (10) calendar days in advance of the hearing. As used herein, "owner" means the person to whom the property was assessed in the latest equalized assessment roll of the county of Sacramento unless the director has knowledge of a person other than such assessee claiming record ownership of the property.

E. The director shall not act on any permit application unless the director has first given the permit applicant an opportunity to be heard thereon. Notice of the time and place at which the applicant may be heard shall be given to the applicant by mail, postage prepaid, at the address shown for the purpose in the application at least ten (10) business days in advance thereof.

F. The decision of the director may be to grant, grant with conditions or deny any permit applied for and shall be rendered within fifteen (15) business days after the application is filed. It shall be in writing and shall state the reasons therefor. Such decision shall be mailed postage prepaid to the property owner. (Ord. 2013-0021 § 36; Ord. 2008-031 § 4; Ord. 2004-006 § 4; prior code § 45.04.217)

Attachment 1 (cont.)

12.64.060 Appeal of decision of director.

A. Appeal to parks and recreation commission.

1. Except as provided in subsection B of this section, any person dissatisfied with the decision of the director taken under this chapter may appeal such decision to the parks and recreation commission. Such appeal shall be in writing, stating the reasons therefor, and shall be filed with the secretary of the commission within 10 calendar days after the date of the director's decision. The secretary shall set the appeal for hearing at the next regular commission meeting that is no less than 15 business days after the appeal is filed. Notice of time and place of the hearing shall be given to the appellant at least 10 calendar days in advance thereof by mail, postage prepaid. The decision of the commission is final and is not subject to appeal.

B. Appeal to planning and design commission.

1. If the subject of the director's decision under subsection A of this section, is a tree located on a property for which an application for a discretionary development entitlement under Title 16 or Title 17 of this code is then currently pending or has been approved and is not expired, and the purpose of the proposed maintenance or removal is to facilitate development of the property consistent with the pending application or approved entitlement, then any person aggrieved by the director's decision may appeal such decision to the city planning and design commission by filing a written notice of appeal with the secretary of the planning and design commission within 10 days of the date of the director's final decision. The notice shall clearly specify the action or determination appealed from, and the reasons for which a hearing is requested. The filing of the notice of appeal shall be accompanied by the fee specified in the city fee and charge report. The director shall determine whether the appeal shall be heard by the planning and design commission under this subsection, and the director's decision on this issue is final and is not be subject to appeal.

2. Notice of appeal hearing.

a. Notice of an appeal hearing on a decision of the director for a tree removal permit under Section 12.64.050(C)(1) shall be given by posting and by mail pursuant to Section 17.812.010, except that the notice by mail shall be given to the owners of real property located within 500 feet of the subject real property.

b. Notice of an appeal hearing on a decision of the director not subject to Section 17.64.050(C)(1) shall be given by mail pursuant to Section 17.812.010, except that notice shall be given only to the appellant, the owner of the property affected where the owner is not the appellant, those persons who appeared and identified themselves to the person before which the original proceeding was held, and those persons who request in writing to be notified of any further proceedings on the matter or who otherwise have requested notice in writing of the hearing.

3. The decision of the city planning and design commission shall be final and shall not be subject to appeal.

Attachment 1 (cont.)

4. Except as otherwise specified in this section, the hearing before, and the decision of, the city planning and design commission on an appeal under this chapter shall be governed in all respects by Chapter 17.812. (Ord. 2013-0007 § 5; Ord. 2012-004 § 28; Ord. 2009-030 § 2; Ord. 2008-031 § 5; Ord. 2004-040 § 4; prior code § 45.04.218)

12.64.070 Violation—Penalty.

A. Any person who violates any provision of this chapter including, but not limited to, the property owner, a tenant, a licensed or unlicensed provider of tree services retained by the property owner or tenant, or a licensed or unlicensed provider of tree services acting without the consent of the property owner or tenant, is guilty of a misdemeanor which shall be punished by a fine of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000.00) or imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. For purposes of this chapter, "person" includes individuals, partnerships, corporations and other private and public entities.

B. Administrative Penalties. In addition to criminal sanctions and other remedies available to the city, administrative penalties may be imposed pursuant to Chapter 1.28 of this code against any person who violates the provisions of this chapter including, but not limited to, the property owner, a tenant, a licensed or unlicensed provider of tree services retained by the property owner or tenant, or a licensed or unlicensed provider of tree services acting without the consent of the property owner or tenant. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 1.28 of this code. (Ord. 2004-006 § 5; prior code § 45.04.219)

Attachment 5 (Cont.)

Attachment 2

SACRAMENTO
Department of Public Works

TREE PERMIT APPLICATION

PLEASE SEND APPLICATION TO

Email: urbanforestry@cityofsacramento.org
Postal Mail: 5730 24th Street Building 12-A Sacramento, California 95822
For questions please call 311

ALL APPLICATIONS WILL BE CHARGED A FEE OF $50 TO COVER ARBORIST COSTS
INVOICE WILL BE MAILED TO APPLICANT AFTER PROCESSING

Applicant Information

Name: Stephen Layton Company: Name to be determined

Address: 3930 K Street, Sacramento, CA 95816 Phone ( ) 707-601-7292

Email: layton.stephen@gmail.com State Contractor License #

Property Owner Information (if different):

Name: Thomas Roth Phone ( ) (916) 444-5000

Address: 2318 K Street, Suite B, Sacramento CA 95816

Owner/Agent Statement

Property Owner Consent— I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.

Signature: Date: 8/3/2015

Project Information:

☐Residential Development ☒Commercial Development ☐Owner-Occupant

Address: 2323 K Street, Sacramento CA 95816 Other permits applied for? ☐Yes ☒No

List other permits that you have applied for: Permits will be submitted to convert the residential units on the first floor to commercial use.

APN: 007-0095-016-0000 Related Project Number:

Type of permit requested: ☐Prune or ☒Removal of a ☐Street Tree ☒Heritage Tree or ☐Parking Lot Tree

Number of Trees: 1 Tree Species and Diameter: Magnolia Tree ~110 DBH

Reason for permit: See attached

Applicant Signature: Date: 08/03/15

***

Attachment 2 (cont.)

Proposed Heritage Tree Removal at 2323 K Street, Sacramento CA 95816

The landlord and tenants of 2323 K Street are requesting the removal of a heritage tree located along the western property line at the aforementioned location. The property is currently in residential use, but is zoned for commercial use. The tenants are excited about opportunities for adaptive reuse of a historic structure in a walkable location of midtown.

The tree is currently growing along the concrete wall of the adjoining property and is showing signs of impacting that structure. The tree, with its large span, has also dropped branches in the past that have necessitated the repair of the historic structure at 2323 K Street. There is a real chance that this tree could drop large branches and further damage the historic home.

The tree in question is a large magnolia tree that in its current location has caused quite a bit of damage to the properties adjacent to the tree. The tree has done damage to the foundation, floor, and ceiling of the adjoining property. The tree has caused damage to the stairs and other areas of the historic structure at 2323 K Street in the recent past. At one point the stairs had to be reconstructed as a result of a large branch that fell from the tree. The root system of the tree has also created an unsafe walking condition around the base of the tree in the front portion of the property.

Additionally the tree restricts the property from complying with the Americans with Disabilities Act (ADA). The applicants acknowledge the importance of trees in Sacramento and particularly Heritage trees, however his particular tree poses several hazards in its current location. A proposed site map showing the location of the tree and ADA access ramp is include with the application package.

