



**CITY OF LOS ALTOS
CITY COUNCIL MEETING
May 12, 2015**

DISCUSSION ITEM

Agenda Item # 14

SUBJECT: Deny the appeal of Tree Removal Permit denial for 279 Covington Road subject the listed findings

BACKGROUND

On April 8, 2015, the Planning Division issued a denial of a tree permit to remove a Coast Live Oak tree in the front yard at 279 Covington Road. The tree has a circumference of 15 feet. The permit was denied due to the Coast Live Oak tree appearing to be in good health with no visible signs of decline. Based on the information presented and the observed site conditions, staff was unable to make the required findings to support the removal of the subject Coast Live Oak tree. Therefore, staff denied the tree removal permit. The applicant subsequently appealed the denial.

EXISTING POLICY

Los Altos Municipal Code Section 11.08.090

PREVIOUS COUNCIL CONSIDERATION

None

DISCUSSION

Tree removals may be granted based on certain criteria (Section 11.08.090 of the Municipal Code), including:

1. The condition of the tree with respect to disease, imminent danger of falling, proximity to existing or proposed structures and interference with utility services;
2. The necessity to remove the tree for economic or other enjoyment of the property;
3. The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters;
4. The number, species, size and location of existing trees in the area, and the effect the removal would have upon shade, privacy impact, scenic beauty, property values and any established standards of the area;
5. The number of healthy trees the property is able to support according to good forestry practices;
6. The approximate age of the tree compared with average life span for that species; and
7. Whether there are any reasonable and feasible alternatives that would allow for the preservation of the tree.

The applicant's appeal basis is that the tree removal is necessary due to the imminent danger of limb failure, the tree's proximity to utility lines, the tree roots lifting the walkway pavers and driveway asphalt, the tree roots damaging a structure, and economic and enjoyment impacts.

The Coast Live Oak tree is a mature and native species tree that appears to be in good health with no visible signs of decline or structural issues. Staff reviewed the application and conducted a site visit to review the subject tree. Staff requested an arborist report from the applicant to evaluate its

condition. The applicant did not provide an arborist report. Based upon the tree removal criteria listed above, staff could not establish a basis for removal of the tree.

During field observations, staff was unable to confirm the tree was damaging the foundation of the carport or that the tree was substantially interfering with electrical service. It appears there is slight uplifting of the driveway asphalt and walkway pavers caused by the tree roots. A walkway and driveway repair does not rise to the level of significance to remove a tree, unlike a cracking foundation or uplifted structure.

Finally, there does not appear to be a basis to remove the tree for economic or other enjoyment of the property. The routine maintenance required from tree sap falling on vehicles or landscaping or the leaf toxicity to the landscaping is not a basis for the removal of the tree for enjoyment of the property.

PUBLIC CONTACT

Posting of the meeting agenda serves as notice to the public.

FISCAL/RESOURCE IMPACT

None

ENVIRONMENTAL REVIEW

Categorically Exempt, Section 15304

RECOMMENDATION

Deny the appeal of Tree Removal Permit denial for 279 Covington Road subject the listed findings

ALTERNATIVES

1. Continue the item and require the applicant to complete a professional arborist report
2. Grant the appeal

Prepared by: Sean K. Gallegos, Assistant Planner

ATTACHMENTS:

1. Appeal application, April 16, 2015
2. Appellants appeal letter, April 16, 2015
3. Photograph of Coast Live Oak tree
4. Denial letter for Tree Removal Permit, April 8, 2015

FINDINGS

279 Covington Road

The City Council finds in accordance with Section 11.08.090 of the Municipal Code that there is not a basis to remove the Coast Live Oak tree with respect to:

1. The condition of the tree with respect to disease, imminent danger of falling, proximity to existing or proposed structures and interference with utility services
2. The necessity to remove the tree for economic or other enjoyment of the property;
3. The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters;
4. The number, species, size and location of existing trees in the area, and the effect the removal would have upon shade, privacy impact, scenic beauty, property values and any established standards of the area;
5. The number of healthy trees the property is able to support according to good forestry practices;
6. The approximate age of the tree compared with average life span for that species; and
7. Whether there are any reasonable and feasible alternatives that would allow for the preservation of the tree.



