



## Council Agenda Report

From: Lori Wilson, Assistant Planner

Subject: Oak Tree Preservation Ordinance (PRMC 10.01.030) Violation / Oak Tree Removal Permit OTR23-10 – One (1) valley oak tree damaged beyond reclamation during construction at 1234 Olive Street / APN 009-034-020

CEQA Determination: The City finds that this action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378.

Date: October 3, 2023

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### Facts

1. In violation of the cities Oak Tree Preservation Ordinance (PRMC 10.01.030), large roots of the 21.5" diameter at breast height (DBH) valley oak were cut during construction occurring under a residential remodel permit (B23-0048), causing rapid deterioration of the tree.
2. The city has received an application for oak tree removal permit OTR23-10 (P23-0042). The request is to remove one valley oak tree due to its declining health, proximity to an existing single-family residence, potential for future failure and damage to the structure, as a result of root cutting in violation of the Ordinance.
3. Certified arborist, Robert Schreiber, of Arbor First evaluated the oak tree on the property and provided an arborist report determining the tree is dying and beyond reclamation.
4. Given the construction impacts the tree has undergone, the rapidly declining health of the tree and proximity to the residence, the arborist is recommending removal.
5. The city's Oak Tree Preservation Ordinance (PRMC 10.01.030) requires replacement of 25% of the diameter of the oak being removed. Furthermore section (PRMC 10.01.120) states that if a violation should occur during development the replacement ratio shall be at a ratio equal to twice that required. In this case, mitigation is replanting seven (7) oak trees (3.5 trees x 2) or paying the cities in lieu fee of \$1,400 (7 trees x \$200). The mitigation is determined by taking the trees DBH of 21.5" x .25 = 5.375/1.5" DBH trees = 3.58 Trees. This result is then multiplied by two to account for the violation, which results in seven (7) oak trees.

### Options

1. Approve Resolution 23-XXX, to allow the removal of one valley oak tree and assess a violation fee; require the owner to plant two (2) valley oak trees on-site (\$400 mitigation value); and pay an in-lieu/violation fee of \$1,000 (\$1400 total mitigation value).
2. Deny the request to remove the oak tree based on findings to be stated in City Council motion;
3. Amend the above options; or
4. Refer the item back to staff for additional analysis.

## **Analysis and Conclusions**

In January 2023 a building permit for a residential remodel, B23-0048, was submitted to the City. The scope of work included an interior remodel, re-roof, new front porch and rear deck. The valley oak tree proposed for removal is located near the construction that was proposed for the new front porch; however, the **oak tree was not identified on the site plan submitted to the City**. Staff reviewed and approved the permit without knowledge of the oak tree and the construction impacts that would occur.

On May 16, 2023, the City was notified that construction work approved via building permit, B23-0048, would require substantial removal of roots and trunk and would surely result in the death of a valley oak tree that had not been identified on the approved site plan. The valley oak tree is located close to the front porch of the home on the north/west side of the property.

On May 18, 2023, the city received an email with amended plans which confirmed that the applicant's goal was to revise their plans so that they could move forward with the backyard deck & trellis addition and portions of the remodel which would not impact the tree. The applicant and arborist felt the tree did pose a threat to the existing structure and indicated they would submit for an oak tree removal permit at a later date. If the removal request was approved, they would then move forward with the new front covered porch that was part of the original approved plans. Addendum 23-0030 was issued on July 5, 2023.

On July 25, 2023, Planning and Building staff conducted a site visit and documented construction impacts the tree had undergone. The root ball near the existing foundation had been excavated and approximately 1/3 of the trees root system was removed during excavation. The intent of Addendum 23-0030 was to move forward with construction without any impacts to the oak tree, however the contractor moved forward with footings shown on structural sheets of the addendum that resulted in the damaging excavation. On July 26, 2023, the Building department posted a partial stop work notice for violation of PRMC 10.01.030.



**Major scaffold roots cut from tree.**

On September 8, 2023, certified arborist Robert Schrieber, submitted a report indicating the deterioration of the tree was increasing and the remaining roots are not sufficient to allow the tree to survive long term. An oak tree removal request was submitted based on the trees declining health and its location to the existing home and potential risks of future failure and damage to the structure.



**Current Condition, 23.09.22**

The city's oak tree preservation ordinance states that the city may place a stop work order until a mitigation plan has been approved by the city. It also states that if the mitigation plan includes replacement trees, the replacement ratio shall be at a ratio equal to twice that required (PRMC 10.01.130). The city's Oak Tree Preservation Ordinance (PRMC 10.01.030) requires replacement of 25% of the diameter of the oak being removed. The tree being removed is 21.5 DBH so it would typically require 3.5 replacement trees. Due to the violation the mitigation will be twice that amount and either seven replacement trees shall be planted or an in-lieu fee of \$200 per tree will need to be paid.

Paso Robles Municipal Code Section 10.01.050.E requires the City Council to consider the following factors when reviewing the removal of a healthy oak tree. These factors along with staff's analysis of each factor are listed below:

1. The condition of the oak tree with respect to its general health, status as a public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility services, and its status as host for a plant, pest or disease endangering other species of trees or plants with infection or infestation;

The valley oak tree is located close to an existing single-family residence. The tree's root ball and approximately 1/3 of the root system was recently removed during excavation and the trees health is rapidly declining. The trees potential for failure and proximity to the residence pose a high risk.

2. The necessity of the requested action to allow construction of improvements or otherwise allow reasonable use of the property for the purpose for which it has been zoned. In this context, it shall be the burden of the person seeking the permit to demonstrate to the satisfaction of the director that there are no reasonable alternatives to the proposed design and use of the property. Every reasonable effort shall be made to avoid impacting oak trees, including but not limited to use of custom-building design and incurring extraordinary costs to save oak trees.

The subject tree is located at the north/west corner and overhangs over the existing residence. It's declining health and risk of causing damage to the existing residence presents a challenge to allowing continued reasonable use of the property.

3. The topography of land, and the potential effect of the requested tree removal on soil retention, water retention, and diversion or increased flow of surface waters. The director shall consider how either the preservation or removal of the oak tree(s) would relate to grading and drainage. Except as specifically authorized by the planning commission and city council, ravines, stream beds and other natural water-courses that provide a habitat for oak trees shall not be disturbed.

The tree proposed for removal is on flat ground. It is not a significant contributor to soil or water retention and does not have an impact of surface waters.

4. The number, species, size and location of existing trees in the area and the effect of the requested action on shade areas, air pollution, historic values, scenic beauty and the general welfare of the city as a whole.

There are a number of other oaks and shade trees in close proximity, mitigation will require replacement oak trees be planted on-site.

5. Good forestry practices such as, but not limited to, the number of healthy trees the subject parcel of land will support.

The site is a standard downtown lot. It has the ability to support a limited number of trees.

Staff recommends approval of the oak tree removal permit based on the safety concerns related to the current damaged condition of the oak tree (PRMC 10.01.050).

#### **Fiscal Impact**

There are no fiscal impacts to the city related to this oak tree removal request; however, oak trees can provide value to a property and be an aesthetic value to the city as a whole.

#### **CEQA**

The City finds that this action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378.

**Recommendation (Option 1)**

Approve Resolution 23-XXX, to allow the removal of one valley oak tree and assess a violation fee; require the owner to plant two (2) valley oak trees on-site (\$400 mitigation value); and pay an in-lieu/violation fee of \$1,000 (\$1400 total mitigation value).

**Attachments**

1. Vicinity Map
2. Site Photos (Construction Impacts)
3. Resolution 23-XXX
  - a. Arborist Report