The root system is currently growing in such a way as to impede foot traffic to the front door and poses a trip hazard. The roots are continuing to grow closer to the historic structure and it is just a matter of time until they begin to impact the foundation. They have already started to damage the brick patio in the front yard. Any attempt to build an ADA ramp over the structure would necessitate removing or impacting a portion of the root system which would reduce the stability of the tree and jeopardize the historic structure. Any ADA ramp that is built over the roots runs the risk of being pushed up and therefore coming out of compliance with ADA standards.

The tree also impacts public safety by preventing the only secondary egress option for the Cantina restaurant being developed on the alley behind 2323 K Street. With the proposal for two commercial business on this parcel the need for safe, easy, and efficient egress is a public safety concern.

Attachment 2 (cont.)

Proposed Heritage Tree Removal at 2323 K Street, Sacramento CA 95816

The City of Sacramento recently planted an oak tree along the public right-of-way. This tree is extremely healthy but its canopy is already being shaded by the existing magnolia tree. The removal of the magnolia tree would remove this shade and allow the tree to grow more quickly and replace the existing tree cover.

The tenants of 2323 K Street plan to use the wood from the tree for art projects around the property. Some ideas for the wood include local artist sculptures, games to increase community in the area, as well as furniture accents and signage. Plans for the commercial property would include a water-wise native garden, with drip irrigation.

Attachment 5 (Cont.)

Attachment 2 (cont.)

Proposed Heritage Tree Removal at 2323 K Street, Sacramento CA 95816

Photos:

View from the street looking north at 2323 K Street. Magnolia tree along the western edge of the property and newly planted oak in the right-of-way.

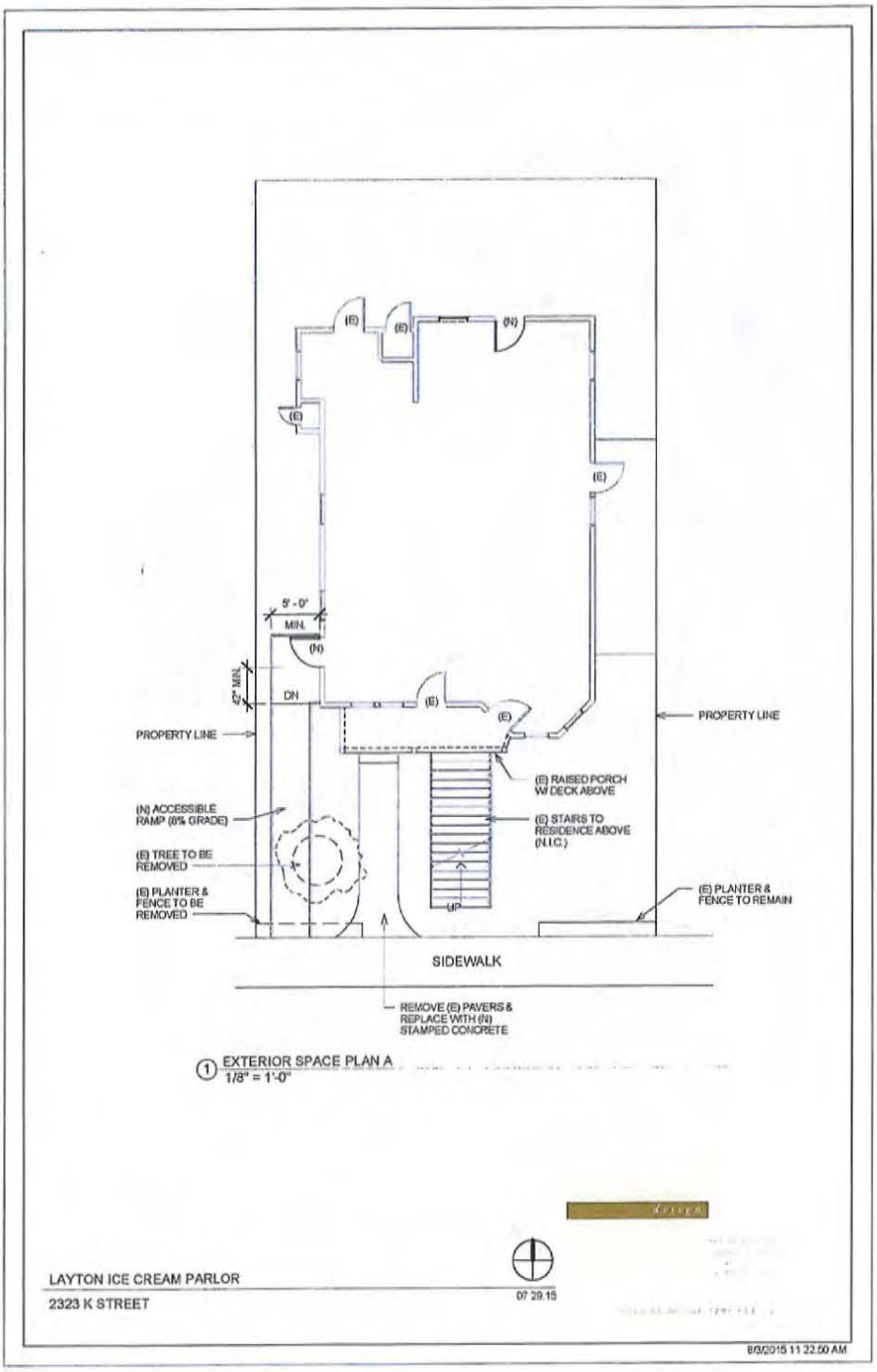
View from the sidewalk looking at the front yard of 2323 K Street.

View from the street of 2323 K Street.

View of the root system of the magnolia tree.