CITY OF LOS ALTOS
GENERAL APPLICATION

Type of Review Requested: (Check all boxes that apply)

Permit # 1106636

<input type="checkbox"/> One-Story Design Review	<input type="checkbox"/> Commercial/Multi-Family	<input type="checkbox"/> Environmental Review
<input type="checkbox"/> Two-Story Design Review	<input type="checkbox"/> Sign Permit	<input type="checkbox"/> Rezoning
<input type="checkbox"/> Variance	<input type="checkbox"/> Use Permit	<input type="checkbox"/> R1-S Overlay
<input type="checkbox"/> Lot Line Adjustment	<input type="checkbox"/> Tenant Improvement	<input type="checkbox"/> General Plan/Code Amendment
<input type="checkbox"/> Tentative Map/Division of Land	<input type="checkbox"/> Sidewalk Display Permit	<input checked="" type="checkbox"/> Appeal
<input type="checkbox"/> Historical Review	<input type="checkbox"/> Preliminary Project Review	<input type="checkbox"/> Other:

Project Address/Location: 279 Covington Rd, Los Altos

Project Proposal/Use: tree removal Current Use of Property: residential

Assessor Parcel Number(s): _____ Site Area: _____

New Sq. Ft.: N/A Altered/Rebuilt Sq. Ft.: N/A Existing Sq. Ft. to Remain: N/A

Total Existing Sq. Ft.: _____ Total Proposed Sq. Ft. (including basement): _____

Applicant's Name: Cameron & John Hamblin

Telephone No.: 650 906 7637 Email Address: cameron.hamblin@gmail.com

Mailing Address: 279 Covington Road

City/State/Zip Code: Los Altos 94024

Property Owner's Name: Ed & Jo Zschau

Telephone No.: 775-267-2514 Email Address: _____

Mailing Address: P.O. Box 588

City/State/Zip Code: Genoa, NV 89411

Architect/Designer's Name: _____

Telephone No.: _____ Email Address: _____

Mailing Address: _____

City/State/Zip Code: _____

*** If your project includes complete or partial demolition of an existing residence or commercial building, a demolition permit must be issued and finalized prior to obtaining your building permit. Please contact the Building Division for a demolition package. ***

(continued on back)

Cameron & John Hamblin
279 Covington Road
Los Altos, CA 94024

April 15, 2015

Sean Gallegos
Asst. Planner, City of Los Altos
Community Development Dept
One North San Antonio Road
Los Altos, CA 94022

Subject: Appeal Request to City Council for Tree Removal Application Denial – 279 Covington Road

Dear Sean,

We received your letter denying our application to remove a tree on our property. This letter is to inform you that we request to appeal to the Los Altos City Council.

As stated in our previous letter we do not understand why you would require an arborist report when we have not stated the tree is unhealthy. As we have gone through this process and researched both the Ordinance and an arborist's qualifications, we have developed a feeling that your request is obstructionist in nature and arbitrary.

As demonstrated previously, the International Society of Arboriculture states the following on their website (<http://www.isa-arbor.com/publicOutreach/whyHireCertifiedArborist/index.aspx>):

"An arborist, by definition, is an individual trained in the art and science of planting, caring for, and maintaining individual trees. Arborists are knowledgeable about the needs of trees and are trained and equipped to provide proper care. Hiring an arborist is a decision that should not be taken lightly."

Now, unless there was a difference of opinion regarding the health of the tree, and our sole argument for removing the tree was founded on its health, I would understand why we would be required to obtain an arborist's report. Additionally, if the Los Altos Municipal Code mandated an arborist's report or mandated that a tree could only be removed if found diseased, then I would understand the request/requirement. Alas, the Ordinance makes no such mandates or requirements and thus, under the circumstances we find your request and determination intentionally confrontational on this point.

