

Board Meeting Date: June 5, 2018
Special Notice / Hearing: 10-Day Notice
Vote Required: Majority

To: Honorable Board of Supervisors
From: Steve Monowitz, Community Development Director
Subject: EXECUTIVE SUMMARY: Consideration of an appeal of the Planning Commission's decision to deny a Significant Tree Removal Permit, to remove a 38-inch diameter at breast height (d.b.h.) Valley oak tree to allow construction of a new residence, at 626 Berkeley Avenue in the unincorporated Menlo Oaks area of San Mateo County.

RECOMMENDATION:

Uphold the appeal and the Community Development Director's decision to approve the Significant Tree Removal Permit (PLN 2017-00272), pursuant to Section 12,000 of the Significant Tree Ordinance.

BACKGROUND:

The owners of the property have appealed the Planning Commission's action to deny a permit to authorize the removal of one 38-inch d.b.h. Valley oak tree located in the center of an improved 20,894 sq. ft. parcel. The owners have submitted a building permit application (BLD 2017-02635) to construct a new 4,672 sq. ft. two-story single-family residence with an attached 516 sq. ft. garage and a pool. The oak tree is located in the middle of the property, east of the existing 2,266 sq. ft. one-story residence, and within the building footprint for the proposed residence. The appellant contends that the new residence cannot be constructed in a manner that complies with all applicable Zoning Regulations without removal of the tree.

DISCUSSION:

On December 29, 2017, the Community Development Director approved the requested Significant Tree Removal Permit for the 38" d.b.h. Valley oak due to the location of the tree within the proposed development footprint for the new two-story single-family residence. The landowners (appellants) submitted the required building permit (BLD 2017-02635) for development which is compliant with the development standards of the R-1/S-100 Zoning District. An arborist report was not requested by staff since the reason for removal is development and not due to the health of the tree. Thus, staff found that the tree removal permit met the criteria in the Significant Tree Ordinance, specifically, that removal of the tree was necessary to allow for the reasonable economic or other enjoyment of the property, and that the tree will be replaced by approved plantings. On January 16, 2018, an appeal by a community member was received by the Planning Department.

Key issues raised by the appeal included the removal of the oak being a loss to the tree canopy in the Menlo Oaks neighborhood and that no building plans have been approved by the County such that it is premature to approve a tree removal permit.

At its public hearing on February 28, 2018, the Planning Commission considered the appeal. Staff responded to the key issues raised by the appeal, noting that alternative design options were explored and found to be not desirable, that the property is constrained by an access easement limiting the location of a new residence, that two 24-inch box Valley oak replacement trees would ensure that the tree canopy would not be diminished over time, and that the Planning and Building Department cannot approve a building permit authorizing construction without an approved tree removal permit.

The Planning Commission upheld the appeal and denied the Significant Tree Removal Permit based on the Commission's finding that the proposed residence could be constructed around the Valley oak tree. On March 12, 2018, the landowners appealed the decision of the Planning Commission.

Key issues raised by the appeal to the Board of Supervisors include: (1) that the appellant states that they have been denied due process, (2) that all evidence presented in support of the tree removal was not considered by the Commission, (3) that only anecdotal criteria was considered for the decision by finding that a "200-year-old healthy tree" should not be taken down, (4) that the Planning Commission failed to understand the unique nature of the property, and (5) that retaining the tree interferes with the reasonable economic enjoyment of the property.

Staff has considered the alternative design options, property constraints, replanting requirements and long-term canopy replenishment, community and landowner concerns, and recommends that the Board of Supervisors uphold the appeal and grant the tree removal permit.

County Counsel has reviewed the report as to form.

Approval of this project contributes to the Shared Vision 2025 of a Livable Community by allowing the property owner to build a new house compliant with the adopted land use regulations for their property and replant for the loss of the Valley oak tree while continuing to live at their property.

FISCAL IMPACT:

No fiscal impact.

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