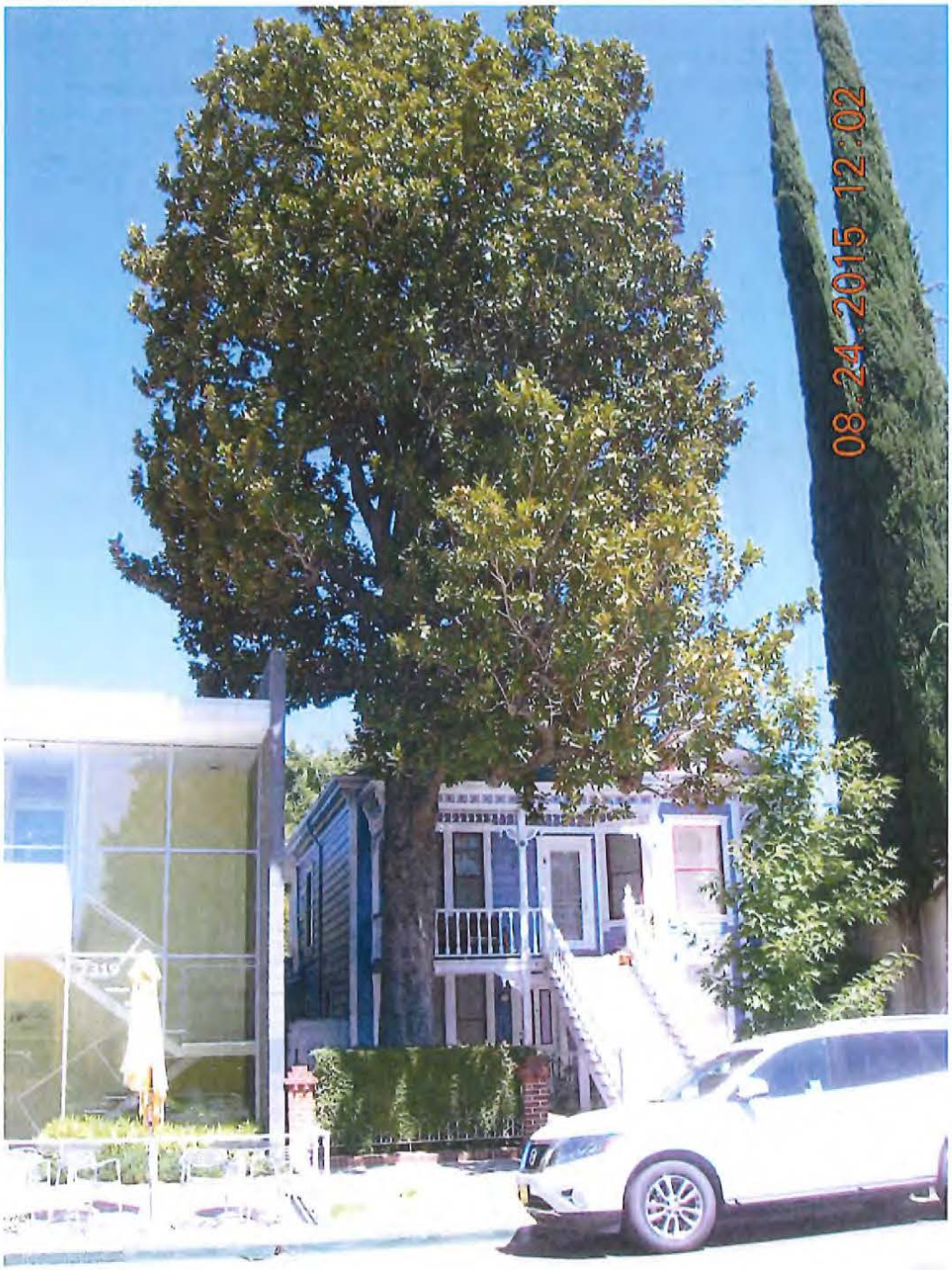
Attachment 5 (Cont.)

Attachment 2 (cont.)



Attachment 5 (Cont.)

Attachment 3



Attachment 5 (Cont.)

Attachment 3 (cont.)

Attachment 3 (cont.)

Attachment 5 (Cont.)

Attachment 4

Attachment 6

PROPS
TREE & LANDSCAPE, INC.

Tree Care ▫ Plant Health Care ▫ Landscaping ▫ Arborist Consulting

September 18, 2015

Western Properties
2323 K Street
Sacramento, CA 95819

Re: Tree inspection

Dear Mr. Aguilar,

As per your request, I visited your property on September 14, 2015. The purpose is to determine if there is any concern with the health and stability of the mature Magnolia tree that is resides in the small area of the front of your property.

Observations
I provided my visual observations of the property and mature Magnolia tree on September 18, 2015.

I noticed that it is growing close to the neighbor's building to the west. It is located approximately 6 feet from the east side of the neighboring building wall and only a few feet from the brick walkway on the east side of the tree and your building is only approximately 8 feet from the tree.

The tree is a mature tree with a trunk diameter of approximately 42". Its roots are growing on the surface and appear to have significant amounts of damage to the bark tissue from years of pedestrian abuse. (See enclosed Photos). The tree trunk is in good condition and free from decay and the canopy appears to have a good shape and it appears to have been adequately pruned over the years. The leaves of the tree are of normal size, color, and density at this time.

The tree roots have disrupted the brick walkway entrance to the building and foundation of the neighboring garage (see attached letter from neighbor). The roots have also previously disrupted the sidewalk and has since been replaced.

Conclusion
Your mature Magnolia tree is growing at a very close proximity to your neighbor's building and by reading the letter they provided, the tree has disrupted their foundation in which they have

PHONE (916) 923-2507 ▫ FAX (916) 899-6872
4271 DULUTH AVE., STE. A, ROCKLIN, CA 95765
CSL #667419

PROPS
TREE & LANDSCAPE, INC.
Tree Care ▫ Plant Health Care ▫ Landscaping ▫ Arborist Consulting

made repairs too. They also mentioned that the invading roots were pruned back in order to facilitate the repairs to the structure. The tree roots have already caused major disruptions to the existing walkways on your property. While this is already a mature tree, it does still have growth potential and future damage to the neighbor's building and walkways is likely.

The roots of this tree have been significantly compromised by the damage done to them from years of foot traffic. Furthermore, the tree roots are growing in a constricted environment, which structurally compromises the stability of this tree and has increased the inherent risk to possible total tree failure.

Due to the fact that the Magnolia tree is still actively growing and that their placement is so close to your building and the neighbor's, there is not any remedial measures that can be administered to reduce the inherent risk from future root damage. Also, with the existing damage to the buttress roots over the years, by foot traffic, this tree has an increased probability of failure from decay and a compromised root system.

Therefore, I recommend that this tree is completely removed and the stump is killed using appropriate herbicide treatment. This is the only logical solution to save your and your neighbor's property from further damages by said tree, from its roots and/or from toppling due to compromised root system.

If you have any further questions or concerns, please feel free to contact me at your convenience.

Sincerely,

Robert Props

Robert Props
ISA, Board Certified Master Arborist #WE-1317B
ASCA, Registered Consulting Arborist #429
TCIA, Accredited Tree Company #CA-006

Cell: 916.997.5513

Enclosed: Photos (8)
Letter from Neighbor

PHONE (916) 923-2507 ▫ FAX (916) 899-6872
4271 DULUTH AVE., STE. A, ROCKLIN, CA 95765
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Attachment 6 (cont.)

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Attachment 6 (cont.)

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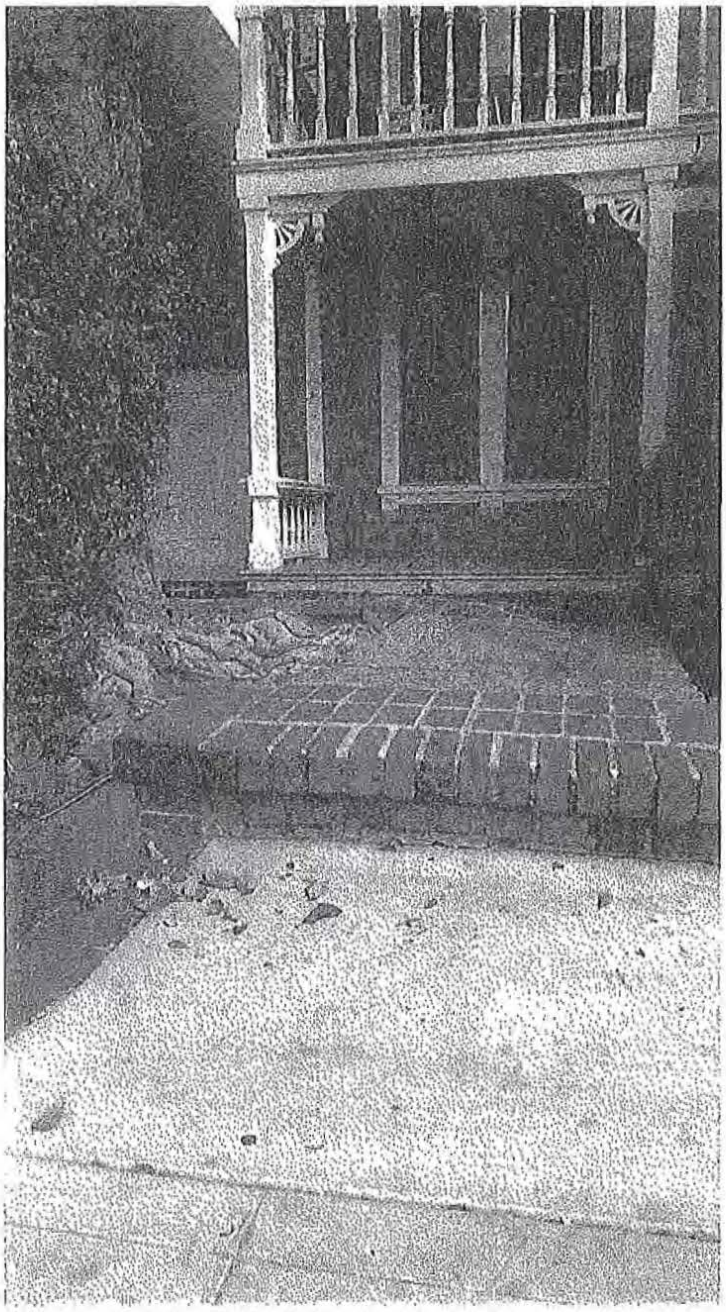