Further review of the Los Altos Municipal Code, it does not appear the criteria for determining whether a tree may be removed or not has a hierarchy, therefore it appears all points hold equal weight. Additionally, the ordinance does not appear to require adherence to specific points, therefore it appears to be flexible in application.

Below is a point by point review of the ordinance and our reasons for requesting the tree be removed.

1. *The condition of the tree with respect to disease, imminent danger of falling, proximity to existing or proposed structures and interference with utility services;*

Disease:

We don't believe the tree to be diseased.

Imminent danger of falling:

Prior to the last major storm the tree had a viable cable supporting an out of balance limb. This support cable snapped during the last storm which proves the cable was significantly stressed. This cable is not rusted, it showed no signs of damaged prior to the storm, and it has been in place for more than twenty years so any

ATTACHMENT 2

Cameron & John Hamblin

279 Covington Road
Los Altos, CA 94024

reference to the cable deteriorating would be erroneous – the cable snapped due to an over load of structural forces. We had McClenahan Tree Service review the condition of the tree and provide us with a recommendation, which was to service the tree and provide two new cables for more than \$10,000. When I analyze the tree limb, I conclude the limb is in imminent danger of falling without a fabricated support structure. I don't think an arborist report is necessary to come to the same conclusion. Adding cables, while a solution, is an unnatural solution that takes away from the aesthetic enjoyment of the property.

Proximity of existing or proposed structures:

The tree is 11'-2" away from our carport and overhangs the roof. Several roots (evidence by the upheaval of the walkway) are growing toward and under the foundation. The grade around the tree in general is up-heaving and changing the topography. The carport slab is now slightly out of level (not easy to determine without proper tools) – consistently sloping up toward the tree. Overhanging branches have caused premature deterioration of the roof to the point where it has caused structural damage (this damage was fixed within the last three years as part of a roof replacement) and thus has had an economic impact and will continue to have an economic impact. It should be noted this home was here before the tree.

Interference with utility services:

The ordinance does not classify or create a hierarchy of utility services either serving the property or other properties, therefore the fact that this tree has grown around our power and telecommunications utilities should be treated with equal status as the high voltage power lines in the public right-of-way. In some cases the utility lines touch the main tree trunks, in others they are so close that they rub against the trunk during storms damaging the wires. Due to the proximity of the tree to the utility lines, squirrels chew on the utility lines and damage the wires (even the power lines) which were replaced within the last ten years due to a large tree falling on them. This tree should not be this close to the utility lines for both safety and economic reasons.

2. *Necessity to remove the tree for economic or other enjoyment of the property;*

Economic:

This tree has had or is having a negative economic impact to the property in the following ways:

- a. Changing the grade so that water slopes toward and into the carport thus damaging the structural connections to the slab.
- b. Changing the grade and starting to see the signs of impact to the carport slab. This is confirmed with a level.
- c. Overhang limbs build up leaves quickly and lead to shortened roof life and structural damage. It should be noted that roofs also wear-out prematurely if they are walked on regularly, therefore leaf removal is a no win situation.
- d. Degrading of the utility lines leading to their replacement. It should be noted that the utility lines were replaced within the last 10 years due to a major storm taking out a tree and several power poles.
- e. Installation of new support cables & tree service in excess of \$10,000.
- f. The roots of the tree uplift our brick walkways causing us to rework them every 5 to 7 years just so they don't become a safety hazard.

Enjoyment of the property:

This tree is having a negative impact on the enjoyment of the property in the following ways:

- a. The carport floods when it rains due to the tree roots changing the topography. We really don't like walking through puddles to get to our car.
- b. The tree drips sap and other things over the parking areas. When we have visitors several of them park on the street rather than in the ample parking area.
- c. The tree creates an environment that is NOT hospitable to many other plants thus the yard quickly deteriorates and looks shabby.
- d. The tree roots deform our walkways and make them look bad.