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Attachment 6 (cont.)

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Attachment 6 (cont.)

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Attachment 6 (cont.)

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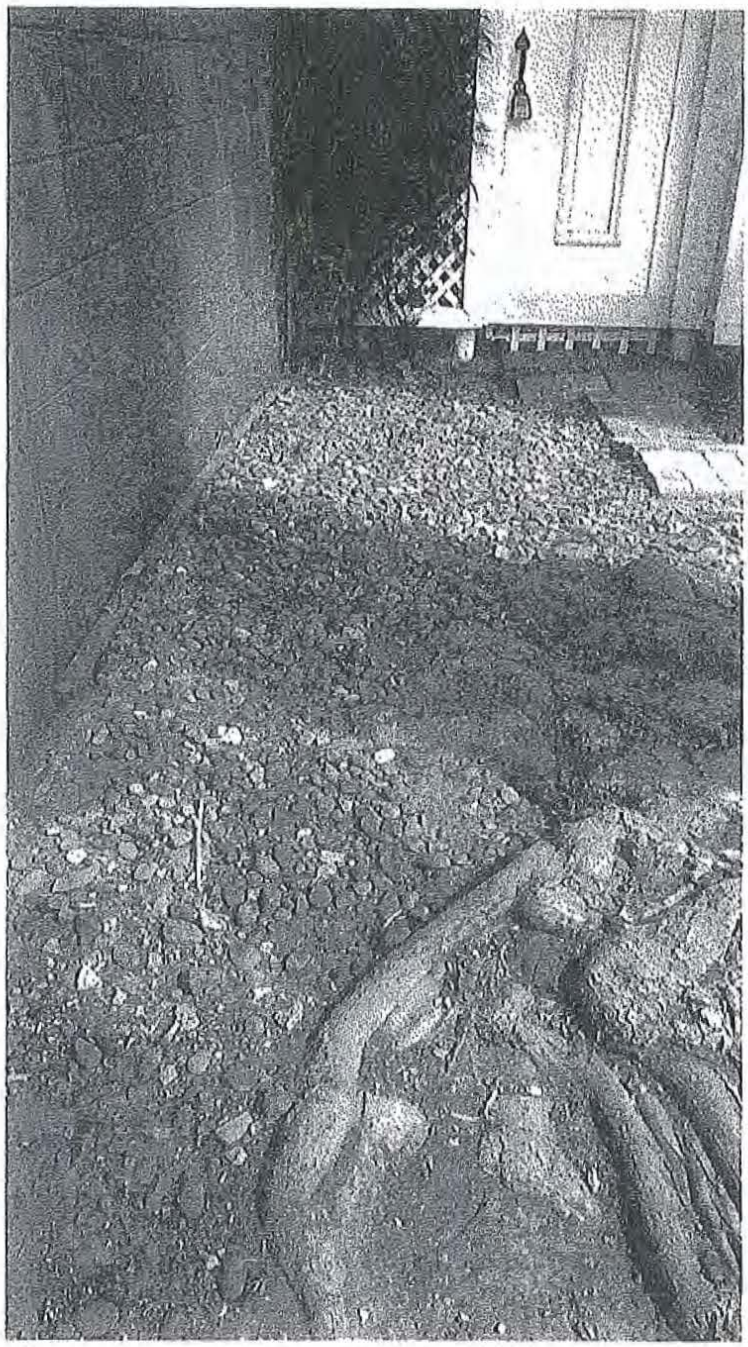

PHONE (916) 923-2507 ▫ FAX (916) 899-6872
4271 DULUTH AVE., STE. A, ROCKLIN, CA 95765
CSL #667419

Attachment 6 (cont.)

September 14, 2015

City of Sacramento Department of Public Works
Urban Forestry Section
915 I Street
Sacramento, CA 95814

RE: Mature Magnolia Tree

We own and manage the property located adjacent (west) of the subject tree. We have for many years attempted to work with the previous owner of the property to remove the tree for several reasons. They were unresponsive. The new owner, Thomas Roth has asked us to again provide our support to remove this tree.

Our history with the tree goes back to 2005 when we were remodeling the building and discovered that the tree's roots have extended under the east masonry wall and foundation. We cut large roots to enable construction of several foundations inside on the exterior structural building support walls. We discovered several stress cracks in the concrete foundation and notified the previous owner that the tree is in the process of leveraging the exterior wall of our building.

Additionally, the tree drops large seed pods and leaves year-round which have damaged our roof, constantly clog and pile into roof gutters and drains and blow over and across our roof into our rear parking lot creating winter-time slip hazards for our tenants and their visitors.

Several years ago the tree also suffered a massive loss of an 18" limb that fell without notice across the adjacent public sidewalk. We are concerned that the tree will fall in a storm and fall into our building and/or sidewalk and fear that with the drought, it has been weakened into a questionable condition.

We recommend and support full removal of this tree AND prefer that no tree be planted in the same area upon its removal.

Sincerely

Gary Orr, President
ORR Design Office, Inc.
Specialized Building, Interior and Landscape Architects
2319 K Street, Suite 200
Sacramento, CA 95816

Attachment 7

City of
SACRAMENTO
Department of Public Works

Department of Public Works
Maintenance Services Division-Urban Forestry
urbanforestry@cityofsacramento.org

5730 24th Street Building 12A
Sacramento, CA 95822-3699
PH 916-808-6257

October 12, 2015

3930 K Street
Sacramento CA 95816

Subject: Heritage Tree Permit Request for 2323 K Street-Findings and Decision

Dear Mr. Layton

This letter transmits the hearing officer's decision regarding the September 22, 2015 hearing on your request for a permit to remove a southern magnolia (Magnolia grandiflora) tree at 2323 K Street.

This decision can be appealed to the Parks and Recreation Commission pursuant to Sacramento City Code section 12.64.060. The appeal must be filed with the Secretary of the Commission no later than ten days after the date of this decision. Appeals must be in writing, and state the reason(s) for the appeal and be sent to the Parks and Recreation Department at 915 I Street, Sacramento, CA 95814.

If you have any questions, please contact me at my office at (916) 808-6258.

Sincerely,

Joe Benassini
Urban Forester

c: Jerry Way, Director of Public Works
Lori Harder, Support Services Manager
Shannon Brown, Operations Manager

DECISION DENYING THE APPLICATION FOR A PERMIT TO REMOVE ONE HERITAGE TREE FROM 2323 K STREET, SACRAMENTO, CALIFORNIA

Art Gee, a Hearing Examiner for the City of Sacramento's Department of Public Works, conducted a public hearing on September 22, 2015 regarding a heritage tree removal permit application from Stephen Layton on behalf of Thomas Roth for the property located at2323 K Street, pursuant to Sacramento City Code (the "City Code") section 12.64.050(D).

BACKGROUND FROM STAFF REPORT

1. On August 5th, 2015 Stephen Layton on behalf of Thomas Roth submitted a tree permit application to remove a heritage tree located at 2323 K Street. Per the application, the justification was that the tree is damaging adjacent structures and is interfering with improvements to meet requirements of the Americans with Disabilities Act (ADA).

2. The tree is a southern magnolia (Magnolia grandiflora) with a trunk diameter of 34 inches. The tree is approximately 60 feet tall with a canopy radius of 40 feet.

3. The tree is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape and location for its species.

4. The tree is located in the front yard and is approximately 6.5 feet from the front corner of the residence and 6 feet from the neighbors building wall to the west. .

5. Several Urban Forestry staff members have inspected the tree independently of each other and subsequently discussed the condition of the tree and the merits of the justification for the application for the permit. The consensus is that the tree is typical of the species, healthy, sound, and appears to be structurally stable.

HEARING TESTIMONY

1. Mr. Stephen Layton and Mr. Thomas Roth testified the tree roots are threatening to damage their property and have damaged the adjacent property. The roots are interfering with improvements to create an Americans with Disabilities Act (ADA) accessible walkway.

2. Timothy Dailey, a City Arborist, testified that the tree is in good condition. The tree roots are not causing or threatening to cause damage to the owner's property nor the neighbors. Reasonable alternative measures of mitigation should be sought to create an accessible walkway.

FINDINGS

1. The term "Heritage tree" under City Code Section 12.64.020 as it applies to this application means:

"1. Any tree of any species with a trunk circumference of one hundred (100) inches or more, which is of good quality in terms of health, vigor of growth and conformity to generally, accepted horticultural standards of shape and location for its species."

2. The Tree identified in the application meets the definition of a heritage tree.

3. The City Code in Section 12.64.050 C (1) provides that a permit to remove a tree shall be granted only based on a finding that: "(a) that the heritage tree must be removed in order for the applicant to use the property for any use permitted as of right or by conditional use permit…; or (b) that the condition of the tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety or welfare require its removal; or (c) that the tree or tree roots are causing, or threatening to cause, damage to any main structure on the owner's property and there are no reasonable alternative means to mitigate the damage or threatened damage while minimizing the impact on the tree."

4. No evidence listed in the City Code for removal of a heritage tree was presented. This tree is growing in an area of the property that allows for its sustainability.

DECISION

For the above stated reasons, the application of Mr. Stephen Layton on behalf of Mr. Thomas Roth to remove the tree is denied.

Art Gee, Hearing Examiner

Date: 10.12.15

Attachment 8

THOMAS A. Roth
PO Box 214011, Sacramento,
California 95821
Tel 916.484.0323 / Tel 916-444-5000
Email: thomasallan@sbcglobal.net

Sacramento, October 20, 2015

Ms. Lori Harder
Secretary of the Commission
Parks and Recreation Commission
915 I Street, Sacramento, CA 95814

Dear Ms. Harder,

In response to the letter I received from the City of Sacramento regarding the Southern Magnolia tree in front of 2323 K Street; I hereby appeal the decision which denied our request to remove said tree.

Upon review of the correspondence that we received that detailed out the decision to deny the application for removal, there was no mention of the evidence that was presented about the damage caused and being caused this tree. We presented you with documents, photos reports and a letter from the adjoining property owner that this tree is a danger to the property, public safety, and the historic structure on the property.

Herewith is the history of such and my involvement and understanding of the situation:

1. Antonia McCabe was the owner of the property (2323 K St.) prior to me purchasing it.
2. Through the years I have conversed with Mrs. McCabe as I own the adjoining property to the East of it.
3. There were issues with a walnut tree in the back of this property growing over the roof of my buildings (2331 K St.,) and we coordinated arborists the trimmings and limb removals as it was needed from time to time.
4. Since my office is across the Street I have witnessed at least on one occasion tree limb or limbs falling and destroying a staircase case that that is part of the historical structure that Mrs. McCabe newly installed.
5. Over time and on various instances; the tree's root system required maintenance and repair to the walkway leading to the two downstairs apartments.
6. Mrs. McCabe also mentioned that her neighbor to the west had complained on many occasions because of the Magnolia tree growing in the front area of the property had caused damage and continued to cause damage to his building.
7. I purchased the property from Mrs. McCabe in March of 2013 and subsequent to the purchase I found that we had to also do work to the walkway because of unsafe and hazardous situation for our tenants walking in and out of their apartments. A situation that again continued because of the lifting of the walkway by the tree's root system.
8. We have provided the commission with photographs from Mrs. McCabe showing the fallen tree limb and the damage to the staircase.
9. We talked to the neighbor to the West of the property at 2319 K Street; Mr. Gary Orr, and he elaborated on the frustrations he experienced over many years with the damage and

issues he experienced with this tree, from foundation problems to roof problems and you will find a letter that we provided to you explaining all of that.

10. You have asked us to provide an arborist report and we contacted one and we made that available to you as well. Their findings and recommendations were that the tree be removed.
11. There is a Cantina project that we have applied for to be constructed in the back of the building and adjoin the alley (2320 Jazz Alley.) We have been informed by the City of Sacramento that we will be required to have an ADA accessible exit from the rear of the property to K Street. It was determined that, it was not possible as the walkway will have to pass over the routes system of this tree. If the roots are impacted either from a structure above them or as a result of being trimmed back extensive damage would be caused to the tree. This is on the west side of the property and attempting it on the east side is not an option since the patio goes all of the way and abutting the adjoin building to the east.
12. There are many other impacts that were caused by the tree and Mrs. McCabe is a very busy person and recently had the loss of her husband to deal with, but we will be more than happy to provide you with her contact information if you wish to truly explore all of the elements relating to this tree.

What I think that is relevant and I would herewith like to share with you is a little history about myself, property ownership, my relationship to trees, and neighborhood projects that I have undertaken; I have been involved with property ownership in the Sacramento area for over 35 years. I love trees and for years it has been my practice to preserve and protect trees in all possible instances. In various locations I happen to have and own many trees. I would venture to say that there are hundreds of such trees and perhaps more. I am not and never been one to not want to preserve or protect trees. In fact some of the trees I am most proud of are in Clarksburg and I have taken care of them for over 30 years. I also restored and preserved many historic and regular buildings in Sacramento, and Yolo Counties. Some of the buildings we saved were on the endangered list. Two examples were 1114 "24" Street and 2326 "K" Street. We also funded (at my expense) and created many art projects from Murals to metal art in Sacramento and the alleys thereof in order to enhance the environment in Midtown area of Sacramento. We called ourselves M.A.P: (Midtown (alley) Art Project.

I am brining this up so that you will get the essence of what I and my teams are about. Enhancing the quality of life through our various projects is on top of our list and that also includes providing housing / shelter for people and numerous jobs throughout our commercial projects.

Finally and hopefully without sidetracking too much; I would like to express some of my frustrations with the City of Sacramento public works and specifically the division of urban forestry.