Cameron & John Hamblin

279 Covington Road
Los Altos, CA 94024

3. *The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters:*

Topography:

As in previous statements the tree has and is having a negative impact on the topography over time, the evidence is demonstrated by the up-heaved walkways at certain point and cracks in the pavement leading directly to the tree. On the flip side, removal of the tree will not significantly change the site topography.

Erosion, soil retention and the diversion or increased flow of surface waters:

Once the tree is removed, the ground will be fairly level and soil erosion or water diversion will be no greater than other landscaped areas on the lot.

4. *The number, species, size and location of existing trees in the area and the effect the removal would have upon, shade, privacy impact, scenic beauty, property values and any established standards of the area;*

We have three large oak trees in our yard and we are surrounded by oak trees located on adjacent properties. Additionally, we have several large redwood trees on our property (depending on how you count, more than five), a large pepper tree, and several other types of trees. In a other words, our property is well forested with an abundance of shade.

The tree we would like to remove does not create privacy.

In reference to impact on scenic beauty, property values and any established standards of the area: these are hard to quantify and in fact some people might believe, such as ourselves, that this tree has a negative impact on these points.

5. *The number of healthy trees the property is able to support according to good forestry practices;*
Our property is well forested. With that said, in theory, a property will support as many trees that will grow. We have a lot trees and we probably could have more, but at what point are we allowed to consider other functions on the property. Are we allowed to have any sun?
6. *Approximate age of the tree compared with the average life span for that species;*
This tree is relatively young. When the family (Ed & Jo Zschau) purchased the property in 1968 the tree was only a 3 foot high bush. This would suggest the tree is approximately 50 years old.
7. *Whether there are any reasonable and feasible alternatives that would allow for the preservation of the tree.*
Given the way the tree is impacting the surroundings as outlined in items 1, 2, and 3, we don't see why we would want to preserve this tree. Additionally, we have several other large Live Oaks on the property that appear to be healthy.

Our assumption is this letter will be shared with the City Council. Please contact us should you have any questions.

Sincerely,



John & Cameron Hamblin

cc: James Walgren, Community Development Director





Community Development Department
One North San Antonio Road
Los Altos, California 94022

April 8, 2015

Cameron and John Hamblin
279 Covington Road
Los Altos, CA 94024

SUBJECT: Tree Removal Application - 279 Covington Road

Dear Cameron and John Hamblin:

This letter is in response to the tree removal application that was submitted February 20, 2015 for the removal of a Coast Live Oak tree in the front yard of the property at 279 Covington Road.

Staff has reviewed the application and conducted a site visit to review the subject tree. The Coast Live Oak tree appears to be in good health with no visible signs of decline. Based on the information presented and the observed site conditions, staff cannot make any findings to support the removal of the subject Coast Live Oak tree. Therefore, the Community Development Director has denied the tree removal request. The tree's location in the front yard or leaf toxicity to the landscaping does not unreasonably limit the use and enjoyment of the property. We were unable to confirm that the tree was causing structural damage to the garage, increasing stormwater impacts, or substantially interfering with the electrical service. Absent an arborist report, staff is unable to determine if other issues may impact the health of the tree.

As outlined in the Los Altos Municipal Code (Section 11.080.110), this decision may be appealed to the City Council. An appeal must be in writing, state the reasons for the appeal, be accompanied by a fee (\$550.00) and must be submitted to the City no later than 5:00 pm on April 17, 2015 (ten calendar days from the decision date). If you have any questions, please do not hesitate to contact me at (650) 947-2641 or by email at sgallegos@losaltosca.gov.

Sincerely,

Sean K. Gallegos
Assistant Planner

Attachments: Tree Protection Regulations

cc: Ed and Jo Zschau, Owners
James Walgreen, Community Development Director