The issue I am raising has to do with deferred maintenance by these entities concerning the upkeep and care of City owned trees in the green media by the sidewalks. While you are all focusing on one tree and denying my right to take care of a problem / damage causing "one" tree; the City has been inattentive in not taking care of hundreds of trees it owns and is responsible for, and thereby causing many trees to die and many more to grow their roots into sidewalks which property owners had to foot the bill thereof.

This has happened many times through the years (I will elaborate) and happened again just over a month ago whereby a tree in front of 2331 K Street located by the sidewalk and that has been neglected for quite some time. No one seemed to care for many years that the tree was growing over the roof of said building and even than I had to get in touch with 311 twice to have someone

take care of the problem with this tree that is a "City" tree that and I am not supposed to touch. It eventually was taken care of.

The story has been going on and on for a very long time. Another example I would like to submit had to do with sidewalk damage caused by City tree roots that again we had to foot the bill for the damages those trees have caused and especially to sidewalks. I worked with a Dan Pskowski who was a tree person employed by the City of Sacramento and who meticulously with brushes and magnifying glasses examining roots and instructing me and the sidewalk construction guys on how to repair and design the sidewalks in order to give the trees the space to grow.

Once the damage was done by the trees, and their neglect thereof, there was no other choice but for you to remove the trees if the damage was too far gone, and I as the property owner had to foot the bill for new sidewalks. You may please verify if you care to check with Mr. Pskowski as to the many times that we met to work out issues, issues caused primarily by the lack of care and neglect by the City of Sacramento that is going on till the present time. Mr. Pskowski can also verify for you how we were all on the same side of the fence in trying to preserve what was still standing and preserve able.

If you would like to verify my statement, since it appears that so far and with all of what we provided you in relationship to the Southern Magnolia tree has been mostly ignored; I will bring your attention to contact Mr. Pskowski and or check your records to the numerous sidewalk repairs, in which in only one instant I replaced over 450 feet of sidewalks near V, 21st and 22nd streets.

In conclusion and as it relates to the Southern Magnolia tree and 2323 K Street; I will first of all opine that I highly doubt that City of Sacramento will be willing to absorb any future damages cause by this tree I neither am I willing to absorb additional damages and costs associated with this tree and or my neighbor. You will also find after carefully reading and looking into my, and my team's track record that it is not with a light heart that we made the request to you to allow us to remove this tree.

It does not seem fair or just for us to be forced by the City of Sacramento to keep a tree that we all know that will continue to cause problems. It is therefore and herewith, again, that I request for you to give serious consideration to my appeal of your previous denial and allow us to proceed with the removal of the Southern Magnolia tree.

I thank you in advance for your reconsideration.

Very Truly

Thomas A. Roth
Cc. Stephen Layton
Art Agular
William Hunter
Via email: lharder@cityofsacramento.org
jbenassini@cityofsacramento.org

2323_SouthernMaganoliaTree_10202015

City of
SACRAMENTO
Parks and Recreation

Meeting Minutes of the Parks and Recreation Commission AGENDA

Thursday, November 5, 2015

Historic City Hall Meeting Room, 915 I Street, Sacramento, CA 95814

Call to Order – 6:30 p.m. Roll Call / Commissioner Introduction

Chairperson Assagai called the meeting to order at 6:30 p.m. All commissioners were in attendance except Commissioners Heitstuman, McKinley and Shettle.

Public Comments- Matters Not on the Agenda

1. **None**

Public Hearings

2. **None**

Special Oral Presentation

3. **Update on Park Pond Renovation Projects**
   Council Member Jeff Harris and Gary Hyden provided an update on the work of the Park Pond Renovation Advisory Committee with regard to improving the water quality at Land Park and McKinley Park ponds and the advocacy of one of the Committee members to fence in the McKinley Park pond.

Consent Calendar

All items listed under the Consent Calendar are considered and acted upon by one motion. Anyone may request that an item be removed for separate consideration.

4. **Parks and Recreation Commission Meeting Minutes**
   Location: Citywide
   Recommendation: Approve Commission minutes for October 1, 2015
   Contact: Lori Harder, Support Services Manager, 808-5172
   Action: Moved, seconded and carried to approve the minutes as amended to add Commissioner O'Toole's reference under Questions, Ideas and Announcement of Commissioners to provide an update on the Sumer Oasis program. (O'Toole/Lenzi: Ayes: Assagi, Colley-Perry, Conroy, Lenzi, Malik, O'Toole, Singh. Abstain: Dominguez; Absent: Heitstuman, McKinley, Shettle)

Discussion/Action Reports

Discussion/Action reports include oral presentations including those recommending review and comment

5. **AmeriCorps Services and Engagement within the City of Sacramento**
   Location: Citywide **Recommendation:** Review and Comment
   Contact: Shannon Brown, Operations Manager, 808-4070

   Shannon Brown presented information regarding the City's use of AmeriCorp volunteers for park maintenance projects and assistance with the START after-school enrichment program. The City's Volunteer Coordinator arranges with AmeriCorps volunteers for various City departments. Commissioner Toni Colley-Perry suggested that the City arrange to use VistaCorp volunteers through AmeriCorps because they have higher skill levels and can help organize programs. Shannon Brown said she would forward that recommendation to the City's Volunteer Coordinator.

6. **Parks and Recreation Interim Director Report (Oral): October and November 2015**
   Recommendation: Review and Comment
   Contact: Pamela Sloan, Interim Parks and Recreation Director, 808-8526

   Pamela Sloan provided highlights of the activities of the Park and Recreation Department during the prior month and the upcoming events.

Questions, Ideas, and Announcements of Commission Members

Commissioner Dominguez announced that because she recently moved into another Council District, she would be resigning from the Commission. Council Member Hanson's staff, Peter Fenolio, presented Commissioner Dominguez with a certificate of acknowledgment for her service. Mr. Fenolio said that the Council Member had selected a new Commissioner who would be available to attend the next meeting.

Commissioner Singh questioned why this meeting agenda did not include his request for a discussion on access to Chicory Bend Park. The Chair replied that since the issue related to a park in another Commissioner's district and it was controversial, that placing it on the agenda would need to be coordinated with the District 4 staff. Commissioner Singh said he needed to know when the item would be set so he could advise the community so they could attend, and asked the Commission attorney whether he had a right to place an item on the Commission's agenda. Sheryl Patterson replied that it is the Chair's prerogative as set forth in the Commission's Rules of Procedure to set the agenda.

Adjournment The meeting adjourned at 8:00 p.m.

Respectfully submitted:
Sheryl Patterson, Senior Deputy City Attorney
For Lori Harder, Support Services Manager
Department of Parks and Recreation

Approved by:

Caliph Assagai, Chairperson
Parks and Recreation Commission

City of SACRAMENTO

2016
Parks and Recreation Commission

Meetings
Holidays

MEETING CALENDAR

JANUARY 2016

Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	2
3	4	5	6	7	8	9
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FEBRUARY 2016

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MARCH 2016

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APRIL 2016

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MAY 2016

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JUNE 2016

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JULY 2016

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AUGUST 2016

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SEPTEMBER 2016

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OCTOBER 2016

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NOVEMBER 2016

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DECEMBER 2016

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Meeting Frequency: Meetings are held monthly.
Meeting Location: 915 I Street 2nd Floor Hearing Room
Historic City Hall Sacramento, CA 95814
Meetings are subject to cancellations due to lack of quorum.

PARKS AND RECREATION COMMISSION AGENDA ITEMS FOR 2016

#	ITEM TYPE	DESCRIPTION	WHEN	STAFF LEAD(S)
1	**Projects**	**Hot Spots**	Feb	Vincene Jones and Sylvia Fort
2	**Other**	**Summer at City Hall**	Feb	Vincene Jones
3	**Other**	**Camp Sacramento**	Mar	Laura Bjornsen
4	**Other**	**Teen Services**	Apr	Kim Mohler
5	**Other**	**Review of Proposed CIP**	Apr	Gary Hyden
6	**Other**	**Drought**	May	Shannon Brown and Kyle Raphael
7	**Other**	**Sac Steps Forward**	TBD	Emily Halcon
8	**Financing/ Budget**	**Annual Capital and Operating Budget Processes including Measure U Funding and Services:** For Commission review and input.	May - June	Gary Hyden and Mary de Beauvieres
9	**Other**	**Proposed Changes to the City's Parkland Dedication (Quimby) Program and Park Impact Fee (PIF) Program (including regional park financing component):** For Commission review and input.	Spring - Summer	Mary de Beauvieres
10	**Planning/ Development**	**Parks and Recreation Programming Guide:** The guide establishes a community based, prioritized list of unfunded park and recreation acquisition and capital project needs. The last guide was developed prior to the recession. Should development produce significant park revenues and additional staff support is identified to assist with the process, the guide may be updated in 2016 with the Commission providing a public forum and input.	TBD	Mary de Beauvieres
11	**Planning/ Development**	**River Parkway Acquisition Planning:** A status report will be given in follow up to a November 2012 Implementation Action Plan.	Summer	Mary de Beauvieres
12	**Planning/ Development**	**Private Development Project Reviews:** Review private development projects for input as they are submitted to the City, prior to City Council action.	Ongoing as needed	Mary de Beauvieres
13	**Planning/ Development**	**Site-Specific Park Master Plans and Proposed Facility Naming:** New park master plans, master plan updates, and/or facility naming recommendations for Commission input prior to City Council action.	Ongoing as needed	Gary Hyden

14	**Projects**	**Outcome of Telecommunication Facility Siting Policy Review:** The Commission made recommendations to the City Council and requested the item come back as an informational item following Council action.	TBD	Mary de Beauvieres / General Services
15	**Operations**	**Overview of Various Park, Recreation, and Neighborhood Services Operations:** Anticipating new Parks and Recreation Commission members, staff recommends various reviews throughout the year.	Ongoing as needed	Vincene Jones
16	**Hearings**	**Conduct Tree Appeal Hearings**	Ongoing as needed	Public Works
17	**Commission Matters**	**Commission Positions and Elections:** Various seats will change in 2016. Staff will provide an orientation to new members. Annual elections for Chair and Vice Chair are held in April.	N/A	TBD

City of
SACRAMENTO
Parks and Recreation

December 16, 2015

Parks and Recreation Commission
Sacramento, California

Honorable Members in Session:

SUBJECT: Parkland Dedication (Quimby) Code Changes

LOCATION AND COUNCIL DISTRICT: Citywide / All Districts

RECOMMENDATION: Review and comment

CONTACT PERSON: Mary de Beauvieres, Principal Planner, 808-8722

FOR COMMISSION MEETING: January 7, 2016

Summary

Following adoption of the City's 2030 General Plan, the Community Development Department overhauled Title 17 of City Code (the Planning and Development Code) for consistency with the new General Plan. The Planning and Development Code implements the General Plan through its zoning laws, ordinances, rules and regulations.

A similar overhaul is underway to update Title 16, the City's Subdivision Code. Title 16 implements the Subdivision Map Act which regulates and controls the division of land within the City. The City's parkland dedication (Quimby) requirements are outlined in Chapter 16.64 of Title 16. They require that residential land subdividers dedicate parkland or pay a fee in lieu of dedication as a condition of development projects.

Background

In 1975, the State adopted the Quimby Act as part of the California Government Code, Section 66477. The Quimby Act authorized cities and counties to adopt ordinances requiring residential developers to dedicate parkland or pay a fee in lieu of dedication to mitigate the impacts of new residential development on existing park systems. The City of Sacramento codified the Quimby Act into Sacramento City Code through adoption of Ordinance 81-007 on February 3, 1981.

Department of Parks and Recreation
Park Planning and Development Division
915 I Street, 3rd Floor
Sacramento, CA 95814
(916) 808-5200

The Code requires residential land subdividers to dedicate neighborhood and community parkland at a rate of five acres per 1,000 population.

The Quimby Ordinance has been updated several times since 1981; however, it is oriented toward 'greenfield' development where large vacant plots of land are subdivided into residential lots. The Quimby Ordinance has not been adapted to the challenges of urban development, particularly in infill areas where there is limited land available and developer costs are high. Because the General Plan envisions future growth as 'growing up, not out,' the City needs to incorporate flexibility into the Quimby Ordinance for what it considers as park land and by expanding the variety of private recreational improvements for which developers may receive parkland dedication credit. The proposed code changes outlined below reflect current department policy or are meant to encourage the types of urban development the City would like to see in the future.

Proposed Changes

1. Current Parkland Dedication: Current City Code limits the dedication of parkland to subdivisions of 50 lots (or greater). Land divisions of less than 50 lots pay a fee in lieu of dedication.

   Proposed Revision: Raise lower limit to 250 lots before dedication is required to ensure that dedicated parkland is of a sufficient size to accommodate recreational uses. The Director also has the discretion to allow an in-lieu fee in cases when parkland dedication is infeasible.

2. Current Land Value Used to Calculate In Lieu Fee: Current City Code allows the fee in lieu of dedication to be calculated using one of two methods for assigning a land value to the property: either a Council adopted average land value by community plan area, or an appraisal of the subject property.

   Proposed Revision: Use census tracts, zip codes or other neighborhood data options used by Realtor Associations in place of the community plan area to determine average land value.

3. Current Joint Use Park/Stormwater Basin: Current City Code defines land suitable for dedication as a 'buildable acre' which is defined as 'a typical acre of the subdivision, with a slope less than ten (10) percent, and on which building is not excluded because of flooding, public rights-of-way, easements, or other restrictions'. Areas determined to be subject to flooding during a 100-year storm are not eligible for parkland dedication.

   Proposed Revision: Allow partial parkland dedication credit for joint use facilities (stormwater detention / park) as follows:
   - *For every 3 acres of a joint use facility (stormwater detention/park), no less than one-half acre of parkland shall be above flood level.*

- *The joint use facility shall be well drained and suitable for parkland improvements.*
- *The basin floor shall have a minimum of 8,000 square feet of uninterrupted, flat area suitable for active recreational purposes, with a grade of 2 to 3%.*
- *Basin sideslopes in excess of 10% slope, vegetated swales, infiltration basins, or intake facilities around the drain inlet or other drainage appurtenances shall not be eligible for parkland credit.*
- *The parkland area that is subject to flood and meets the criteria outlined above shall be eligible for 80% parkland dedication credit.*

4. Current Private Recreation Facilities Credit: City Code currently allows partial parkland dedication credit of up to 5% per private recreational amenity provided, up to a maximum total of 25% per project. The private recreational amenities include: recreation swimming areas, sport courts, community recreation buildings, open spaces (in excess of 20,000 square feet) or special areas (of historic or natural beauty). The facilities are privately owned and maintained for the enjoyment of the residents. A City Council approved agreement (recorded against the property) is required; the use must remain in good condition in perpetuity or the City is to be compensated for the value of the credit plus interest. The identified recreation amenities typify what would be common for a large apartment or condominium complex.

   Proposed Revisions: Increase the amount of eligible credit from 25% to 35%; expand the list of qualifying recreational amenities. Credit shall be determined on a square footage basis as a portion of the total dedication obligation. Multi-family residential development must meet its open space requirement before it is eligible for private facility credit and open space cannot be counted toward the private facility credit. To receive credit for private recreation improvements, the project must include at least one of the following recreational elements:
   - *Tot lot and/or children's play area that complies with California Playground Regulation and current City standards; or*
   - *Picnic area (facility containing benches, at least three tables, barbecue pits and trash receptacles); must comply with current City standards; or*
   - *Hard game court (hard paved surface dedicated for active recreation uses such as tennis, basketball, pickleball, handball, racquetball, roller hockey, shuffleboard, bocce ball, or horseshoes) or soft game court (either real or artificial turf surfaces with required safety zones for badminton, croquet, lawn bowling, tennis or volleyball); must comply with current City standards; or*
   - *Turf playing field (uninterrupted, contiguous turf facility to accommodate informal or formal active recreation activities such as field sports of at least 8,000 square feet); or*
   - *Plaza areas of at least 900 square feet; with a minimum width of 30 feet; containing a combination of paving/landscaping and amenities such as seating or tables to encourage social gatherings; or*
   - *Garden area of at least 900 square feet; with a minimum width of 30 feet; containing a combination of paving or landscaping of plant varieties or*

designed in such a way as to encourage enjoyment of the garden (i.e., showy plants); or shall have garden plots for the exclusive use of the residents; or

- *Open spaces, which are generally defined as parks, extensive areas with tree coverage, low land along streams or areas of rough terrain when such areas are extensive and have natural features worthy of scenic preservation, golf courses, or open areas on the site in excess of 20,000 square feet; or*
- *Swimming pool, including deck and surrounding turf area; or*
- *Community room, recreation buildings or room(s), and/or spa; or*
- *Other recreational amenities, subject to a finding by the Director that the special recreational benefit to the development is not otherwise provided in park and recreational facilities.*

Next Steps

The Subdivision Ordinance changes (including parkland dedication) will be reviewed by the City's Law and Legislation Committee and the Planning and Design Commission before being considered by City Council. The Parks and Recreation Commission's recommendation will be included in the staff report when the City Council considers the item.

Chapter 2.62 PARKS AND RECREATION COMMISSION

2.62.010 Commission established.

The parks and recreation commission is established. (Ord. 2013-0001 § 2)

2.62.020 Membership.

A. Members of the parks and recreation commission shall be appointed by the mayor, with the concurrence of the city council.

B. The parks and recreation commission shall consist of eleven (11) members. One member shall be recommended for appointment by each of the members of the city council, including the mayor, and two members shall be recommended for appointment by the personnel and public employees committee pursuant to Article I of Chapter 2.40. Each member of the parks and recreation commission shall be a resident of the city and may be appointed and shall serve only so long as he or she is a resident of the city. If a member of the parks and recreation commission ceases to be a resident of the city, that member's seat shall automatically become vacant.

C. Except as provided in subsection D of this section for the length of the terms of the initial appointees, the term of office for each member of the parks and recreation commission shall be four years and until his or her successor has been appointed. No member shall serve for more than two consecutive terms. If a vacancy occurs during the term of any member, the mayor shall appoint, with the concurrence of the city council, a successor to serve during the unexpired term. The successor shall be recommended in the same manner as the seat being filled.

D. Terms shall be staggered. Of the initial appointees recommended by the personnel and public employees committee, one shall serve a term expiring on July 1, 2013, and one shall serve a term expiring on July 1, 2014. The initial appointee recommended by the mayor shall serve a term expiring on July 1, 2013. The initial appointees recommended by the council members from the First, Third, Fifth, and Seventh council districts shall serve terms expiring on December 31, 2014. The initial appointees recommended by the council members from the Second, Fourth, Sixth and Eighth council districts shall serve terms expiring on December 31, 2016. Thereafter, all members shall be appointed to serve four year terms. (Ord. 2013-0001 § 2)

2.62.030 Powers and duties of commission.

The powers and duties of the commission shall be as follows:

A. To provide recommendations and advice to the city council and the department of parks and recreation on policies, projects, and other matters pertaining to parks, recreation, trees, and human services affecting the city of Sacramento referred to the commission by the city council, the director of parks and recreation, the community, or members of the commission.

B. To review and provide recommendations on the development and implementation of the parks and recreation master plan as an element of the city's general plan.

C. To conduct public hearings and review complaints and other matters pertaining to parks and recreation issues, as requested by the director of parks and recreation or the city council.

D. To conduct an annual workshop to review the department's annual operating budget and capital improvement plan.

E. To hear appeals from decisions of the director of public works relating to tree maintenance and removal pursuant to Sections 12.56.120 and 12.64.060 of this code.

F. To meet with neighborhood associations and park user groups to discuss parks and recreation issues and needs.

G. To encourage individuals, business, and citizens groups to contribute funds, property, and volunteer services for the development and operation of parks and recreation facilities. (Ord. 2015-0015 § 1; Ord. 2013-0001 § 2)

2.62.040 Organization and procedures of the commission.

At its first meeting, and annually thereafter, the commission shall elect a commission chairperson and a vice chairperson, who each shall hold that position at the pleasure of the commission. When there is a vacancy in the office of chairperson or vice chairperson, the commission shall fill that position from among its members. The commission may adopt rules and procedures for the conduct of

its business and may do any other thing necessary or proper to carry out its functions, which may include the formation of one or more committees. Staff support to the commission shall be provided by one or more city employees designated by the director of parks and recreation, one of whom shall serve as secretary of the commission.

When hearing appeals of any decision, the commission shall follow, as nearly as practicable, the procedures that the city council would follow in hearing an appeal of that type. (Ord. 2013-0001 § 2)

2.62.050 Commission meetings.

The commission shall establish a time and place for regular meetings to be held approximately monthly and not less than eight times per year. Each meeting shall be noticed and held in accordance with the provisions of the Ralph M. Brown Act (Government Code Section 54950 et seq.). The commission chairperson shall have the authority to notice and hold special meetings in the manner specified by the Ralph M. Brown Act. (Ord. 2013-0001 § 2)

2.62.060 Quorum—Voting.

A quorum comprised of parks and recreation commission members present and qualified to act shall be required for the parks and recreation commission to conduct a meeting and take action. A quorum shall consist of a majority of members of the parks and recreation commission then in office. The parks and recreation commission shall act only by motion. An affirmative vote of six parks and recreation commission members present and qualified to vote shall be necessary to pass any motion. (Ord. 2013-0001 § 2)

2.62.070 Compensation.

Each member of the parks and recreation commission shall receive compensation as determined by the compensation commission under Section 29 of the City Charter. (Ord. 2013-0001 § 2)

2.62.080 Conflict of interest—Statements of economic interests.

All appointees to the parks and recreation commission shall be subject to Chapter 2.16 of this code relating to conflicts of interest and shall be required to file statements disclosing financial interests pursuant to the city's conflict of interest code. (Ord. 2013-0001 § 2)

2.62.090 Requirements.

Unless specifically provided otherwise in this chapter, the requirements set forth in Article XV of the City Charter, and Chapter 2.40 of this code governing attendance at board and commission meetings (Article II), voting (Article III), and limitation on consecutive terms (Article IV), shall apply to the parks and recreation commission. A member is subject to removal for good cause, neglect of duty, or misconduct as provided in City Charter Section 232. (Ord. 2013-0001 § 2)

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